

Charles H. Place
301 Cigar Loop
Havre de Grace MD 21078
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chipplace@comcast.net

April, 20, 2026

Bill Putland, Chair and
City of Havre de Grace
Board of Appeals
711 Pennington Ave.
Havre de Grace MD, 21078

Hand Delivered

**RE: Petition for Administrative Review to the Havre de Grace Board of Appeals
Regarding the Planning Department's approval of "Revised Forest Conservation Plan –
Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de
Grace, MD" dated 04/24/2024, revised 02/04/2026**

Dear Chair Putland:

Enclosed please find the Notice of Administrative Appeal and previously submitted Petition of Carol Zimmerman, Carole Andrews, Tammis Coit and myself to the Havre de Grace Board of Appeals seeking administrative review and reversal of the Department of Planning's approval of the Forest Conservation Plan for the Legacies subdivision application.

A hard copy of the notice and petition with exhibits is enclosed together with a thumb drive containing the exhibits and a copy of the petition.

Please note that we request a hearing on this matter at the regularly scheduled May 7, 2026 meeting of the Board of Appeals. While other permits may still be required before clearing of the forest may begin, timely review will help prevent the irreparable harm of destroying over 18 acres of mature forest on the Green property in violation of city and state law. If a hearing on the merits will be delayed for any reason, the petition also requests that the Board of Appeals recognize or issue a stay of the forest conservation plan approval.

Please let me know if you have any comments or questions or if I can provide anything else at this time.

Sincerely,

Charles Place
Cc: Dr. Chris Ricci

Charles H. Place
301 Cigar Loop
Havre de Grace MD 21078
914 572 0013 (cell)
chipplace@comcast.net

April 20, 2026

Geoff Goins
City of Havre de Grace
Department of Planning
711 Pennington Ave.
Havre de Grace MD, 21078

Hand Delivered to City Hall

**RE: Petition for Administrative Review to the Havre de Grace Board of Appeals
Regarding the Planning Department's approval of "Revised Forest Conservation Plan –
Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de
Grace, MD" dated 04/24/2024, revised 02/04/2026**

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Sincerely,

Charles Place
Cc: Dr. Chris Ricci

IN THE CASE OF:

“Revised Forest Conservation Plan – Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de Grace, MD” dated 04/24/2024, revised 02/04/2026

List of Exhibits revised 3.29.26 adding Exhibit K

A. City of Havre de Grace Planning Department Letter Dated February 27, 2026 Re: The Green Properties – The Legacies – Revised Final FCP-2026, Approving “Revised Forest Conservation Plan – Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de Grace, MD”

B. “Revised Forest Conservation Plan – Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de Grace, MD” dated 04/24/2024, revised 02/04/2026

C. CITY COUNCIL OF HAVRE DE GRACE, MARYLAND RESOLUTION NO. 2020- 16 (as Amended) including Single Concept Plan and Staff Report

D. “Forest Stand Delineation – Green Property” Dated February 15, 2026

E. City of Havre de Grace Planning Director Letter dated March 14, 2021 approving the “Forest Stand Delineation – Green Property” Dated February 15, 2026

F. June 12, 2023 Memo from Chip Place, Commissioner to City of Havre de Grace Planning Department Re: Sion Hill (text regarding removal of specimen trees without a waiver highlighted)

G. City of Havre de Grace September 9, 2026 response to PIA request regarding any waiver or variance approvals for removal of specimen trees numbers 2,3,4 and 5 under the FSD for the Green Property

H. May 27, 2026 Memorandum from Chip Place, Commissioner to the Havre de Grace Planning Department and Planning Commission Re: Legacies Preliminary Subdivision Application with Exhibit A Legacies Landscape and Road Issues diagram.

I. “Individual-Tree Diameter Growth Model of Northeastern United States” by Richard M. Teck and Donald E. Hilt, Research Paper NE-649, Northeastern Experiment Station, National Forest Service, January 1991

J. National Parks Service Certification dated 4/30/90 that the entire 315 acres of Sion Hill was entered into the National Register of Historic Places (see last two pages).

