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October 25, 2019

**VIA DELIVERY**

Ms. Laura Miller  
Maryland National Capital Park and  
Planning Commission (M-NCPPC)  
8787 Georgia Avenue  
Silver Spring, MD 20910

**Re: Request for Tree Variance  
Primrose School - Derwood  
MNCPPC NRI-FSD #: 420181150  
MC Project No.: 16003398A**

Dear Ms. Miller:

On behalf of, and pursuant to, *Section 22A-21 Variance* of the Montgomery County Forest Conservation Law and recent revisions to the State Forest Conservation Act enacted by Senate Bill 666, Maser Consulting, P.A. (Maser) is hereby requesting a tree variance. The purpose of this variance is to allow (1) impacts to the Critical Root Zones (CRZ's) or (2) the removal of trees identified on the approved Natural Resource Inventory/Forest Stand Delineation and proposed Preliminary Forest Conservation Plan for the above-named County construction project. The trees that will be removed and the trees that will have their CRZ impacted are listed below.

**Project Description**

The proposed Primrose Derwood site, a proposed day care center is located at the southeast quadrant of the intersection of Needwood Road and Carnegie Avenue, in Montgomery County, Maryland. The subject site is located in Derwood Heights and is further identified as Lot 8 of Section A, with an area of approximately 2.94 acres

This property is comprised of scattered secondary growth woodlands, elongated tree stands, open grasslands, and a vacant residential structure. There is approximately 0.07 acres of forest onsite. Site topography drains surface flow from the south and north towards the central area of the site, where it is collected in an existing 15" CMP, which drains westerly to the adjacent properties. There are no wetlands located within this parcel.

Proposed on-site construction consists of an approximate 13,000 square foot day care center and the associated support facilities (playground area, pedestrian circulation, proposed storm-water management facilities, and vehicular circulation and parking). In addition to the on-site improvements, the proposed improvements also include providing a five (5) foot public sidewalk



along the east side of Carnegie Avenue right-of-way and a southerly storm drain outfall. The Carnegie Avenue improvements will also include dedicating a five-foot (5') strip along the easterly edge of the existing right-of-way to public street purposes, which will bring the total street dedication to a forty-five foot (45') wide public right-of-way. Also, an approximate fifteen-foot (15') strip will be dedicated along southerly edge of Needwood Road right-of-way as a part of this development. In addition, a ten foot (10') Public Use Easement will be recorded along the east edge of the newly dedicated Carnegie Avenue and southerly edge of the newly dedicated Needwood Road right-of-way.

With the scope of the afore-mentioned improvements, and while several design considerations have been made to minimize the impacts associated with the construction required, the following trees will require removal:

- SP-1, a 45" Silver Maple, due to building location and grading operations
- SP-9, a 44" Silver Maple, due to driveway construction and grading operations

Additionally, the following trees CRZ Zone will be impacted but will not warrant the trees to be removed:

CRZ Impact Table			
Tree Identification	Caliper/Species	Reason for Impact	Amount of Impact (Percent of CRZ)
SP-2	36"/Black Maple	Sanitary Sewer Construction	< 1%
SP-3	32"/ Yellow Poplar	Waterline Construction	1.7%
SP-5	48"/ Silver Maple	Storm Drain Outfall Construction	< 1%
SP-6	56"/ Silver Maple	Storm Drain Outfall Construction	11.7%
SP-7	48"/ Silver Maple	Storm Drain Outfall Construction	21%
SP-8	36"/ Silver Maple	Storm Drain Outfall Construction	3%
CH-1	12"/ Red Pine	Sidewalk Construction	7.2%

Requirements for Justification of Variance

Section 22A-21(b) of the Montgomery County Forest Conservation Ordinance states that an applicant for a tree variance must:



- Describe the special conditions peculiar to the property, which would cause the unwarranted hardship.
- Describe how enforcement of Chapter 22A will deprive the landowner of rights commonly enjoyed by others in similar areas.
- Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur resulting from the granting of the variance.
- 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:** The developer desires to build a Day Care Center with an approximate building footprint of 13,000 square feet. The associated on-site facilities that are required to support the Day Care facility are vehicular access and parking, fire access, playground area, and bio-retention facilities. Due to site geometry and the building geometry, the only practical area to site the proposed building is at the northerly area of the site. Vehicular access will be achieved from the Needwood Road right-of-way, with a circular driveway pattern providing access to an array of vehicular parking spaces, and to the dumpster pad area. This circular driveway will also accommodate fire and rescue apparatus.

In order to mitigate the extent of the proposed improvements, the developer proposes four micro-bioretenion facilities to treat the storm runoff. These facilities will require a network of storm drain structures and piping to convey the treated run-off to the proposed southerly storm drain outfall system within the Carnegie Avenue right-of-way.

It should be noted that several options were studied in arriving at the current site layout, including minimizing the effective building area, which resulted in a more preferred site layout with the playground and vehicular access, which is presented with this application.

Further reduction in building size would not allow a day care Center with the preferred operational characteristics.

2. Describe how enforcement of Chapter 22A will deprive the landowner of rights commonly enjoyed by others in similar areas.

**Response:** As previously noted, it is the developer's desire to build a Day Care Center. Due to the challenges presented by the site topography, geometry, and drainage pattern, several options were explored in arriving at the current



**building size and configuration and site layout. Further reduction in building size would make the building, and therefore the entire site, operationally undesirable.**

3. Verify that State water quality standards will not be violated, or that a measurable degradation in water quality will not occur, resulting from the granting of the variance.

**Response: While developing the site layout and evaluating various site constraints and/or environmental features, State water quality standards have continued to be one of the primary considerations. As such, based on preliminary Water Quality computations, it is our belief that water quality standards can be met with the three micro-bioretenion facilities indicated. Due to the maximum drainage area that each facility can treat, it will be necessary to install three facilities to meet the required water quality treatment. The maximum drainage area also requires that these three facilities are arrayed across the site to meet the drainage prerequisites. This array imposes a further restriction on the site geometry.**

4. Provide any other information appropriate to support the request.

**Response: It is the developer's belief that the addition of a day care facility in this location will provide a needed service to the surrounding community.**

#### Additional Variance Considerations

As further basis for this variance request, in accordance with Section 22A-21(d) of the Forest Conservation Law, the applicant must demonstrate that granting the variance request will not:

- Confer on the applicant a special privilege that would be denied to other applicants;

**Response: Granting this variance will not confer on the applicant a special privilege that would be denied to other applicants. As previously stated, the applicant has made several adjustments to the ultimate yield (building square footage/possible number of occupants) during the development of the current site plan configuration.**

- Be based on conditions or circumstances which result from the actions by the applicant;

**Response: The developer has not taken any actions which have led to the conditions or circumstances that result in the need for this variance. Several restrictive conditions, topography, geometry, etc. are the natural state of this site.**

- Be based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property;

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



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Maryland National Capital Park and Planning Commission  
MNCPPC NRI-FSD #: 420181150  
MC Project No.: 16003398A  
October 25, 2019  
Page 5 of 5

- Violate State water quality standards or cause measurable degradation in water quality.

**Response: The current layout, as proposed, addresses the required State water quality standards. Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.**

Should you have any questions or require any additional information please do not hesitate to contact our office.

Very truly yours,

MASER CONSULTING P.A.

A handwritten signature in blue ink, appearing to read 'J. M. Jolley', is written over a faint blue line that extends to the right.

Jonathan M. Jolley, PLA  
Principal Associate