



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB #10**  
**1/07/10**  
**Roundtable**  
**Discussion**

December 23, 2009

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Mark Pfefferle, Acting Chief *MP*  
Green – Environmental Planning Division

**FROM:** Katherine Nelson for the Planning Department *KN*  
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**SUBJECT:** Forest Conservation Easement Stewardship Outreach Program

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**RECOMMENDATION**

Proceed with outreach program

**DISCUSSION**

Throughout the life of the forest conservation program thousands of forest conservation easements have been acquired through the development process. Staff has recently completed an inventory of all of the easements throughout the County. The total acreage is nearing 10,000 acres.

As part of the inventory process we have created a GIS layer with the location of the easements. Now we can easily quantify the types of easements, the number of acres and the dates they were established. We can also easily access the legal documents associated with the easements and keep track of who has jurisdiction if the easement is not held by the Planning Department.

A GIS layer of the easements has enabled us to prepare a preliminary analysis of the condition of these easements. This was done using the 2008 forest layer and air photos, and our knowledge of the status of various development plans. Results have been encouraging. 78% of the easements are clearly in a forested condition, and another 13% are either recently or soon to be planted as forest. This leaves approximately 9% of the easements or 380 sites and over 800 acres requiring an inspection to determine the exact status of the easement. As these are completed, the inspector will determine if further action is needed for the owner to comply with the requirements of the easement.

Our current program focuses on enforcement of forest conservation easements during and just after the construction phase of development. Mechanisms within the construction process enable the inspector

to enforce the forest conservation plan. These include a required pre-construction meeting, a financial security bond, and the ability to hold construction and building permits. However, after a final inspection at the completion of construction, there is no long-term program in place to ensure the maintenance of easement areas, beyond complaint-based reporting or chance observation by staff. We have found that in areas that became easement with *existing* forest, maintaining that forest state has been nearly universal with the exception of a few violations. But maintaining the forest status of *planted* forest easements has been more of a challenge and will require additional involvement from our Department with private property owners.

## **OUTREACH AND EDUCATION PROPERTY OWNERS**

Given our current staff limitations it seemed prudent to develop a resource that could be used by property owners with easements to help them understand our Department's interest and their legal responsibility to maintain these areas as forest. This resource would also provide practical assistance with forest establishment and maintenance. A staff team of from Public Outreach, Environmental Planning and Research has developed a preliminary website that includes such elements as:

- Interactive map to locate easements
- Tool to report potential violations
- Video interview with a forest conservation inspector
- Narrated slide show about the forest conservation program
- Practical help to maintain and move toward easement compliance

Once this site is launched we plan to begin contacting the several thousand owners who have easements on their property. We will let them know of their responsibility and direct them to the website. We will also let them know that an inspector is likely to check on the site from time to time and the potential consequences of non-compliance. The website will serve as the first point of contact for individuals with concerns. The information on the site will help them begin correcting non-compliance issues in advance of a site inspection.

Although this website is not currently connected to the Planning Department's website, it may be viewed at the following web address:

<http://www.montgomeryplanning.org/environment/forest/easements/>

If the Planning Board concurs, we will institute the website and begin the outreach.

## **OTHER OUTSTANDING EASEMENT ISSUES**

During the inventory process a number of issues were revealed that also need to be addressed with developers and property owners. Legal staff has advised that these issues should be addressed in the following manner:

### **Forest Conservation Plan Areas where required easements were never recorded (31)**

Developers who have never recorded their easements will be issued a notice of violation and given a set amount of time to record the easements.

### **Plats with no reference to legal description of easement (37)**

Property owners with no reference on their plats to easements on their property will be sent a standard easement description and asked to sign it. That document will then be recorded in the land records.

**Errors in the reference to legal description of easement (36)**

Property owners will be sent a corrective deed of easement and asked to sign it. That document will then be recorded in the land records.

Legal staff is convinced that in all of the cases mentioned above, that the approved forest conservation plan with corresponding forest retention and planting areas may be enforced by inspection staff. However, correcting these issues will simplify the follow-up and correct these discrepancies.

**CONCLUSION**

Staff is requesting the Board's support to launch the website immediately and begin advertizing this resource to owners who have easements on their property. Staff also will begin action described on the issues above with the Board's approval.

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