Takoma Park Middle School, Preliminary Forest Conservation Plan, MR2018036

- Preliminary Forest Conservation Plan associated with the Takoma Park Middle School additions;
- Located at 7611 Piney Branch Road, Takoma Park, Maryland;
- 18.10-acre site zoned R-60 in the 2000 Takoma Park Master Plan area;
- Applicant: Montgomery County Public Schools;
- Acceptance Date: June 13, 2018.

Summary

- This Preliminary/Final Forest Conservation Plan accompanies Mandatory Referral MR2018017 discussed in a separate staff report.

Staff recommends approval with conditions.
The Applicant proposes to:
- Preserve 1.82 acres of forest; clear 0.21 acres of forest; re/afforestation required, 1.11 acres; onsite reforestation provided, 1.17 acres;
- Remove one specimen tree with impacts to the critical root zones of 5 specimen trees requiring a variance, per Section 22A-12(b)(3);
- Plant (4) 3-inch caliper canopy landscape trees as mitigation for the loss of one 49-inch specimen tree.

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

Staff recommends approval of Preliminary/Final Forest Conservation Plan MR2018036, subject to the following conditions:

1. The Applicant must record a Category I Conservation Easement of 2.99 acres, as shown on the Approved Preliminary Forest Conservation Plan. The Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.
2. The Applicant must plant 1.17 acres of forest on the Takoma Park Middle School property to be included in the total area of the Category I Conservation Easement.
3. The Applicant must plant all reforestation and landscape credit areas within one year of construction completion.
4. The Applicant must prepare a Final Forest Conservation Plan, which must show the planting of four (4), 3-inch caliper native shade trees as mitigation for the loss of one 49-inch specimen tree requiring a variance. The trees must be planted within one year of construction completion. All trees must be planted outside of the Category I Conservation Easement. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC forest conservation inspector.
5. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the approved Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
6. The Applicant must install permanent Conservation Easement signage along the perimeter of the conservation easements.
7. 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.
8. The Final Sediment Control Plan must depict the limits of disturbance (LOD) identical to the LOD on the approved Final Forest Conservation Plan.
9. The Final Forest Conservation Plan must be amended to address outstanding items and be consistent with the approved Preliminary Forest Conservation Plan.
PROJECT DESCRIPTION
Montgomery County Public Schools (MCPS) has submitted a mandatory referral for the expansion of the existing Takoma Park Middle School. The project will include the construction of two additions to be built in two phases. The project requires the removal of 0.21 acres of forest due to construction needs, storm drain lines, and stormwater outfall repairs. One specimen tree will be removed for the phase II of the expansion of the school.

Site Description
The Takoma Park Middle School at 7611 Piney Branch Road is seated on 18.10-acres owned by the Montgomery County Board of Education. The site contains an existing school, associated parking lots, athletic fields, play areas, and a portion of a linear stream valley park and forest. The site is in a residential neighborhood with single family residential (R60) properties on three sides. Two connecting parks abut the school: to the south adjacent to the tennis courts the City of Takoma Park owns a 2.29-acre parcel called Hefner Park; to the southeast is Takoma-Piney Branch Park owned by the Maryland National Capital Park and Planning Commission. Access roads to the school are Piney Branch Road to the north and Grant Avenue to the southwest. Travis Drive, a paper road runs along the south side of the property.

Figure 1: Vicinity Map
The site is located in the Sligo Creek watershed with a Use I Water Category. A channelled unnamed tributary runs along the eastern border of the property and daylights approximately 120-feet before leaving the site.

ANALYSIS

Environmental Guidelines
Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420180710) (Attachment 1) for the school site on 12/1/2017. Of the 18.10 acres of land, 2.03 acres are contiguous forest associated with adjacent parkland. There is an unnamed channelized stream along the eastern side of the property that daylights approximately 120 feet prior to leaving the site. There are no wetlands on the site.

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 2) in conjunction with the Mandatory Referral Plan. The site includes 2.03 acres of existing forest onsite containing a mix of deciduous hardwoods dominated by sycamore, sliver maple, and tulip poplar. The forest is dappled with large specimen trees throughout. The forest is considered a moderate priority for retention. The Applicant proposes to clear 0.21 acres of forest and retain 1.82 acres of forest. Most of the forest removal is to accommodate the construction needs of the Phase II addition on the south-eastern side of the existing school. Additional clearing is needed for the repairs of the stormwater discharge facility along the eastern property border. As mitigation for forest removal the Applicant will plant 1.17 acres of forest which will sizably increase the size of the onsite and offsite linear contiguous forest associated with the adjacent parkland. The total forest area including the afforestation area to be put into a Forest Conservation Easement for protection is 2.99 acres.

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.

Variance Request
Pursuant to Section 22A-21 Variance provisions of the Montgomery County Forest Conservation Ordinance the Applicant submitted a variance request on June 6th, 2018, which was revised on August 21, 2018 for the impacts to specimen trees (Attachment 3). The revision requests removal of one specimen tree (49-inch mulberry) with impacts to the critical root zones of 5 specimen trees. The original application requested the removal of two specimen trees but impact reductions measures requested by the City of Takoma Park were taken allowing for the preservation of one additional
specimen tree. Details of the protected trees to be removed and impacted are provided in Figure 2 and Table 1.

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 construction needs of the proposed middle school expansion and the repairs to the existing stormwater outfalls. The landscape grading has been minimized around the school to reduce impacts and save specimen trees. Forest impacts have been reduced to the extent possible while still providing the repairs and restoration needed for the stormwater outfalls. Leaving the requested trees in an undisturbed state would result in an unwarranted hardship because the Applicant would not be able to expand the school as needed nor repair and replace the stormwater management outfalls. One specimen tree is proposed for removal.

