

## Tilden Middle School/Rock Terrace School, Preliminary Forest Conservation Plan No. MR2017014

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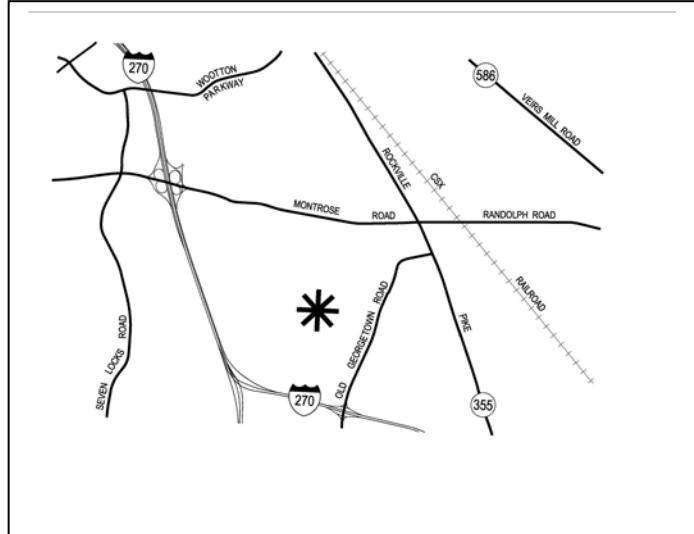
 Khalid Afzal, Supervisor, Area 2 Division, [Khalid.Afzal@montgomeryplanning.org](mailto:Khalid.Afzal@montgomeryplanning.org), 301.495.4650

 Carrie Sanders, Chief, Area 2 Division, [carrie.sanders@montgomeryplanning.org](mailto:carrie.sanders@montgomeryplanning.org), 301.495.4653

Completed: 10-30-17

### Description

- Preliminary Forest Conservation Plan for the construction of a new facility to house Tilden Middle School and Rock Terrace School on the former Tilden Center site;
- 6300 Tilden Lane, Rockville, Maryland;
- 19.75 acres zoned R200;
- North Bethesda/Garrett Park Master Plan (1992);
- Applicant: Montgomery County Public Schools (MCPS);
- Filing date: June 14, 2017.



### Summary

Staff recommends approval with conditions.

The Applicant proposes to:

- Preserve 2.36 acres of forest, clear 0.46 acres of forest, and plant 0.74 acres of forest.
- Provide 0.32 acres of landscape credit.
- Remove eight trees and impact 30 trees that require a variance, per Section 22A-12(b)(3).

Pursuant to Chapter 22A of the County Code, the Board's actions on Forest Conservation Plans are regulatory and binding.

### **Conditions of Approval**

1. Prior to issuance of a Sediment Control Permit from the Department of Permitting Services, the Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
2. The Applicant must record a Category I Forest Conservation Easement over all areas of forest retained and forest planted prior to any demolition, clearing, or grading on site.
3. The Final Forest Conservation Plan must show the planting of 18, 3-inch caliper native shade trees as mitigation for the loss of trees requiring a variance. The trees must be planted within one year of construction completion. All trees must be planted outside of the Category I Forest Conservation Easement.
4. The Applicant must plant all reforestation and landscape credit areas within one year of construction completion.
5. The Applicant must submit a forest conservation maintenance and management agreement and have it approved by the Planning Department prior to any demolition, clearing, or grading on site.

### **Project Description**

Montgomery County Public Schools (MCPS) proposes to replace the existing Tilden Center with a collocated Tilden Middle School and Rock Terrace School. The site plan takes advantage of the collocation of the two schools by sharing elements of the site circulation and core facilities.

### **Site Description**

The 19.75-acre site is located at 6300 Tilden Lane west of Old Georgetown Road. The property fronts on Tilden Lane to the north, Marcliff Road to the south and east, and Cushman Road to the south and west. Single-family residential properties confront the site on all sides. The site is located in the Cabin John Creek watershed and not within any Special Protection Areas.



Figure 1: Vicinity Map

## ANALYSIS

### Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420161060) for the school site on 2/29/2016. There are 2.82 acres of forest, but no streams, wetlands, floodplains, or environmental buffers on the site. The proposed project is in compliance with the Environmental Guidelines.

### Forest Conservation

The site is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Applicant has submitted a Preliminary Forest Conservation Plan (Attachment 1) in conjunction with the Mandatory Referral. MCPS proposes to clear 0.46 acres of forest and meet the 1.06-acre planting requirement with 0.32 acres of landscape credit and 0.74 acres of on-site reforestation

### Forest Conservation Variance

Section 22A-12(b) (3) of Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires a variance to impact trees that: measure 30 inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are

designated as Federal or State rare, threatened, or endangered species. Any impact to these trees, including removal or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

The Applicant submitted a variance request on 6/14/2017, which was revised on 9/19/2017, and again on 10/2/2017, for the impacts to certain trees (Attachment 2). The proposed layout will remove eight trees and impact, but not remove, 29 trees that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law.

