

**WHEATON REGIONAL PARK  
FOREST CONSERVATION PLAN NO. F2023009B**



**Description**

Forest Conservation Plan No. F2023009B amends a condition of approval to add additional flexibility in the regulatory process established by F20230090. No additional forest clearing is proposed by this amendment.

COMPLETED: 10/28/2024

PLANNING BOARD HEARING DATE: 11/7/2024

MCPB ITEM NO. 8

## Planning Staff



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### LOCATION/ADDRESS

2000 - 2002 Shorefield Road, Silver Spring

### MASTER PLAN

1989 *Master Plan for the Communities of Kensington-Wheaton* and 2001 *Kemp Mill Master Plan*

### ZONE

R-90

### PROPERTY SIZE

538.66 acres

### APPLICANT

Montgomery County Parks Department

### ACCEPTANCE DATE

1/03/2023

### REVIEW BASIS



### Summary:

- Staff recommends approval of Forest Conservation Plan No. F2023009B with conditions.
- The Forest Conservation Plan amendment proposes to replace Condition 2.c with a condition allowing for increased flexibility of future amendment approvals without allowing additional forest clearing.
- No additional disturbance is proposed with this amendment.
- Staff has received no correspondence associated with this amendment.

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## SECTION 1: RECOMMENDATIONS AND CONDITIONS

### FOREST CONSERVATION PLAN NO. F2023009B

Staff recommends approval of Wheaton Regional Park, Forest Conservation Plan No. F2023009B, for implementation of the 2022 *Wheaton Regional Park Master Plan*, maintenance projects, and environmental improvements. The following site development elements shown on the latest electronic version of Forest Conservation Plan No. F2023009B, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the conditions below. This approval is subject to the following conditions:

1. For development that is associated with a Park Development Plan, an amendment to Forest Conservation Plan No. F20230090 must be submitted for Planning Board approval concurrently with the Park Development Plan in accordance with Section 22A-11.e.2. of the County Code.
2. For development that is not associated with a Park Development Plan, an amendment to Forest Conservation Plan No. F20230090 must be submitted for approval according to the following:
  - a. **Projects in Unforested Areas**

Before any demolition, clearing, grading, or construction occurs in unforested areas, an amendment must be submitted to update the approved plans.

    - i. The Forest Conservation Plan Amendment will be reviewed as a Director-level Amendment in accordance with Section 22A-11.a.2 of the County Code.
    - ii. All variance provisions of Chapter 22A must be followed, including the planting of mitigation trees.
  - b. **Projects in Forested Areas (Shown as Potentially Cleared)**

Before any demolition, clearing, grading, or construction occurs in forested areas shown as potentially cleared or cleared for worksheet purposes, an amendment must be submitted.

    - i. The Forest Conservation Plan Amendment will be reviewed as a Director-level Amendment in accordance with Section 22A-11.a.2 of the County Code.
    - ii. All variance provisions of Chapter 22A must be followed, including the planting of mitigation trees.
  - ~~c. **Projects in Forested Areas (Shown as Retained)**

Before any demolition, clearing, grading, or construction occurs in forested areas shown as retained, an amendment must be submitted for Planning Board approval in accordance with Section 22A-11.a.2 of the County Code.~~
  - c. **Projects in Forested Areas (Shown as Retained)**

Before any demolition, clearing, grading, or construction occurs in forested areas shown as retained, an amendment must be submitted.

- i. The Forest Conservation Plan Amendment will be reviewed as a Director-level Amendment in accordance with Section 22A-11.a.3 of the County Code if the Amendment shows no increase in acreage of forest clearing.
  - ii. The Forest Conservation Plan Amendment must be submitted for Planning Board approval in accordance with Section 22A-11.a.3 of the County Code if the Amendment shows an increase in acreage of forest clearing.
  - iii. All variance provisions of Chapter 22A must be followed, including the planting of mitigation trees.
3. 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.
4. 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.

