



**CU202007, Metro Grounds: Preliminary Forest Conservation Plan**

---



Joshua Penn, Planner Coordinator, Upcounty Planning, [Joshua.Penn@montgomeryplanning.org](mailto:Joshua.Penn@montgomeryplanning.org), 301-495-4546



Benjamin Berbert, Acting Supervisor, Upcounty Planning, [Benjamin.Berbert@montgomeryplanning.org](mailto:Benjamin.Berbert@montgomeryplanning.org), 301-495-4644



Carrie Sanders, Interim Chief, Upcounty Planning, [Carrie.Sanders@montgomeryplanning.org](mailto:Carrie.Sanders@montgomeryplanning.org), 301-495-4653

**Staff Report Date: 10/09/20**

---

**Description**

**Conditional Use No. CU2020-07: Metro Grounds**

Preliminary Forest Conservation Plan No. CU2020-07: Request for approval of a preliminary forest conservation plan to construct and operate a landscape contractor at 3731 Damascus Road, Brookeville; 30.9 acres; Agriculture Reserve (AR) Zone; Olney Master Plan.

**Recommendation:** Approval with conditions

**Applicant:** Metro Grounds Management, Inc.

**Submittal Date:** May 13, 2020

**Review Basis:** Chapter 22A



**Summary**

- Staff recommends approval with conditions.
- This application is in the Patuxent River Watershed Primary Management Area (PMA) and is discussed in the Conditional Use Staff Report.
- The Planning Board is reviewing both the Preliminary Forest Conservation Plan and the Conditional Use for the Metro Grounds project. This memorandum covers Staff review and recommendations for the Preliminary Forest Conservation Plan. The Planning Board's actions on the Preliminary Forest Conservation Plan is regulatory and binding. The review and recommendations for the Conditional Use are covered in a separate memorandum.

## CONDITIONS

### A. Staff recommends approval of the Preliminary Forest Conservation Plan, subject to the following conditions:

1. Applicant must submit a Final Forest Conservation Plan ("FFCP") to M-NCPPC Staff for review and approval prior to issuance of a Sediment Control Permit or at the time of a Preliminary Plan of Subdivision, whichever comes first.
2. The FFCP must be consistent with the final approved PFCP.
3. Prior to any clearing, grading, or demolition, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP or as determined by the Forest Conservation Inspection Staff.
4. The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property. If the Property goes through a Preliminary Plan of Subdivision the subsequent record plat must reflect Book and Page numbers for the easement.
5. The limits of disturbance shown on the final Sediment Control Plan must be consistent with the limits of disturbance shown on the Final Forest Conservation Plan.
6. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.

## SITE DESCRIPTION

The project is located on a 30.35-acre parcel (tax map HV43, Parcel 300, Snowden Purchase, Tax Identification No. 00008574) with address of 3731 Damascus Road, Brookeville, Maryland 20833 ("Property")

The Property is in the AR-Agricultural Reserve zoning category and lies within the 2005 *Olney Master Plan* area. Irregularly shaped, but of a general rectilinear nature, the Property has 1,111 feet of frontage on Damascus Road (MD Route 650) and 1,459 feet of frontage on Howard Chapel Road, a designated Rustic Road.

The Property is improved with an approximately 1,314 square foot single-family house with a detached garage/shed that accesses Damascus Road from a gravel driveway approximately 270 feet east of Howard Chapel Road. A second asphalt apron and gravel driveway entrance into the Property from Damascus Road exists approximately 570 feet east of Howard Chapel Road, near the middle of the Damascus Road frontage. This asphalt apron and gravel driveway is for truck and equipment access for operation of the existing turf farm and planting fields.

A farm pond fed by a shallow water table/spring exists in the northwest quadrant of the Property at the headwaters of an un-named perennial stream that flows north. There is a large forested area around the farm pond, and there is a stream that lies within the stream valley buffer on the northern part of the

Property. The Property is within the Lower Brighton Dam watershed and the Patuxent River Watershed Primary Management Area (PMA).

The Property appears generally flat along the slightly curving Damascus Road frontage and it gently slopes downward away from Damascus Road, toward the north to the forest, farm pond and stream valley. The Damascus Road frontage, from the property line to the forest line (excluding the house site), is currently utilized for the turf farm and planting fields.

