

AUG 1 2011



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB No. 11-43**  
**Forest Conservation Plan No. 119980960**  
**Respondent: Chris Pirtle**  
**Date of Hearing: March 10, 2011**

**ORDER**

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board is vested with primary enforcement authority of the Montgomery County Forest Conservation Law; and

WHEREAS, on November 16, 2010 the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission issued a Notice of Hearing to Chris Pirtle (Respondent), alleging that the Respondent violated the Montgomery County Forest Conservation Law by removing forest understory, cutting grass, and installing a swing set and timber edging in a Category I Conservation Easement that is located on Respondent's lot; and

WHEREAS, on December 8, 2010, Administrative Law Judge, Stuart G. Breslow, of the Maryland Office of Administrative Hearings, held a hearing at the Commission offices located at 8787 Georgia Avenue, Silver Spring, Maryland 20910; and

WHEREAS, on January 6, 2011, the Administrative Law Judge filed a Recommended Order, attached herein, proposing that the Montgomery County Planning Board find that Respondent violated a Category I Conservation Easement, and order the Respondent to:

1. pay an administrative civil penalty of \$2,697.50; and
2. take corrective action to:
  - a. Remove the grass and replace it with groundcover native wildflower mix, or mulch within the planted forest area; and
  - b. Remove the swing set and the six by six timbers and install ten native shrubs; and

WHEREAS, following review and analysis of the Recommended Order by Planning Board staff and the staff of other governmental agencies, on March 10, 2011 the Board held a public hearing to review the Recommended Order; and

WHEREAS, at the hearing, the Board heard arguments concerning the Recommended Order; and

Approved as to  
Legal Sufficiency:

M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

WHEREAS, on March 10, 2011, the Planning Board adopted the Recommended Order subject to certain modifications on motion of Commissioner Dreyfus; seconded by Commissioner Wells-Harley; with Commissioners Alfandre, Carrier, and Presley voting in favor of the motion;

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Montgomery County Planning Board hereby adopts and incorporates by reference the recommendation and analysis set forth in the Recommended Order except for the following modifications:

1. Respondent must pay an administrative civil penalty of \$2,697.50 to the Commission within 60 days of the mailing date of this Resolution; and
2. Respondent must do one of the following:
  - a. Respondent must file a preliminary plan amendment to modify the Category I Conservation Easement located on Respondent's property modified to a Category II Conservation Easement (herein "Conservation Easement Modification") subject to the following conditions:
    - i. Respondent must submit a complete application for the Conservation Easement Modification no later than 60 days after the mailing date of this resolution; and
    - ii. Respondent's application for the Conservation Easement Modification must be approved no later than 6 months after the mailing date of this Resolution.If Respondent timely complies with this condition he is not required to perform the corrective actions required by the Recommended Order.
  - b. If Respondent does not timely comply with each of the requirements of condition (a) above, he must perform the corrective actions required by the Recommended Order no later than 60 days after failing to comply.

BE IT FURTHER RESOLVED, that this resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that the mailing date of this Resolution is AUG 1 2011; and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

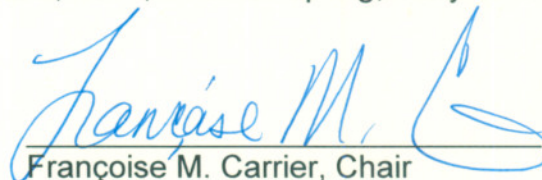


Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

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 Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Commissioner Dreyfuss, and Commissioner Presley voting in favor of the motion, and Vice Chair Wells-Harley and Commissioner Alfandre absent, at its regular meeting held on Thursday, June 2, 2011, in Silver Spring, Maryland.



Françoise M. Carrier, Chair  
Montgomery County Planning Board

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