## SECTION 2: PROJECT DESCRIPTION

### PREVIOUS APPROVALS

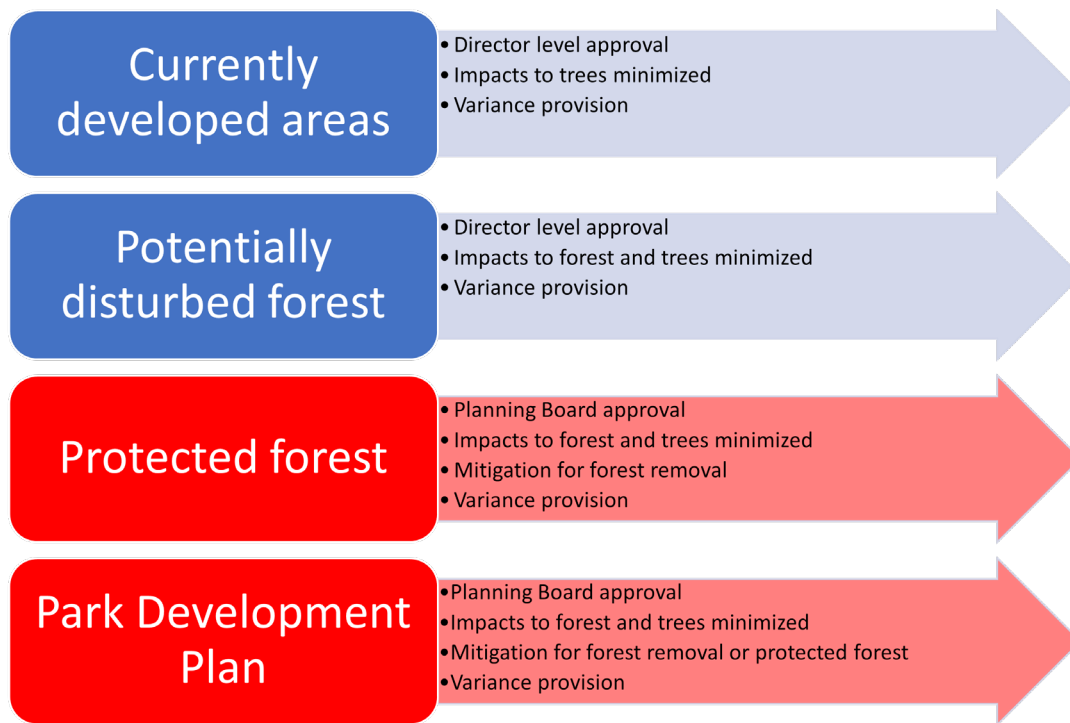
On May 4, 2023, by MCPB Resolution No. 23-055, the Planning Board approved Forest Conservation Plan (FCP) No. F20230090. FCP No. F20230090 established a process to allow for the implementation of the 2022 *Wheaton Regional Park Master Plan* and maintenance of existing facilities while protecting forest and meeting Chapter 22A – Montgomery County Forest Conservation Law.

On May 31, 2024, the Planning Director approved FCP Amendment No. F2023009A to allow for construction activities associated with the Glenallan Tributary Stream Restoration, the Nature Center Annex Culvert Replacement/Stream Restoration, and the Parker Avenue Outfall Rehabilitation. All disturbance was located within areas shown as disturbed and the FCP was reviewed in accordance with the process established by the conditions of approval of FCP No. F20230090.

### APPROVED PROCESS

FCP No. F20230090 established a review and approval process and categorized the Property into three classes of development status: currently developed (unforested), potentially disturbed (forested), and permanently protected (forested). Areas of forest that are shown as potentially disturbed were counted as cleared on the forest conservation worksheet and were not considered permanently protected. No forest conservation easements are recorded on any Park property, as M-NCPPC cannot be the grantor and grantee of an easement. However, forest shown as retained on FCPs for Park property is treated as if it is protected by a Category 1 Conservation Easement.

