



To: Faroll Hamer, Acting Director

From: Mark Pfefferle, Planner Coordinator  
Environmental Planning Division, County-wide Planning

Date: January 31, 2007

Re: Final Report  
M-NCPPC Forest Conservation Task Force

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Along with members of the M-NCPPC Forest Conservation Task Force, I am please to submit this final report outlining our recommendations on ways to improve the implementation and administration of the Forest Conservation Law. This is a collaborative effort of all 9 members of the task force you appointed in January 2006. Representatives of environmental and civic groups, the development community, and M-NCPPC staff have met over the past eight months to discuss the implementation and administration of the Forest Conservation Law. The task force is composed of 4 representatives of environmental and civic groups, 4 members of the development community, 1 representative from M-NCPPC Environmental Planning. Many other staff members participated at every meeting.

The task force received briefings on the Forest Conservation Law and Regulation, natural resource inventories and forest stand delineations, forest conservation plan review and implementation, and violations. The task force received presentations on the real and perceived shortcomings of the Department's implementation of the law from Environmental Planning staff, a forest conservation qualified professional, and a private citizen.

Comments and suggestions for improvement were solicited from all members after the presentations were made. Non task force participants, who had attended and observed the task force meetings, also provided suggestions. It was particularly beneficial and enlightening to have a representative of the Maryland Department of Natural Resources in attendance at all meetings, for this person provided insight and explanation on problems and solutions from other local governments.

As previously stated, the purpose of the task force was to assess Environmental Planning's implementation of the Forest Conservation Law and Regulations and to suggest ways to improve performance and responsiveness. Even though beyond the explicit scope of the Task Force some members voiced support for changes to the existing Forest Conservation Law and also for the creation of a separate tree preservation law. Since these two areas were beyond the purview of the task force, this report does not take a position or make recommendations on these topics. However, these issues need to be discussed at greater length in other forums.

At our final meeting on January 10th, several task force members noted that throughout this process, members of the group most often agreed and succeeded in finding common ground to use as a basis for many of our recommendations. The end goal was the same for all members: improvements in the operational aspects of the existing Forest Conservation Law that would make the law more readily understood by stakeholders and less complicated to implement or enforce. Members concluded their work agreeing that the tone of our meetings was always collegial and professional, even when there were points on which various members disagreed. This was a rare and interesting opportunity for members of the business, environmental and civic community to work together toward a common goal.

**M-NCPPC Forest Conservation Task Force  
June 2006 – January 2007**

Members

Anne Ambler  
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## Executive Summary

This report summarizes the recommendations of the Forest Conservation Task Force to improve the efficiency and administration of the forest conservation program. The Task Force's primary function was to serve in an advisory position to Acting Planning Director Farroll Hamer in improving the forest conservation program. Throughout the meetings the members worked cooperatively and reached consensus on the recommendations and the themes discussed in the final report. Highlights of the Task Force's recommendations are presented below:

- Develop more detailed checklists for NRI/FSD submissions and make those checklists widely available. Also create an instruction sheet for submitting NRI/FSDs that clearly explains what is expected in a complete application.
- Continue the current method of NRI/FSD plans submissions but when an application is incomplete it will be rejected and returned to the applicant. Applicants, with rejected submissions, will then be required to make an appointment to submit their applications.
- Conduct site visits for all NRI/FSDs and requests for forest conservation plan exemptions.
- Environmental Planning will conduct a weekly triage of new submissions to determine the order of review.
- Planning Director will officially designate to the Forest Conservation Inspectors the authority to issue stop work orders.
- Develop an effective education campaign to educate the public on forest conservation and forest conservation easements.
- Create an electronic tracking system for all violations that clearly indicates the type of violation and notifies the inspectors on milestones particular to that violation.
- Develop standard notes, details, and information to be incorporated onto all forest conservation plans and upload the information on the M-NCPPC homepage, or on a new website dedicated to forest conservation issues in Montgomery County.
- Authorize additional people the ability to sign final forest conservation plans.
- Increase staffing for the program by strongly supporting the 2 additional plan reviewers and 2 additional forest conservation inspectors that are currently recommended in the FY08 Departmental budget.
- Update the Trees Technical Manual.
- Prepare procedural manuals documenting how staff should review and approve NRI/FSDs, Tree Save Plans, and Forest Conservation Plans.
- Prepare procedural manuals for determining and documenting if forest conservation violation occurred, and for assessing penalties for these violations, including establishing guidelines for corrective actions.
- Identify public and private lands for reforestation.
- Digitize all forest conservation plans and make them available online.
- Educate project managers in County agencies on plan submission requirements.