A narrow woodland strip of trees and shrubs line the western property line along Howard Chapel Road for approximately 630 feet north of Damascus Road. Beyond that point, the woodland strip of trees extends until it meets the forest line where a dense and deep forest continues for approximately 750 feet north along Howard Chapel Road to the northern boundary of the Property. The forest continues across the full width of the northern boundary of the Property and varies from approximately 830 feet deep to 450 feet. A woodland strip of trees and heavy shrubs line the eastern boundary of the Property separating and screening the single-family house on the adjacent property to the east. A scattering of mature trees and landscaping surrounds the single-family home and the single family home driveway on the Property.

The Property is not designated historic. No previous approvals of special exceptions or conditional uses have been granted for the Property.

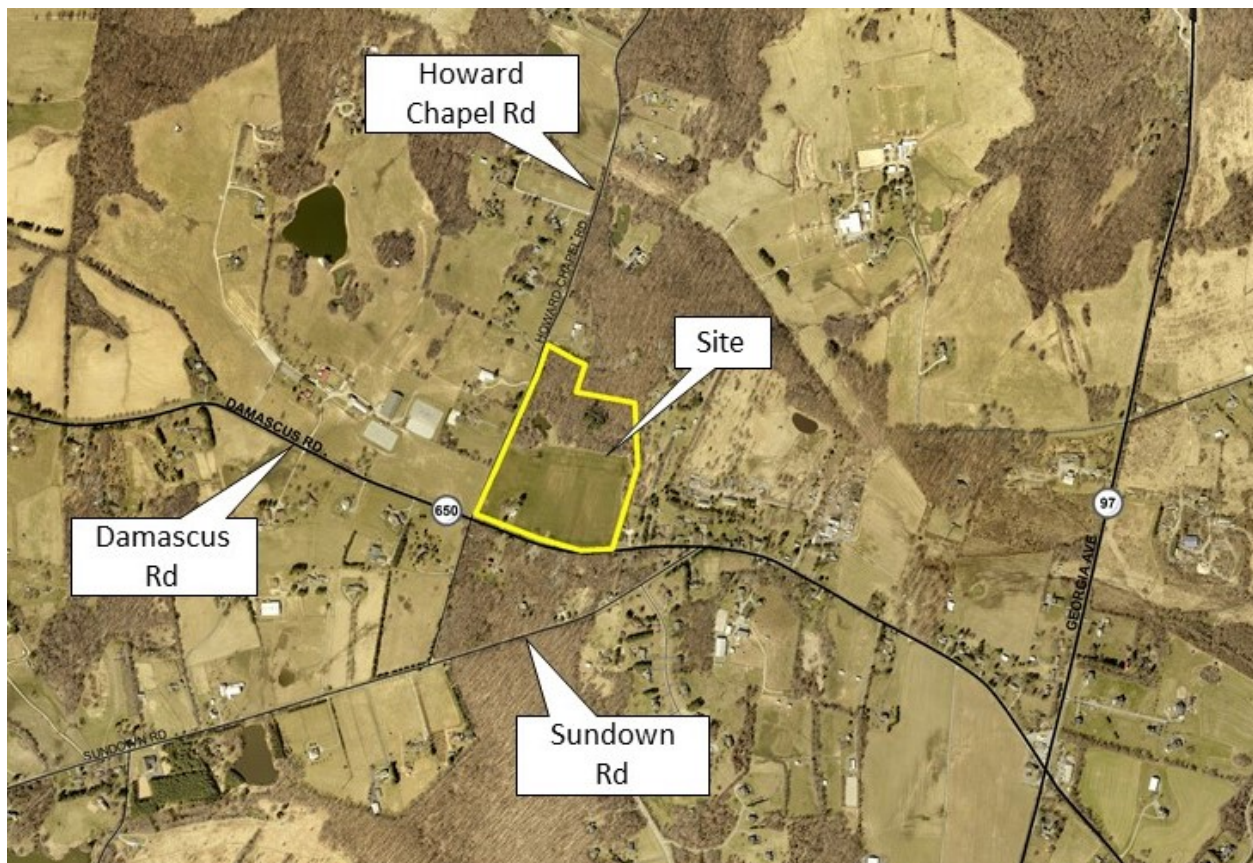
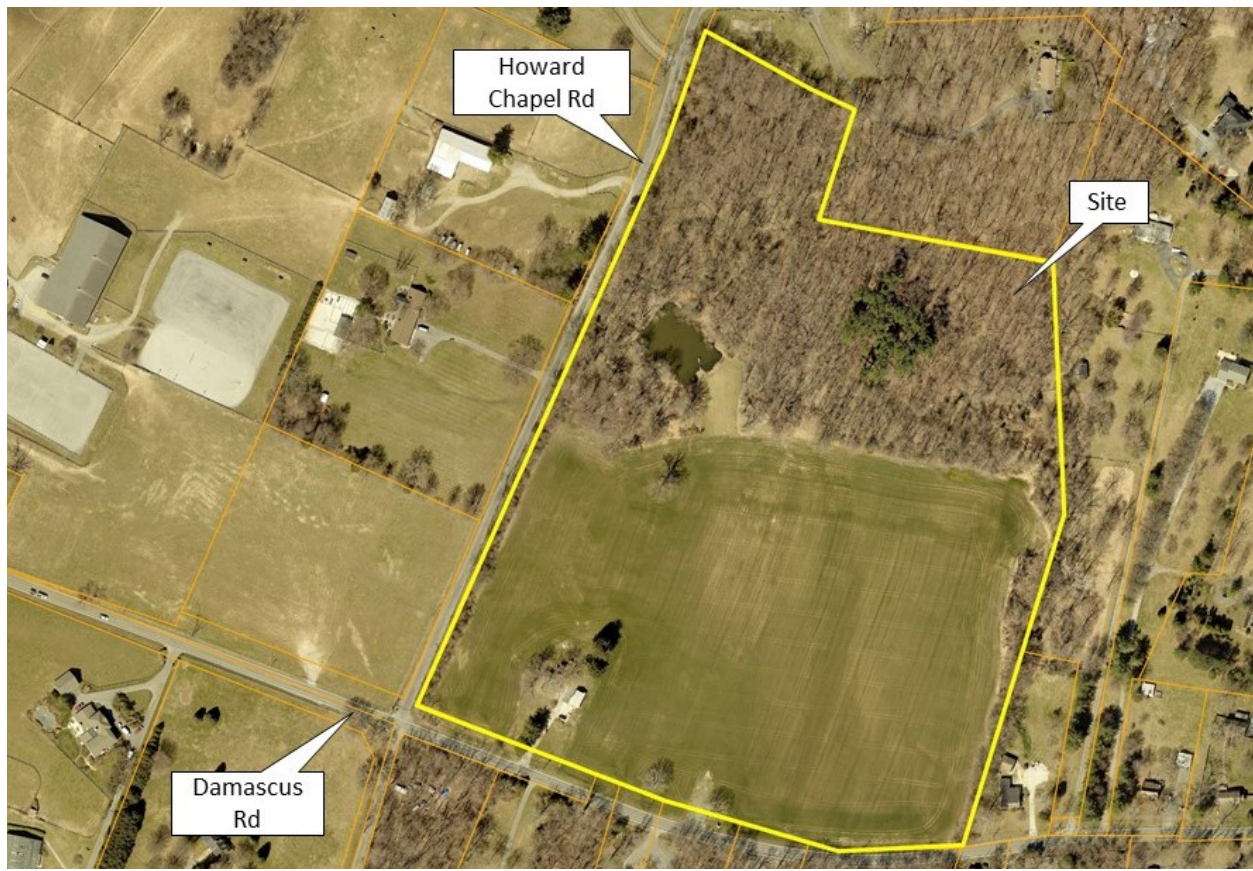