The following flowchart describes the process described in the conditions of approval of FCP No. F20230090 (Figure 1).



*Figure 1 - Review Process Approved by F20230090*

No demolition, clearing, or grading is allowed without amending the FCP and showing the limits of disturbance and any impacts to forest and individual trees. A detailed tree survey is required with each amendment in order to minimize disturbance to trees and allow the preparation of any variances for impacts to Protected Trees, as required under Section 22A-21.

## PROPOSED PROCESS

The process shown in Figure 1 was successfully applied to FCP F2023009A, which included the disturbance associated with the Glenallan Tributary Stream Restoration, the Nature Center Annex Culvert Replacement/Stream Restoration, and the Parker Avenue Outfall Rehabilitation. However, a fourth project, the Nairn Trail Project, was not able to be reviewed as part of F2023009A due to minor areas of clearing of forest shown as retained in FCP No. F20230090. This forest clearing is due to detailed trail design factors and sediment control changes (Figure 2). While the proposed plans show additional forest clearing, the plans also show equal and greater areas of forest retention due to the proposed changes. These proposed changes trigger Planning Board review due to condition 2.c.

### “c. Projects in Forested Areas (Shown as Retained)

Before any demolition, clearing, grading, or construction occurs in forested areas shown as retained, an amendment must be submitted for Planning Board approval in accordance with Section 22A-11.a.2 of the County Code.”

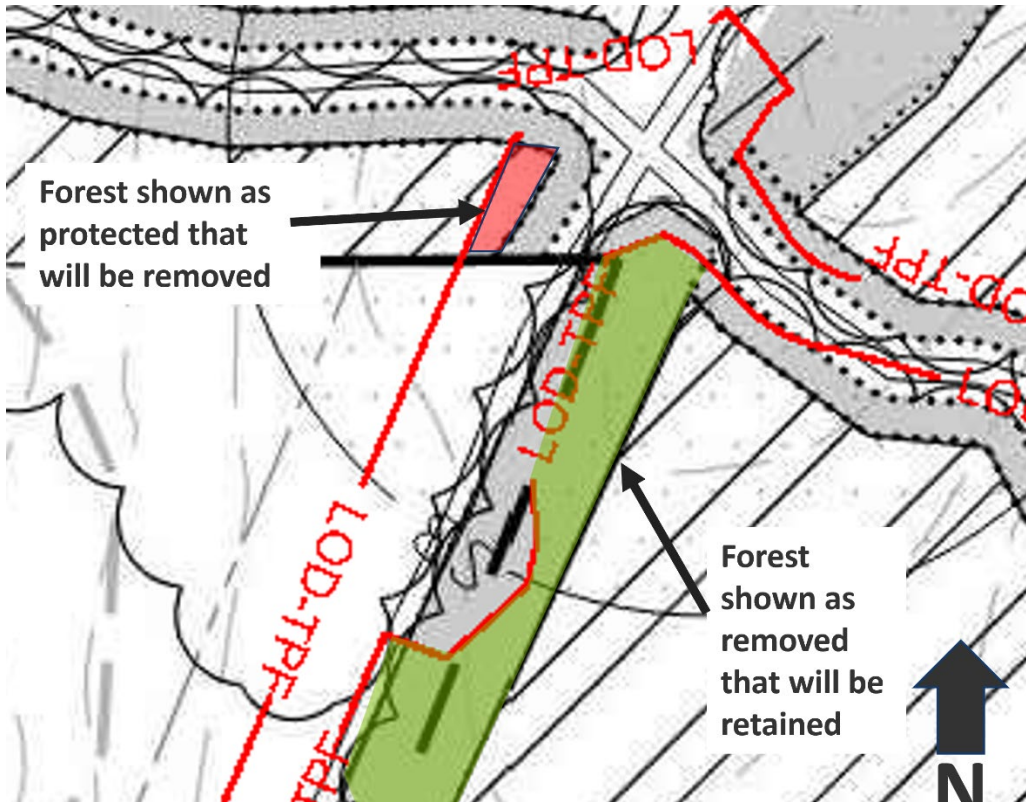


Figure 2 - Example of Minor Changes in Forest Clearing and Retention

The intent of Condition 2.c was to require Planning Board approval for amendments proposing additional forest clearing. However, as illustrated in Figure 2, amendments may include minor changes that change the location of forest clearing without increasing the area of forest clearing.