## **FINAL REPORT**

### **Report of the M-NCPPC Forest Conservation Task Force**

This report summarizes the recommendations of the Forest Conservation Task Force to improve the efficiency and administration of the Forest Conservation program. The Task Force met from late June 2006 to January 2007. The Task Force consisted of 9 members, four from the development community, four representing the interests of environmental and civic groups, and one person from M-NCPPC Environmental Planning (EP). Other M-NCPPC staff members were in attendance and contributed to the discussions. Task Force members were briefed with presentations on the forest conservation law and regulations, natural resource inventories and forest stand delineations, forest conservation exemptions and tree save plans, procedures preparing and reviewing forest conservation plans, implementation of the forest conservation plans, and violations. There were also presentations on the shortcomings to implementing the law and regulations by Environmental Planning staff, a forest conservation plan preparer, and a private citizen. All the presentations and briefings were used to further the task force's understanding of staff interpretation and implementation of the law and to identify shortcomings to foster discussion and suggestions for improvement.

Throughout the process the task force worked cordially and achieved consensus on all recommendations that follow. Agendas and briefings materials were prepared for each meeting. Task force members received the briefing materials prior to the next meeting. Meeting summaries were prepared and sent to each task force member for review and discussion.

The pages that follow are arranged into sections beginning with "current practice", followed by "problem", and "proposed solution".

**The purpose of the Task Force was to examine how M-NCPPC implements the forest conservation program and to make recommendations to improve the program. The intent of the Task Force was not to suggest changes to the law or regulation, unless it was to clarify the law.**

## **1. Environmental Planning Will Develop Clearer Checklists To Be Used By Plan Reviewers And These Checklists Can Be Included With The Submissions**

Current Practice. Section 106 of the Forest Conservation Regulation identifies what information must be included on a NRI/FSD for it to be considered complete. However, the checklist contained on the NRI/FSD application is not consistent with the regulation. In addition, applicants rarely complete the checklist on the application and staff does not review this portion of the application as part of the completeness check.

Problem. Applications are sometimes submitted with missing, incomplete, or erroneous information. All of which lead to delays reviewing and approving NRI/FSDs. In addition, the submission requirements are unclear for forest conservation exemptions. There is no guidance in the Forest Conservation Regulation whether a NRI/FSD, a simplified NRI, or an existing conditions plan should be submitted to support an exemption.

Proposed Solution. Environmental Planning will develop more detailed checklists for NRI/FSD submissions and make those checklists widely available. Environmental Planning will also create an instruction sheet for submitting NRI/FSDs and forest conservation exemptions that clearly explain what is expected for an application to be complete.

## **2. Submissions of NRI/FSDs**

Current Practice. Natural Resource Inventories/Forest Stand Delineations (NRI/FSDs) and exemptions from submitting forest conservation plans are currently submitted directly to Environmental Planning by placing the documents into an inbox. The documents are date stamped received and then forwarded to an Environmental Planning Technician for an initial completeness review. This includes reviewing the application to determine that it is properly signed and filled out, determine if the appropriate fee is included with the application, and processing the application fee. No technical reviews are conducted at this time. Once the application is complete, the Environmental Planning Technician creates a HANSEN entry for each submission, assigns an NRI/FSD number to the plan, outlines the property areas covered by the application in GIS, and then forwards NRI/FSDs to Ms. Bunnag and exemptions from forest conservation plans submissions to Mr. Penn for review. Ms. Bunnag assigns the NRI/FSDs to the appropriate technical reviewer. The forest conservation law requires Environmental Planning to provide comments or review NRI/FSDs and forest conservation exemption requests within 30 days of the date of receipt.