K. Maryland DNR GIS Mapping of Forest Interior Dwelling Species contiguous forest.



City of Havre de Grace
711 Pennington Avenue
Havre de Grace MD 21078 | (410) 939-1800
***** Customer Receipt *****

Date: 3/12/2026

Project Number: 2026-353

2010 Level Rd
Havre de Grace MD 21078

Paid By:
N/A

Payments

Payment ID	Received Date	Payment Type	Reference Num	Fee	Quantity	Amount
16806502	3/12/2026	Check	647	Board of Appeals - Hearing Fee	0.0000	\$450.00
						\$450.00
Total					0.0000	\$450.00

***** Thank you for your payment *****

THIS IS NOT A PERMIT. This receipt does not authorize you to begin construction on your project.

CITY OF HAVRE DE GRACE BOARD OF APPEALS

PETITION OF:

Charles “Chip” Place, 301 Cigar Loop, Havre de Grace MD 21078

Carol Zimmerman, 211 Seneca Way, Unit B, Havre de Grace MD 21078

Carole Andrews, 118 Gracecroft Drive, Havre de Grace, MD 21078

Tammi Coit, 1724 Scenic Manor Drive, Havre de Grace, MD 21078

FOR REVIEW OF THE APPROVAL DECISION OF THE CITY OF HAVRE DE GRACE PLANNING DEPARTMENT WITH STAY OF FURTHER PROCEEDINGS AND REQUESTED RESTRAINING ORDER.

IN THE CASE OF:

“Revised Forest Conservation Plan – Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de Grace, MD” dated 04/24/2024, revised 02/04/2026

NOTICE OF ADMINISTRATIVE APPEAL

The following serves as notice to the City of Havre de Grace Board of Appeals and Department of Planning that, pursuant to Section 25-16 of the City of Havre de Grace City Code, on March 6, 2026, the above petitioners personally submitted to Dr. Chris Ricci, Director of Administration, a petition with exhibits for administrative appeal of the Department of Planning’s February 27 approval of a “Revised Forest Conservation Plan – Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de Grace, MD” dated 04/24/2024, revised 02/04/2026. With the submission, petitioners provided the required \$450 fee. A slightly revised copy of the petition was submitted on March 8, 2026. On March 25, 2026 petitioners also submitted a list of adjoining or confronting property owners. A slightly corrected list was submitted on March 29, 2026. An Exhibit K was also submitted on March 29, 2026. Exhibit K shows Maryland Department of Natural Resources GIS Mapping of the Green Property forest as part of a larger contiguous forest system hosting Forest Interior Dwelling Species. Therefore, all appeal submissions were completed by March 29, 2026 as required under the City Code. A deposit for a transcript was not requested of the petitioners. With this notice, Petitioners request a hearing on the appeal at the May 7, 2026 meeting of the Board of Appeals. A hard copy of the Petition with Exhibits A-K is provided with this notice to both the Board of Appeals and Department of Planning along with a thumb drive of the same.

CITY OF HAVRE DE GRACE BOARD OF APPEALS

PETITION OF:

Charles “Chip” Place, 301 Cigar Loop, Havre de Grace MD 21078

Carol Zimmerman, 211 Seneca Way, Unit B, Havre de Grace MD 21078

Carole Andrews, 118 Gracecroft Drive, Havre de Grace, MD 21078

Tammi Coit, 1724 Scenic Manor Drive, Havre de Grace, MD 21078

**FOR REVIEW OF THE APPROVAL DECISION OF THE
CITY OF HAVRE DE GRACE PLANNING DEPARTMENT WITH STAY OF
FURTHER PROCEEDINGS AND REQUESTED RESTRAINING ORDER.**

IN THE CASE OF:

“Revised Forest Conservation Plan – Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de Grace, MD” dated 04/24/2024, revised 02/04/2026

Pursuant to Section 25-15 A. of the Havre de Grace City Code, the above petitioners seek the City of Havre de Grace Board of Appeals’ review and reversal of the City of Havre de Grace Planning Department’s administrative decision dated February 27, 2026 and regarding The Green Properties – The Legacies – Revised Final FCP-2026 (Exhibit A) approving “Revised Forest Conservation Plan – Remaining Lands of Green – Partial Subdivision of the Green Property – City of Havre de Grace, MD” dated 04/24/2024, revised 02/04/2026 (FCP – Exhibit B). The Department’s decision was clearly erroneous and not in accordance with the law as it fails to follow the requirements of Chapter 81 – Forest Conservation of the City Code.