#### **Unwarranted Hardship for Variance Tree Impacts**

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. The requested variance is necessary due to the location of the existing trees on and around the site, the need to demolish the existing school building and parking area prior to constructing the collocated facility and associated circulation, and the requirement to provide stormwater management for all facilities.

Leaving the requested trees in an undisturbed state would result in an unwarranted hardship because the Applicant would not be able to remove any existing features or install any new features or stormwater management facilities. All eight trees proposed for removal are impacted by the demolition of the existing facilities.

## Variance Tree Tables

### Removals

ID	Species	Size	Condition	Notes
1	Red oak	34"	Good	Internal to site circulation
67	Red oak	33"	Good	Internal to building footprint
68	White oak	32"	Good	Internal to building footprint
69	Pin oak	42"	Good	Internal to building footprint
99	Red oak	44"	Good	Adjacent to LOD for demolition and fire access
100	Red oak	39"	Good	Internal to parking lot
103	Willow oak	38"	Good	Adjacent to LOD, pedestrian and circulation improvements
104	Willow oak	31"	Good	Internal to parking lot

### Impacts

ID	Species	Size	Condition	Notes
13	Tulip poplar	37"	Good	Impacts due to circulation and stormwater management
21	Tulip poplar	38"	Fair/Poor	Impacts due to circulation and stormwater management
23	Tulip poplar	33"	Good	Impacts due to circulation and stormwater management
25	Yellow poplar	32"	Good	Impacts due to circulation and stormwater management
26	Tulip poplar	36"	Good	Impacts due to circulation and stormwater management
31	Tulip poplar	32"	Good	Impacts due to emergency access to playing fields and stormwater management
34B	Tulip poplar	35"	Good	Impacts due to emergency access to playing fields and stormwater management
38	Tulip poplar	32"	Good	Impacts due to emergency access to playing fields and stormwater management
40	Tulip poplar	31"	Good	Impacts due to emergency access to playing fields and stormwater management
41	White oak	42"	Good	Impacts due to emergency access to playing fields and stormwater management
42	Tulip poplar	36"	Good	Impacts due to emergency access to playing fields and stormwater management

ID	Species	Size	Condition	Notes
49	Tulip poplar	30"	Good	Minor impacts due to stormwater management
50	Tulip poplar	30"	Good	Minor impacts due to stormwater management
53	White oak	36"	Good	Minor impacts due to stormwater management
55	White oak	33"	Good	Minor impacts due to demolition of existing circulation
60	White oak	31"	Good	Minor impacts due to demolition of existing circulation
71	White oak	38"	Good	Minor impacts due to playing fields
91	Red oak	52"	Good	Minor impacts due to stormwater management
95	Red oak	30"	Good	Adjacent to LOD for demolition and fire access
96	Red oak	34"	Good	Adjacent to LOD for demolition and fire access
98	Red oak	32"	Good	Adjacent to LOD for demolition and fire access
101	American holly	33"	Good	Major impacts due to circulation improvements, tree protection details at FFCP
159	Black cherry	30"	Good	Minor impacts due to pedestrian improvements
162	Black cherry	32",15"	Good	Minor impacts due to pedestrian improvements
163	Tulip poplar	40"	Good	Minor impacts due to pedestrian improvements
165	Red oak	40"	Good	Across Tilden Lane, minor impacts due to pedestrian improvements
166	Black cherry	40"	Good	Across Tilden Lane, minor impacts due to pedestrian improvements
167	Southern red oak	40"	Good	Across Tilden Lane, minor impacts due to pedestrian improvements
181	Red oak	34"	Good	Minor impacts due to playing fields

**Variance Findings** - Based on the review of the variance request and the proposed Preliminary Forest Conservation Plan, staff makes the following findings:

1. *Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is a result of the need to build a new collocated school facility and associated circulation and parking facilities. The proposed development is the continuation of an existing,

reasonable use of the site and disturbance has been minimized to retain trees where possible. The size and configuration of the site preclude alternative site designs that would allow the variance trees to remain undisturbed.

2. *The need for the variance is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The variance is necessary due to the constraints of size, the requirements to demolish existing facilities, and the location of the existing trees on and around the site. The Applicant has designed the proposed school to minimize forest removal, which adds an additional constraint.

3. *The need for the variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the location of trees and the impacts by the proposed layout of the collocated school facility, and not a result of land or building use on a neighboring property. The impact to the trees is the minimum disturbance necessary to demolish the existing school building and build the collocated schools and associated upgrades to the site.

4. *Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Applicant will plant 18 3" caliper native shade trees to replace the form and function of the variance trees proposed for removal. In addition, the site will be developed in accordance with the Maryland Department of the Environment criteria for stormwater management, including the provision of Environmental Site Design to protect natural resources to the maximum extent practicable. Water quality will improve with the proposed development and State water quality standards will not be violated.