Figure 1: Project Location and Surrounding Area

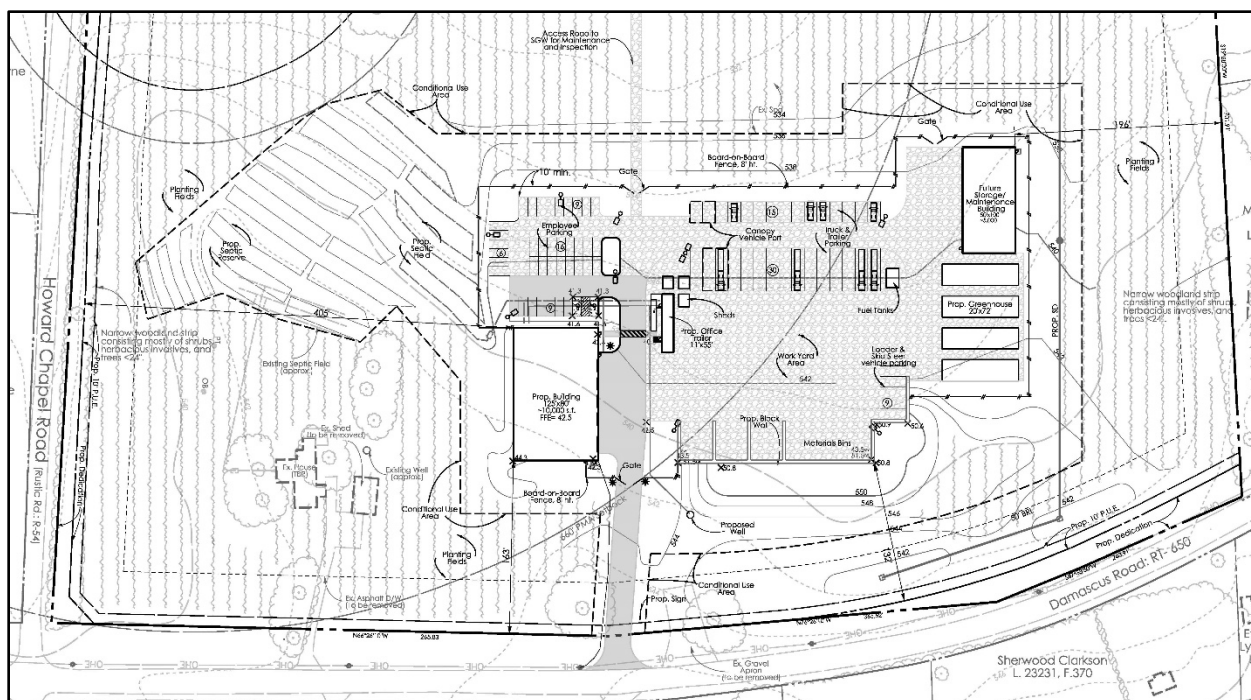




**Figure 2: 2019 Aerial Photograph of Property**

#### **PROJECT DESCRIPTION**

The existing Property consists of a turf farm, a one-story house and garage/shed, and forested area. The proposed Landscape Contractor use will replace much of an existing turf farm. The proposed development of the Subject CU Site will involve the construction of a new field operations storage barn (10,000 square feet), a field operations trailer (approx. 780 square feet), five green house facilities (1,440 square feet each), a future 5,000 square-foot building, and three sheds.



### Figure 3: Conditional Use Project Area

## A. FOREST CONSERVATION PLAN ANALYSIS AND FINDINGS

The Application meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

### Review for Conformance to the Forest Conservation Law

### Environmental Guidelines

A Natural Resources Inventory Forest Stand Delineation plan NRI #420192170 was approved by MNCPPC on August 12, 2019.

The Property is located within the Patuxent River Watershed Primary Management Area (PMA) and the Lower Brighton Dam Class III-P watershed. No rare, threatened, or endangered species were observed onsite. Wetlands observed by site visit were determined to be well within the environmental buffer area. No State or County Champion trees were observed onsite. No significant slopes of 25 percent or greater, or slopes of 15 to 25 percent on erodible soils are within 100 feet of the Property.

Two forest stands, denoted Stand A and Stand B, were identified and located on the NRIFSD. On the 30.94 -acre gross tract area of the Property, 10.86 acres of forest exists, and all 10.86 acres of forest are to be retained under the application.

