



May 30, 2025

MEMORANDUM

TO: Prince George's County Council Transportation, Infrastructure, Energy
and Environment Committee

FROM: Lakisha Hull, AICP, LEED AP BD+C, Planning Director
Natalia Gomez, AICP, Planner IV

SUBJECT: **CB-46-2025**

The purpose of this memorandum is to offer the Planning Department's comments on the proposed CB-46-2025:

CB-046-2025: AN ACT CONCERNING WOODLAND AND WILDLIFE HABITAT CONSERVATION for the purpose of exempting certain applications from the applicability of the woodland conservation ordinance; providing for a standard letter of exemption for certain properties; modifying the requirements for certain development review division applications; revising the allowable uses of the Woodland Conservation Fund; modifying the alternatives for meeting conservation requirements on-site; modifying the threshold for fee-in-lieu usage; providing for credit for afforestation projects; revising the rate for fee-in-lieu credits; revising certain definitions; and revising the applicability of the tree canopy coverage ordinance.

The Planning Department has reviewed the proposed amendments to the Woodland and Wildlife Habitat Conservation Ordinance (WCO) as presented in CB-46-2025. Consistent with similar legislative amendment processes, the Planning Department requests additional time to review the proposed text amendment to ensure adequate public engagement is included in the process; and also report on the latest findings in regards to the County's tree canopy data, provided by University of Vermont in July 2025. Extensive public engagement was integral for CB-77-2024, which provided amendments to the grandfathering provisions of the WCO and other minor fixes to the ordinance. This memorandum includes ten (10) recommended changes.

As a courtesy and due to time-sensitivity, the Department includes the following amendments for the Prince George's County Council Transportation, Infrastructure, Energy and Environment Committee (TIEE) consideration primarily to ensure compliance with State Law:

1. **Delete Page 2, Lines 13-14: (B) A "qualified project" under Section 7-503 of the Land Use Article of the Annotated Code of Maryland.**

Reasoning: The proposed changes would result in Prince George's County's local woodland conservation program being non-compliant with the State's Forest Conservation Act by allowing



replacement requirements for clearing at a rate of $\frac{1}{4}$:1 in areas where the state minimum would be 1:1. The bill proposes a change to the definition of a “transit-oriented center” to include a new term “qualified project” which broadens its applicability. Currently, the definition applies to transit-oriented development centers identified in Plan 2035, with the exception of those identified as “Local Town Centers.” The term “transit-oriented center” in CB-20-2024 was created specifically to be consistent to the State issued woodland conservation replacement requirements for clearing in centers identified in HB 723/ SB 526-2023 to the applicable centers within Prince George’s County.

The Annotated Code of Maryland, Natural Resources § 5-1602 allows for the replacement of cleared woodland within a transit center at a lower rate than clearing elsewhere (at a rate of $\frac{1}{4}$:1 instead of 1:1 replacement for clearing). The adopted Plan 2035 shows Regional Transit Districts and Local Centers (page 18) which is shown in Attachment 1. This exhibit includes a $\frac{3}{4}$ mile radius surrounding rail stations to depict the expansion proposed by CB-46. The proposed changes would result in our local program being non-compliant with the State’s Forest Conservation Act by allowing replacement requirements for clearing at a rate of $\frac{1}{4}$:1 in areas where the state minimum would be 1:1. Under the CB-46-2025, the proposed expanded areas surrounding the centers would be subject to a lower replacement requirement than is allowed in the adopted State’s Forest Conservation Act. It should be noted that the Annotated Code of Maryland, Natural Resources § 5-1606 allows a clearing replacement ratio of $\frac{1}{2}$:1 for priority funding areas not identified as a priority for retention. However, approximately 97.4 percent of the County’s woodland meets the definition of priority retention (See Attachment 2) and only 0.7% of the priority funding area is not covered by priority retention woodlands (See Attachment 3). Therefore, the $\frac{1}{2}$:1 replacement ratio for clearing referenced in HB-723-2023 was not adopted into the existing WCO. Since less than 1% of the County’s existing woodland would qualify for the replacement requirement outlined in HB-723-2023, the local requirement is to have $\frac{1}{4}$:1 replacement inside Transit Centers or 1:1 replacement outside of Transit Centers.

2. **Relocate Page 2, Lines 19-22:**(A) All DRD applications and grading permit applications[;], excluding applications which propose residential construction activity resulting in the disturbance of less than 20,000 square feet of woodlands on a single lot of any size or linear project that do not have a previously approved and valid TCP;

Reasoning: Section 25-119(a)(A) could be relocated to Section 25-119(b) and amended as recommended below.

3. **Delete Page 2, Lines 29-30:** or a Standard Letter of Exemption.

Reasoning: This is a duplicate, The amendment underlined should be deleted as it is already stated in t, Page 2, Line 26.

4. **Delete Page 3, Lines 2-4:** or a Standard Letter of Exemption. If a site requires approval of a TCP2 with an associated land development application, the TCP2 shall not be reviewed independently of the associated plan.