#### Mitigation for Trees Subject to the Variance Provisions

The Applicant is requesting a variance to remove eight trees. The eight trees (listed in the removal table above) are outside of a forest and will be mitigated at a rate of 1" caliper per 4" DBH removed, using a minimum 3" caliper native shade tree. The Applicant will plant 18 3" caliper trees, which will be shown on the Final Forest Conservation Plan.

#### County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The County Arborist has reviewed the variance request and recommended approval with mitigation (Attachment 3).

Variance Recommendation - Staff recommends that the variance be granted.

## **CONCLUSION**

Staff concludes that the proposed Preliminary Forest Conservation Plan meets the requirements of Chapter 22A Forest Conservation Law. Staff therefore recommends that the Planning Board approve the Preliminary Forest Conservation Plan and associated variance, with the above conditions.

### Attachments

1. Preliminary Forest Conservation Plan
2. Variance request
3. Letter from County Arborist

# **ATTACHMENT 1**

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## **MATCHLINE SHEET L-1.2**

 SAMAHHA

521 Rosehaven Street, Suite 200      Fairfax, VA 220  
Phone 703-691-3311      Fax 703-691-33



# CONSTRUCTION DOCUMENTS

## 65% SUBMISSION

**Sheet Title:**

# **PRELIMINARY FOREST CONSERVATION PLAN**

Issue Date: 04/20

Sheet Number:

| 1 1

L-1.1

[REDACTED]

Principal: Paul Falkenbury, AIA

Project Manager: Jenny Alvarez  
Project Number: 136900.4

**ANSWER** The answer is 1000. The first two digits of the number 1000 are 10.

## CERTIFICATION OF QUALIFIED PROFESSIONAL

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE  
WITH MARYLAND STATE, MNCP&PC AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS.

---

DATE MICHAEL A. NORTON  
MDNR / COMAR 08.19.06.01  
QUALIFIED PROFESSIONAL

 NORTON LAND DESIGN



# NORTON LAND DESIGN

LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING  
5146 DORSEY HALL DRIVE, 2ND FLOOR                    ELLICOTT CITY, MD 21042

BALT.443.542.9199 DC 240.342.2329 WWW.NORTONLANDDESIGN.COM

WATER CLASS    USE I	WATERSHED CARIN JOHN CREEK	FEMA FLOODPLAIN MAP PANEL #
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TRIBUTARY <b>UNNAMED</b>	CABIN JOHN CREEK	24031C 0361D
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TAX MAP GQ561 200 SHEET 214NW06 ADC MAP PAGE 35 GRID F-1

