

Norbeck Country Club, Forest Conservation Plan Amendment No. CBA-2724-C
(In Response to a Forest Conservation Violation)

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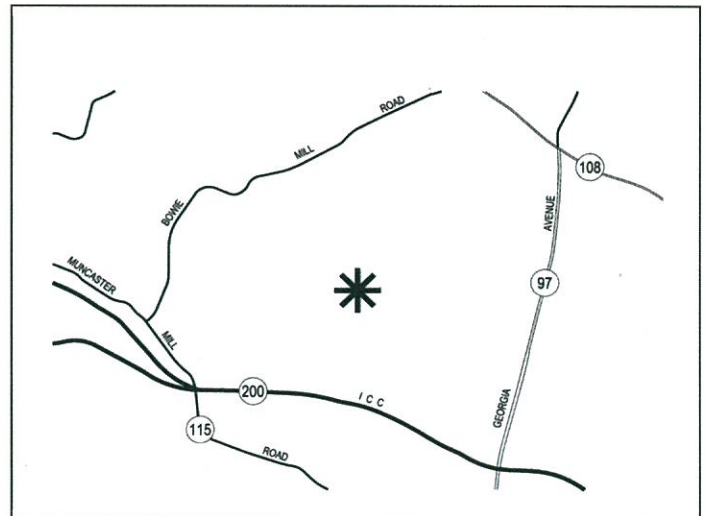
Completed: 1/4/2019

Description

Forest Conservation Plan Amendment No. CBA-2724-C

(In Response to a Forest Conservation Law Violation)

- Parcel A, Plat #23986
- 17200 Cashell Road
- RE-1 Zone
- Olney Master Plan
- Applicant: ClubcorpXIX, LLC
c/o Norbeck Country Club
- Accepted on October 23, 2018



Summary

Request to amend the Forest Conservation Plan in response to a forest conservation violation:

1. Proposal to release of 3.89 acres (169,600 square feet) of M-NCPPC Conservation Easement consisting of Category I Conservation Easement.
2. Proposal to create 3.90 acres (169,800 square feet) of Category I Conservation Easement, onsite, which includes 0.60 acres (26,136 square feet) of new forestation planting.

STAFF RECOMMENDATION AND CONDITIONS

All previous conditions of Forest Conservation Plan No. CBA--2724-C remain in full force and effect. Staff recommends approval of plan No. CBA-2724-C for forest conservation purposes to relocate the conservation easement on Parcel A subject to the following conditions:

1. Within thirty (30) days of the mailing of the Planning Board Resolution the Applicant must submit, to Planning staff, for review and approval, a cost estimate for the planting of 0.60 acres of land with 1.5inch-2inch caliper native trees and two-year maintenance of the trees.
2. Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must submit, to Planning staff, the financial security for the planting and maintenance requirements of 0.60 acres of forest planting in a form approved by Staff.
3. Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must record a Category I Conservation Easement by deed, in a form approved by the M-NCPPC Office of the General Counsel, in the Land Records of Montgomery County, Maryland for all new and retained easement areas on the Subject Property.
4. Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must submit a Maintenance and Management Agreement in a form approved by the M-NCPPC Office of General Counsel to ensure compliance with the conditions of the Forest Conservation Plan.
5. Within sixty (60) days of the recordation of the new onsite conservation easements, the Applicant must obtain and record a release of all the existing Category I Conservation Easements in a form approved by the M-NCPPC Office of the General Counsel, in the Land Records of Montgomery County, Maryland. All existing conservation easements remain in full force and effect until the deed of release is recorded.
6. By May 15, 2019 the Property Owner must complete the planting and have the planting inspected and accepted by the M-NCPPC Inspector.

SITE DESCRIPTION

The Subject Property is known as Norbeck Country Club and is comprised of a single Parcel A. The property is located at 17200 Cashell Road, and is 197.58 acres in size. The facility consists of a golf course, a clubhouse, tennis courts, and maintenance buildings. There is approximately 29.80 acres of forest on the property. Figure 1 below shows the outline of the applicant's property. The property is accessed from Cashell Road. The Property lies within the Upper Rock Creek watershed and is within a Special Protection Area.

