



Edith Throckmorton Park, Park Plan No. PP2019001, Forest Conservation Plan



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Completed: 2/25/2019

Description

Request to approve a Forest Conservation Plan for the renovation of Edith Throckmorton Park.

Location: 3925 Hampden Street.

Sector Plan: 2012 *Kensington Sector Plan*.

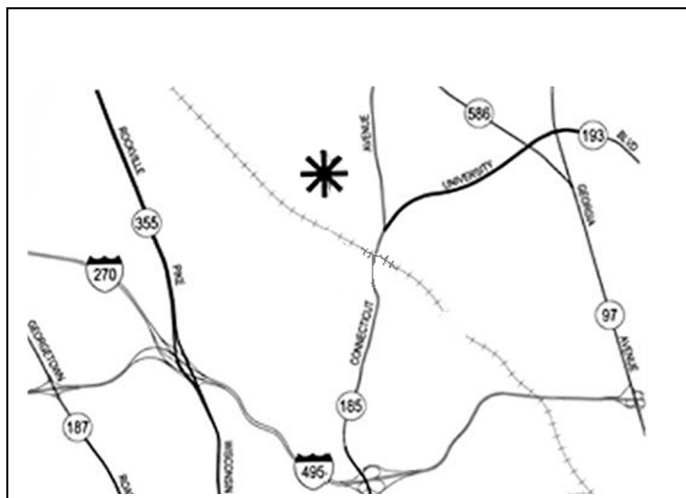
Zone: R-60

Property Size: 0.19 acres.

Applicant: Montgomery County Parks Department

Acceptance Date: December 12, 2018.

Review Basis: Chapter 22A, Forest Conservation Law.



Summary

- Staff recommends approval with conditions.
- The Applicant proposes to:
 - Clear 0.10 acres of forest, and plant 0.13 acres of forest on Park property.
 - Remove one (1) tree and impact four (4) 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.

RECOMMENDATION AND CONDITIONS

Pursuant to Chapter 22A of the County Code, the Board's actions on Forest Conservation Plans are regulatory and binding. Staff recommends approval of the Final Forest Conservation Plan, subject to the following conditions:

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 Final Forest Conservation Plan must include details of 0.13 acres of off-site forest planting. The off-site forest planting must occur on adjacent Park property.
3. The Applicant must plant three (3) 3-inch caliper native canopy trees within one year of construction completion as mitigation for tree loss.

PROJECT DESCRIPTION AND BACKGROUND

Project Description

Montgomery County Parks Department (MCPD) proposes to renovate Edith Throckmorton Park by creating terraces, seating areas, open spaces, and play areas. A raised boardwalk will connect Mertford Street to the renovated park and provide an ADA access route while protecting existing trees. An outfall and drainage swale will be stabilized as part of this project.

Site Description

The 0.19-acre property (Subject Property or Property – outlined in red in Figure 1) is located at 3925 Hampden Street, west of Connecticut Avenue. The Property is between two single-family homes, with Rock Creek Stream Valley Park (SVU5) directly to the north. Single family homes and the First Baptist Church of Ken-Gar are located across the street from the park. A Housing Opportunities Commission (HOC) owned single-family dwelling is located adjacent to the northeast corner of the park property. The Property is located in the Rock Creek watershed and not within any Special Protection Areas. There is 0.02 acres of forest on-site.



Figure 1 Vicinity Map

ANALYSIS

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD No. 420170960) for the park site on 4/26/2017. There are 0.02 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 Property 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 (PFCP) in conjunction with the Park Project (Attachment 1). MCPD proposes to clear 0.10 acres of forest (0.02 acres of on-site forest plus 0.08 acres of off-site forest) and plant 0.13 acres of forest on adjacent parkland.

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 to remove one (1) tree and to impact, but not remove, four (4) trees that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law (Attachment 2). The Applicant will plant three (3) 3-inch caliper native shade trees to replace the form and function of the variance trees proposed for removal.

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 need to provide access and stabilize the drainage outfall.

Leaving the requested trees in an undisturbed state would result in an unwarranted hardship because the Applicant would not be able to provide a raised boardwalk access from Mertford Street or stabilize the drainage outfall.

