

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

## **DATE MAILED:**

August 5, 2025

MCPB No. 25-087  
Forest Conservation Plan No. F20250360  
Travilah Senior Living  
Date of Hearing: July 17, 2025

**Exhibit 33**  
**OZAH Case No: CU 23-10**

## **RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on February 26, 2025, Community Housing Initiative, Inc. filed an application for approval of a final forest conservation plan submitted for concurrent review with Conditional Use No. CU202310 and Preliminary Plan No. 120250100 (“Accompanying Plans”), on approximately 10.75 acres of land located at 13741 & 13751 Travilah Road, (“Subject Property”) in the Rural West Policy Area and *2002 Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s final forest conservation plan application was designated Final Forest Conservation Plan No. F20250360, Travilah Senior Living (“Forest Conservation Plan,” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board Staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board dated July 7, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 17, 2025, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

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Approved as to  
Legal Sufficiency: /s/ Allison Myers  
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Final Forest Conservation Plan No. F20250360 on the Subject Property, subject to the following conditions:<sup>1</sup>

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Code of Montgomery County Regulations ("COMCOR"), Forest Conservation Regulations.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
3. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
4. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for the Accompanying Plans, the Applicant must:
  - a. Record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
  - b. Install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
  - c. Install permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
  - d. Execute a five-year Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the MNCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

- e. Submit a cost estimate for the reforestation/afforestation and other FCP requirements, which includes but is not limited to trees and shrubs, variance mitigation trees, five years of maintenance including invasive species management controls, permanent easement posts and signage, natural surface trails, split rail fencing, mulching, staking, tree protection, and tree protection removal credited toward meeting the requirements as shown on the FCP. This cost estimate must be reviewed and approved by the M-NCPPC Planning Department Inspection Staff prior to the submission of financial surety to determine the amount of the financial surety.
  - f. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the 2.15 acres of new forest planting and for the landscape trees, mitigation trees, and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
5. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff the Applicant must install the afforestation plantings outside of the LOD as shown on the approved FFCP.
  6. Within the first planting season following the stabilization of the applicable disturbed area inside of the LOD, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the Afforestation/Reforestation plantings for the Afforestation Area (inside the LOD), as shown on the approved FFCP.
  7. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling 150 caliper inches, as shown on the approved FFCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, and ensures the protection of*

*environmentally sensitive features.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Forest Conservation Plan is also consistent with the *Guidelines for Environmental Management and Development in Montgomery County* ("Environmental Guidelines").

The Property has 0.48 acres of existing forest, and the Final Forest Conservation Plan proposes 0.04 acres of forest clearing. Based on the land use category and the forest conservation worksheet, the project requires 1.80 acres of reforestation. The Applicant will retain 0.44 acres of existing forest onsite and, as required by Forest Conservation Law, will afforest 1.72 acres of currently unforested portions of the stream valley buffer (SVB). The forest retained and afforested portions of the SVB total 2.17 acres, which exceeds the 1.80-acre requirement. All saved and planted forest, as well as environmental buffers, will be protected under a Category I Conservation Easement. Clearing within Forest Stand Areas A and B will be offset by providing 2.15 acres of supplemental planting within the SVB and adjacent areas. This afforestation is an effective long-term conservation method that will improve water quality and increase connectivity between nearby, fragmented forest areas.

Priority Forest Removal

The Subject Property includes 0.48 acres of forest designated as a high priority for retention, as the Property is located within a Priority Urban Forest area, as mapped by the Maryland Department of Natural Resources. The Application proposes to remove 0.04 acres of forest. Per Section 22A-12(b) of Forest Conservation Law, the FCP must retain certain vegetation and specific areas in an undisturbed condition unless specific findings are made.