There is an existing policy between Environmental Planning and the County Department of Public Works and Transportation (DPWT) requiring DPWT to submit all applications on an appointment only basis. DPWT must contact Environmental Planning to arrange a meeting before an NRI/FSD or exemption request can be submitted.

Problem. NRI/FSD and forest conservation exemption requests are sometimes submitted without the proper fee; applications are incomplete or not signed; no signatures on the plans; or the application and drawings are submitted missing information. When information is missing,

or the application is incomplete, the Environmental Planning Technician contacts the applicant to get the appropriate information before entering the information into HANSEN, assigning plan numbers, and forwarding the plan for technical review. Sometimes, weeks or months pass before the applicant provides the appropriate information, yet the applicant believes the 30-day review period begins on the date the plan was submitted to Environmental Planning, even though the application is incomplete.

Proposed Solution. By consensus, the task force agreed to continue the current method of plan submissions. The task force also agreed, by consensus, that incomplete applications would be immediately rejected and returned to the applicant. Applicants, with rejected submissions, will then be required to make an appointment to submit their applications. Once an application is received, the Technician will do a completeness check to determine if the application continues through the review process or is returned to the applicant. Environmental Planning will make efforts to meet with rejected applicants within 10 business days from the date the applicant requests the meeting. The Technician will notify all applicants, via email, when their application is complete and the beginning of the 30-day review period. This policy will be effective for all applicants not including the Department of Public Works and Transportation. DPWT will continue submitting applications in the method previously agreed to by DPWT and Environmental Planning.

Environmental Planning also will modify the application so that it will include entry for “Date Received”, “Date Rejected”, “Date Resubmitted”, and “Date Approved”.

### **3. Staff Will Conduct Site Visits All Forest Conservation Exemptions**

Current Practice. Current staffing levels and the number of exemption requests makes it impossible for Environmental Planning staff to conduct field visits for all forest conservation exemption requests within the 30-day regulatory deadline. As a result, staff reviews exemptions with electronic data sources such as aerial photographs and GIS databases. This method does not allow the existing features including the diameter, health, or tree species to be verified.

Problem. Applicants have submitted exemptions with incorrect information and statements related to the absence or presence of forest and/or specimen trees and the location of specimen trees on or near the site. It is only during the on site pre-construction meeting the Forest Conservation Inspectors determines misidentified or incorrectly located trees. This makes it difficult for the Forest Conservation Inspectors to adequately protect those trees, especially after the Department of Permitting Services has issued erosion and sediment control and building permits.

Proposed Solution. The task force agrees that all NRI/FSDs and requests for an exemption from submitting forest conservation plan be field verified by staff.

### **4. Implement a “Triage” Practice for Applications Received Versus Review Based On Date Received**

Current Practice. It is Environmental Planning’s policy to review NRI/FSDs and requests for

exemptions in the order they are received, regardless of the complexity of the plans. This policy was implemented to create fairness and equality to all applicants and to avoid all perceptions of favoritism. All NRI/FSDs reviews are field verified.

Problem. There is a perception that these reviews are taking too long for the initial review, or subsequent reviews of plans. However, exemption requests that are perceived as simple and straightforward by applicants sometimes lack the necessary information to support the exemption request, and/or the applicant applies for an exemption that is not appropriate to their property. Many exemptions require tree save plans, which are not typically submitted with an exemption request. This leads to approval delays particularly for plans only associated with sediment control plans.

