Exempt from recordation fee pursuant to § 3-603(a) of the Real Property Article of the Annotated Code of Maryland

ST. MARY'S COUNTY GOVERNMENT
DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT
Jessica S.B. Andritz, Director

COMMISSIONERS OF ST. MARY'S COUNTY:
James R. Guy, President
Michael R. Alderson, Jr., Commissioner
Eric S. Colvin, Commissioner
Michael L. Hewitt, Commissioner
Scott R. Ostrow, Commissioner

CRITICAL AREA PLANTING AGREEMENT

THIS CRITICAL AREA PLANTING AGREEMENT ("Agreement") is made this 27 day of January 2025 by **DOUGLAS H. HALLGREN** ("Owner") and the **COMMISSIONERS OF ST. MARY'S COUNTY** ("County"), a body corporate and politic and political subdivision of the State of Maryland, (collectively, the "Parties").

WHEREAS, the Owner is the fee simple owner of property acquired by Deed dated May 15, 1997, which is recorded among the Land Records of St. Mary's County, Maryland, in Liber 1156, Folio 353, and which is located at 17581 Whitestone Drive, Tall Timbers, Maryland 20690 as shown on Tax Map 65, Parcel 312, Lot 34 (hereinafter referred to as the "Subject Property");

WHEREAS, due to its proximity to the Chesapeake Bay and its tributaries, which is subject to the St. Mary's County Chesapeake Bay Critical Area Program, the Subject Property is located within the Resource Conservation Area (RCA) overlay zone and as a result, certain conservation measures are required by COMAR 27.01.01 et seq., Chapters 41, 71, and 72 of the St. Mary's County Comprehensive Zoning Ordinance and any other applicable State and local laws and/or regulations (hereinafter referred to as the "St. Mary's County Critical Area Program");

WHEREAS, the Owner desires to develop or redevelop the Subject Property as shown on the application and plans associated with Permit 24-0666, which requires mitigation to offset certain development impacts to the Subject Property;

WHEREAS, prior to said development on the Subject Property, the Owner is required by Section 27.01.01 of the Maryland Code of Maryland Regulations ("COMAR") and Chapters 41, 71, and 72 of the St. Mary's County Comprehensive Zoning Ordinance ("CZO"), and all other applicable county, state, and federal laws, and regulations for conservation of the natural resources within St. Mary's County to complete the following:

NOW THEREFORE, in consideration of the mutual promises of the parties and the terms and conditions as set forth herein, the receipt and sufficiency which is hereby acknowledged, the Parties agree as follows:

1. The required mitigation is **ten thousand, one hundred sixty-four (10,164)** square feet.

2. A cash bond, surety bond or letter of credit is required if all mitigation is not completed before a Certificate of Occupancy can be issued or a final inspection approved. Therefore, the Owner shall provide, prior to the issuance of a Certificate of Occupancy, a bond to the County in the amount of **FIFTEEN THOUSAND, TWO HUNDRED FORTY-SIX DOLLARS AND ZERO CENTS ($15,246.00)**, which has been calculated at a rate of One Dollar and Fifty Cents ($1.50) per square foot for a total of **(10,164)** square feet. These bonds shall be held by the County for two (2) years after the completion of the project (or five (5) years for bare root seedlings or whips) to ensure that the Owner follows the terms of the agreement.

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3. The Owner agrees to mitigate the adverse impact of development incurred by the proposed project by planting, consistent with the approved planting plan on the Subject Property, the following nursery stock:

ALL WITHIN THE BUFFER:

a. **Thirty-three (33)**, Type 1 Clusters (each cluster consisting of 1 canopy tree, and 3 large shrubs or 6 small shrubs).

ANYWHERE ON THE PROPERTY:

a. **One (1),** Minimum two-inch caliper, canopy tree.