SCALE AS SHOWN DATE DEC 2015 PROJ. NO. 14-134 SHEET NO. L-1.1

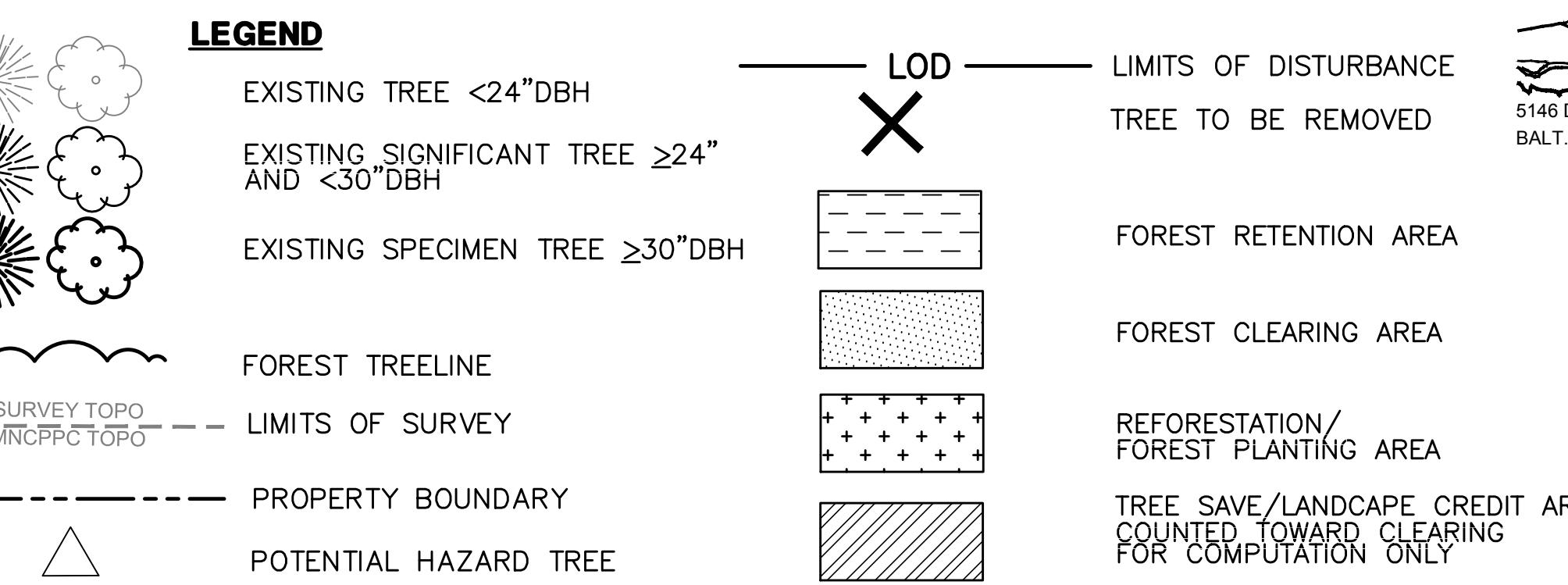
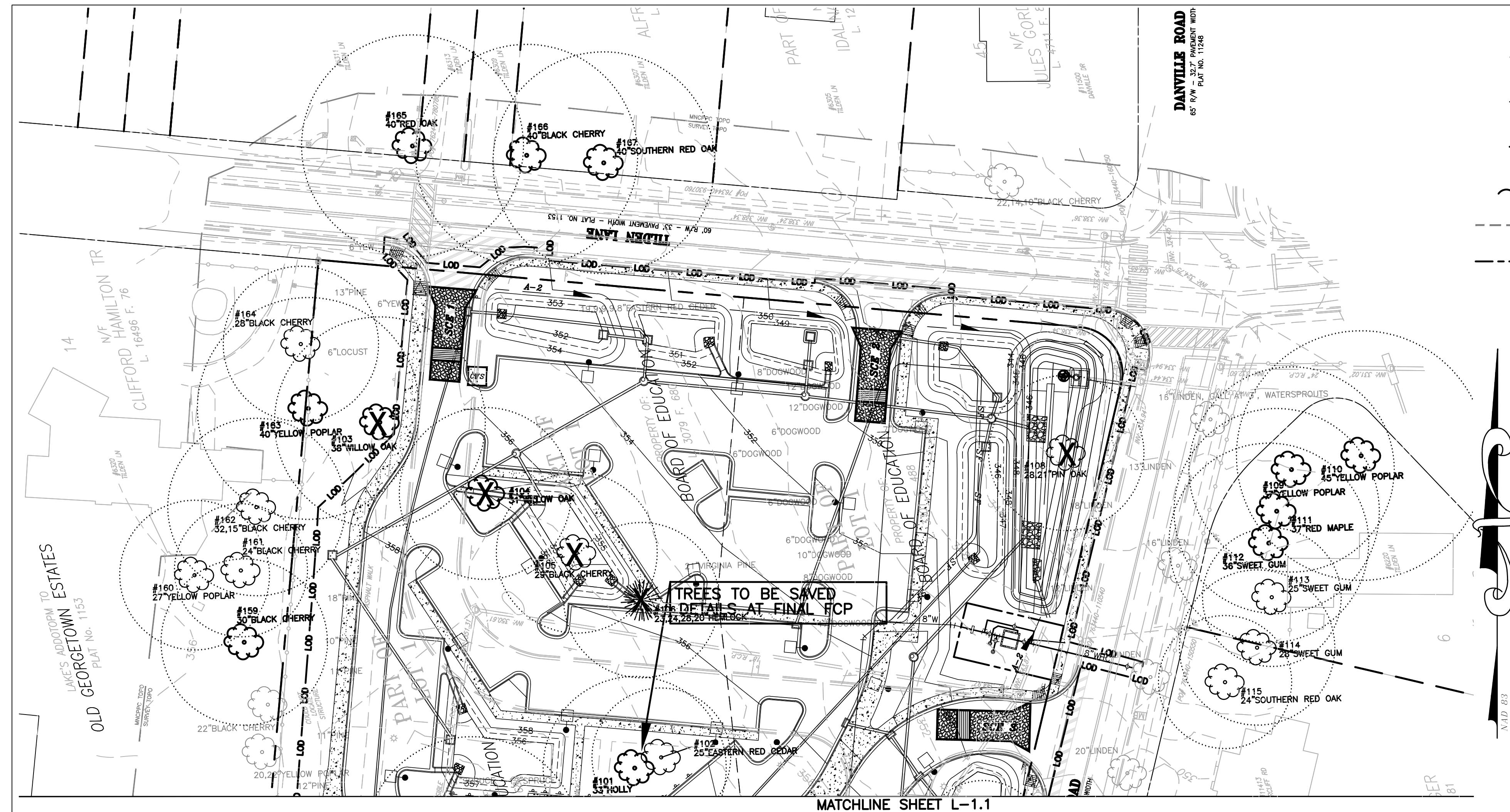
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Principal: Paul Falkenbury, AIA