Proposed Solution. Environmental Planning to conduct weekly triages of initial submissions to determine the order of review. Staff guidelines will be developed to identify which types of submissions are simple and straightforward enough to go through an expedited review and which will require more detailed analysis. Any plans that require additional information will be flagged immediately after the weekly triage and the applicants will be contacted to provide the information. This recommendation should be reviewed after six months. If this process creates too many problems, such as the plan not showing specimen trees or environmental buffers, staff will return to the old policy where the plans are reviewed in the order received.

## **5. Delegate Authority to Issue Stop Work Orders**

Current Practice. Currently the Forest Conservation Inspectors are unable to issue stop work orders when they have determined a potential violation to the forest conservation law has occurred. Stop work orders are signed by the Director of the Planning Department. A Senior Manager and Chief must justify the stop work order to the Director prior to the issuance of the order. If the Director agrees a stop work order is necessary, one is prepared and the Forest Conservation Inspector delivers the stop work order.

Problem. When the Forest Conservation Inspectors respond to a complaint and it is determined that a potential violation has occurred, the Forest Conservation Inspectors are unable to instantly stop the violator from continuing the activity. They can issue a citation but the violator can continue with the activities until the stop work order is issued. Days may pass before a stop work order is issued.

Proposed Solution. Section 22A-17 of the Montgomery County codes states that the Planning Director may issue a corrective action as a part of a violation to the forest conservation law. Under Section 22A-3 of the Montgomery County code, the “Planning Director means the director of the Montgomery County Park and Planning Department, or the Director’s designee”. The Planning Director should officially designate authority to the Forest Conservation Inspectors to issue stop work orders and to lift these orders after the violations have been corrected. This will allow the inspectors to immediately require the cessation of activities that violate the forest conservation law. This system is currently in place for inspections at the County of Department of Permitting Services (DPS) and was previously used by M-NCPPC.

## **6. Create A Central Hotline Phone Number And Email Address To Report Violations**

Current Practice. Individuals that identify forest conservation violations either contact Environmental Planning or Development Review to report possible violations to the forest conservation law and conservation easements. The M-NCPPC homepage has a “concerns or complaints” section to report violations and identifies both a phone number and email address for complaints. Few forest conservation complaints are received by this method. If Environmental Planning receives a complaint it is immediately forwarded to the appropriate Forest Conservation Inspector for investigation and action. If a complaint is received by the hotline telephone number or via email, Development Review staff will log it into a complaint database and assign it to the appropriate inspector for investigation and action.

Problem. Individuals are unsure whom to contact when they perceive a violation to the forest conservation law or easement has occurred. If a person does not have access to the Internet they would not know the number to contact for violations, or may not even know that M-NCPPC is the appropriate lead agency to contact for violations to the forest conservation law. Very few forest conservation complaints are received via the hotline number or email address.

Proposed Solution. M-NCPPC should better educate and communicate to the public whom to contact when a potential violation has occurred to the forest conservation law or a forest conservation easement. This should involve the M-NCPPC Community Outreach Division and will involve creating a more informative page on the website about the Forest Conservation Law. Additionally, there should be advertisements in the local newspapers educating the public on conservation easements, better directives on the County and M-NCPPC websites, mailings and tax bill inserts, information on who to contact with a complaint, as well as presentations at major civic groups. Staff will continue discussions with the Department of Parks to determine if M-NCPPC Police Officers could be used to inform people of potential violations to conservation easements during evenings and weekends.

## **7. Develop A Violation Tracking System**

Current Practice. There currently is no system to track forest conservation violations that is easily accessible to all M-NCPPC staff and to the public. There is a system to track complaints, corrective action implementation, and timely payment of financial penalties, but not violations.

Problem. The lack of a tracking system prevents the Forest Conservation Inspectors from knowing if the violators have completed required actions within the timeline established by the citation or by the civil administrative order. There are also lengthy time delays within the M-NCPPC legal department to review civil administrative orders for legal sufficiency prior to the issuance of that order. The delay in issuing the civil administrative order also creates a perception that M-NCPPC is not taking appropriate actions to resolve the problem.

