



Col. E. Brooke Lee Middle School, Preliminary Forest Conservation Plan, MR2020007

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Description

Preliminary Forest Conservation Plan associated with the replacement of the Col. E. Brooke Lee Middle School, originally constructed in 1966, with a new 178,000 square foot facility to allow for an enrollment capacity of up to 1,200 students.

Location: 11800 Monticello Avenue.

Zone: R-90.

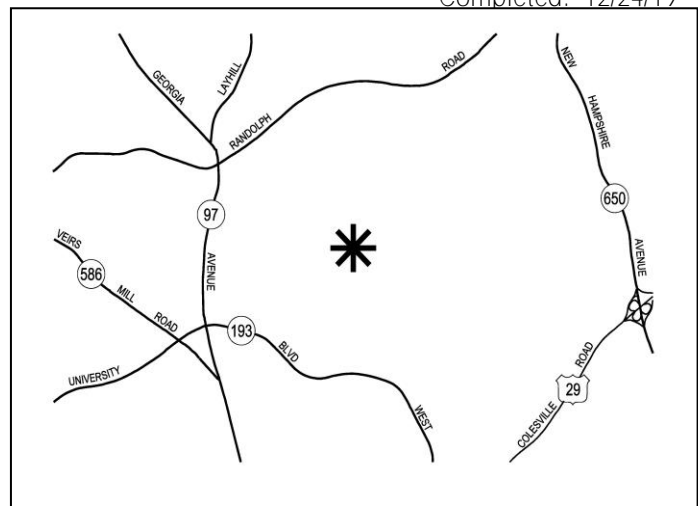
Master Plan: 2001 *Kemp Mill Master Plan* area.

Size: 16.45 acres.

Application Accepted: November 13, 2019.

Applicant: Montgomery County Public Schools (MCPS).

Completed: 12/24/19



Summary

- Staff recommends approval with conditions.
- The Applicant proposes to:
 - Clear a total of 0.03 acres of forest, retain 0.31 acres of forest, and purchase 2.23 acres using credits in an off-site forest bank.
 - Remove 13 trees and impact but not remove 12 that requires a variance, per Section 22A-12(b)(3).
- No correspondence has been received on this application.
- Pursuant to Chapter 22A, the Forest Conservation Law, the Planning Board's actions on Forest Conservation Plans are regulatory and binding.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of the Final Forest Conservation Plan No. MR2020007, subject to the following regulatory and binding 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 show the planting of forty (40) 3-inch caliper or a minimum of 120 caliper inches of native shade trees as mitigation plantings for the loss of trees requiring a variance prior to issuance of Use and Occupancy Certificate.
3. All trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements, as shown on the Certified Preliminary Forest Conservation Plan.
4. 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 Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspector.
5. Prior to the start of any clearing, grading, or demolition on the property, the applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed.
6. At the direction of the M-NCPPC forest conservation inspector, the applicant must install permanent conservation easement signage along the perimeter of the conservation easements. Exact locations of the signs to be determined by the M-NCPPC forest conservation inspector to best define the limits of the conservation easement.
7. Prior to any demolition, clearing, grading or construction on the Property, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 2.23 acres of mitigation credit. Off-site requirement may be met by purchasing from a mitigation bank elsewhere in the County if forest is unavailable for purchase within the Northwest Branch Creek and Sligo Creek watersheds.
8. The Limits of Disturbance on the Final Sediment Control Plan must be consistent with the final Limits of Disturbance as shown on the approved Final Forest Conservation Plan.
9. Prior to any land disturbing activities, the Applicant must hold a pre-construction meeting with the M-NCPPC Forest Conservation Inspector.
10. The Applicant must schedule the required site inspections by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
11. Prior to certification of the plans, coordinate with M-NCPPC Staff on minor corrections and clarifications as necessary.
12. Copies of the Final Forest Conservation Plan and recorded Category I Conservation Easement must be kept at Col. E. Brooke Lee Middle School and given to the school maintenance staff(s) to ensure compliance with conditions of the Final Forest Conservation Plan.

INTRODUCTION

This report consists of staff review of the Final Forest Conservation Plan associated with the Mandatory Referral for the proposed construction and replacement of a new Col. E. Brooke Lee Middle School and associated athletic fields, tennis courts, basketball courts, parking lots and bus loop. While the Planning Board action on a Mandatory Referral is advisory, the Forest Conservation Plan is regulatory and binding.

