

Howard County Forest Conservation Act General Mitigation Plan

Purpose

The Howard County Forest Conservation Act General Mitigation Plan identifies appropriate and potentially available areas for forest conservation mitigation projects. The projects will be funded by fees-in-lieu of afforestation or reforestation, collected pursuant to Section 16.1210 of the Forest Conservation Act (FCA).

Mitigation Process

The Department of Planning and Zoning (DPZ) manages the County's Forest Conservation Program. Fees-in-lieu are collected by DPZ when afforestation or reforestation requirements cannot be reasonably accomplished on-site or off-site, and appropriate credits generated by a forest mitigation bank are not available. The fees-in-lieu are dispersed by DPZ to the Department of Recreation and Parks (DRP), which provides mitigation projects, primarily on County owned land, that meet or exceed the requirements set forth in the Howard County Forest Conservation Act and Manual.

Pursuant to Section 16.1211 of the Forest Conservation Act, the minimum in-lieu-of fees established by the State may be expended by the County:

- For afforestation or reforestation within Howard County, including site identification, acquisition, and preparation;
- For acquisition of forest retention easements;
- For maintenance of existing forests; and
- For creating urban canopy.

In-lieu-of fees above the State minimums and noncompliance penalties may be used by the County for any purposes related to implementation of the County Forest Conservation Program.

Mitigation Site Selection

In keeping with the FCA priorities for forest retention and reforestation stated in Section 16.1208, location priorities for mitigation sites are, in order of preference:

- 100-year floodplain and stream buffers as defined in the Subdivision and Land Development Regulations;
- Forested wetlands and 25-foot wetland buffers as defined in the Subdivision and Land Development Regulations;
- Critical habitat buffers and forest corridors for wildlife movement, the corridors, where practical, being a minimum of 300 feet in width;
- Naturally occurring steep slopes of 25% or greater, as defined in the Subdivision and Land Development Regulations, and highly erodible soils with slopes of 15% or greater and a soil erodibility factor greater than 0.35;
- Forest not in any of the sensitive areas above, but contiguous with these sensitive areas or with existing forest stands protected by a forest conservation easement;
- Property line and right-of-way buffers, particularly adjacent to scenic roads; and
- Isolated small forest stands or tree groves of less than 10,000 square feet that will be enlarged to meet minimum standards for forest.

In addition, there is a County preference for mitigation sites that will help address other County goals for natural resource protection. These include mitigation sites within the Patuxent Reservoirs watershed,

which is an important source of public drinking water, and the Howard County Green Infrastructure Network, which defines and links the most ecologically significant natural areas in the County. This supports the Plan Howard 2030 policies to safeguard the environmental integrity of the region's reservoir systems, and to define, protect and enhance a Green Infrastructure Network.

Mitigation sites may be located on public or privately-owned land, but may not occur on the following locations:

- Areas that are enrolled in the Conservation Reserve Enhancement Program, Conservation Reserve Program, Wetlands Reserve Program, or any other federal program that provides funds for afforestation or reforestation.
- Areas that have been used for compensatory mitigation under Section 404 and/or 401 of the Clean Water Act.
- Areas that are exempt from the Forest Conservation Act

Mitigation Types

Plan Howard 2030 seeks to continue to protect, restore and expand forested lands, and notes that the continuing loss of forest from development for new homes, stores, and workplaces threatens this habitat. In addition to the loss of forest, the loss of species diversity, forest fragmentation, degradation by non-native invasive species, and damage from an overpopulation of deer are also concerns. To help address these concerns, the priority mitigation type is, in order of preference, planting new forest, forest retention, forest management and creating urban canopy. Requirements for each mitigation type are given below.

Forest Planting

Forest planting mitigation sites must be placed within Forest Conservation Easements. To help ensure newly planted forest will not be subject to removal or damage from future development, the following locations are preferred for forest planting mitigation:

- County parkland or open space.
- Homeowners association open space.
- Preservation parcels with an environmental or agricultural easement.

Planting on properties that are encumbered by an easement held by the Howard County Agricultural Land Preservation Program or the Maryland Agricultural Land Preservation Foundation must comply with the respective program's policy for forest planting on the easement. In general, these policies limit new planting to sensitive resource areas, such as stream and wetland buffers, or areas that are not suitable for farming, such as steep slopes. Howard County's program also allows planting within the County's Green Infrastructure Network.

Forest Retention

Forest retention mitigation sites must be placed within Forest Conservation Easements. Only sites that have development potential may qualify for forest retention. Open space and sites that are encumbered by a permanent preservation easement do not qualify for retention.

Forest Management

Forest management may be necessary to address threats to forest health, particularly from deer over-browse and non-native invasive species. Forest management mitigation sites must be placed within Forest Conservation Easements.

Plan Howard 2030 notes that forest cover in the eastern portion of the County is prevalent primarily within stream valley areas where sensitive resources have discouraged development or within publicly-owned conservation areas, such as the Patapsco Valley State Park and the Middle Patuxent Environmental Area. In the Rural West, upland and stream valley forests are more extensive. Since smaller forest patches are generally more susceptible to damage from non-native invasive species and deer population management is curtailed in the more densely developed east, there is a preference for forest management mitigation sites to be located within the Planned Service Area.

Forest management mitigation sites must meet the FCA definition of forest, being a minimum of 10,000 square feet in size, and meet one of the following location criteria:

- Mitigation sites must be located on: County parkland or open space; or Homeowners Association open space.
- Mitigation sites must be located within the Howard County Green Infrastructure Network.

Forest management mitigation sites must also meet one of the following existing conditions criteria:

- Mitigation sites must be within existing Forest Conservation Easements that have poor forest survival (less than 100 trees per acre) and/or forest in poor health (poor canopy closure, minimal understory regeneration and/or dominance by invasive species). Mitigation may not occur within existing Forest Conservation Easements that are designated as forest mitigation banks, still under bond and/or in violation of the Forest Conservation Agreement.
- Mitigation sites must contain forest in poor health.
- Mitigation sites must be dominated by ash trees. (This is intended to allow pre-emptive clearing and replanting to replace any ash trees that may die as a result of the Emerald Ash Borer infestation.)

Urban Canopy Mitigation

Urban canopy is defined by the FCA as tree canopy inside the Planned Service Area that does not meet the definition of forest, but that does provide air quality, water quality and habitat benefits. Urban canopy mitigation sites do not have to be placed within Forest Conservation Easements.

Urban canopy mitigation sites must meet all of the following criteria:

1. Mitigation sites must be located within the Planned Service Area.
2. Mitigation sites must have less than 50% tree canopy coverage.
3. The property owner must agree to provide a minimum of two years of maintenance for all trees planted on their property.

Urban canopy mitigation sites that provide one or more of the following benefits are preferred:

- Enhance wetland buffers, stream buffers or 100-year floodplain.
- Enhance communities that have less than 50% tree canopy coverage.
- Provide street trees.
- Enhance commercial property frontage or parking lots.
- Create buffers between commercial and residential properties.
- Buffer outdoor commercial storage areas.