Additionally, Petitioners note under Section 25-16, (1) of the City Code that the filing of this petition stays the proceedings in the action appealed from. Failure to stay the approval of the FCP could result in the imminent destruction of mature forest protected under Chapter 81 of the City Code. Therefore, Petitioners request that the Board of Appeals issue a restraining order to the Planning Department further staying the approval of the FSD pending the outcome of this appeal. A copy of this petition is provided to the Planning Department constituting notice of this Petition.

Petitioners are all residents of the City of Havre de Grace. Petitioner Charles Place is a retired architect (TX and NY, AIA #330068890) and attorney (TX, NY and NJ, ABA #00574903) with an extensive background directing large-scale land development projects. He also served as an alternate on the Havre de Grace Planning Commission, mostly in an active role due to vacancies on the Commission. Petitioner Carol Zimmerman is a citizen of Havre de Grace and Immediate Past President of the Havre de Grace Green Team. Petitioner Carole Andrews is former member of the Havre de Grace Tree Commission and Harford County Forestry Board. Petitioner Tammi Coit is a resident of the Scenic Manor Subdivision, adjacent to the Green property. Petitioners are acting pro se.

Also, because Chapter 81 of the City Code implements the State Forest Conservation law and because the actions of the Planning Department circumvent required referrals to the State, this Petition is being provided to the Maryland Department of Natural Resources for possible intervention.

The list of any required recipients of notice would be the list of those receiving notice of the Legacies Preliminary Subdivision application.

Background

Through several limited liability corporations, the Green family owns approximately 205 acres in Havre de Grace at the southeast corner of Bulle Rock Parkway and Maryland Route 155 / Level Road. Together with adjoining properties owned by Ianniello, and Patrone, the Green properties were annexed into the City of Havre de Grace through Annexation Resolution 277 effective June 5, 2014. The annexation changed the zoning on the site from a Harford County agricultural zone to Havre de Grace's densest zone, RB which previously applied to just the downtown area. The annexation resolution was amended over the years, including Resolution 2020-16 (effective 11/16/2020) adding Johnson who purchased the historic Sion Hill home owned by the Green family. Resolution 2020-16 also included a Single Concept Plan – Revision 5 dated 11/04/20 intended to guide future development of the individually owned properties. That guidance included requirements for a 5-acre park, the mix of residential v business uses, the overall road layout, an extension of the Lower Susquehanna Heritage Greenway and a minimum open space requirement. Resolution 2020-16 also included a Staff Report dated July 31, 2020 providing detailed analysis of the revised Single Concept Plan with recommended conditions for approval (Exhibit C).

In anticipation of future development, a drawing dated Feb. 15, 2021 and entitled "Forest Stand Delineation – Green Property" (FSD) was submitted to the Planning Department for review. The drawing depicted 205.2 acres then owned by the Green family and identified 12 specimen trees on the property (Exhibit D).

Under the City Forest Conservation Code, an approved Forest Stand Delineation drawing is integral with preliminary subdivision review (Section 81-6 B. (2)(b)). It is required to be submitted early in project planning process and "may remain in effect for a period not longer than five years (81-5 F.)".

Through a letter dated March 14, 2021 the City's Director of Planning approved the Forest Stand Delineation drawing with the following observations:

The subject property is 205.2+/- acres in size with a total of 43.85+/- acres of forest located in three identified forest stands. The delineation also identified 11 specimen trees [a different number than was shown on the drawing] of over 30-inch DBH [diameter at breast height] on the subject property. A variance must be requested for all specimen trees that are proposed to be removed. The variance request must be submitted and approved prior to approval of the Forest Conservation Plan (FCP). The variance request must be submitted in accordance with Section 81-14 of the City Code:

A. A person may request a variance from this chapter or the requirements of Natural Resources Article, §§ 5-1601 through 5-1612, Annotated Code of Maryland, if the person demonstrates that enforcement would result in unwarranted hardship to the person.

B. An applicant for a variance shall:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

(2) Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;

(3) Verify that the granting of the variance will not confer on the applicant a special privilege that would be denied to other applicants;

(4) Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;

(5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and

(6) Verify that the granting of a variance will not adversely affect water quality.

C. The Department shall make findings that the applicant has met the requirements in Subsections A and B of this section before the Department may grant a variance.