Project Manager: Jenny Alvarez  
Project Number: 136900.4

**ANSWER** The answer is 1000. The area of the rectangle is 1000 square centimeters.



**NORTON LAND DESIGN**  
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**SAMAH**  
1521 Rosehaven Street, Suite 200  
Fairfax, VA 22303  
Phone 703-691-3311 Fax 703-691-3316

#### FOREST CONSERVATION WORKSHEET TILDEN ROCK TERRACE

5-Aug-02

NET TRACT AREA:		
A. Total tract area ...		19.76
B. Land dedication acres (parks, county facility, etc.) ...		0.00
C. Land dedication for roads or utilities (not being constructed by this plan) ...		0.00
D. Area to remain in commercial agricultural production/use ...		0.00
E. Other deductions (specify) ...	Conservation Easement	0.00
F. Net Tract Area ...	=	19.76

LAND USE CATEGORY: (from Trees Technical Manual)  
Input the number "1" under the appropriate land use,  
limit to only one entry.

ARA MDR IDA HDR MPD CIA  
0 0 1 0 0 0

G. Afforestation Threshold ... 15% x F = 2.96

H. Conservation Threshold ... 20% x F = 3.95

#### EXISTING FOREST COVER:

I. Existing forest cover .....= 2.82

J. Area of forest above afforestation threshold .....= 0.00

K. Area of forest above conservation threshold .....= 0.00

#### BREAK EVEN POINT:

L. Forest retention above threshold with no mitigation .....= 0.00

M. Clearing permitted without mitigation .....= 0.00

#### PROPOSED FOREST CLEARING:

N. Total area of forest to be cleared .....= 0.46

O. Total area of forest to be retained .....= 2.36

#### PLANTING REQUIREMENTS:

P. Reforestation for clearing above conservation threshold .....= 0.00

Q. Reforestation for clearing below conservation threshold .....= 0.92

R. Credit for retention above conservation threshold .....= 0.00

S. Total reforestation required .....= 0.92

T. Total afforestation required .....= 0.14

U. Credit for landscaping (may not exceed 20% of "S") .....= 0.32

V. Total reforestation and afforestation required .....= 0.74

NOTES: 0.74 ACRES OF REFORESTATION PROPOSED ON SITE (DETAILS AT FINAL FCP).

DETAILED TREE PROTECTION MEASURES WILL BE PROVIDED AT FINAL FCP.

#### SITE TABULATIONS:

ACREAGE OF TRACT: 19.76

ACREAGE OF TRACT REMAINING IN AGRICULTURE: 0

ACREAGE OF ROAD AND UTILITY R/W WHICH WILL NOT BE IMPROVED AS PART OF DEV. APPLICATION: 0

ACREAGE OF EX. FOREST: 2.82

ACREAGE OF TOTAL FOREST RETENTION: 2.36

ACREAGE OF TOTAL FOREST CLEARED: 0.46

LAND USE CATEGORY: IDA

AFFORESTATION THRESHOLD 2.96

CONSERVATION THRESHOLD 3.95

ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN WETLANDS 0.00/0.00/0.00

ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN 100-YEAR FLOODPLAIN 0.00/0.00/0.00

ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN STREAM BUFFERS 0.00/0.00/0.00

ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITH PRIORITY AREAS 0.00/0.00/0.00