Site Description and Proposed Project

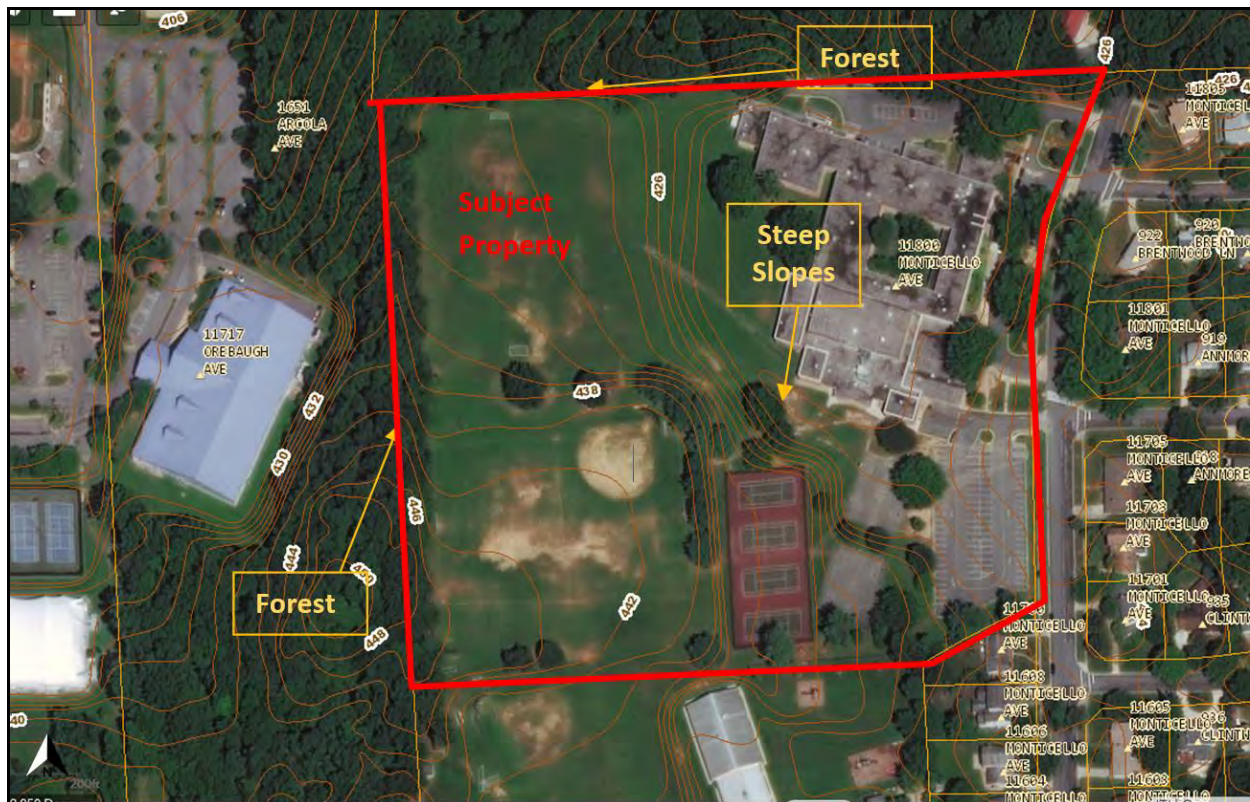
The Preliminary Forest Conservation Plan is associated with the complete replacement of the Col. E Brooke Lee Middle School ("Property" or "Subject Property") (Figure 1), which is a 16.45-acres (plus 0.28 acres of off-site limit of disturbance (LOD)) Property that is owned by the Montgomery County Board of Education. Located within the 2001 *Kemp Mill Master Plan* area, the Subject Property currently consists of a middle school building, constructed in 1966, athletic field, basketball courts, tennis courts, and associated parking. Vehicle access to the building is from Monticello Avenue, at the eastern boundary of the Property. The Subject Property is bordered by the Kemp Mill Farm residential subdivision to the east, the Saint Andrews Apostle Catholic School and Church to the south, and the Wheaton Regional Park to the north and west, which has a combination of programmed recreation facilities, open space, and forested areas.

Currently, the Property contains 0.34 acres of forest, which is dominated by Yellow Poplar and Oak and considered High Retention due to many specimen trees located within the stand. While the Property is relatively flat, there are steep slopes present to the south, southwest and west of the existing school building (Figure 2). Also, the north and southeast portions of the Property has smaller pockets of steep slopes.