D. Notice of a request for a variance shall be given to the Department of Natural Resources within 15 days of receipt of a request for a variance.

E. There is established by this chapter the right and authority of the Department of Natural Resources to initiate or intervene in an administrative, judicial, or other original proceeding or appeal in the state concerning an approval of a variance under Natural Resources Article, §§ 5-1601 through 5-1612, Annotated Code of Maryland, or this chapter.

The letter then went on to note other environmentally sensitive features on the property (Exhibit E).

Of the 12 specimen trees shown on the FSD drawing, 4 (numbers 2-5) were located on the southern end of the Green property within Sion Hill Estates, a 144 unit single family house subdivision. That subdivision was the first Green property to be developed under the Single Concept Plan. After visiting the site, on June 12, 2023, petitioner Charles Place, then serving as an active Planning Commission alternate member, provided the Havre de Grace Planning Department with a memo reviewing the Sion Hill overall Concept Plan and the Sion Hill Estates Phase Two subdivision application which sought to add four additional lots to the 140 previously approved (Exhibit F). The memo noted the loss of specimen trees without the required waiver under the City Code as follows:

While Phase One received final subdivision and Forest Conservation Plan approval, the record does not show that the project received a waiver for removal of specimen trees on lots 35 and 36. Keeping those trees as otherwise required under Section 81 of the City Code would have also eliminated those two lots. Those trees are now gone so, in effect, the developer already received two extra lots in addition to the four currently requested.

The trees were removed despite the City Planning Director's March 14, 2021 letter detailing the requirement for a variance to remove specimen trees. The lack of variance request or waiver was later confirmed by the City of Havre de Grace's September 9, 2025 response to a Maryland PIA request (Exhibit G).

After receiving approval of the Sion Hill Estates Subdivision, the Green family sought approval for the Legacies, a 290-unit subdivision adjoining Sion Hill Estates to the north. A public hearing on the preliminary subdivision plan for that development was conducted by the Havre de Grace Planning Commission on May 29, 2025. In support of that application, the Green family and its consultants relied on the February 15, 2021 FSD drawing used with the Sion Hill Estates subdivision application. They also presented a forest conservation plan specific to the Legacies application. That FCP drawing dated 04/24/25 (later revised) is cited above as the subject of this petition. It showed 17.72 acres of mature forest to be cleared from 35.91 acres of Green property forest contiguous with the Legacies subdivision development.

In preparation for the May 29, 2025 public hearing, and in his role on the Planning Commission, Petitioner Place visited the Legacies site as expressly permitted under the Maryland Land Use Code Section 2-105(a)(3): "In the performance of the planning commission's functions, a planning commission and its members, officers, and employees may enter on any land and make examinations and surveys." During that visit, Petitioner Place observed and measured trees slated for clearing under the FCP. A few of those trees appeared to meet the definition for specimen trees but were not shown on the 2021 FSD drawing. As was his practice, Petitioner Place documented his observations in a May 27, 2025 memo to the Planning Department and fellow Commissioners in advance of the May 29 public hearing [Exhibit H]. That memo addressed a number of issues posed by the application including: Landscape, Sustainable; Forest Conservation; Adequate Public Facilities – Schools, Road Access, Water Supply; and Lower Susquehanna Heritage Greenway Trail. During and prior to the hearing, Petitioner Place was acting as a full planning commissioner. Regarding Forest Conservation, Petitioner Place wrote the following (note this extended excerpt ends at the top of page 6 with the *Recommendation* provided):

Forest Conservation

An approved Forest Stand Delineation drawing is integral with preliminary subdivision review (Section 81-6 B. (2)(b)). It is required to be submitted early in project planning process and "may remain in effect for a period not longer than five years (81-5 F.)". In this case a FSD drawing was prepared over 4 years ago, on February 15, 2021, covering the entire Green property of which the Legacies is a component. The Planning Director approved the FSD plan on August 17, 2021 [sic – August 17, 2021 was the approval date of the FCP for Sion Hill Estates; March 14, 2021, was the approval date of the FSD drawing]. That plan did not show any specimen trees within the 17.72 acres of mature forest to be removed under the Legacies Preliminary Subdivision Plan.