Figure 1: Norbeck Country Club Property, Parcel A – Existing Conditions



BACKGROUND

Attachment 1 includes the final forest conservation plan that was approved March 12, 2004 and April 16, 2009. A Category I Conservation Easement was granted to M-NCPPC for the forest retention areas and recorded in the Land Records at liber 27196 folio 531 (Attachment 2). The easement was recorded on April 27, 2004. Record Plat No. 23986, recorded on August 20, 2009 delineates the Category 1 Conservation Easements on the Subject Property (Attachment 3). Figure 2 below shows the location of the existing Category 1 Conservation Easements on the property. There were previous approvals to the special exception, but amendments "A" and "B" had no impact on the forest conservation plan or conservation easements.

Figure 2: Location of Existing Conservation Easements



Forest Conservation Violation

On March 13, 2018 the forest conservation inspector observed gravel, structures, and a small building within the existing Category 1 easement. No new construction or grading activity was occurring. A Notice of Violation was issued to the owner because structures and gravel storage is not permitted in a Category I conservation easement. The NOV required the property owner to either come into compliance with the conservation easements or to file for an amendment to the approved forest conservation plan.

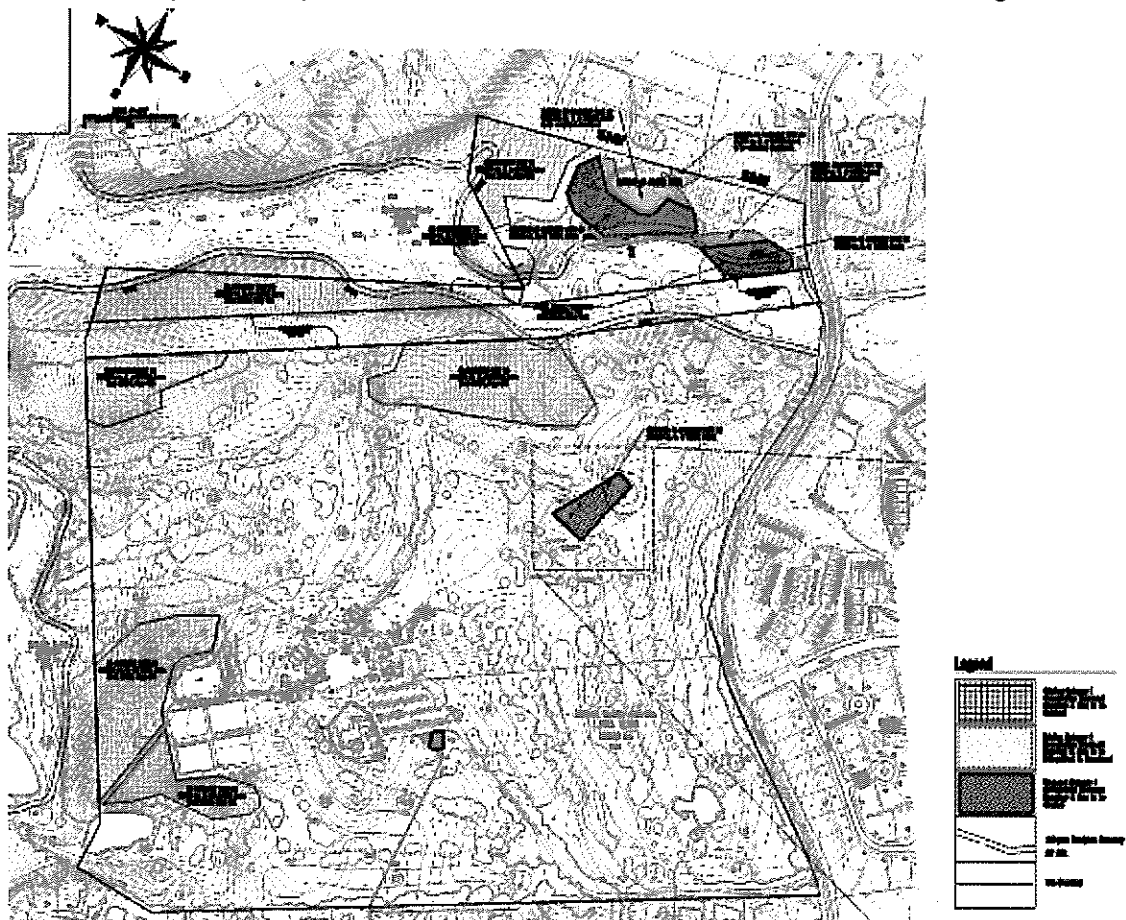
Proposed Amendment

On October 23, 2018 the applicant submitted an amendment to for the forest conservation plan associated with CBA-2724-C to resolve the conservation easement violation. The applicant proposes to realign the easements which will result in existing easements being extinguished and new easements recorded as follows:

1. Release of 3.89 acres (169,600 square feet) of M-NCPPC Category 1 Conservation Easement.
2. Provide 3.90 acres (169,800 square feet) of M-NCPPC Category 1 Conservation Easement, and which includes 0.60 acres (26,500 square feet) of new forest planting.

Attachment 5 includes the amended forest conservation plan. The amendment to the forest conservation plan does not propose any new construction. Figure 3 below shows the location of the proposed conservation easements and where the planting will occur.

Figure 3: Proposed Conservation Easement Areas and Areas of Planting



The applicant has proposed to plant sixty 1.5"-2" caliper trees in one new conservation easement.

Planning Board Review Authority