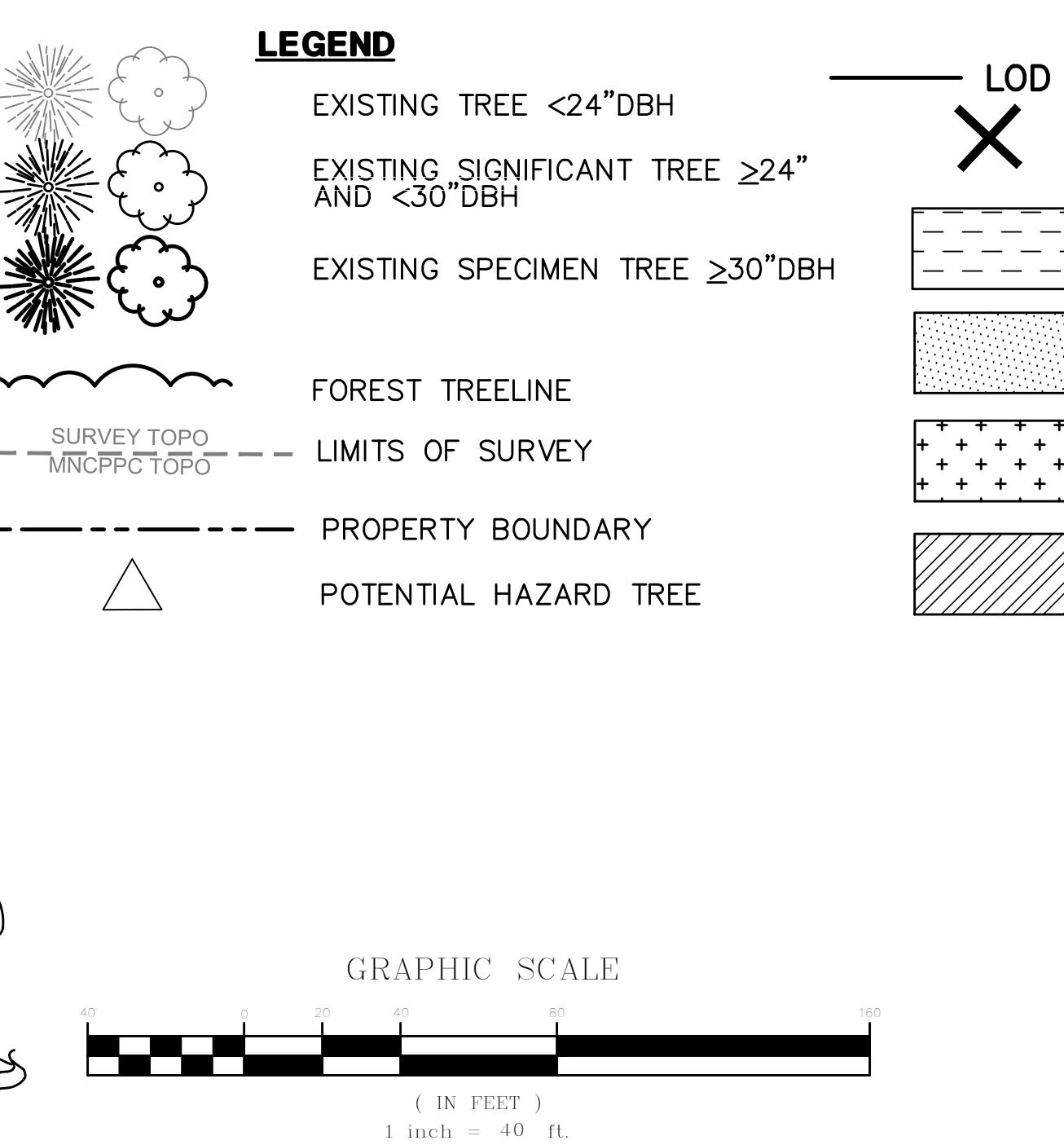
LINEAR EXTENT & AVERAGE WIDTH OF STREAM BUFFER 0/0

TOTAL DBH INCHES OF SPECIMEN TREES REMOVED 210

X 0.25 = REQUIRED CALIPER INCHES MITIGATION 53

TOTAL AMOUNT OF 3" CAL. TREES FOR SPECIMEN TREE MITIGATION 18

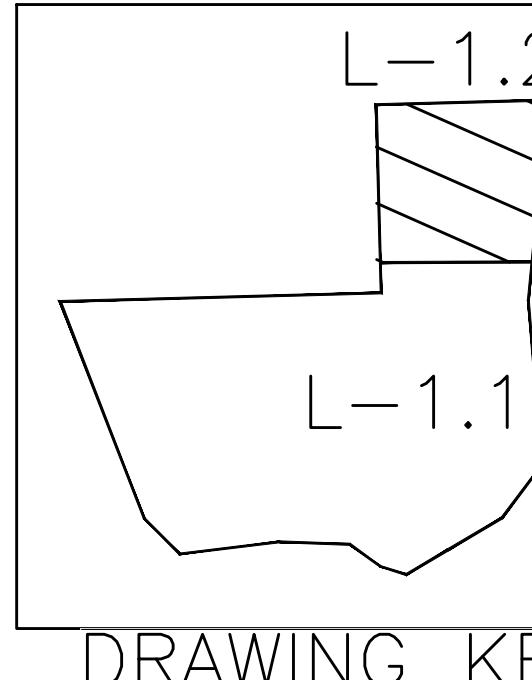
\* BOLD TYPE DENOTES SPECIMEN TREES



#### CERTIFICATION OF QUALIFIED PROFESSIONAL

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH MARYLAND STATE, MNCP&PC AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS.

DATE \_\_\_\_\_  
MICHAEL A. NORTON  
MDNR / COMAR 08.19.06.01  
QUALIFIED PROFESSIONAL



Tilden Middle School /  
Rock Terrace School  
6300 Tilden Lane  
Rockville, MD 20852

Montgomery County Public Schools  
45 West Gude Drive Room Suite 4300  
Rockville, Maryland 20850

NO	REVISION	DATE

#### CONSTRUCTION DOCUMENTS 65% SUBMISSION

Sheet Title:

#### PRELIMINARY FOREST CONSERVATION PLAN

Issue Date:  
Sheet Number:

L-1.2

Principal:  
Project Manager:  
Project Number:

## ATTACHMENT 2



October 2, 2017

Maryland National Capital Park and Planning Commission (M-NCPPC)  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Tilden Middle School/Rock Terrace School  
Request for Specimen Tree Variance  
MNCPPC NRI# 420161060

Dear Amy Lindsey,

On behalf of the Montgomery County Public Schools and pursuant to Section 22A-21 *Variance provisions* of the Montgomery County Forest Conservation Ordinance and recent revisions to the State Forest Conservation Law enacted by S.B. 666, we are writing to request a variance(s) to allow impacts to or the removal of the following trees identified on the approved Natural Resource Inventory/Forest Stand Delineation for the above-named County construction project:

**Project Description:**

The existing Tilden Middle School/Rock Terrace School is located at 6300 Tilden Lane in Rockville, Montgomery County, Maryland. This is a 19.76-acre site that consists of several parcels owned by the Montgomery County Board of Education. The site currently hosts the existing school, associated parking, athletic fields and play areas. The site is bordered by public roads to the east and south. The a portion of the lower northern and upper western property are bordered by residential single family homes.

Proposed construction consists of a new school, improved circulation and parking, additional athletic areas and updates for ADA accessibility.

**Requirements for Justification of Variance:**

Section 22A-21(b) *Application requirements* states that the applicant must:

- 1 Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- 2 Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- 3 Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- 4 Provide any other information appropriate to support the request.

**Justification of Variance:**

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

**Response:** As part of the program, the task is to provide the community with an updated school facility that can accommodate a growing number of students as well as a modernized, safe and healthy environment for young students to learn.

The property has an odd configuration that is narrow along Tilden Lane. The parking and building shape have been designed to work with the narrowness of the property and then open up to ballfields as the property opens in the rear along Cushman Road.

This work will require disturbance of the root zones of a total of thirty-eight (38) specimen trees. Eight (8) of the impacted trees will be required to be removed. The removal of specimen trees are due to the proposed building and parking in relationship to the narrow property. The impacted trees are for those area around the edge of forest that are associated with grading and ballfields.

If MCPS is not allowed to impact the trees, the school will not be able to be updated due to the close proximity of specimen trees to the school parking, amenities and stormwater facilities. As such, this would cause an *unwarranted hardship* to the community that it serves.

- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

**Response:** If the County were required to keep all improvements outside the root zones of the specimen trees, the building, safe access drive aisles, parking and ballfield would fail to be rebuilt due to the close proximity of specimen trees.

- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;

**Response:** Tree removals have been minimized by compact design of the layout ensuring the preservation of as many specimen trees as possible. In addition, this property will be developed in accordance with the latest Maryland Department of the Environment criteria for stormwater management. This includes Environmental Site Design to provide for protecting the natural resources to the Maximum Extent Practicable. This includes limiting the impervious areas and providing on-site stormwater management systems. A Stormwater Management Concept is currently under review by the Montgomery County Department of Permitting Services to ensure that this criterion is enforced. Specimen trees within the open space (outside of forest) will be mitigated onsite at the time of the Final Forest Conservation Plan. Therefore, the proposed activity will not degrade the

**water quality of the downstream areas and will not result in *measurable degradation in water quality*.**

- (4) Provide any other information appropriate to support the request.

**Response:** Presently there is forest along the edges of the property that will be retained to the greatest extent possible. Additional reforestation is proposed along with an expansive landscape planting plan. Additional canopy planting will serve to create greater ecological quality while establishing further buffering of adjacent land uses (residential).

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) Will confer on the applicant a special privilege that would be denied to other applicants;

**Response:** The school modernization is in conformance with the County's General plan. As such, this is not a *special privilege* to be conferred on the applicant.

- (2) Is based on conditions or circumstances which are the result of the actions by the applicant;

**Response:** Montgomery County Public Schools has taken no *actions leading to the conditions or circumstances* that are the subject of this variance request.

- (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or

**Response:** The surrounding land uses (residences) do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.

- (4) Will violate State water quality standards or cause measurable degradation in water quality.