Proposed Solution. M-NCPPC Forest Conservation Inspectors will work with the M-NCPPC Research and Technology Division to create an electronic tracking system for all violations. The system would clearly indicate the type of violation and send messages to the M-NCPPC Forest Conservation Inspector, when the accused must undertake specific actions to avoid additional

financial penalties and when they perform other activities to comply with the civil administrative order.

## **8. Upload Forest Conservation Standards, Notes, And Details Online**

Current Situation. Staff provides updates to standard notes and details to forest conservation plan preparers as they are developed. The 1994 Trees Technical Manual includes tree protection details but not standard notes. The purpose for the revision of the Manual was, among other things, to update the tree protection details and provide standard notes.

Problem. The result is plan submissions with disparate notes and specifications that require plan revisions. This leads to additional reviews and time by both the plan preparer and Environmental Planning in approving final forest conservation plans. Environmental Planning staff was updating the Trees Technical Manual, but because of staffing shortages and workload increases completion of the Trees Technical Manual was delayed.

Proposed Solution. Staff will develop standard notes, details, and information to be incorporated onto all forest conservation plans and upload the information on the M-NCPPC homepage, or on a new website dedicated to forest conservation issues in Montgomery County. Since the details and standard notes are an appendix to the Trees Technical Manual the completion of this task can occur and be used prior to the completion and Planning Board approval of the revised Trees Technical Manual.

## **9. Modify/Expedite Process To Sign Approved Plans**

Current Situation. Only a senior manager, or supervisor, can approve the technical review aspects of a final forest conservation plan. The Planning Board approves a preliminary forest conservation plan that establishes the amount of forest to be cleared, saved, and the location of conservation easements, but staff approves a final forest conservation plan that includes the planting specifications, tree species, tree protection measures, etc. Applicants cannot begin clearing prior to the approval of the final forest conservation plan.

Applicants submit a final forest conservation plan directly to Environmental Planning reviewers. When the reviewer determines the plan is ready for approval, the reviewer prepares an approval letter for the supervisor's signature. The supervisor signs the approval letter and the letter is sent to the plan preparer. The plan preparer puts a copy of the letter on the final forest conservation plan and resubmits it to Environmental Planning for the Supervisors signature. Once the supervisor signs the plan, original hardcopy files are kept and the mylar returned to the plan preparer.

Problem. The current process results in delays by generating an approval letter and requiring the approval letter to be included on the final forest conservation plan. With only 2 supervisors in Environmental Planning, if a supervisor is not available for signing the plan, there is an additional delay in getting the approved plan to the applicant.

Proposed Solution. Some members of the task force see the merits of having the approval letter

on the final forest conservation plan. Others see the merits of having standard conditions put on the plan by the plan preparer. There are merits to both approaches. Standard approval conditions, such as “no clearing or grading prior to submission and approval of financial security, etc.”, could be added to the standard notes section and included on the forest conservation plan by the plan preparer. Whenever there is a non standard condition, i.e., one that is not on the standard list of conditions, the approval letter must be attached to all reproduced copies of the final forest conservation plan. Regardless, staff will still need to prepare a letter approving the final forest conservation plan. Additional people need signature authority to approve final forest conservation plans to reduce the signature delays. When the forest conservation master planner is hired, that person should also have the ability to sign approved plans. In the absence of the new Master Planner, the Planner Coordinators with forest conservation experience should also have the ability to approve final forest conservation plans for plans where they are not the technical reviewer.

### **10. Increase Staff With Contractual Employees (Short Term) And Permanent Employees (Long Term)**

Current Situation. There are four technical reviewers, one intake technician, and one supervisor reviewing NRI/FSDs, exemptions from submitting a forest conservation plan, preliminary and final forest conservation plans, tree save plans, and amendments to approved forest conservation plans associated with preliminary plans of subdivision, site plans, and sediment control plans. There are two technical reviewers and one supervisor reviewing preliminary and final forest conservation plans associated with special exceptions, mandatory referrals, and rezoning cases. There are three forest conservation inspectors, each of which is responsible for the implementation of forest conservation plans, enforcement of the forest conservation law, and enforcement of preliminary plans of subdivisions and site plans.