4. Required plantings shall be installed by **November 30, 2025.** Upon completion of the plantings, the applicant shall notify the St. Mary's Department of Land Use and Growth Management (hereinafter referred to as the "Department") for an inspection at 301-475-4200, ext. 1500.
5. All plantings shall be native to the Coastal Plain based on the U.S. Fish and Wildlife Service publication titled Native Plants for Wildlife Habitat and Conservation Landscaping, Chesapeake Bay Watershed.
6. Remove turf grass, weeds, and debris. Prepare site for planting by tilling, digging, and incorporating topsoil or other soil conditioners.
7. Prior to planting, protect plants from adverse weather conditions after delivery until they are planted. Plants should be planted within 72 hours of delivery.
8. Install plants in accordance with nursery specifications in the locations shown on the plan. Plant the largest stock first.
9. Prune only dead or broken branches on new stock prior to installation.
10. Stake trees only if necessary due to site conditions or stock size.
11. Water plants thoroughly.
12. Mulch around new plants to maintain moisture levels and reduce competition from weeds and invasive species.
13. An extension of the planting agreement for one planting season may be granted upon written request to include justification demonstrating hardship or special conditions that prevented completion by the date specified above.

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14. If there are any deficiencies at the time of the planting inspection, a stop work order will be posted and no further work shall be done, nor shall a Certificate of Occupancy be issued on the project, until such deficiencies are corrected to the terms of this agreement and/or payment of a bond in the amount of the estimated cost of the required plantings is posted.

15. If the conservation measures, as practiced in the field are inadequate, the County shall require revisions to the Critical Area Planting Agreement before any further work may be done on the project. The County may issue a stop work order, where appropriate, to ensure that the conservation measures of the Owner are in conformity with the approved terms of this agreement and the approved site plan.

16. Survival - The Owner shall monitor all nursery stock for two (2) years from the date of the first successful planting inspection conducted by the Department. Survival of 100% of all nursery stock is required. This Agreement includes replanting after one year if necessary to achieve the survival rate. The bare root seedlings or whips, if part of this planting agreement, will be monitored for five (5) years from the planting date. Survival of 50% of all bare root seedlings or whips is required. Any plantings that do not survive during the applicable monitoring period must be replaced.

17. Two (2) years from the date of the first successful planting inspection conducted by the Department, the nursery stock shall be again inspected by the Department and assessed to determine the need for replacement plantings. Five (5) years from the first successful planting inspection conducted by the Department, the bare root seedlings, or whips, if part of this Agreement, shall be inspected by the Department and assessed to determine the need for replacement plantings. If either inspection reveals that the rate of survival is not adequate, the financial assurance will not be released, the monitoring period may be extended, and additional inspections shall be required.

18. One year and eleven months (or four years and eleven months, as applicable) after the first successful planting inspection conducted by the Department, the Owner shall contact the Department at (301) 475-4200 ext. 1500 to schedule a final survival inspection. The County may also notify the Owner via first-class mail or door hanger that a survival inspection shall be scheduled and held within two (2) weeks of the date on the notice. The Department shall complete a final inspection of the site and certify that the Owner has completed all conservation measures enumerated in this Agreement. Failure of the Owner to obtain a final survival inspection is a breach of this Agreement.

19. In the event the Owner breaches this Agreement, the Owner shall forfeit any bonds. The bonds may be used by the County to restore the Subject Property, complete the required plantings, and ensure the survival of the approved plantings. If the bonds are insufficient to pay the costs of restoration, planting, or maintenance, the County shall place a lien against said property for all monies due and owing to the County. The lien shall be established and enforced by the County pursuant to the Maryland Contract Lien Act as provided for in the Real Property Article of the Annotated Code of Maryland.

20. The Owner shall indemnify, hold harmless, and defend the County, its agents, and contractors from all claims, rights, judgments, etc. resulting from injuries, including death, damages and losses sustained by any person or property arising from the Owner's negligence in the construction, planting, maintenance, or use of the required plantings.

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21. The County shall have the right to enter upon the land and inspect at any time during the project or term of this agreement. The County shall further have the right to enter upon the land and restore the property with the bond deposited with the County by the Owner, should the Owner or subsequent owners fail to complete the project or maintain the plantings for the term of the agreement.

22. Owner further agrees to contact the Department to request the bond release after the completion of a satisfactory survival inspection.

23. It is expressly agreed by all parties to this Agreement that it is the purpose and intent of this agreement to ensure the installation, maintenance, and performance of conservation measures provided for by the approved plans or revisions or modifications thereof, in the designated Critical Area Program or on a specific project approved herein.