Figure 1: Site Vicinity

The Applicant proposes to demolish and replace the existing main building with a new, three-story, 178,000 square foot facility with additional capacity for up to 1,200 students. The existing main building, which is oriented to the northeast of the Property, will be replaced and relocated to a new location on the southwest portion of the Property over existing athletic fields. Currently, the existing recreational facilities are located to the rear of the Subject Property, behind the existing school building and parking lot. The Applicant also proposes to redevelop the Property with a full-sized rectangular field, two basketball courts, three half-size basketball courts, pedestrian facilities, 137 parking spaces, school bus circulation, loading area, and stormwater management facilities. Monticello Avenue, which currently has four (4) existing curb cuts, will be reduced to two main curb cuts for ingress and egress. Except for utilities, no improvements within the public right-of-way are anticipated. To accomplish the proposal, the Applicant proposes two sections of the existing forest stand for removal (as shown in Figure 3). The reconstruction of the school building will be designed in compliance with MCPS's 2014 Environmental Sustainability Management Plan.



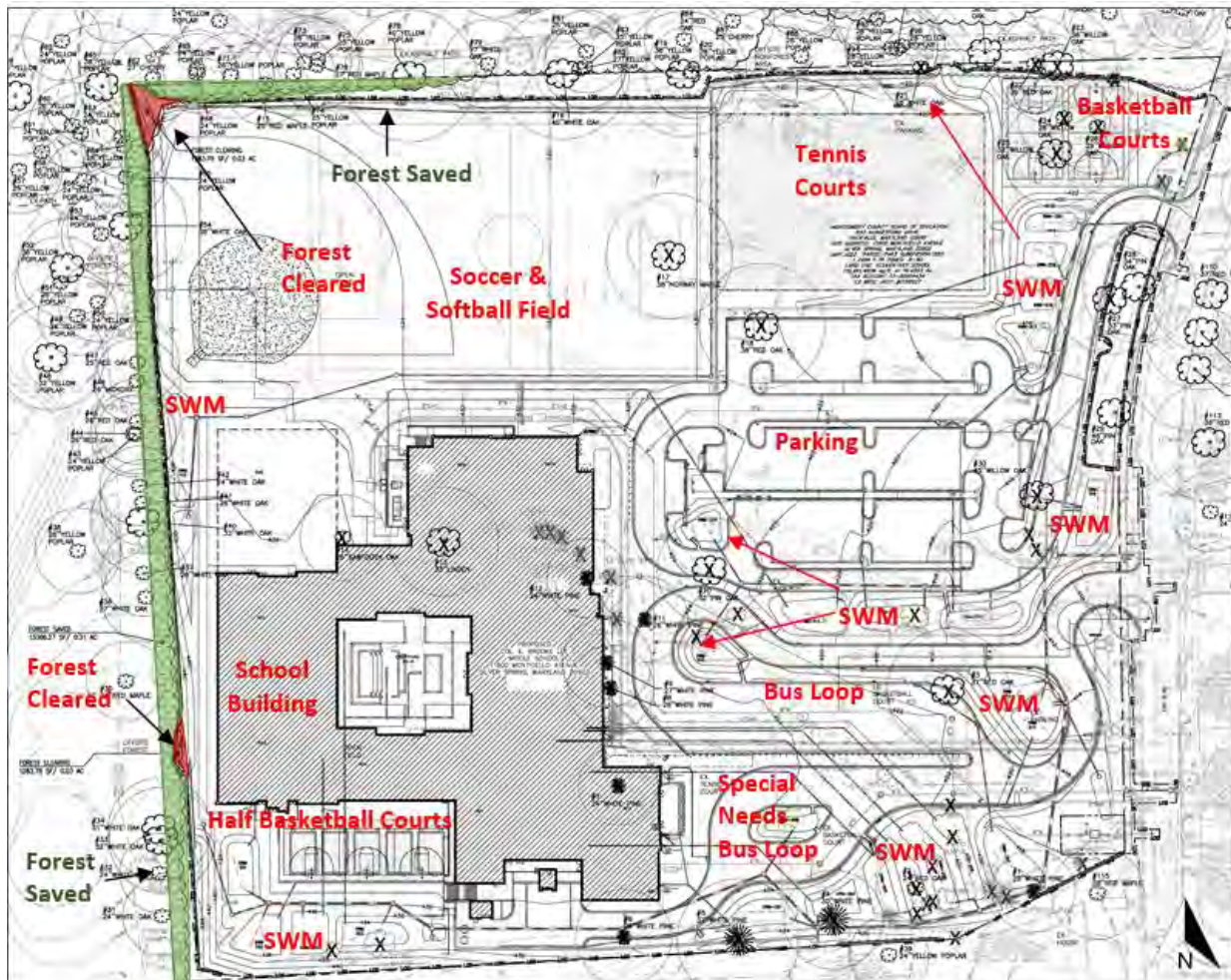


Figure 3: Proposed Site Improvements with Forest to be Cleared and Saved

ANALYSIS

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420191390) for the Property on April 17, 2019. Generally, the Property is encumbered from the presence of steep slopes ($\geq 25\%$) in the center of the Subject Property that effectively bisects the Property. However, the Property contains no streams or stream buffers, wetlands or wetland buffers, 100-year floodplains, known habitats of rare, threatened and endangered species, historic resources, or erodible soils on the Property. An ephemeral channel is located off-site, north of the existing school building. However, the stream buffer does not come onto the Property. The Property contains a total of 115 trees $\geq 24"$ diameter at breast height (DBH) and is zoned R-90, which is assigned a Land Use Category of Institutional Development in the Land Use Table of the Environmental Guidelines. This gives the Property an afforestation requirement of 15% of the net tract and a conservation threshold of 20%.