In fiscal year 2006, Environmental Planning received 404 NRI/FSDs and requests for an exemption from forest conservation. Of this total 163 (approximately 40%) were NRI/FSDs that required site visits and have or will eventually result in forest conservation plans. The remaining 241 submissions (approximately 60%) were for exemption requests with approximately 2/3 of the exempted plans requiring tree save plan submissions and approvals.

There are approximately 1500 forest conservation easements in the County. As the number of approved plans and permanent protections such as conservation easements increase over time, so do the number of complaints and requests to encroach into the easement areas.

Problem. All NRI/FSD, exemption requests, and forest conservation plans have regulatory timelines in which the plans must be reviewed. If the applicant does not receive comments within that timeframe, the plan is *de facto* approved. Environmental Planning is responding to submissions within 1 or 2 days of the regulatory deadlines on numerous plans. Some plans have been *de facto* approved because staff was unable to respond within the regulatory timeframe. Because of the staff shortages and workload demands, Environmental Planning does not conduct site visits for applicants requesting an exemption from submitting a forest conservation plan. Since there is insufficient staff to backfill for reviewers out with sickness or vacations, plan reviews fall behind and regulatory deadlines are exceeded.

The forest conservation inspectors do not have the manpower to proactively enforce conservation easements, follow-up on civil administrative orders, attend pre-construction meetings jointly with the DPS sediment control inspector, and conduct post-construction meetings. Assessing compliance and enforcement of conservation easements has occurred on a complaint basis.

Proposed Solution. Hiring contractual employees to review NRI/FSDs and to assess compliance with conservation easements can alleviate some of the staffing problems. However, contractual employees cannot provide the long-term commitment to follow a forest conservation plan from the beginning to end, which includes the preliminary FCP, final FCP, plats, bonding, and bond release. Contractual forest conservation inspectors can alleviate some of the proactive work needed by the inspectors to ensure compliance with the terms of the easement, but the number of perpetual easements and acreage covered by easements grows each year. The Task Force supports the hiring of 2 permanent employees for plan reviews and 2 additional forest conservation inspectors to proactively enforce the conservation easements and perform pre-construction meetings, planting meetings and final inspections in a timely fashion.

## **11. Complete Revisions To The Trees Technical Manual**

Current Situation. The current Trees Technical Manual used by M-NCPPC was completed in 1994. The manual was never updated as a result of major revisions to the forest conservation law in 2001 nor amended to reflect ever-advancing state-of-the-art practices for forest/tree protection and planting. Environmental Planning staff has on numerous occasions attempted to update the manual, but increases in regulatory workloads, inter-departmental transfers, and retirements, have prevented an update to the manual for public distribution and comments. There are still major sections of the Manual to be written and updates to appendices needed to reflect current practices. With current workloads and staffing shortages it is unknown when the draft will be available to public comment and Planning Board discussion.

Problem. The current Trees Technical Manual is out of date, does not include advances in tree protection, forest planting specifications, does not address non-native invasive management control and deer browse, and excludes any changes reflective of the 2001 amendments. Environmental Planning is unable to provide staff to complete the manual and also maintain the same regulatory workload without exceeding the regulatory deadlines. In addition, there are discussions on revising the Forest Conservation law and implementing a tree ordinance. Implementation of a new tree ordinance, in itself, is not sufficient reason to delay completion of the trees technical manual. However, legal changes, such as those proposed by the C&O Task Force, could create substantive revisions to a new Trees Technical Manual.

Proposed Solution. Environmental Planning currently has an opening for a Forest Conservation Master Planner. One of the responsibilities of this person should be to restart the update of the tree technical manual particularly as it relates to standard details and notes, and leave the applicability sections until it is determined whether or not the County Council will proceed with changes to the Forest Conservation law in the next year.

