

102

**WASHINGTON COUNTY PLANNING COMMISSION
WORKSHOP MEETING
March 17, 2025**

The Washington County Planning Commission held a workshop meeting on Monday, March 17, 2025 at 6:00 p.m. at the Washington County Administrative Complex, 100 W. Washington Street, Room 2000, Hagerstown, MD.

CALL TO ORDER AND ROLL CALL

The Vice-Chairman called the meeting to order at 6:00 p.m.

Planning Commission members present were: Jeff Semler, Vice-Chairman, BJ Goetz, Denny Reeder, Terrie Shank, Jay Miller, and Ex-officio County Commissioner Randy Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Jennifer Kinzer, Deputy Director; Travis Allen, Senior Planner; and Debra Eckard, Office Manager.

WORKSHOP – FOREST CONSERVATION

Ms. Baker began the workshop by reviewing implementation of mitigation methods for Forest Conservation as set forth in Article 10 of the Forest Conservation Ordinance (FCO). This Ordinance follows the adopted Forest Conservation Act adopted by the State of Maryland. The purpose of the Forest Conservation Act is to slow and eventually stop forest loss across the State. The preferred methods of mitigation are as follows:

- A. Retention on-site is always the first preferred method. Staff recognizes that retaining existing forest on-site is not necessarily a feasible option in some instances, but should be considered by developers first. Both the FCO and the Act specifically state that when planning developments, forest resources need to be considered the same as storm water management, grading techniques, etc. After all techniques for retaining existing forest on-site have been exhausted, the preferred sequence of techniques for afforestation and reforestation are as follows:
- 1) Selective clearing and supplemental planting on-site. Effectively keep as much existing forest as possible and reforest what is removed.

Discussion: Mr. Goetz asked who pays for the afforestation/reforestation and who maintains the forest. Ms. Baker stated it is the responsibility of the developer for a period of two to three years depending upon the size of the trees used during planting. Retention of forest is the responsibility of the property owner even if the property is sold.

- 2) On-site afforestation or reforestation using transplanted or nursery stock that is greater than 1.5 inches in diameter measured at 4.5 feet above ground.
- 3) On-site afforestation or reforestation using whip and seedling stock.

Discussion: Ms. Baker provided members with a chart (established by the State) delineating the size of trees, the number of trees to be planted per acre, the spacing, and what the survivability rate must be at the end of the two- or three-year season or bonding period. The preference is to plant larger trees because there is a better chance of survivability, there is less of a mitigation process, and affords less of a maintenance effort. Ms. Baker noted that any time a developer performs a forest planting, a bond is required. The bond is established using the same rate as the payment-in-lieu of planting fee (PIL) which is \$.30 per sq. ft. The bond is held until survivability rates are met per State regulations.

- 4) Credit from an approved Forest Mitigation Bank that created new forest cover. The credit applied to the mitigation requirement is equal to 100% of the credit secured from the Forest Mitigation Bank.
- 10) Credit from an approved Forest Mitigation Bank that protected existing forest. The credit shall not exceed 50% of the area of existing forest protected.

Discussion: Mr. Goetz asked why easements on new forest are much more preferred than easements on existing forest. Ms. Baker explained that we are trying to keep up with the “no net loss” policy; however, more trees need to be planted to make up for the impacts happening today on sites where development is occurring. Too often, developers are seeking to buy land in areas where development cannot occur anyway (such as mountain land with steep slopes and no access for development). The creation of new forests would be more beneficial than protecting forested areas that most likely will not be disturbed anyway.

Mr. Goetz asked if the County is required to use PIL monies to purchase forest easements. Ms. Baker explained the County is required to use the funds for forest mitigation efforts, which can include the purchase of easements.

- 5) Off-site afforestation or reforestation, arranged by the applicant on private lands using transplanted or nursery stock that is greater than 1.5 inches in diameter measured at 4.5 feet above the ground.
- 6) Off-site afforestation or reforestation arranged by the applicant on public lands using transplanted or nursery stock that is greater than 1.5 inches in diameter measured at 4.5 feet above the ground.
- 7) Off-site afforestation or reforestation, arranged by the applicant on private lands using whip and seedling stock.

- 8) Off-site afforestation or reforestation, arranged by the applicant on public lands using whip and seedling stock.

Discussion: Ms. Baker stated that anytime a development plan is submitted and reviewed for forest conservation, the developer is responsible for showing the type of mitigation proposed. Staff asks the developer for justification as to why that type of mitigation is proposed and what the justification is for not pursuing a more preferred method of mitigation (i.e. the developer chooses #6 of the preferred method of mitigation instead of #2). Often the developer requests that the plan goes to the Planning Commission instead of providing such justification to staff. Mr. Allen noted that he provides the applicant's justification letter in the agenda packets and during his presentations to the Commission, he is presenting his reaction to that letter. If he disagrees with the justification submitted by the developer, it is because the developer has not made an honest and complete analysis of the preferred sequence.

- 9) Landscaping of areas under an approved landscaping plan which establishes a forest that is at least 35 feet wide and covering 2,500 sq. ft. or more of area.

Staff is unsure why this option exists when the definition of a forest says areas must be 10,000 sq. ft. or greater. It was noted that this option is hardly ever used. Staff assumes this could be used for landscaping islands or stormwater management credits.

Discussion: Ms. Baker explained that in the past, a 35-foot strip of forest conservation area along the backs of residential lots was permitted. This meant that each lot owner had an individual easement that they were required to maintain. However, over the years, property owners assumed this was part of their lot and began mowing these areas, cutting down the trees, placing additions to their homes in the area or other outbuildings. The County has stopped allowing the forest easements on the back of individual lots and is now requiring developers to put the forest conservation area elsewhere in the development, preferably on a separate parcel of land. There was a brief discussion regarding enforcement of maintenance efforts when dealing with developers and/or homeowners associations.

Staff reiterated that decisions made by both staff and the Commission need to be based on regulations found within the FCO and the State Act. Justification given by developers or property owners should not be based on cost or time limitations but rather why other methods of mitigation cannot be accomplished within the preferred sequence of mitigation. Staff encourages the Commission to look at each individual request on a case-by-case basis, according to the specific characteristics of each development site.

Ms. Baker briefly discussed the termination of easements. There have been a few instances where the easements have been moved or removed due to unusual circumstances or hardships. Staff does not want this to become a normal practice because we may create isolated easements which does not meet intent of the Ordinance. Staff is going to work on proposed policy changes to present to the Commission at a later date regarding some of these issues.

ADJOURNMENT

Ms. Shank made a motion to adjourn the meeting at 7:50 p.m. The motion was seconded by Mr. Goetz and so ordered by the Vice-Chairman.

Respectfully submitted,



Jeff Semler, Vice-Chairman