However, an inspection of the site on May 24, 2025 revealed at least six additional trees just within the 17.72 acres that appeared to meet the definition of specimen trees under 81-7 B (2)(c) (see attached Exhibit A). This does not include a 43-inch oak that was in poor

condition (though contributing to the forest habitat). In addition, the 17.72 acres contain many more trees that measure just short of the 30-inch diameter standard for a specimen tree. Given the new information, it will be important for the Planning Department to revisit the site to confirm whether the 2021 FSD drawing is accurate. If not, the five year deference does not apply and a new FSD drawing is required.

In addition, neither the 2021 FSD drawing, nor the April 30, 2024 Forest Conservation Plan Narrative prepared by Watershed Environmental LLC identify the 17.72 acres as “contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site,” as priority retention areas under 81-7 B (1)(b). These contiguous blocks of forest are critical to preserve for Forest Interior Dwelling Species of birds as identified by the Maryland Department of Natural Resources.

Finally, regarding the 17.72 acres, the record does not reveal that the entire 310 [sic 315] acres of the original Sion Hill property falls under the April 30, 1990 National Register of Historic Places designation associated with house and property (see attached Designation documents – last two pages). Together with the newly discovered specimen trees, the historic designation raises the forest retention bar still higher under 81.-7 B (2)(b and c), requiring a variance for removal of the trees and clearing the forest. No application for a variance was provided. Even if provided, the applicant would not qualify for a variance because, among other tests, the variance request would be “based on conditions or circumstances with are the result of actions by the applicant.” In other words, clearing the historic priority forest and specimen trees to develop additional houses is a choice of the applicant and so not eligible for a variance. It represents a self-created hardship resulting from the actions of the applicant.

Two other notes on the Landscape and Forest Conservation applications relate back to the Annexations and Single Concept Plans approved by City Council.

1) The Single Concept Plan calls for “not less than” 25% of the site to remain in open space. However, neither the Single Concept Plan, nor the annexation supersedes specific environmental protections otherwise contained in the City code, including Section 102 and Section 81(which is also state law).

2) The 17.72 acres of forest proposed to be removed was always shown in purple, “to be determined” in the Single Concept Plan accompanying the annexation (or for business uses). Residential development was always shown in the property’s open fields. Therefore, the applicant had no reasonable expectation that residential development would be approved or entertained within the priority forest area. In fact, the staff report accompanying the 2020 annexation specifically references the 52 +/- of mature forest in the Single Concept Plan.

Also, though not discussed the staff report, Chapter 9 of the newly adopted City Comprehensive Plan remarks on the tremendous loss of forest cover in Havre de Grace over recent years and states, “The City’s Forest Conservation and Landscape ordinances must be strictly enforced to preserve the tree canopy and to meet state standards, which are

currently being strengthened” (page 9-10). The need for tighter protection of forested land in new development was also noted in the Maryland Department of Planning’s review of the Comprehensive Plan. The Comprehensive Plan also goes on to place renewed importance on cultural landscapes such as Sion Hill.

Recommendation: Staff (and Commissioners) should review the Forest Stand Delineation drawing in the field to confirm whether the list of specimen trees is complete. All forest conservation drawings and staff reports should identify the historic woodlands proposed for removal as priority forest retention areas requiring preservation absent justification and strict variance review. Updated information and any variance requests should be part of the Preliminary Subdivision Application materials.

Petitioner Place also raised the concerns at the May 29, 2025 Legacies Preliminary Subdivision Application public hearing. During the hearing, Petitioners Zimmerman and Carole Andrews and Havre de Grace resident Jean Johnson testified, raising concerns about the loss of tree canopy and habitat. Other speakers, including Petitioner Tammi Coit, raised additional concerns regarding traffic and adequacy of roads, adequacy of sewer and water infrastructure, school capacity and the safety of moving the park from Concept Plan’s location at the center of the Green property to the wooded area contiguous to the area slated for clearing.

Revised Forest Conservation Plan for the Legacies Subdivision Application Fails to Conform with Chapter 81 of the Havre de Grace City Code

The City of Havre de Grace derives its authority to regulate forest conservation activities from the Natural Resources Article, §§ 5-1601 through 5-1613, of the Annotated Code of Maryland (81-1 A.). Chapter 81 of the City Code implements State Law “under the provisions of the Maryland Department of Natural Resources Model Forest Conservation Ordinance as contained in Title 8, Subtitle 19, of the Code of Maryland Regulations” (81-1 C.). The City Code mirrors the state model code.