In order to allow amendments with minor changes that do not increase the amount of forest cleared to be reviewed as Director-level amendments while still providing the Planning Board oversight of projects requiring additional forest clearing, FCP No F2023009B proposes the following conditions to replace 2.c.

“2.c Projects in Forested Areas (Shown as Retained)

Before any demolition, clearing, grading, or construction occurs in forested areas shown as retained, an amendment must be submitted.

- i. The Forest Conservation Plan Amendment will be reviewed as a Director-level Amendment in accordance with Section 22A-11.a.3 of the County Code if the Amendment shows no increase in acreage of forest clearing.
- ii. The Forest Conservation Plan Amendment must be submitted for Planning Board approval in accordance with Section 22A-11.a.3 of the County Code if the Amendment shows an increase in acreage of forest clearing.



- iii. All variance provisions of Chapter 22A must be followed, including the planting of mitigation trees.”

The proposed condition change meets the intent of FCP No. F20230090 by allowing the Parks Department to move forward with the improvements approved in the 2022 *Wheaton Regional Park Master Plan*, maintenance projects, and environmental enhancement projects in an expedited fashion while meeting the requirements of Forest Conservation Law while allowing for Planning Board review and approval of additional clearing of forest.

### SECTION 3: FOREST CONSERVATION PLAN NO. F2023009B ANALYSIS

FCP No. F2023009B meets Montgomery County Forest Conservation Law by permanently preserving approximately 329.66 acres of forest, which is above the 160.45-acre numerical break-even point. No limits of disturbance are shown on this plan but only areas of potential clearing for approved improvements, maintenance of existing facilities, and environmental improvement projects, such as stream restoration plans and stormwater management facility maintenance. All areas of potential clearing are counted as removed for forest conservation worksheet purposes but may not be removed without approval of an amendment including limits of disturbance. Areas of potential clearing are not considered retained forest and protected by the equivalent of a Category I Conservation Easement.

### SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all proper signage and noticing in accordance with the requirements set forth in the Administrative Procedures for Development Review and the Zoning Ordinance. No pre-submission meeting was required. Staff did not receive any correspondence or phone calls throughout the review of FCP No. F2023009B.

### SECTION 5: CONCLUSION

As conditioned, FCP No. F2023009B meets the requirements of Chapter 22A, Montgomery County Forest Conservation Law. Therefore, Staff recommends approval of Wheaton Regional Park FCP.

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#### ATTACHMENTS

*Attachment A: Forest Conservation Plan*

WHEATON REGIONAL PARK AMENDED FINAL FOREST CONSERVATION PLAN MNCPPC PLAN # F2023009B

SHEET INDEX

\*R-1 FINAL FOREST CONSERVATION PLAN - RESOLUTION SHEET

RESOLUTION



MCPB No. 23-055 Forest Conservation Plan No. F20230090 Wheaton Regional Park Page 2

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and WHEREAS, on January 3, 2023, Montgomery County Parks Department (Applicant) filed an application for approval of a forest conservation plan...

2425 Reedie Drive, Wheaton, MD 20902 | Phone: 301-400-4000 | Fax: 301-495-1329

MCPB No. 23-055 Forest Conservation Plan No. F20230090 Wheaton Regional Park Page 2

1. For development that is associated with a Park Development Plan, an amendment to Forest Conservation Plan No. F20230090 must be submitted for Planning Board approval concurrently with the Park Development Plan...

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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...

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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...

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...