**Response:** Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.

Variance Tree Summary									
Tree #	Species Scientific Name	Species Common Name	D.B.H. inches	Critical Root one S F.	Critical Root one S F.	Percent of CR Impacted SF	Tree	Comments	Status
1	UERCUS RUBRA	RED OA	34	8171		8171	100% GOOD	DEAD BRANCHES	REMOVAL
13	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	37	9677		709	7% GOOD		IMPACTS ONLY
21	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	38	10207		2286	22% FAIR/POOR	CAVITY	IMPACTS ONLY
23	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	33	7698		671	9% GOOD	BAR □ DAMAGE/SOFTWOOD	IMPACTS ONLY
25	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	31	6793		117	2% GOOD	BAR □ DAMAGE/FLARE □ BASE	IMPACTS ONLY
26	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	43	13070		3375	26% GOOD		IMPACTS ONLY
31	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	32	7238		172	2% GOOD		IMPACTS ONLY
34B	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8659		157	2%		IMPACTS ONLY
38	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	32	7238		945	13% GOOD		IMPACTS ONLY
40	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	31	6793		144	2% GOOD		IMPACTS ONLY
41	UERCUS ALBA	WHITE OA	42	12469		4416	35% GOOD		IMPACTS ONLY
42	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	36	9161		2455	27% GOOD		IMPACTS ONLY
49	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362		1254	20% GOOD		IMPACTS ONLY
50	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362		951	15% GOOD		IMPACTS ONLY
53	UERCUS ALBA	WHITE OA	36	9161		228	2% GOOD		IMPACTS ONLY
55	UERCUS ALBA	WHITE OA	33	7698		127	2% GOOD		IMPACTS ONLY
60	UERCUS ALBA	WHITE OA	31	6793		142	2% GOOD		IMPACTS ONLY
67	UERCUS RUBRA	RED OA	33	7698		7698	100% GOOD		REMOVAL
68	UERCUS ALBA	WHITE OA	32	7238		7238	100% GOOD		REMOVAL
69	UERCUS PALUSTRIS	PIN OA	42	12469		12469	100% GOOD		REMOVAL
71	UERCUS ALBA	WHITE OA	38	10207		1075	11% GOOD		IMPACTS ONLY
91	UERCUS RUBRA	RED OA	52	19113		2382	12% GOOD		IMPACTS ONLY
95	UERCUS RUBRA	RED OA	30	6362		1485	23% GOOD		IMPACTS ONLY
96	UERCUS RUBRA	RED OA	34	8171		1856	23% GOOD	SPLIT □ 6	IMPACTS ONLY
98	UERCUS RUBRA	RED OA	32	7238		1490	21% GOOD		IMPACTS ONLY
99	UERCUS RUBRA	RED OA	44	13685		6091	45% GOOD		REMOVAL
100	UERCUS RUBRA	RED OA	39	10751		10751	100% GOOD		REMOVAL
101	ILE □ OPACA	HOLLY	33	7698		7698	100% GOOD		IMPACTS ONLY
103	UERCUS PHELLOS	WILLOW OA	38	10207		6532	64% GOOD		REMOVAL
104	UERCUS PHELLOS	WILLOW OA	31	6793		6793	100% GOOD	INCLUDED BAR □ DEAD LEADER OVER SIDEWAL □	REMOVAL
119	ACER RUBRUM	RED MAPLE	30	6362		114	2% GOOD	OFFSITE	IMPACTS ONLY
159	PRUNUS SEROTINA	BLAC □ CHERRY	30	6362		403	6% GOOD	OFFSITE, DEAD BRANCHES	IMPACTS ONLY
162	PRUNUS SEROTINA	BLAC □ CHERRY	32,15	7238		542	7% GOOD	OFFSITE, SPLIT AT 5	IMPACTS ONLY
163	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310		2539	22% GOOD	OFFSITE	IMPACTS ONLY
165	UERCUS RUBRA	RED OA	40	11310		152	1% GOOD	OFFSITE	IMPACTS ONLY
166	PRUNUS SEROTINA	BLAC □ CHERRY	40	11310		257	2% GOOD	OFFSITE	IMPACTS ONLY
167	UERCUS FALCATA	SOUTHERN RED OA	40	11310		137	1% GOOD	OFFSITE	IMPACTS ONLY
181	UERCUS RUBRA	RED OA	34	8171		1249	15% GOOD		IMPACTS ONLY

### Conclusion:

For the above reasons, the applicant respectfully requests that the Planning Board APPROVE its request for a variance from the provisions of Section 22A of the Montgomery County Forest Conservation Ordinance, and thereby, GRANTS permission to impact/remove the specimen trees in order to allow the construction of this vital project.

The recommendations in this report are based on tree conditions noted at the time the NRI/FSD field work was conducted. Tree condition can be influenced by many environmental factors, such as wind, ice and heavy snow, drought conditions, heavy rainfall, rapid or prolonged freezing temperatures, and insect/disease infestation. Therefore, tree conditions are subject to change without notice.

The site plans and plotting of tree locations were furnished for the purpose of creating a detailed Tree Protection Plan. All information is true and accurate to the best of my knowledge and experience. All conclusions are based on professional opinion and were not influenced by any other party.

Sincerely,

Michael Norton

# ATTACHMENT 3



## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
*County Executive*

Lisa Feldt  
*Director*

October 27, 2017

Casey Anderson, Chair  
Montgomery County Planning Board  
Maryland National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

RE: Tilden Middle School, DAIC MR2017014, NRI/FSD application accepted on 1/5/2016

Dear Mr. Anderson:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon meeting 'conditions of approval' pertaining to variance trees recommended by Planning staff, as well as the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that minor revisions to the impacts to trees subject to variance provisions are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller  
County Arborist

cc: Amy Lindsey, Planner Coordinator