While proposed infrastructure and recreation improvements along the Property lines pose impacts to some specimen trees, the relocation of the main building has been designed to minimize environmental impacts and avoid impacts to individual trees and the forest stands to the greatest extent feasible. The proposed project complies with the Environmental Guidelines because the Applicant is avoiding

impacting the existing natural resources as much as possible and will mitigate for the proposed tree removals.

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) (Attachment 1) in conjunction with Mandatory Referral No. 2020007., There is 0.34 acres of forest on-site, in one stand of upland hardwoods that is considered Priority 1 for High Retention due to the specimen trees. The Property's forest stand is located along the entire western and portions of the northwestern edges of the property and is a part of a contiguous forest that extends off-site onto Wheaton Regional Park, which serves as a valuable recreational resource for the surrounding area. Proposed sidewalk along the rear of the relocated main building connects to off-site forest.

The PFCP proposes to disturb the root zones of 25 specimen trees, of which a total of 13 trees will be removed. A total of 0.03 acres of forest is proposed to be cleared, 0.31 acres of forest is proposed to be retained, and a total of 2.23 acres of forest is required for reforestation and afforestation. The Applicant proposes to satisfy the planting requirement of 2.23 acres by purchase of credits in an off-site forest bank. Most of the forest removal is to accommodate the new main school building, recreation facilities to the north, west, and south sides of the Property, stormwater management throughout the Property, and circulation along the eastern edge of the Property.

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 October 31, 2019 and a revised variance request on December 5, 2019 for the impacts to trees (Attachment 3). The proposed layout will remove 13 trees and impact but not remove 12 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. While the Property is sizable in developable acreage, it is also challenging due to existing topography that forms steep slopes, mostly in the center of the Property, and the need to improve existing ingress and egress from Monticello Avenue. Considering the location of the existing steep slopes, the bulk of the main building can be sited generally in one of two locations - in its current location to the northeast or its proposed location to the southwest of the Property. Replacing and expanding the main building in the same location does not provide an optimal layout to provide necessary improvements for circulation.