The Board makes the following findings necessary to approve removal of priority forest:

1. *The development would make maximum use of any available planning and zoning options that would result in the greatest possible forest retention.*

The Property is zoned RE-2, which is intended to support large-lot residential uses. The Application maximizes forest retention by designing the Site with maximum forest retention given the constraints of developing the Subject Property. The Application makes ideal use of the RE-2 zone by creating residential uses on the property, while still retaining the maximum amount of forest possible.

2. *Reasonable efforts have been made to protect the specific areas and vegetation listed in the plan.*

Reasonable efforts have been made to protect existing forest and vegetation, as the forested areas exist on the south end of the property where the stream valley buffer is located, and the proposed development has been designed to avoid impacts to the SVB. As a result, only a small portion of the forest outside the SVB must be cleared, and this impact has been minimized to the greatest extent feasible. The impacts to the SVB are temporary, and as conditioned, the SVB and a portion of the surrounding area will be replanted.

3. *The development proposal cannot be reasonably altered.*

The current proposal preserves a significant amount of Priority Urban Forest while allowing for impacts to 0.04 acres to provide safe access and functionality of the site. Due to the site's topography and environmental constraints, there are no viable alternatives for the site design and therefore grading in these forested areas cannot be reasonably avoided.

#### B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Tree"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal of eighteen Protected Trees as identified below:

Table 1: Removed Protected Trees

Tree No.	Species (Scientific Name)	Species (Common Name)	D.B.H. (inches)	Impact (%)	Tree Condition	Status
14	Platanus occidentalis	American Sycamore	30.1	100%	Good	Remove
15	Platanus occidentalis	American Sycamore	33	100%	Good	Remove
18	Quercus phellos	Willow Oak	33.5	100%	Fair	Remove
25	Acer rubrum	Red Maple	34	100%	Poor	Remove
28	Pinus strobus	Eastern White Pine	30.5	100%	Good	Remove
29	Acer rubrum	Red Maple	35.5	100%	Poor	Remove
33	Castanea sativa	European Chestnut	32.5	100%	Poor	Remove
37	Acer rubrum	Red Maple	35.5	100%	Poor	Remove
42	Platanus occidentalis	American Sycamore	34	100%	Good	Remove
44	Acer rubrum	Red Maple	30.5	100%	Fair	Remove
46	Acer rubrum	Red Maple	33	100%	Fair	Remove
50	Acer saccharinum	Silver Maple	37	100%	Fair	Remove
57	Acer rubrum	Red Maple	30	100%	Good	Remove
64	Prunus sp.	Cherry	30	100%	Poor	Remove
65	Acer rubrum	Red Maple	40	100%	Fair	Remove
66	Acer rubrum	Red Maple	36.5	100%	Fair	Remove
74	Acer rubrum	Red Maple	30	100%	Fair	Remove

In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property for construction of 60 lots for 60 townhouses. The Planning Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use for the redevelopment of the Subject Property in accordance with the recommendations of the Sector Plan and Zoning Ordinance without the Variance for the proposed Project.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the Variance will not confer a special privilege on the Applicant as the disturbance is due to the scattered location of the trees and the necessary site design requirements for a residential development that has been designed to

minimize environmental impacts. Therefore, granting this Variance is not a special privilege that would be denied to other applicants.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested Variance is not based on conditions or circumstances that are the result of actions by the Applicant. The requested Variance is based on the existing Site conditions and the necessary design requirements for this specific use.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested Variance is a result of existing conditions and not due to land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Variance will not violate State water quality standards or cause measurable degradation in water quality. The proposed development will plant fifty (50) new 3-inch caliper native trees as mitigation for the removal of Protected Trees. These new trees will replace any water quality functions that may be lost due to the removal of Protected Trees. Given the proposed plantings, granting the Variance will not adversely impact water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves the replacement of Protected Trees at a ratio of approximately 1-inch caliper for every 4 inches removed.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is

**August 5, 2025**

(which is the date that this Resolution is mailed to all parties of record); and



BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley necessarily absent, at its regular meeting held on Thursday, July 31, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board