

Steve Kanstoroom

From: Caren Madsen [carenmadsen@msn.com]
Sent: Tuesday, May 30, 2006 6:17 PM
To: faroll.hamer@mncppc-mc.org; rose.Krasnow@mncppc-mc.org
Cc: douglas.duncan@montgomerycountymd.gov;
councilmember.leventhal@montgomerycountymd.gov; derick.berlage@mncppc-mc.org
Subject: Forest Conservation Law violation in Ashton
Attachments: Final May 30 MCCF letter on FCL violations.doc



Final May 30 MCCF
letter on FC...

Good evening,

A letter on this matter is attached. We look forward to discussing it with you.

Thank you.

Caren Madsen, Chair
Montgomery County Civic Federation Environment Committee



May 30, 2006

Ms. Faroll Hamer, Acting Park and Planning Director
Ms. Rose Krasnow, Development Review Chief
The Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Ms. Hamer and Ms. Krasnow:

On behalf of the Montgomery County Civic Federation Environment Committee, I want to express concern over what appears to be a continuing pattern of violations of the Montgomery County Forest Conservation Law (FCL) and lack of enforcement on the part of M-NCPPC. We appreciate your willingness to meet with us and regret that our past two meetings have been postponed, particularly given the most recent circumstances. We are hopeful that another meeting can be scheduled in the very near future to discuss these issues.

I am requesting enforcement action and an interim step until noted problems with the FCL and enforcement of the law can be properly addressed. Over the months, I have become familiar with the clearing of forested land at 1020 Ashton Road. The photographic evidence in this case is clear and irrefutable. There has been no action to date to mitigate the damage. Instead, your department seems to have spent an inordinate amount of time trying to cover up the problems rather than correct them. There is nothing about this situation that makes sense or instills confidence in the system designed to protect and preserve valued forested land at a time when we are experiencing loss of tree cover at an alarming rate throughout the county.

Mr. Steven Kanstoroom, as the adjacent landowner, has invested significant time and financial resources to document the FCL violations that resulted in clearing and a view of a rubble pile from his property. As Council Members Silverman and Praisner have pointed out, this case has dragged on for more than a year with no enforcement action from M-NCPPC.

My understanding is that State Legislators have seen the importance of investigating this case and requested an independent review. I also understand that M-NCPPC refused to consider a United States Department of Agriculture assessment of the clearing whereby they found in excess of 21,000 square feet was cleared. More recently I learned that M-NCPPC solicited bids for an updated aerial photograph and failed to follow through. This led to Mr. Kanstoroom's decision to have the area photographed by M-NCPPC's vendor of choice, only to be told later that the aerial photographs presented biased and inconclusive evidence since "Mr. Kanstoroom's experts" M-NCPPC's vendor and the USDA, obtained them. M-NCPPC's position is unsupportable. I see little difference in this and M-NCPPC requesting that developers hire private arborists to develop Forest Conservation Plans which are later approved as part of the building permitting process. Your department accepts the opinion of a private arborist hired by a developer, however this is not deemed as biased information. I would also like to point out that the consulting fees for an arborist hired by a developer are included in the builder's cost of doing business whereas Mr. Kanstoroom had not anticipated an expenditure of thousands of dollars to document the activity on Ashton Road.

Regardless of how the aerial photographs were obtained, it is obvious from the photographs and Mr. Kanstoroom's accompanying documents that forest clearing took place without permits, in excess of 5,000 square feet on the subject property, on the adjacent property owned by Mr. Kanstoroom – as well as another adjacent conservation area granted to Mr. Kanstoroom – and that the area was forested prior to the clearing. It is disconcerting that less than a year after the Clarksburg debacle was first publicized, citizens are still forced to spend their own time and resources to see that laws are observed. And much like Clarksburg, M-NCPPC paid little attention to citizen complaints, even when the evidence was undeniable. We are told that 28 actions have been taken to correct procedural problems that surfaced in the Clarksburg case. However, Mr. Kanstoroom's case suggests that it is back to business as usual, B.C. (Before Clarksburg).

Our county Forest Conservation Law is in need of revision on many levels. It was designed to protect upland forests in rural sections of the county. But with Mr. Kanstoroom's case and other cases, we see that the law fails to deliver on that objective. The law does little to preserve mature tree canopy. Instead, it focuses on reforestation with smaller caliper trees after mature trees have been destroyed. It does not adequately address preservation of mature trees and urban forests on smaller tracts of land in densely developed areas such as Silver Spring, Wheaton, Chevy Chase and Bethesda. One wonders what hope there is of seeing improvements made when the existing law is blatantly disregarded.

The number and gravity of irregularities found in this case, and M-NCPPC's refusal to take action against anyone involved with it, suggests that the problems go well beyond merely mistakes and negligence. The County Council's recent action increasing penalties with regard to the FCL are commendable – yet immaterial – when M-NCPPC's inspectors and supervisory personnel do not enforce when violations and wrongdoing are obvious.

I am asking M-NCPPC to require that immediate steps be taken to restore and reforest the area that has been cleared and left as a debris pile on Ashton Road. In our June 12 meeting, our membership is prepared to discuss an emergency resolution and request that M-NCPPC impose a moratorium on FCL exemptions until transparent procedures designed to assure a consistent application of the FCL, in accordance with the intent of the county and relevant State law, are implemented. Based on the interest in tree and forest conservation in Montgomery County, our membership generally supports the need for FCL enforcement and improvements in this law.

Please keep me informed of any action taken in this case. We look forward to working with you and others in the civic and environmental community to find positive and workable solutions to some of the problems in our county tree laws.

Sincerely,

A handwritten signature in cursive script that reads "Caren Madsen".

Caren Madsen, Chair
Montgomery County Civic Federation Environment Committee

1918 Locust Grove Road
Silver Spring, MD 20910
301-587-8128
Cell: 240-793-4603
CarenMadsen@msn.com

cc: The Honorable Douglas Duncan
Montgomery County Council
The Honorable Derick Berlage