The Conditional Use has been laid out with sensitivity to the environmental issues identified within the Northern Olney area of the Olney Master Plan so that no unacceptable impacts are created by the proposed development. The location of the CU within the Property has been sited to conserve existing forested areas, protect stream valley buffers, and limit imperviousness to no greater than 10 percent on the Property within the PMA Transition Area of the Patuxent River Watershed Primary Management Area.

The Application meets all applicable requirements of the Environmental Guidelines.

#### Preliminary Forest Conservation Plan

A Preliminary Forest Conservation Plan (PFCP) was prepared for the Property as part of this Conditional Use application. The Land Use category is an Agricultural and Resource Area (ARA), requiring a 20% Afforestation and 50% Conservation threshold for mitigation. Approximately 10.86 acres of forest exist onsite.

The PFCP is currently taking a net tract area deduction for lands to remain in agriculture, for which the Applicant has executed an agricultural Declaration of Intent (DOI) to keep the land in agricultural production. The total tract area for the Application is 30.94 acres with 0.09 acres of offsite improvements. The Applicant is requesting 0.59 acres of deduction for right-of-way not being improved and 11.75 acres of land to remain in agriculture. This brings the net tract area for forest conservation to 18.69 acres. Currently the agriculture deduction is only allowed on areas not proposed on a recorded lot. No lot is proposed with the Conditional Use but will be required at the time of Preliminary Plan of Subdivision. The Applicant is proposing to build in phases and will not require a Preliminary Plan until they seek a Building permit. However, any land disturbing activity will require a Final forest Conservation Plan to be approved before either issuance of a sediment control permit or approval of a Preliminary Plan of Subdivision, whichever comes first. The Final Forest Conservation Plan will have to meet all applicable requirements at time of submission. The Applicant understands that the FCP might need to be amended at time of Preliminary Plan to meet all applicable requirements.

The afforestation and conservation thresholds are currently calculated at 6.07 acres and 15.18 acres respectively. All forest will be preserved within a Category I Conservation Easement and posts will demarcate the limits on the Property, thereby retaining 4.79 acres of forest above the required afforestation threshold. No additional planting is required.

#### Variance Request

The Applicant submitted a variance request in a letter dated August 13, 2020 (Attachment B). The Applicant proposes to impact three (3) trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Trees to be impacted:

ID		COMMON NAME	SIZE	BOTANICAL NAME	CONDITION	REMARKS	Impact
70	*	Norway Maple	30.5"	Acer platanoides	Good		24% of CRZ Impacted
66	*	Red Maple	40"	Acer rubrum	Good		28% of CRZ Impacted
63	*	Red Maple	35.5"	Acer rubrum	Good		13% of CRZ Impacted

### Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. The tree impacts have been minimized by designing the layout to ensure the preservation of as many variance trees as possible.

Due to the removal of existing buildings, site access, and topography; the site elements are tied to the removal of the existing building and the ability to gain appropriate access to the Property. The variance trees cannot be avoided to a greater extent. This hardship is generated by general site development constraints and not specifically related to the implementation of the Conditional Use.

If the Applicant is not allowed to impact the trees, the proposed improvements could not be achieved, and the project could not be accomplished. As such, this would cause an unwarranted hardship.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

### Variance Findings

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the impact of the three trees is due to the location of the trees and necessary site design requirements.

Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. No trees are being removed as part of this request. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision - no mitigation is required for trees that are impacted but retained. All Trees impacted are being proposed for retention.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on September 14, 2020. To date, M-NCPPC staff has not received a response from the County Arborist.

Variance Recommendation - Staff recommends approval of the variance request.

The Application meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

#### Stormwater Management Concept

Stormwater management goals will be met via construction of a submerged gravel wetland. Montgomery County Department of Permitting Services in their approval letter date August 26, 2020 (Attachment C) has found the stormwater concept acceptable. Staff has reviewed the stormwater management concept and the approval letter and has incorporated them into the review.

#### **CONCLUSION**

Staff recommends the Planning Board approve the Preliminary Forest Conservation Plan with conditions specified above.

#### **ATTACHMENTS**

Attachment A – Preliminary Forest Conservation Plan  
Attachment B – Tree Variance Request  
Attachment C – DPS Stormwater Management Plan Approval