Reasoning: This is a duplicate. This provision is currently included in Section 25-119(a)(2)(E). Additionally, the proposed provision uses the term “associated land development application,” while Subtitle 25 refers specifically to DRD applications, which are considered associated land development applications. Therefore, this provision is unnecessary.

5. **Replace Page 3, Lines 11-16 - B) A Standard Letter of Exemption shall be issued when a lot or parcel or combination of lots and parcels of any size has less than 20,000 square feet of woodland and is not subject to a previously approved TCP. If a lot or parcel that was determined to be exempt using this provision becomes reforested to the point where more than 20,000 square feet of woodlands exist prior to issuance of a grading permit, the exemption may be revoked by the 16 Planning Director or their designee**

Reasoning: Reinstate the exemption criteria from the 2010 WCO which states that a Standard Letter of Exemption shall be issued when a lot or parcel or combination of lots and parcels of any size has less than 10,000 square feet of woodland and is not subject to a previously approved TCP. CB-20-2024 removed the exemption criteria based on the presence of 10,000 square feet of existing woodland. The intent of removing the exemption was to require woodland planting on infill development and more urban sites where studies show tree canopy is lacking within the County. A report will be provided in July 2025 that shows the latest Tree Canopy Assessment (i.e. last tree assessment report is based off of data from 2020).

At the enactment of CB-20-2024, the State had not defined or mapped "urban forests." The Planning Department received a GIS map layer from the State in late April 2025, which was added to PGAtlas on May 1st and integrated into the “priority woodlands for retention” category. The main difference between an "urban forest" and a "forest" is location. A forest is defined, in the Annotated Code of Maryland, Natural Resources § 5-1601, in part, as having at least 10,000 square feet and having a minimum of 100 live stems per acre. All trees contribute to tree canopy cover, but individual open-grown trees do not count as a forest. By removing the exemption for sites under 10,000 square feet in CB-20-2024, all sites must now plant new forests instead of just individual trees. This change, intended for new or significant redevelopment, has negatively impacted smaller projects proposed by tenants in strip malls and similar developments.

CB-46-2025 aims to introduce an exemption to the WCO, similar to what was removed in CB-20-2024; however, instead of basing the exemption on 10,000 square feet or less of existing woodland on a site. The 20,000 square feet threshold for exemptions only applies to residential projects per State Code: 5-1602(b)(9): “Any activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest”. This bill proposes a threshold of 20,000 square feet of existing woodland for all type of projects.

Instead of exempting sites with 20,000 square feet of existing woodland, the Planning Department **recommends** allowing for a variance process to occur for properties up to 20,000 square feet, with



the exemption applying to **sites with 10,000 square feet of existing woodland**. This compromise will allow for review of site hardships, tree replanting innovation and other existing conditions in alignment with meeting the needs of providing tree canopy throughout the County.

State Law requires the Planning Department to track the exemptions processed for each year. Attachment 5 shows the number of exemptions issued since the WCO exemption criteria of 10,000 square feet was initially adopted by County Council in 2010. The table also shows the percentage of tree canopy over those years based on M-NCPPC layers as well as the percentages calculated in the UVM study.

Should the 20,000 square foot exemption not be passed, sites that qualify will continue to be subject to an afforestation requirement for the planting of woodland on sites where the presence of woodland has long been absent. Exemption means that no trees will be planted to meet the woodland conservation requirements because the site is exempt from the WCO, which allows the applicant to clear existing trees on the site. Alternatively, trees could possibly be planted to meet other requirements, such as the Landscape Manual and the Tree Canopy Cover (TCC) Ordinance, which is addressed through the Zoning Ordinance, Subtitle 25 Division 3, and permit review.

As discussed above, the removal of the exemption for sites containing less than 10,000 square feet of woodland subjected small projects to the requirement of planting woodland. These projects are currently required to submit a variance request associated with a Tree Conservation Plan application to justify why they cannot plant woodland on the site. Furthermore, this requirement was intended for new development or significant redevelopment of sites. Individual smaller projects would still be subject to the tree canopy requirements that can be met by planting individual trees which is important in more urban areas and serves to meet the state and county goals to increase tree canopy cover.

6. Retain Page 4, Lines 14-17 and delete lines 17-21: The Woodland Conservation Fund may only be spent on reforestation and afforestation projects, including the costs directly related to site identification, acquisition, prepurchase, preparation, and maintenance of existing forest, for the sole purpose of establishing new areas of forest within Prince George's County.

Reasoning: CB-46-2025 proposes the removal of the current provision that specifies the use of the Woodland Conservation Fund. Instead, it suggests replacing it with the State's provisions for the Woodland Conservation Fund and excluding urban tree canopy initiatives from being funded through this program. Although the county's provision is not included in the State Code, it was approved by the Maryland Department of Natural Resources (DNR) as part of the 2010 update.

Urban tree canopy is vital in densely developed areas and critical for curbing heat island effects. Prior expenditures on implementing tree canopy have been found to be in compliance by DNR as part of the County's biennial review.



7. Delete “qualified project” from Page 5, Lines 7-10 and Pages 5-6, Table 1:

Reasoning: See comments for “qualified projects” under Recommendation #1.