![Figure 2: Variance Tree Impacts](image)

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<th>ID</th>
<th>Species</th>
<th>Size</th>
<th>Condition</th>
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<td>Mulberry</td>
<td>32”</td>
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<td>Tulip poplar</td>
<td>30”</td>
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**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 school facility and associated stormwater management improvements. The size and configuration of the school preclude alternative site designs that would allow the variance trees to remain undisturbed. The Applicant has met with the City of Takoma Park arborist to consider alternatives to minimize impacts and provide maximum tree protection measures.

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 site, the requirements of the construction for the new additions and necessities for circulation and stormwater management. The Applicant has designed the proposed school to minimize forest and removal.

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 impacts by the proposed layout of the 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 construct the proposed additions associated upgrades to meet the needs of the growing student population and curriculum.

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

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 should improve with the proposed development and State water quality standards will not be violated. The proposed work will include the construction of two bioretention areas to treat the runoff from the new additions. Upgrades to the stormwater outfall will be made, and the planting of 1.17 acres of forest will occur. As replacement for the loss of the 49-inch Morus (mulberry) tree, the Applicant will plant 4 canopy trees 3-inches in diameter or greater. The intent is to replace the form and function of the variance tree proposed for removal. These measures are provided to improve water quality and the health of the associated community.

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

The Applicant is requesting a variance to remove one specimen tree with impacts to the critical root zones of 5 additional specimen trees. Mitigation is required at a rate of 1” caliper per 4” DBH removed,
using a minimum 3” caliper native shade tree. The Applicant will plant (4) 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 4).

**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. Approved Natural Resource Inventory
2. Preliminary Forest Conservation Plan
3. Variance request
### Sequence of Events for Property Owners Required to Comply With Forest Conservation and/or Tree Storm Plans

**Preconstruction:**
- The landowner and developer shall thoroughly review the preliminary forest conservation plan and/or tree storm plan with the architect and engineer.
- Approval of the forest conservation plan and/or tree storm plan by the architect and engineer is required.
- The forest conservation plan and/or tree storm plan shall be approved by the local regulatory agency.
- The forest conservation plan and/or tree storm plan shall be approved by the local regulatory agency.
- Prior to the beginning of any construction activities, the forest conservation plan and/or tree storm plan shall be reviewed and approved by the local regulatory agency.

**Construction:**
- The forest conservation plan and/or tree storm plan shall be followed carefully to ensure compliance with the local regulatory agency.
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**Postconstruction:**
- The forest conservation plan and/or tree storm plan shall be followed carefully to ensure compliance with the local regulatory agency.
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August 21, 2018

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

Re: Takoma Park Middle School
Request for Specimen Tree Variance
MNCPPC NR# 420180710
MR# 2018036

Dear Intake Division,

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 Takoma Park Middle School is located at 7611 Piney Branch Rd in Silver Spring, Montgomery County, Maryland. This is a 18.10-acre site that 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 residential properties on all sides. The site has vehicle access from Piney Branch Rd and Grant Avenue.

Proposed construction consists of an addition, new hardcourt play surfaces, improved pedestrian circulaiton, stormwater management 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.

This work will require disturbance of the root zones of a total of six (6) specimen trees. One (1) of the six (6) impacted trees will be required to be removed. The removal of specimen trees are due to the proposed pathway and utilities in relationship to the narrow property.

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) is shown to be mitigated for on the Preliminary Forest Conservation Plan. Additional improvements to the property include control of erosion and outfall stabilization before entering the stream just offsite.
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 within the designated stream valley buffer. 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 addition 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.

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**Significant Specimen Tree Summary 24**

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<th>Critical Root Zone</th>
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<th>Tree</th>
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<th>Status</th>
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**Notes:***

- **Critical Source:**
  - **Critical Root Zone:**
  - **Potential of CI:**
  - **Tree:**
  - **Comments:**
  - **Status:**
  - **Variance:**

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*All trees are evaluated based on the following criteria:

- **Condition:**
  - Good
  - Poor
- **Survival:**
  - Excellent
  - Poor
- **Species:**
  - Common
  - Scientific
**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
May 24, 2018

ADTEK Engineering Inc.
97 ManoClay Blvd. Unit H
Frederick MD 21710

Attn: Mr. Aron Jolin

RE: Takoma Park Middle School
Stormwater Management (SWM) Concept Application
SWMC 18-04-23

Gentlemen:
Our review of your Stormwater Management Concept application for the referenced project is completed. The SWM Concept submitted is deemed generally acceptable.

The following comments should be addressed and limits of disturbance finalized prior to permit application.

1. Available computations and details for existing SWM facilities (SW97-07) along with any inspection reports or maintenance records done by MGCPS or MGCDEP must be submitted for review. In the absence of such documents, the current system conditions must be evaluated to verify the adequacy and functionality of the existing system.

2. Please clearly delineate LOD for phases 1 and 2 of the project. Show the LOD for each phase separately tabulating the LOD area and the impervious area within LOD for each phase.

3. Please expand on the Reduced Curve Number (RCN) methodology description and computation of each component that are tabulated on page 8 of your narrative. Also, index references of relevant sections of MDE Stormwater Manual and TR55.

4. Please calculate the groundwater recharge (Rev) and channel protection (CPv) volumes and verify the adequacy of storage provided in the proposed biorctention storage volume.
5. Please check the capacity of the SWM bioretentions to ensure that each bioretention pond holds 75% of ESDv as ponding volume and apply adjustment to all volume, if necessary.

Thank you for your diligent work on this project. Should you have any questions or if I can provide additional information, please call.

Sincerely,

[Signature]

Ali Khalilian, P.E.

cc:
Montgomery County Public School
Construction Division
850 Hungerford Drive, Room #123
Rockville, MD 20850
Michael Horton
File