Variance Tree Tables

Removals

ID	Species	Size	Condition	Notes
T48	Boxelder	31.5"	Poor	Drainage outfall stabilization

Impacts

ID	Species	Size	Condition	Notes
T690	Yellow poplar	32"	Fair	Impacts due to raised boardwalk
T14	Yellow poplar	38"	Fair	Impacts due to raised boardwalk
T22	Yellow poplar	47"	Fair	Impacts due to raised boardwalk
T28	Yellow poplar	35"	Fair	Impacts due to raised boardwalk

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 stabilize the existing drainage outfall and build the raised boardwalk access. The proposed development is the continuation of an existing, reasonable use of the site and disturbance has been minimized to retain trees where possible.

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 need to stabilize the existing drainage outfall and provide ADA access to the Property.

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 stabilization of the existing drainage outfall and the raised boardwalk, providing ADA access to the Property.

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

The Applicant will plant three (3) 3-inch caliper native shade trees to replace the form and function of the variance tree 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 outfall stabilization 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 one tree. The one (1) tree (listed in the removal table above) is 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 three (3) 3-inch caliper native shade trees, as shown on the PFCP.

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.

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

GENERAL NOTES:

- ALL TREES TO BE REMOVED OUTSIDE THE LOD SHALL BE REMOVED BY HAND AND FLUSH CUT.
- ROOT PRUNING WILL OCCUR PRIOR TO THE CONSTRUCTION OF THE UTILITY LINES. ROOT PRUNING SHALL NOT OCCUR PRIOR TO EXISTING UTILITY LOCATIONS VERIFIED.
- THE EXTENT OF ROOT PRUNING IS TO BE DETERMINED AT THE PRECONSTRUCTION MEETING.
- NO CLEARING IS TO TAKE PLACE OUTSIDE OF THE LIMITS OF DISTURBANCE.
- A COPY OF THE APPROVED FOREST CONSERVATION PLAN MUST BE MAINTAINED ONSITE THROUGHOUT CONSTRUCTION.

LEGEND

- EXISTING TREE <24" DBH
- EXISTING SIGNIFICANT TREE ≥24" AND <30" DBH
- EXISTING SPECIMEN TREE ≥30" DBH
- PROPOSED CANOPY TREE FOR SPECIMEN TREE MITIGATION
- CRITICAL ROOT ZONE
- FOREST TREE LINE
- FOREST CLEARING AREA
- TREE SAVE AREA COUNTED TOWARD CLEARING FOR COMPUTATION ONLY
- LIMITS OF DISTURBANCE
- TREE TO BE REMOVED
- PROPERTY BOUNDARY
- EXISTING CONTOUR
- PROPOSED CONTOUR
- STREAM BUFFER
- STREAM
- TEMPORARY COMBINED ROOT PRUNE TRENCH/TREE PROTECTION FENCE WITH TEMPORARY SIGNAGE
- TEMPORARY TREE PROTECTION FENCE WITH TEMPORARY SIGNAGE
- 6" MULCH WITH TIMBER OR COMPOSITE MATTING SURFACE
- SPECIAL TREE PROTECTION MEASURE

GRAPHIC SCALE

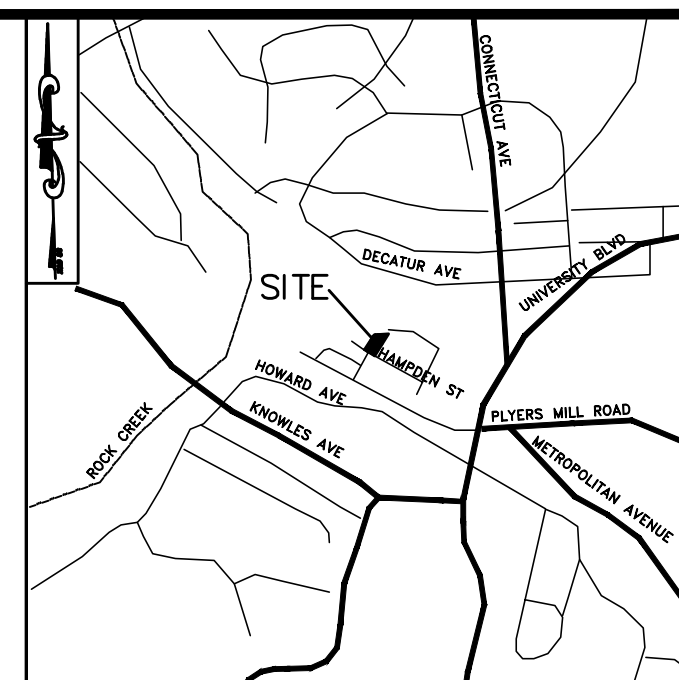


(IN FEET)

1 inch = 20 ft.