Under Section 81.2 Definitions: The Department of Planning is charged with implementing and approving the local forest conservation program.

Maryland Courts have ruled that approval of a Forest Conservation Plan is a final approval subject to appeal. *Chesapeake Bay Foundation, Inc., et al. v. CREG Westport Developers I, LLC, et al.*, No. 53, September Term, 2021, Opinion by Booth, J.

Therefore, the Planning Department’s February 27, 2026 approval of the Forest Conservation Plan for the Green Properties Legacies subdivision is subject to review and appeal, independent of the underlying subdivision approval.

Specific Failures to Follow the Havre de Grace Forest Conservation Law:

1. Reliance on the 2021 FSD after a Planning Commissioner identified additional specimen trees on the property.

Section 81-5 F's provision that, "An approved forest stand delineation **may** remain in effect for a period not longer than five years (emphasis added)" is permissive. At the time of the Legacies preliminary subdivision hearing, the 2021 drawing was over 4 years old. Having an up-to-date FSD drawing is an integral requirement of the preliminary subdivision application (Section 81-6 B. (2)(b)). Prior to the May 29, 2025 Legacies Preliminary Plat subdivision hearing, Petitioner Place, as Planning Commissioner, presented the Department with his field examinations under state law indicating that there appeared to be specimen trees within the forest area proposed for clearing that were not shown in the Forest Stand Delineation. Section 81-7 B(2)(c)[1] identifies priority trees for retention, commonly known as specimen trees, as those measuring thirty inches in diameter measured 4.5 feet above the ground. In the map exhibit to his May 27, 2025 memo, Mr. Place identified one tree that measured 30 inches but also others that measured well above the threshold at 33, 33, 34, 36 and 40 inches plus a double oak tree. In the memo itself, he referenced an additional 43-inch oak that was in poor condition. Those observations raised serious questions whether the Forest Stand Delineation was accurate, even at the time it was prepared in 2021. Expected tree diameter growth rates over 4-5 years would still not approach what was observed in the field. Trees could not reasonably be expected to grow in diameter from under 30 inches to 33-40 inches in four years when Mr. Place measured trees or five years when the FCP was approved.¹ When presented with such information by a Planning Commissioner's examination of the site, the Planning Department had a duty to at least reexamine the site and the FSD drawing to independently verify its accuracy. Upon information and belief, the Department never did so and so failed to verify that the Planning Commission and public received the information required under the City Code to properly evaluate the preliminary subdivision application. Its continued reliance on the 2021 drawing in approving the FCP was therefore unlawful, arbitrary and capricious.

2. Failure of the applicant to demonstrate that reasonable efforts were made to protect contiguous forest and failure by the Planning Department to provide findings that reasonable efforts were made to protect the forest.

Section 81-7 B. of the City Forest Conservation Code identifies forest features that are priorities for retention. Section 81-7 B. (1) states:

The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department that reasonable efforts have been made to protect them and the plan cannot reasonably be altered... **(b)** Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

¹ During the May 29, 2025 Legacies Public Hearing (1:10), Eric Lawrence of the Planning Department cited a potential diameter growth rate of 1 inch per year without citing authority for such growth. However, see the attached 1991 National Forest Service study of "Individual-Tree Diameter Growth Model of Northeastern United States" indicating that maximum mean observed diameter growth for the fastest growing Yellow Poplar tree was .201 inches per year and mean observed growth for all trees was .113 inches per year. Therefore, over a 5 year period (not one year), the maximum total expected growth rate would be around 1 inch. (Exhibit I).