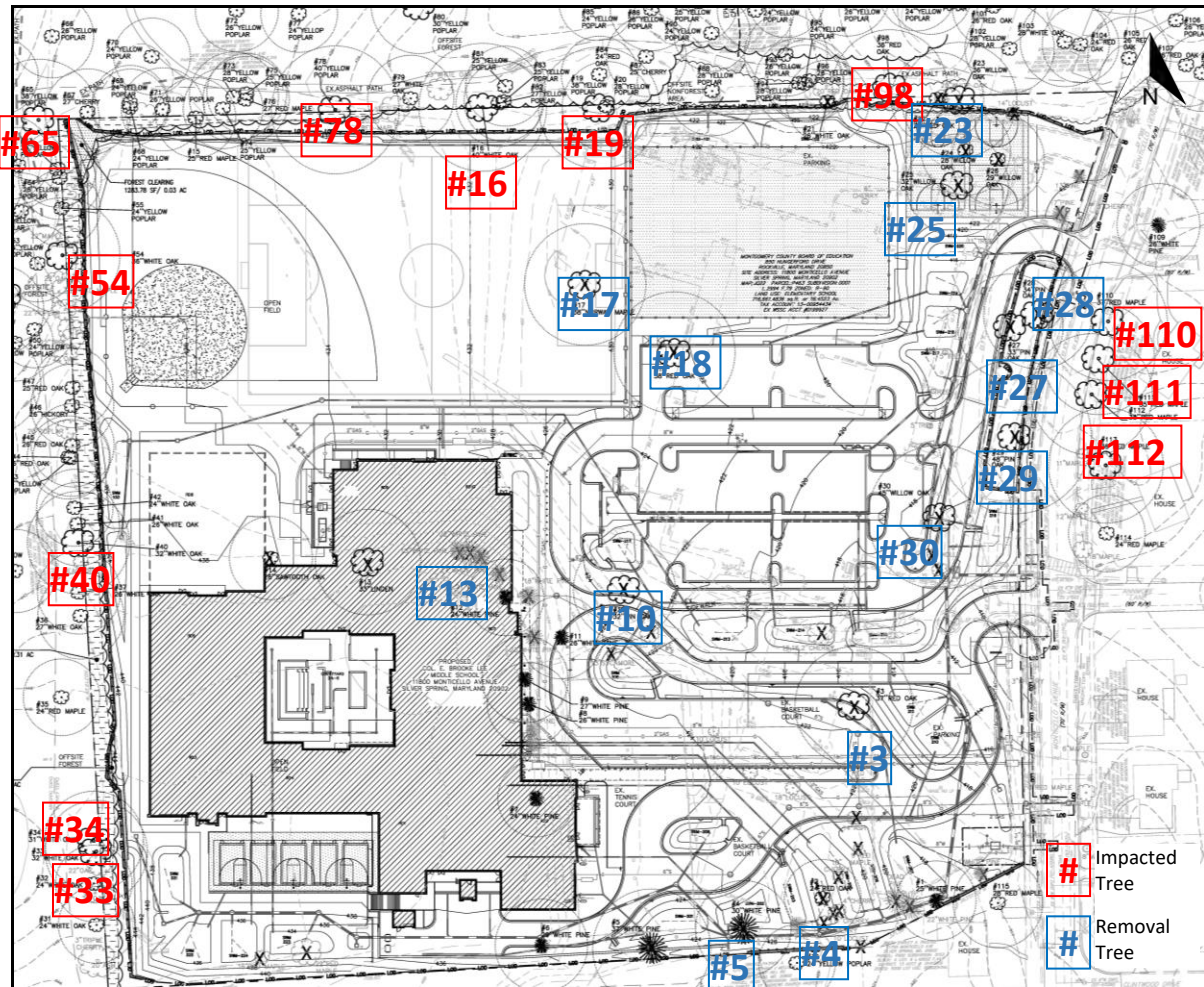


Figure 4: Variance Tree Location

The new main building will be constructed on the existing ball field in the southwest portion of the Property, which is largely outside of the steeply sloped areas of the Property. The proposed arrangement of site elements prioritizes the separation of car and school bus traffic to optimize pick-up and drop-off activities, and to correct poor drainage and treat stormwater run-off on-site for the first time. Development is generally confined to areas outside of the forest.

Most of the variance trees are along the perimeter of the Subject Property, except for five (5) trees within the center of the Subject Property. No alternative design will avoid the removal of the trees within the center of the Property. A total of eight (8) variance trees are off-site and six (6) trees proposed for impacts are within the forest and are also at the edges of the development. Trees #27, #28, and #29, located within an existing landscaped island fronting Monticello Avenue, are designated for removal, but may be able to be saved, depending on final engineering. Leaving the requested 25 trees in an undisturbed state would result in an unwarranted hardship because the Applicant could not remove the existing features or build a larger and modern school with necessary additional capacity to serve the community, new recreation features built to current state standards, separated student drop-off areas, site grading and stormwater management facilities.