8. Retain Page 5, Line 13: [an application for a variance must be submitted and approved per Section 25-119(d)]

Reasoning: Page 5, lines 13-15 removes the requirement for development sites to meet a minimum amount of woodland conservation on-site. The current code provides leniency for sites that can demonstrate extenuating circumstances through the variance process. The proposed changes aim to make this requirement less strict by allowing the submission of a statement of justification. However, it does not list specific criteria that this statement must address. For example, it does not require a finding that the site “made every effort to meet the woodland conservation threshold on-site to the maximum extent practicable.”

It is important for every site to maintain a minimum amount of woodland on-site for the purposes of providing equity of woodland cover throughout the county. CB-20-2024 updated this section of WCO to require a variance for sites that do not meet the minimum threshold on-site. This change was made because the previous statement of justification process was frequently not followed, leading to significant clearing of woodlands. Attachment 4 shows the significant unequal distribution of tree canopy within the county.

To ensure that future residents and businesses in the County have access to the benefits of trees and tree canopy, the provision in CB-20-2024 was designed to require every applicant to make a conscientious effort to preserve a minimum amount of woodland on each development site. Additionally, urban tree planting must remain a priority, as this approach aligns the county code with the environmental policies outlined in the Green Infrastructure Plan and the Climate Action Plan, demonstrating the county's commitment to meeting the state's net gain policy for trees.

If the Council finds that a variance from the full threshold amount is not practicable, and supports the amendment, staff recommend an amendment to lines 12-15 with the following statement “the applicant shall submit a statement of justification and plan demonstrating that the threshold has been met onsite to the maximum extent practicable. If more than 50 percent of the threshold cannot be met onsite, a variance shall be required”

9. Retain language in Page 6, Line 10-12 and 24-30; Page 7, Lines 1-4: [, when all other options have been exhausted, as determined by the Planning Director. Refer] [for criteria]

Reasoning: The proposed provision above redefines the applicability of the fee-in-lieu option by eliminating the requirement for applicants to exhaust all mitigation options, both onsite and offsite, before they can request to use the fee-in-lieu instead of providing woodland conservation onsite or offsite.



Staff have identified an opportunity for improvement in this section, as it does not fully consider valuable alternatives such as onsite preservation, onsite reforestation/afforestation, onsite landscaping, and various offsite methods. **These alternatives should be evaluated and considered before opting for offsite solutions and subsequently applying a fee in lieu.**

The proposed amendment allows for the use of fee in lieu if among others the costs exceed the fee in lieu rate of .90 cents per square foot by 120 percent. Accordingly, at 120 percent, the fee would be \$1.08. Please note that the \$0.90 cent fee was established in 2010 and since then, surrounding counties have updated their fees as follows (as published in the Technical Study on Changes in Forest Cover and Tree Canopy in Maryland prepared by the Harry R. Hughes Center for Agro-Technology, and verified by researching the respective ordinances):

- i. Anne Arundel: \$1.25pfa/\$1.50non-pfa;
- ii. Montgomery County: \$1.45;
- iii. Calvert \$1.00pfa/\$1.20npfa
- iv. Howard: \$1.25pfa/\$1.50npfa

The offsite mitigation banking is conducted as part of property owner transactions. Upon completion of the transaction, the buyer provides the Department with a transfer certificate to demonstrate they have purchased credits, and planning staff tracks the utilization of credits on each bank.

10. **Revise language in Page 7, Lines 23-26:** or entitlement cases subject to the Transitional Provisions of the Zoning Ordinance (Sec. 27-1700) or Subdivision Regulations (Sec. 24-2700) shall be subject to the regulations in place at the time of approval of any grandfathered permit or grandfathered development application.

Reasoning: Subdivision Regulations (Subtitle 24) should be excluded as the Tree Canopy Coverage Ordinance (TCC) does not apply during the review of Preliminary Plan of Subdivision (PPS). Additionally, the term "entitlement cases" is redundantly used and needs to be clarified. It is also important to note that the terms "entitlement case," "grandfathered permit," and "grandfathered development application" are not explicitly defined in Subtitle 25. To eliminate ambiguity and ensure consistent interpretation, the language should either clearly define these terms or replace them with terminology that is already established in the code.

Accordingly, staff proposes the following changes to Section 25-127(a)(4): “(4) Projects proceeding to the next steps in the approval process under the prior Zoning Ordinance pursuant to Section 27-1700 Transitional Provisions of the Zoning Ordinance shall be subject to the Tree Canopy Coverage Ordinance regulations as specified by the 2010 Tree Canopy Cover Ordinance for the prior zoning of the property, or variance process for eligible projects, including grandfathered permit or grandfathered development application.”



The proposed text first simplifies the language from Section 27-1700 and Section 25-128(b). Since the TCC requirements were established by CB-27-2010 and remained unchanged until CB-21-2024, staff can reference the original as it is done for legacy zones in the schedule. Second addresses properties that have an approved PPS under the previous Subdivision Regulations (which will still be subject to Section 27-1700) without the need to refer to Subtitle 24, in the Prince George's County Code.