24. This Agreement and covenants contained herein shall run with the land, shall bind the property and shall be binding on the Owner, its heirs, executors, successors, and assigns, and shall bind all present and subsequent owners of the property.

25. This Agreement shall be recorded in the Land Records of St. Mary's County, Maryland. A copy of the recorded agreement shall be attached to any application for a Building Permit for any lot and parcel described above.

26. The obligations hereunder shall not be assignable to any person or entity other than an immediate grantee to, or successor in interest of, a current owner, and the obligations and the duties herein shall run with the property described herein, and shall be binding upon the subsequent owner of all or any portion of the property described herein with respect to the property acquired by them, and said owner shall be automatically deemed the "Owner" as defined hereunder and any obligation of the Owner shall mean and refer to the person who is the Owner of the property.

27. The Owner, for itself and its successors and assigns, agrees to make specific references to this agreement in a separate notice paragraph in any contract, deed, lease or other legal instrument by which any possessory or equitable interest in the property is conveyed which shall provide notice to the purchaser or lessee of the property that:

    a. One or more CAPA plantings are located on the property.
    b. CAPA plantings may not be readily apparent or noticeable.
    c. CAPA plantings may not be modified, relocated, or removed from the property unless they are replaced in a manner approved by the County and without adverse impact on neighboring and adjoining properties.
    d. The purchaser or lessee shall be responsible for expenses above and beyond any bonds deposited with the County for any required maintenance of the CAPA plantings.

    However, the failure of the Owner to include such notice in the deed shall not affect the obligation and duties of any purchaser or lessee of all or any portion of the property as set forth herein.

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28. No change or modification of, or waiver under, this agreement shall be valid unless it is in writing and signed by an authorized representative of the County. No waiver of a breach or violation of any term, covenant or condition contained in this agreement shall be deemed to be a waiver of any subsequent breach or violation of the same or any other term, covenant, or condition in this agreement.

29. This Agreement shall be construed under the laws of the State of Maryland. If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this agreement shall remain in full force and effect and enforceable to the fullest extent permitted by law. This Agreement shall be construed as covenants applicable to the property and a violation hereof shall not be construed as causing a reversion of title.

30. The Agreement shall terminate upon final approval of the survival inspection by the County. Verification of a final approved survival inspection may be obtained by contacting the Department and may be recorded in the Land Records of St. Mary's County, Maryland at the Owner's expense.

WITNESS the hand and seal of the parties:

OWNER:

_____ (signature)
Douglas H. Hallgren

STATE OF Maryland

COUNTY OF Calvert to wit:

I HEREBY CERTIFY, that on this 9th day of January, 2024, before me the subscriber, a Notary Public of the State and County aforesaid, personally appeared Douglas H. Hallgren, and acknowledged the foregoing to be his act.

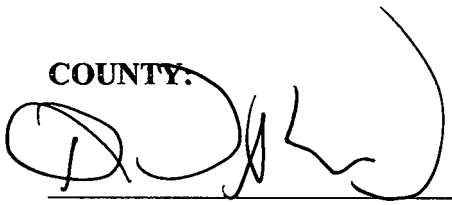
AS WITNESS my hand and Notarial Seal:

_____ (signature)
Notary Public
My commission expires: 6/15/25

CAREY A. HUBBELL NOTARY PUBLIC CALVERT COUNTY, MD

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COUNTY:

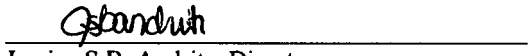


(signature)

David A. Weiskopf
County Administrator
Commissioners of St. Mary's County

OFFICE USE ONLY:

Reviewed and Approved for Signature by County Administrator



Jessica S.B. Andritz, Director
Department of Land Use & Growth Management

1-23-2025
Date

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DOCUMENT VALIDATION

LR - Government Instrument 0.00
Agency Name: COMMISSIONERS OF ST MARYS CO
Instrument List: Agreement / Easement
Describe Other: HALLGREN/COMM OF ST MARYS CO
Ref: MM/LUGM
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Total: 0.00
02/03/2025 09:46 CC18-JuH
#18680726 CC0704 - St Mary's County/CC07.04.02 - Register 02

Circuit Court for St. Mary's County
PO Box 676
41605 Courthouse Drive
Leonardtown, MD 20650
(301) 475-7844

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