The 2021 Forest Stand Delineation shows 35.47 contiguous acres of mature forest in Stands 1 and 3 of the Green Properties. Additional, unmeasured, contiguous forest exists on the adjoining 22 Seventh St. Properties site. A stream and wetland corridor runs through this block of forest. These contiguous blocks of forest are critical to preserve for Forest Interior Dwelling Species of birds such as Wood Thrush that are identified by the Maryland Department of Natural Resources. In fact, the DNR GIS mapping shows the Green Properties forest to be part of a much larger, contiguous forest system associated with Gashey's Creek. That contiguous forest is identified as habitat for Forest Interior Dwelling Species and as a Tier 4 Biodiversity Conservation Network (Exhibit K). The forest network extends south through the forest retention land of Bulle Rock and beyond as Gashey's Creek merges with Swan Creek out to the bay. As the revised Forest Conservation Plan itself shows, over half the priority contiguous forest on the Green Property associated with the Legacies subdivision (now up to 18.36 acres) will be cleared for the Legacies subdivision, resulting in serious fragmentation of the forest. The record shows that no alternatives were presented to avoid this clearing, nor did the Department issue any required findings to the effect that the clearing was reasonable. Note further that through the Annexation of Sion Hill, the landowners were granted the highest density zoning allowed in the City (RB). Opportunities may have existed to design the development with a tighter layout to make more efficient use of the site. Those opportunities were not presented as part of the review, nor does the Department provide findings that reveal an exploration of such alternatives. However, in any event, developers are not assured maximum use of the site at the expense of environmental priorities, even if the plan results in less units than may have been desired. By failing to explore and make findings regarding reasonable efforts to preserve priority contiguous forest, the Department's approval of the FCP was unlawful, arbitrary and capricious.

3. Failure to require variance applications or approve waivers for removal of trees on a historic site or removal of specimen trees.

Under Section 81-7 B (2) of the City Code, an even higher standard for retention exists for trees on a historic site and for specimen trees. Those priority trees for retention and protection require a variance before they may be removed:

(2) The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department, that the applicant qualifies for a variance in accordance with § 81-14 of this chapter.

(b) Trees that:

[1] Are part of an historic site;

[2] Are associated with an historic structure; or

[3] Have been designated by the state or the Department as a national, state, or county champion tree; and

(c) Any tree having a diameter measured at 4.5 feet above the ground of:

[1] Thirty inches or more; [i.e.. Specimen Trees]

The entire Green property is listed on the National Register of Historic Places. That designation was provided to Planning Department by Petitioner Place prior to the Legacies Preliminary Subdivision Application. It was also provided to the Board of Appeals during the conditional use public hearings for a gas station and hotel on contiguous properties of Green. Upon information and belief, the Sion Hill mansion with its grounds is the only such property listed in Harford County. That designation has existed since April 30, 1990 (Exhibit J). The designation has also been noted in the Havre de Grace Comprehensive Plan adopted in 2025 (page 2-2, 10-11). Despite the prominence of this important designation, the applicant never mentioned it in its Forest Stand Delineation submission, and the Planning Department never mentioned it in its approval of the Forest Conservation Plan. Nor did the Department require variance submissions or grant a waiver to remove trees on this historic site. As such, the Department's actions were unlawful, arbitrary and capricious.

Similarly, ignoring the likely presence of specimen trees in the forest slated for clearing as identified by Petitioner Place and, in turn, failing to require a variance application or granting a waiver for the removal of specimen trees was unlawful, arbitrary and capricious.

Note also under Section 81-14 D. "Notice of a request for a variance shall be given to the Department of Natural Resources within 15 days of receipt of a request for a variance." Therefore, by failing to require variance submissions before granting Forest Conservation Plan approval, the Department cut out the State DNR's opportunity for review as well.

After having failed to follow the variance procedure in the removal of specimen trees at the Sion Hill Estates subdivision, the Department's failure to follow the Forest Conservation Code at the Legacies appears deliberate and egregious.

Conclusion

The Havre de Grace Planning Department has a poor record of following the City's Forest Conservation Code. The environment has suffered as a result. To address the City's shortcomings, the City's new Comprehensive Plan emphasized that, "The City's Forest Conservation and Landscape ordinances must be strictly enforced to preserve the tree canopy and to meet state standards, which are currently being strengthened" (page 9-10). The Department of Planning did not enforce the City Code at even a basic level regarding the Green property generally and the Forest Conservation Plan for the Legacies in particular. The combination of contiguous forest within a National Register of Historic Places property, plus likely additional specimen trees slated for removal, creates the highest presumption of forest retention under the City Code. The Planning Department made no effort to recognize, much less make the detailed analysis and findings required before approving the clearing of over 18 acres of priority forest retention area at the Legacies. The petitioners, therefore, respectfully request the Board of Appeals to reverse the Planning Department's approval of the Legacies Forest Conservation Plan.