

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

November 5, 2024

MCPB No. 24-101
Forest Conservation Plan No. F20240270
Paschal Land
Date of Hearing: October 17, 2024

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 27, 2023, Peter Kreeger (“Applicant”) filed an application for approval of a forest conservation plan on approximately 115.24 acres of land located at 24724 Peach Tree Road, on the south side of Peach Tree Road, approximately 7,762 feet south of Old Hundred Road (“Subject Property”) in the Bennett Policy Area and 1980 Preservation of Agriculture & Rural Open Space Functional Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. F20240270, Paschal Land (“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 October 4, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on October 17, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Bartley, with a vote of 3-0; Chair Harris, Commissioners Bartley and Hedrick voting in favor with Vice Chair Pedoeem and Commissioner Linden 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. F20240270 on the Subject Property, subject to the following conditions:¹

1. 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.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan (“FCP”). Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
3. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
4. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first for this development Application, the Applicant must:
 - a. 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. The Book/Page for the easement must be referenced on the record plat.
 - b. 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.
 - c. Install the permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - d. Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the 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.

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.

- e. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the 0.12 acres of new forest planting and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
5. 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 the Applicant must install the Afforestation/Reforestation plantings as shown on the approved FCP.

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.

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

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by the County Forest Conservation Law, Chapter 22A of the County Code, a Preliminary/Final Forest Conservation Plan No. F20240270 (FFCP) was submitted for concurrent review with the Administrative Subdivision application.

The total net tract area for forest conservation purposes is 6.16 acres, which is equal to the total tract area, 115.24 acres, minus 109.08 acres of deductions for areas to remain in agricultural production or other dedications. The property is zoned AR and is considered Agricultural Resource Area (ARA) land use under the Trees Technical Manual.

There are a total of 1.74 acres of existing forest within the Net Tract Area with the Applicant proposing to remove 0.06 acres of forest, retaining a total of 1.68 acres of forest onsite. This results in a total afforestation/reforestation requirement of 0.12 acres within the same

watershed/Priority Area or .015 acres outside of the same watershed/Priority Area. The Applicant proposes to meet the planting requirement by reforesting 0.12 acres on-site within the unforested stream valley buffer as required under Sec. 22A-12(e)(1)(B) of the Forest Conservation Law.

i. Minimum Forest Retention

Section 22A-12(f) of Montgomery County Code, Chapter 22A, the Forest Conservation Law (“FCL”), in general, states there are special provisions for minimum retention, reforestation and afforestation on any site developed in an agricultural and resource area, any planned unit development, any site developed under a cluster or other optional method of development in a one-family residential zone, and any waiver from a zoning requirement for environmental reasons, must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement.

In an agricultural and resource area, on-site forest retention must equal 25% of the net tract area. The Applicant is proposing to retain 1.68 acres of forest onsite which is greater than 1.54 acres required (25% of 6.16 acres). Therefore, the applicant is meeting the requirements of Section 22A-12(f).

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

November 5, 2024

(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 Hedrick, seconded by Commissioner Bartley, with a vote of 3-0-2; Chair Harris, and Commissioners Bartley, and Hedrick, voting in favor of the motion, Vice Chair Pedoeem, and Commissioner Linden abstaining, at its regular meeting held on Thursday, October 31, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board