Howard County

Internal Memorandum

Subject: ***Maryland SB526 (2023) and Required Forest Conservation Program Changes Effective July 1, 2026***

To: *Division of Land Development*

From: *Lynda Eisenberg, AICP, Director*

Date: *July 2, 2026, Revised September 21, 2026, for clarity*

This is to let you know that the Maryland legislature adopted changes to the State Forest Conservation Act (SB526 of 2023) which takes effect on July 1, 2026. To remain compliant with State law, the following changes to the Howard County Forest Conservation Act and the Forest Conservation Manual will be applied via this policy. The purpose of this memorandum is to advise all interested parties of the changes that have been adopted by the State and to explain their impact to the current Howard County Forest Conservation Program.

Clearing in a Priority Forest Retention Area- Public Notification and Comment Opportunities

Priority areas for forest retention are described in Section 3.5.1 of the Forest Conservation Manual and the HB1511 Policy dated June 2024. Forest in these priority areas should remain undisturbed during site development, unless all techniques for retention of these areas have been exhausted and the plan cannot reasonably be altered.

If clearing is proposed in a priority forest retention area, a new requirement is added to notify all abutting and adjacent property owners at least 20 days prior to approval of the Forest Conservation Plan. Therefore, the following process will be used to notify adjoining property owners when clearing is proposed in a priority forest retention area:

1. Pre-Submission Community Meeting applicants will indicate if the project is proposing clearing in a priority forest retention area in the meeting notice (first class mail and electronic) in accordance with Section 16.128(d) of the Subdivision & Land Development Regulations. This requirement is in addition to the notice content requirements in Section 16.128(e). If the project has already had the pre-submission meeting prior to the enactment date of this policy memo you will need to post notification of the property as outlined in step 3 and mail the adjoining property owners making them aware of the forested areas. An additional pre-submission community meeting is not required. *

2. At the Pre-Submission Community Meeting, the applicant will describe where forest clearing is proposed within onsite priority retention areas and announce the opportunity to submit written or verbal comments to DPZ once the initial plan is submitted. The meeting minutes will describe any discussions which occur during the meeting related to the proposed forest clearing.
3. When the initial plan is submitted to DPZ, the Public Notice poster will indicate if clearing is proposed in a priority forest retention area. The applicant is required to install the poster at the site of the proposed roadway entrance within three working days of the plan's submission, in accordance with Articles IV and V of the Subdivision & Land Development Regulations.
4. Any projects that fail to disclose the proposed clearing within priority forest retention areas in the mailing notices and at the pre-submission community meeting will be required to send a new notice to all abutting and adjoining property owners in accordance with Section 16.128(d) and install a new Public Notice poster at least 20 days prior to plan approval. Failure to meet the 20-day requirement may result in plan processing delays.

**Any property separated from the subject property by a public right-of-way shall be considered abutting and adjacent.*

The initial plan submittal (S, SP, F, SDP) shall describe (1) the type and amount of priority forest retention area located onsite and (2) the amount of clearing proposed within priority forest retention areas, on the cover sheet and Forest Conservation Plan sheets.

If clearing is proposed within priority retention areas, a "priority forest clearing" plan exhibit shall be submitted with the initial plan showing the following:

1. property boundaries
2. any applicable priority forest retention areas such as Green Infrastructure Network, stream buffers, wetland buffers, steep slopes, adjacent offsite Forest Conservation Easements, etc.
3. existing forest
4. proposed improvements
5. limits of disturbance
6. proposed clearing in priority retention areas clearly labeled or highlighted
7. justification for the proposed clearing in priority forest retention areas

As noted above in process step number 2, a new requirement is also added to provide an opportunity for the public to submit written comments prior to plan approval if clearing is proposed in a priority forest retention area. However, if the property has a net tract area of 5+ acres, and if at least 75% of the priority retention area is proposed to be cleared, an opportunity must also be provided for the public to submit verbal comments prior to plan approval. The following processes will be used to provide the public with opportunities to submit verbal and written comments:

1. A new webpage is being added to the DPZ website containing information for projects currently in review and proposing clearing in a priority forest retention area. Instructions for the public to submit comments to DPZ will be included on the webpage.
2. For any projects with a net tract area of 5+ acres which are proposing to clear at least 75% of the priority retention area, DPZ will host a virtual public meeting prior to plan approval. Attendees will have the opportunity to express comments to DPZ verbally related to the proposed clearing in priority forest retention areas. All virtual meeting information will be included on the webpage.