Table 1: Variance Tree Summary

Variance Specimen Tree Summary 30' +									
Tree #	Species	Species	D.B.H.	Critical Root Zone (Sq. Ft.)	Critical Root Zone Impacts	Im pacted (SF)	Tree Condition	Comments	Status
3	Scientific Name	Common Name	(Inches)	Zone (Sq. Ft.)	Impacts	Im pacted (SF)	Tree Condition		
3	QUERCUS RUBRA	RED OAK	37	9677		9677	100% GOOD	PRUNED, FUNGUS, ROOT FLARES	REMOVE
4	PINUS STROBUS	WHITE PINE	30	6362		6362	100% FAIR	CANOPY LOSS	REMOVE
5	PINUS STROBUS	WHITE PINE	37	9677		9677	100% POOR	PRUNED, FUNGUS, ROOT FLARES, STORM DAMAGE	REMOVE
10	QUERCUS PALUSTRIS	PIN OAK	32	7238		7238	100% GOOD		REMOVE
13	TILIA AMERICANA	AMERICAN LINDEN	33	7688		7688	100% GOOD	PRUNED, FUNGUS	REMOVE
16	QUERCUS ALBA	WHITE OAK	40	11310		3071	27% GOOD	SPLITS AT 8'(26,28), WRES, POSSIBLY CO-OWNED	SAVE & PROTECT
17	ACER PLATANOIDES	NORWAY MAPLE	38	10207		10207	100% FAIR	FUNGUS, ROOT FLARES, BROKEN LIMBS	REMOVE
18	QUERCUS RUBRA	RED OAK	38	10207		10207	100% GOOD	BROKEN LIMBS	REMOVE
19	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	38	10207		3418	33% GOOD		SAVE & PROTECT
23	QUERCUS PHELLOS	WILLOW OAK	36	9161		3886	42% GOOD		REMOVE
25	QUERCUS PHELLOS	WILLOW OAK	32	7238		7238	100% FAIR	SPLITS AT 3'(28,14)	REMOVE
27	QUERCUS PALUSTRIS	PIN OAK	33	7688		4865	63% GOOD	FUNGUS	REMOVE
28	QUERCUS PALUSTRIS	PIN OAK	34	8171		5007	81% GOOD	FUNGUS	REMOVE
29	QUERCUS PALUSTRIS	PIN OAK	48	16286		12520	77% GOOD	FUNGUS	REMOVE
30	QUERCUS PHELLOS	WILLOW OAK	45	14314		14314	100% GOOD	FUNGUS	REMOVE
33	QUERCUS ALBA	WHITE OAK	32	7238		1388	19% FAIR	BROKEN LIMBS, FUNGUS, POSSIBLY CO-OWNED	SAVE & PROTECT
34	QUERCUS ALBA	WHITE OAK	31	6793		1115	16% FAIR	OFFSITE, BROKEN LIMBS	SAVE & PROTECT
40	QUERCUS ALBA	WHITE OAK	32	7238		1802	22% GOOD	OFFSITE, SPLITS AT 5'(20,22), BROKEN LIMBS	SAVE & PROTECT
54	QUERCUS ALBA	WHITE OAK	36	9161		2550	28% GOOD	OFFSITE, SPLITS AT 4 5'(22,26)	SAVE & PROTECT
65	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	38	10207		828	8% GOOD	OFFSITE	SAVE & PROTECT
78	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310		3288	29% FAIR	VINES, PRUNED, DAMAGED TRUNK, POSSIBLY CO-OWN	SAVE & PROTECT
98	QUERCUS RUBRA	RED OAK	36	9161		3116	34% GOOD	OFFSITE, DEAD LIMBS, PRUNED	SAVE & PROTECT
110	ACER RUBRUM	RED MAPLE	37	9677		667	7% GOOD	OFFSITE, FUNGUS, ROOT FLARES, PRUNED	SAVE & PROTECT
111	ACER RUBRUM	RED MAPLE	35	8658		55	1% GOOD	OFFSITE, FUNGUS, PRUNED, SPLITS AT 8'(24,24,12)	SAVE & PROTECT
112	ACER RUBRUM	RED MAPLE	38	10207		273	3% GOOD	OFFSITE, FUNGUS, PRUNED, SPLITS AT 7'(26,28)	SAVE & PROTECT

Variance Findings

The following findings are required for the Planning Board to approve the variance request:

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

Removal of and disturbance to the trees is due to the need for the construction of a new elementary school to serve the public. 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 reconfigure the Property while minimizing impacts to the forest. Redevelopment of the Subject Property is a continuation of an existing permitted use.

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 Applicant has minimized disturbance and designed the project to maximize forest retention. The variance is necessary due to the need to address stormwater run-off on-site, the requirements to reconstruct existing facilities to current State standards, and the location of the existing trees on and around the Subject 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 in the center and around the perimeter of the Subject Property and the impacts by the proposed layout with the enlarged school building, and not a result of characteristics or conditions of land or building use on a neighboring property.

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

Staff generally recommends that the Planning Board approve variance requests with mitigation to replace the form and function of the trees proposed for removal, outside of areas of forest removal. The Applicant will plant the required trees with a minimum 3" caliper native shade trees as required mitigation to replace the form and function of the variance trees proposed for removal. Only a few of the trees will be impacted directly by the provision of a new stormwater management system on-site. Water quality will improve with the proposed development and State water quality standards will not result in measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

The Applicant is requesting a variance to remove 13 trees. Trees that are within forest do not require mitigation. However, all 13 trees designated for removal are outside of 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 forty (40), 3-inch caliper trees, or a minimum of 120 caliper inches, 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. As of the date of this Staff Report, the County Arborist has not submitted correspondence regarding the variance request with mitigation.

Variance Recommendation

Staff recommends that the variance be granted.