## **12. Preparation Of Staff Procedural Manuals For The Review And Approval Of NRI/FSDs, Tree Save Plans, And Forest Conservation Plans**

Current Situation. There are no procedural manuals for staff use in reviewing and approving NRI/FSDs, tree save plans, or forest conservation plans. The information is passed from one employee to another through the review of plans and peer reviews. Environmental Planning staff has started compiling “Staff Practices” but these practices are neither finalized nor publicized.

Problem. New staff slowly learns how to review and approve NRI/FSDs, tree save plans, and forest conservation plans, prepare comment sheets for applicants, process bonds and maintenance and management agreements.

Proposed Solution. Concurrently with the update of the Trees Technical Manual, Environmental Planning Staff shall prepare procedural manuals documenting how staff should review and approve NRI/FSDs, Tree Save Plans, and Forest Conservation Plans. Depending upon the schedule for any revisions to the Forest Conservation Law, staff may be able to prepare a procedural manual for the review and approval of NRI/FSDs prior to approval of the Trees Technical Manual.

## **13. Preparation Of Procedural Manuals For Determining Violations, Documenting Violations, Assessing Penalties And Corrective Actions**

Current Situation. There is no procedural manual for Forest Conservation Inspectors to determine and document if a forest conservation violation occurred, or in assessing penalties and establishing corrective actions. Most of these determinations are made in the field (such as the financial penalty associated with a civil citation). Corrective actions are often determined when the inspector consults with the appropriate environmental planning reviewer.

Problem. There is a perception that inspectors are inconsistent when assessing penalties including civil administrative actions and financial amounts associated with citations, and that they may be operating solely and without guidance, or without integral legal support.

Proposed Solution. Forest Conservation Inspectors, in concurrence with legal staff, prepare a procedural manual for determining and documenting if forest conservation violation occurred, in assessing penalties, and establishing guidelines for corrective actions. This activity can only occur with additional Forest Conservation Inspectors to reduce the existing workload and with an Attorney assigned to forest conservation issues.

## **14. Develop A Program To Use Fee-In-Lieu Funds**

Current Situation. There is no program in place to use fee-in-lieu funds collected from forest conservation plan applicants.

Problem. M-NCPPC has been collecting in-lieu-fees since 2003. No money has been allocated or spent to meet the obligations passed onto M-NCPPC from the developers. The longer the money sits the more expensive it becomes to plant forests to meet the acreage obligations. With

a shortage in forest conservation banks, the number of applicants requesting use of the fee-in-lieu option is increasing, but there is no program in place to use the funds collected.

Proposed Solution. Staff needs to identify sites for reforestation. Some properties acquired with Legacy Open Space funds are identified for reforestation and should be planted with the concurrence of the Director of Parks. However, the amount of potential land available for planting on Legacy Open Space properties does not meet the current obligations passed onto M-NCPPC. In order to use the funds, M-NCPPC needs to develop a Request for Proposals (RFP) and receive bids by interested parties in conducting the planting work. Only after a contract is issued can money be allocated for planting by non M-NCPPC employees. Once the Forest Conservation Master Planner is hired, that person should identify planting areas both on private and public lands, develop and issue a RFP for plantings, and function as the contract project manager. The Master Planner will also need to approach the Department of Parks on using in-lieu fees to plant parkland identified for reforestation.

#### **15. Develop And Implement An Education And Outreach Program to Identify the Reasons why Trees and Forest Should be Protected and what Activities May Occur in Conservation Easements.**

Current Situation. M-NCPPC has neither developed nor implemented an aggressive outreach program for the public on informing what can and cannot occur in conservation easements, or on the private and societal benefits of trees and forests. M-NCPPC has prepared fact sheets and they are currently available on the website and in Environmental Planning on what activities are permissible in conservation easements. Education for developers and plan preparers is primarily through the Trees Technical Manual. However, as previously discussed the Trees Technical Manual needs to be updated.