Comments will be evaluated by DPZ and forwarded to the applicant for consideration.

Required Planting in Unforested Stream and Wetland Buffers

A new requirement is being added that upon meeting the reforestation and afforestation requirements, all unforested stream and wetland buffers on the project site shall be afforested or reforested, unless the applicant demonstrates that:

1. Afforestation would conflict with allowable uses as established for the buffer;
2. The buffer is located on park property and afforestation conflicts with the mission and established stewardship practices of the park; or
3. The buffer is not suitable for the establishment and retention of the required planting materials, in which case substitute environmental protection measures must be implemented.

Stream and wetland buffers are determined in accordance with Section 16.116(a) of the Subdivision & Land Development Regulations. Note that ponds may not be subject to the planting requirements for wetland buffers.

Item (3): The applicant must describe why the area is not suitable for planting and provide details for the proposed substitute environmental protection measures. Examples of substitute environmental protection measures could include, in consultation with DPZ, alternative methods to permanently protect, restore and enhance the riparian area, other measures to provide similar water quality and habitat benefits for the stream or wetland, or planting an equivalent or larger area of reforestation or afforestation adjacent to the buffer, etc.

The Forest Stand Delineation (FSD) and Forest Conservation Plan (FCP) will identify any unforested stream and wetland buffers located on the project site. After the minimum reforestation and afforestation requirements are met, any buffers that remain unforested shall be planted and recorded in Forest Conservation Easements unless approved by DPZ.

The Forest Conservation Worksheet is amended to reference any unforested buffers remaining onsite to the nearest tenth of an acre. This area will be added to the total afforestation and reforestation requirements in the worksheet.

In the case that the forest retention and planting requirements cannot be met on-site, and off-site mitigation or fee-in-lieu is authorized by DPZ, then the offsite mitigation or fee-in-lieu amount will be based on any unforested buffer areas in addition to the total afforestation and reforestation requirement.

Reduced Mitigation Requirements for Transit-Oriented Development (TOD) & Multifamily Housing

In line with the state law created by SB 526 (2023) changes to the State Forest Conservation Act, Howard County's mitigation requirements are reduced for transit-oriented development (projects zoned 'TOD') and construction of multifamily housing consisting of a single structure containing at least 25 dwelling units. An afforestation exemption is added for these projects. Higher reforestation ratios will not be required for providing mitigation outside of the watershed.

Note that projects which include multiple buildings used for multifamily housing, each containing at least 25 dwelling units, may qualify for the exemption. Mixed-use developments do not qualify.

The Forest Conservation Plan shall demonstrate that the minimum mitigation requirements are met.

Grandfathering

These changes to the State law necessitate that we amend the County ordinance for consistency and compatibility with the State program. We anticipate that these changes will likely be formally incorporated into County law and the Forest Conservation Manual as early as the first half of 2027. In the interim, they will be enforced through this policy memorandum.

For plans currently in processing, DPZ will use the "grandfathering" cited in Section 16.102(h). Plans that have reached the following stages in the approval process prior to the effective date of this memo (July 1, 2026) shall continue to be processed in accordance with the regulations which were in effect at the time of plan approval:

1. Preliminary plan original signature or preliminary equivalent sketch plan original signature approval;
2. Final plan approval letter for minor subdivisions and resubdivisions; or
3. Site development plan original signature approval, except those projects issued a Technically Complete letter or Planning Board Notification letter on or before June 30, 2026, are provided the following grace period:

Site development plans (SDPs) issued a technically complete letter or Planning Board notification letter prior to the July 1, 2026, effective date of SB526 will be provided a grace period to extend grandfathering, provided that the SDP originals are signed on or before December 31, 2026. This grace period will allow predictability in completing developer's agreements without significant delays due to additional planting requirements imposed and to eliminate the public noticing requirements that would give the false impression that public comment could change the design after technical approval. Please

coordinate with the Bureau of Real Estate Management to avoid processing delays of developer agreements and ultimately the signature approval of the SDP. The County will not be responsible for delays resulting from applicant (in)actions or delays from private sector partners. It is incumbent the applicant and consultants work directly with County agencies to address remaining comments and upload SDP originals for signature in a timely manner to meet signature deadline. **SDPs that do not meet the December 31, 2026, signature deadline will be required to meet the requirements adopted by this Policy to comply with Maryland SB526 (2023).**

Plans that do not meet the above processing requirements are subject to the new State law requirements as outlined in this memorandum.