CONCLUSION

The proposed Preliminary Forest Conservation Plan meets the requirements of Chapter 22A Forest Conservation Law. Therefore, Staff 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. Stormwater Management Concept
3. Variance request

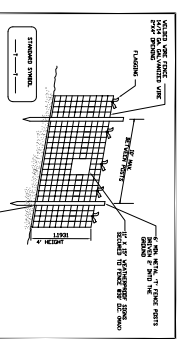


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ADTEK
CONS. STRUCTURAL AND SPECIALTY ENGINEERING
Patrick East Business Center, 97 Monocacy Blvd., Unit H, Frederick, Maryland 21701

System	Part Number	Part Name	QTY	Unit Price	Total Price	Notes
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99	1000000000	1000000000	1	1.00	1.00	
100	1000000000	1000000000	1	1.00	1.00	

*TREES #27, #28, AND #29 ARE PLANNED TO BE SAVED IN THE FIELD, HOWEVER MARKED AS REMOVED DUE TO THE PROXIMITY OF THE CURB RENOVATION.



NORTON LAND DESIGN
LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING

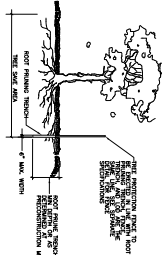
5546 DORSEY HALL DRIVE, 2ND FLOOR
BALTIMORE, MD 21229
ELIOTT CITY, MD 20622
WWW.MORTONANDDESIGN.COM

12.5.2011
DATE

1. IN AND LIMITS OF FENCING SHALL COORDINATED IN FIELD WITH ADJACENT
2. AREAS OF PROTECTION AREA SHOULD BE STAKED
3. AND INSULATING PROTECTIVE DEVICE
4. DAMAGE SHOULD BE AVOIDED
5. POSITIVE STORAGE IS REQUIRED
6. SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION
7. PROTECTIVE FENCE SHALL NOT BE REMOVED
8. PRIOR CONSENT OF PROJECT INSPECTOR

TREE PROTECTION FENCE DETAIL

SEEKING FENCING TO BE REMOVED



ROOT PRUNING

FOREST RETENTION AREA SIGNAGE

Diagram illustrating the required tree protection zone:

- The zone is defined by a minimum height of **MIN. 1.1** and a minimum width of **MIN. 15"**.
- The zone is divided into two sections:
 - TREE PROTECTION AREA** (top section)
 - AREA DE PROTECCION DE ARBOLES** (bottom section)
- Within the protection area, there is a restriction: **NO DISTURBANCE PERMITTED BEYOND THIS POINT**.

[illegible]

GENERAL FOR NOTES:

- ROOT PRUNE TRECH IS NOT TO IMPACT UTILITIES.
- 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.
- AREAS SHOWN TO BE CLEARED OUTSIDE OF THE LIMITS OF DISTURBANCE ARE FOR CALCULATIONS ONLY.

NOTE: PLANTING NOTE:

SITE PLANTING NOTE

- TREES AND SHRUBS TO BE PLANTED OUTSIDE OF L.O.D. ARE TO BE DUG WITH HAND EQUIPMENT ONLY. NO MACHINERY IS TO GO OUTSIDE OF L.O.D. PLANTS ARE TO BE INSTALLED AND STABILIZED SAME DAY.

Sequence of Events for Property Owners Required to Comply with Forest Conservation and/or Tree-Save Plans

[illegible]

*TOTAL TRACT AREA PLUS 0.28 AC OF OFFSITE LOD

INSTRUCTIONS

1. After the board is in discussion have them listed and suggest, but before any discussion of grading begins.
2. After necessary prior discussion have them read, completed and presented.
3. After completion of all discussion activities, but before moving on to prior presentation being, to determine the level of compliance with the provision of the board (optional).

Additional Measurements for Pairs with Positive Relationships

4. Before the start of any required re-evaluation and reclassification planning.
5. After the required re-evaluation and reclassification planning has been completed by the institution.
6. At the end of the maintenance period to determine the level of compliance with the provisions of the planning plan, and if appropriate, revise the performance-based plan.

ITE TABULATIONS:

[illegible]

7





December 5, 2019

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

Re: Col. E. Brooke Lee Middle School
Request for Specimen Tree Variance
MR# - 2020007
Norton# 18-142

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 Col. E. Brooke Lee Middle School is located at 11800 Monticello Ave in Silver Spring, Montgomery County, Maryland. This is a 16.45-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 east and south sides, as well as forested park property on north and west sides. The site has vehicle access from Monticello Ave.

Proposed construction consists of a new building to replace the existing, new parking circulation, new play fields, and stormwater management.