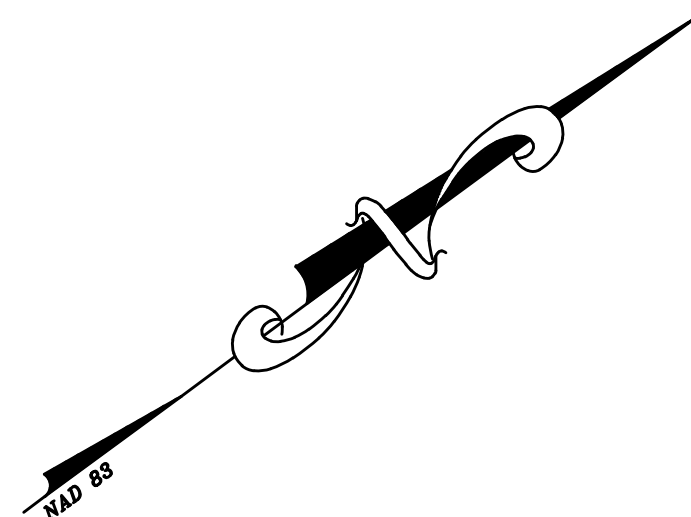
MISS UTILITY

CALL "MISS UTILITY AT 1-800-257-7777, 48 HOURS PRIOR TO THE START OF WORK. THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITH UNDERGROUND FACILITIES IN THE AREA OF PROPOSED EXCAVATION AND HAVE THOSE FACILITIES LOCATED BY THE UTILITY COMPANIES PRIOR TO COMMENCING EXCAVATION. BEFORE EXCAVATION THE CONTRACTOR IS RESPONSIBLE FOR CALLING TICKET CHECK AT 1-866-821-4226 TO VERIFY THAT ALL UTILITIES HAVE BEEN MARKED, 48 HOURS AFTER CALLING MISS UTILITY. THE EXCAVATOR IS RESPONSIBLE FOR COMPLIANCE WITH REQUIREMENTS OF CHAPTER 36A OF THE MONTGOMERY COUNTY CODE.



VICINITY MAP

MONTGOMERY COUNTY
ADC MAP PAGE: 36
GRID: C-3
(2001 EDITION)



DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. PP2019001 including, financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: MONTGOMERY COUNTY, MD PARKS DEPARTMENT
Printed Company Name

Contact Person or Owner: CHING-FANG CHEN
Printed Name

Address: 9500 BRUNETT AVENUE
SILVER SPRING, MD 20901

Phone and Email: 301-495-2557
CHING-FANG.CHEN@MONTGOMERYPARKS.ORG

Signature: _____

CERTIFICATION OF QUALIFIED PROFESSIONAL

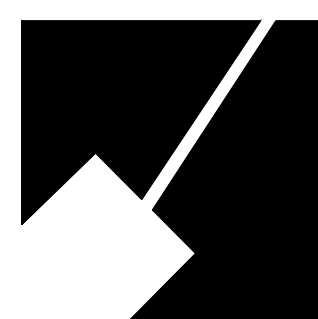
I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH MARYLAND STATE, MNC&PC AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS.

DATE

MICHAEL A. NORTON
MDNR / COMAR 08.19.06.01
QUALIFIED PROFESSIONAL

DESIGN			
Designer's Name			
Address			
City/State/Zip			
Telephone Number			
Landscape Architect	Date	Checked By:	
Architect	Date	Checked By:	
Engineer	Date	Checked By:	
Drawn by	Date	Checked By:	

NORTON LAND DESIGN
LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING
6140 DORSEY HALL DRIVE, 2ND FLOOR ELLICOTT CITY, MD 21042
BALT. 443.542.9199x101 DC 240.342.2329x101 WWW.NORTONLANDDESIGN.COM



The Maryland-National Capital
Park and Planning Commission

Montgomery County Department of Parks
9500 Brunnett Avenue
Silver Spring, Maryland 20901
(301) 495-2535