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 13, 2024, which is the date that the Resolution is mailed to all parties of record, and

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 13, 2024, which is the date that the Resolution is mailed to all parties of record, and

G-1 FINAL FOREST CONSERVATION PLAN-OVERALL DRAWING KEY

L-1 FINAL FOREST CONSERVATION PLAN

L-2 FINAL FOREST CONSERVATION PLAN

L-3 FINAL FOREST CONSERVATION PLAN

L-4 FINAL FOREST CONSERVATION PLAN

L-5 FINAL FOREST CONSERVATION PLAN

L-6 FINAL FOREST CONSERVATION PLAN

L-7 FINAL FOREST CONSERVATION PLAN

L-8 FINAL FOREST CONSERVATION PLAN-NOTES & DETAILS

L-040-L-044 GLENALLAN STREAM RESTORATION DETAILED FOREST CONSERVATION PLAN

L-010-L-013 WHEATON ANNEX RESTORATION DETAILED FOREST CONSERVATION PLAN

L-021-L-023 PARKER OUTFALL DETAILED FOREST CONSERVATION PLAN

RESOLUTION AMENDMENT A



May 31, 2024 Mr. Joshua Arnett Montgomery County Parks Department 2425 Reedie Drive, 12th Floor Wheaton, MD 20902

Dear Mr. Arnett: On March 28, 2024, Montgomery County Parks Department ("Applicant") filed an application for approval of an amended Final Forest Conservation Plan on approximately 380.68 acres of land located at 2000-2002 Sherfield Road in Silver Spring ("Subject Property").

Before any demolition, clearing, grading, or construction occurs in unforested areas, an amendment must be submitted to update the approval plans. The Forest Conservation Plan Amendment will be reviewed as a Director-level Amendment in accordance with Section 22A-11.1.a.2 of the County Code.

under Section 22A-11 ("Variance"). Otherwise, such resources as defined under Section 22A-12(b)(2) must be left in an undisturbed condition. Impacted trees that are not scheduled for removal are defined as trees that are not scheduled for removal in the Final Forest Conservation Plan.

Table 1 - Impacted/Retained Protected Trees for the Glenallan Tributary Stream Restoration. Columns: Tree #, Species (Scientific Name), Species (Common Name), D.B.H (Inches), Impact (BF), Impact (%), Tree Condition, Status.

\*SHEET AMENDED FROM PREVIOUSLY APPROVED PLAN.

LIST OF AMENDMENTS

1. AMENDMENT B - REVISION TO CONDITION OF APPROVAL

CERTIFICATION OF QUALIFIED PROFESSIONAL. I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH MARYLAND STATE, MNCPPC AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS. 8.2.2024 DATE MICHAEL A. NORTON MONTV / COMAR 08.19.06.01 QUALIFIED PROFESSIONAL

The Maryland-National Capital Park and Planning Commission Montgomery County Department of Parks 2425 Reedie Drive, 12 Floor Wheaton, Maryland 20902 (301) 495-2595

REVIEW AND APPROVAL. ISSUED FOR PROCUREMENT ON. REVISIONS. Table with columns: Rev. No., Date, Description.

DEVELOPER'S CERTIFICATE. The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. F20230090 including, financial bonding, forest planting, maintenance, and all other applicable agreements.

NORTON LAND DESIGN LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING 5146 DORSEY HALL DRIVE, 2ND FLOOR ELLICOTT CITY, MD 21042 BALT.443.542.9199 WWW.NORTONLANDDESIGN.COM

DESIGN table with columns: Designer's Name, Address, City/State/Zip, Telephone Number, Landscape Architect, Architect, Engineer, Drawn by.

Wheaton Regional Park FINAL FOREST CONSERVATION PLAN - F2023009B TAX MAP GRID: JQ122, JQ123, JQ342, JQ343 WSSC GRID: 215NW01, 215NW02, 216NW01, 216NW02 SCALE: AS SHOWN Liber Folio DWG.# R-1 SHT.# 1 of 11