Problem. Few people are aware that conservation easements exist on their property and they are unsure what can occur in the easement. There is also confusion even when a homeowner is aware that conservation easements exist, and who to contact if they have an easement. It is also unclear to individuals what activities require (i.e., make applicable) compliance with the forest conservation law, and how to achieve compliance.

Proposed Solution. Environmental Planning and the M-NCPPC Community Outreach Division to develop an effective and continuous strategy to educate the public on the activities that can occur in conservation easements, the benefits of forests and trees and how to plant new trees. The education can include new brochures and publications, inserts into tax bills, changes to real estate contracts, clearer information on a website dedicated for forest conservation, and continuous education for plan preparers and other Montgomery County agencies. The M-NCPPC homepage to provide links to websites, such as the Montgomery County Department of Environmental Protection for information on the value of trees. The educational materials should also explain the range for penalties for violations.

#### **16. Digitize And Make Publicly Accessible Online Approved Plans And Easements**

Current Situation. Currently, interested parties must come to Environmental Planning to review

or purchase a copy of an approved NRI/FSD or forest conservation plan. Conservation easements are available online at the state's plat website. M-NCPPC is in process of digitizing all approved final forest conservation plans, NRI/FSDs, and conservation easements. The conservation easements will be uploaded onto the M-NCPPC GIS layers and available through the M-NCPPC website.

Problem. Information is not readily available for the public for all approved forest conservation plans. The public is not aware that conservation easements can be viewed on the state's plat website ([www.plats.net](http://www.plats.net)).

Proposed Solution. Continue the current efforts to digitize all plans and inform the public of the State's plat website so that plats can be reviewed online.

## **17. Allow Forest Mitigation Planting on Public Lands**

Current Situation. Currently there is a shortage of readily available planting sites and approved forest conservation banks in Montgomery County. There is primarily one banker in the County who operates one bank at a time.

Problem. Readily available options to meet offsite-planting requirements are insufficient to meet demands. When there are delays in approving banks, or the owner withdraws their banking proposal, developers are left without banking options. Expanded mitigation opportunities, on public and private lands, must be developed to meet the continuing need.

Proposed Solution. The Task Force suggested that forest conservation mitigation sites be identified and created on the public lands for use by private developers. The Department of Parks has a long-standing policy that does not support private developers using parkland to meet their forest planting requirements. Environmental Planning staff will convene a meeting with appropriate Parks Department staff to determine if and under what circumstances they may allow developer contributions to be used on parkland. Since forest conservation banks cannot be created on parkland, because the land is already protected, the only opportunity would be for mitigation planting and fee-in-lieu plantings of areas identified by the Parks Department. However, efforts still need to concentrate on minimizing forest loss and fragmentation. Foremost among the consideration would be consistency with Park use and stewardship objectives in the public interest.

Environmental Planning staff has contacted numerous property owners and have a few proposed banks in the review process. However, broader outreach to targeted landowners and Homeowner Associations should be conducted, but requires a dedicated effort to do so.

## **18. Greater Inter-Governmental Cooperation**

Current Situation. Environmental Planning frequently receives incomplete NRI/FSDs and forest conservation plans for development by government agencies. Environmental Planning treats all public and private applicants equally in terms of details and in plan reviews. Environmental Planning has in the past provided special considerations for schools for public safety issues (i.e.,

allowing limited clearing understory clearing) and not requiring conservation easements on protected and planted forests. Recently, Environmental Planning started requiring the schools to record conservation easements on protected and planted areas and DPWT to make submissions on an appointment only basis.

Problem. The incomplete and inaccurate submissions by government agencies create unnecessary delays and additional reviews.

Proposed Solution. Environmental Planning had previously proposed meeting with governmental agencies to educate the project managers on what must be shown on a NRI/FSD, when a tree save plan is required, and when a forest conservation plan must be submitted. Environmental Planning will schedule meetings with the appropriate government agency project managers to educate them on the submission requirements and how to fulfill the obligations for the forest conservation plans in the most effective and efficient manner.

Other Participants/Attendees/Observer

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