

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUL 25 2022

MCPB No. 22-065
Forest Conservation Plan No. SC2022014
12120 Prices Distillery Road
Date of Hearing: July 7, 2022

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on December 15, 2021, Chapingo, LLC (“Applicant”) filed an application for approval of a forest conservation plan amendment on approximately 32.7 acres of land located at 12120 Prices Distillery Road (“Subject Property”) in the 1985 Damascus Master Plan (“Master Plan”) area and the 1996 Rustic Roads Functional Master Plan; and

WHEREAS Applicant’s forest conservation plan application was designated Forest Conservation Plan No. SC2022014, 12120 Prices Distillery Road (“Forest Conservation Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board Staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board dated May 20, 2022, and revised on June 27, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 7, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Rubin, seconded by Commissioner Verma, with a vote of 4-0; Commissioners Anderson, Cichy, Rubin, and Verma voting in favor with Commissioner Patterson being absent.

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Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. SC2022014 on the Subject Property, subject to the following conditions:¹

1. The Applicant must secure an Approved Conditional Use Plan No. CU202207 for this Forest Conservation Plan to be in effect.
2. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
3. 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 Inspection Staff.
4. Within 90 days of the approval of the Conditional Use, 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 Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.
5. Within 120 days of the approval of the Conditional Use, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 2.15 acres of new forest planting and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
6. Within 180 days of the approval of the Conditional Use, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

Within 120 days of the approval of the Conditional Use, the Applicant must execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.

7. The Applicant must install the Afforestation/Reforestation plantings as shown on the approved FCP, within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

BE IT FURTHER RESOLVED that all other conditions of approval for this project remain valid, unchanged, and in full force and effect

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, and ensures the protection of environmentally sensitive features.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Final Forest Conservation Plan (FFCP) #SC2009002 was approved on May 14, 2015. The stream and wetlands were on the portion of the property which was agriculturally exempt from forest conservation. However, the previous plan met the forest conservation planting requirements on this parcel and establishing a Category I Conservation Easement on the Property, outside of the Conditional Use area, and protecting much of the stream and wetlands onsite.

With this Application, the Applicant submitted an amended FFCP #SC2022014, which reduced the amount of agriculturally exempt area in the forest conservation worksheet and increasing the net tract area by 3.84 acres. The increase in the net tract area caused there to be an additional planting requirement of 0.77 acres. The applicant proposes to meet that requirement within the agriculturally exempt portion of the site which is normally at a 2:1 ratio or in this case a 1.54-acre requirement. The Applicant is proposing to plant 2.15 acres within the onsite wetlands buffer. The new forest planting will be protected by a Category I Conservation Easement, an addition of 2.5 acres of easement.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is JUL 25 2022 (which is the date that this Resolution is mailed to all parties of record); 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 Vice Chair Verma, seconded by Commissioner Cichy, with a vote of 3-0-1; Chair Anderson, Vice Chair Verma, and Commissioner Cichy, voting in favor of the motion, with Commissioner Patterson abstaining and Commissioner Rubin absent, at its regular meeting held on Thursday, July 21, 2022 in Wheaton, Maryland and via video conference.



Casey Anderson, Chair
Montgomery County Planning Board

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