The Planning Board approved the forest conservation plan associated with CBA-2724-C and required the establishment of conservation easements on Parcel A. The Planning Board has authority under Chapter 22A of the County Code to review amendments to a forest conservation plan that involves more than 5,000 square feet of additional forest removal.

In addition, the Planning Board has directed Staff to bring all requests for modifications to conservation easements before them to be considered in a public forum.

Staff Review and Recommendations

In response to a Notice of Violation and meeting with Staff, the Applicant submitted an amendment to the forest conservation plan which proposes the release of 3.89 acres of Category 1 Conservation Easement. The Applicant proposes to create 3.90 acres of Category I easement onsite. This re-aligns some of the original conservation easements so that they are in compliance and allows for the structures within the existing conservation easements to remain. As part of the onsite mitigation, the Applicant will plant 0.60 acres of forest within the new conservation easement on the property. The property is located within the Special Protection Area but since no new development is proposed and there is not construction associated with this amendment a special protection area water quality plan is not needed.

The Amendment addresses the violations to the conservation easement on the property and recognizes the applicants desire to maintain an existing outbuilding and gravel parking area.

The Property Owner will need to secure M-NCPPC Executive Director approval to release the existing conservation easements, record new conservation easements and eventually create 0.60 acres of new forest in areas that currently do not include forest or tree canopy.

Notification and Outreach

The Subject Property was properly signed with notification of the upcoming Forest Conservation Plan Amendment prior to the acceptance of the application. Staff did not receive any correspondence from the public as of the date of the staff report requesting to be notified of the hearing dates and decisions affecting the proposal. All adjoining and confronting property owners, civic associations, and other registered interested parties will be notified of the upcoming public hearing on the proposed amendment.

Recommendation

Staff recommends that the Planning Board approve this Amendment with the conditions specified at the beginning of this report.

ATTACHMENTS

1. Approved Final Forest Conservation Plans No. CBA-2427-C
2. Category I Conservation Easement Agreement L. 27196 F. 531
3. Record Plat No. 23986
4. Notice of Violation dated March 13, 2018
5. Proposed Final Forest Conservation plan CBA-2724-C submitted for Montgomery County Planning Board approval of January 17, 2019