REVIEW AND APPROVAL		ISSUED FOR PROCUREMENT ON	
		REVISIONS	
Project Manager	Date	Rev. No.	Date
Construction Manager	Date		
Park Manager	Date		

Edith Throckmorton Neighborhood Park
3925 Hampden Street
Kensington, Maryland 20895

PLAN NO. PP2019001

SCALE: AS SHOWN

Liber 10252

Folio 0793

DWG. #

L-2.1

SHT. # 1 of 3

FINAL FOREST
CONSERVATION PLAN

ATTACHMENT 2



January 22, 2018

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

Attention: Amy Lindsey

Re: Edith Throckmorton Park
Final Forest Conservation Plan
NORTON Job #18-011
Approved NRI/FSD# 420170960
MNCPPC# PP2019001

Dear Amy,

On behalf of the Montgomery Parks Department 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 Edith Throckmorton Park is located at 3925 Hampden Street in Kensington, Montgomery County, Maryland. This is a 0.19-acre site that consists of one parcel owned by the MNCPPC. The site is bordered by single family residential use to the east, west and south, and parkland to the north. Hampden Street runs across the southern edge of the parcel. The park currently hosts the existing playground associated paths and primarily used by children.

Proposed construction consists of two different play grounds, community garden, picnic area, seat walls, nature play area incorporating stormwater facilities, boardwalk, accessible paths and ramps, and ADA accessibility.

The following specimen trees will be impacted:

SPECIMEN TREE TABLE										
NO.	COMMON NAME	SCIENTIFIC NAME	D.B.H (INCHES)	CRITICAL ROOT ZONE (SQ. FT.)	CRITICAL ROOT ZONE IMPACTS	PERCENT OF CRZ IMPACTS	CONDITION RATING	CONDITION COMMENTS	STATUS	VARIANCE
T48	Boxelder	<i>Acer negundo</i>	31.5	7014	218	3%	POOR	In decline, base and trunk rotten	REMOVAL	YES
T690	Tulip poplar	<i>Liriodendron tulipifera</i>	32	7238	6391	88%	AVG.	Vines in crown	IMPACTS ONLY	YES
T691	Tulip poplar	<i>Liriodendron tulipifera</i>	38	10207	9160	90%	AVG.	Broken leader	IMPACTS ONLY	YES
T697	Tulip poplar	<i>Liriodendron tulipifera</i>	47	15615	1618	10%	AVG.	Broken leader and limbs	IMPACTS ONLY	YES
T700	Tulip poplar	<i>Liriodendron tulipifera</i>	35	8659	85	1%	AVG.	Broken limbs	IMPACTS ONLY	YES

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 neighborhood park that meets ADA guidelines.

The adjacent property has extensive stream buffers along with sloping land that limit development. The proposed park is reorganized within entire of the existing lot, while also accommodating stormwater facilities adjacent to the property that does not currently exist. Along with stormwater facilities, is organized an ADA ramp system as a boardwalk.

This work will require one (1) specimen tree removal. Four (4) of the impacted specimen trees will be saved. There are trees less than 30" DBH with significant impacts that are shown as removal due to the impacts, however, the Parks Department would like to re-evaluate them in the field during construction. The removal of existing trees is due to proposed boardwalk and nature play area incorporating stormwater mitigation. The impacted trees are kept to a minimum by walking the property with the Design Team, Arborist and Engineers to best locate the facilities with as little disturbance as possible.

If M-NCPPC is not allowed to impact the trees, the property will not be able to be updated for ADA compliance due to the close proximity of specimen trees to the 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 Parks Department were required to keep all improvements outside the root zones of the specimen trees and stormwater facilities would fail to be constructed 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 impacts have been minimized by compact design of the layout ensuring the preservation of all specimen trees. In addition, there is a stream restoration project in design behind the park that will serve as future stormwater credit for the park design. 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: Forest mitigation will be accomplished through offsite planting. Proposed boardwalk to be installed within a tree's critical root zone will be handled in accordance with M-NCPPC guidelines to minimize disturbance to the affected trees; these requirements are outlined within final forest conservation plan set.

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 ADA update 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: MNCPPC Parks Department 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.

Conclusion:

For the above reasons, the applicant respectfully requests that the Plan Reviewer 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,

A handwritten signature in black ink, appearing to read 'Michael Norton', with a stylized, cursive script.

Michael Norton