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 building as well as safe access to school facility by way of separate parent & bus drop off. The school must be larger to handle student capacity. Also, the ballfields are being modernized to meet current state requirements.

This work will require disturbance of the root zones of a total of twenty-five (25) specimen trees. Thirteen (13) of the impacted trees will be required to be removed. Please note, trees #27, #28, #29 are marked as removed at this point in time, however the true status will be determined in the field. This determination will be based on the proximity to the curb renovation being performed near the location of the trunk.

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 proposed school, parking, amenities, site grading, 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, play areas, stormwater facilities, and parking would fail to be built 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. Additional improvements to the property include control of erosion and outfall stabilization.

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: Specimen tree mitigation will be required due to removals. 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 proposed school 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 SpecimenTree Summary 30" +									
Tree #	Species	Species	D.B.H	Critical Root	Critical Root Zo	Percent of CRZ	Tree	Comments	Status
	Scientific Name	Common Name	(inches)	Zone (Sq. Ft.)	Impacts	Impacted (SF)	Condition		
3	QUERCUS RUBRA	RED OAK	37	9677	9677	100%	GOOD	PRUNED, FUNGUS, ROOT FLARES	REMOVE
4	PINUS STROBUS	WHITE PINE	30	6362	6362	100%	FAIR	CANOPY LOSS	REMOVE
5	PINUS STROBUS	WHITE PINE	37	9677	9677	100%	POOR	PRUNED, FUNGUS, ROOT FLARES, STORM DAMAGE	REMOVE
10	QUERCUS PALUSTRIS	PIN OAK	32	7238	7238	100%	GOOD		REMOVE
13	TILIA AMERICANA	AMERICAN LINDEN	33	7698	7698	100%	GOOD	PRUNED, FUNGUS	REMOVE
16	QUERCUS ALBA	WHITE OAK	40	11310	3071	27%	GOOD	SPLITS AT 8'(26,28), WIRES, POSSIBLY CO-OWNED	SAVE & PROTECT
17	ACER PLATANOIDES	NORWAY MAPLE	38	10207	10207	100%	FAIR	FUNGUS, ROOT FLARES, BROKEN LIMBS	REMOVE
18	QUERCUS RUBRA	RED OAK	38	10207	10207	100%	GOOD	BROKEN LIMBS	REMOVE
19	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	38	10207	3418	33%	GOOD		SAVE & PROTECT
23	QUERCUS PHELLOS	WILLOW OAK	36	9161	3886	42%	GOOD		REMOVE
25	QUERCUS PHELLOS	WILLOW OAK	32	7238	7238	100%	FAIR	SPLITS AT 3'(29,14)	REMOVE
27	QUERCUS PALUSTRIS	PIN OAK	33	7698	4865	63%	GOOD	FUNGUS	REMOVE
28	QUERCUS PALUSTRIS	PIN OAK	34	8171	5007	61%	GOOD	FUNGUS	REMOVE
29	QUERCUS PALUSTRIS	PIN OAK	48	16286	12520	77%	GOOD	FUNGUS	REMOVE
30	QUERCUS PHELLOS	WILLOW OAK	45	14314	14314	100%	GOOD	FUNGUS	REMOVE
33	QUERCUS ALBA	WHITE OAK	32	7238	1389	19%	FAIR	BROKEN LIMBS, FUNGUS, POSSIBLY CO-OWNED	SAVE & PROTECT
34	QUERCUS ALBA	WHITE OAK	31	6793	1115	16%	FAIR	OFFSITE, BROKEN LIMBS	SAVE & PROTECT
40	QUERCUS ALBA	WHITE OAK	32	7238	1602	22%	GOOD	OFFSITE, SPLITS AT 5'(20,22), BROKEN LIMBS	SAVE & PROTECT
54	QUERCUS ALBA	WHITE OAK	36	9161	2550	28%	GOOD	OFFSITE, SPLITS AT 4.5'(22,26)	SAVE & PROTECT
65	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	38	10207	828	8%	GOOD	OFFSITE	SAVE & PROTECT
78	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310	3298	29%	FAIR	VINES, PRUNED, DAMAGED TRUNK, POSSIBLY CO-OWNED	SAVE & PROTECT
98	QUERCUS RUBRA	RED OAK	36	9161	3116	34%	GOOD	OFFSITE, DEAD LIMBS, PRUNED	SAVE & PROTECT
110	ACER RUBRUM	RED MAPLE	37	9677	667	7%	GOOD	OFFSITE, FUNGUS, ROOT FLARES, PRUNED	SAVE & PROTECT
111	ACER RUBRUM	RED MAPLE	35	8659	55	1%	GOOD	OFFSITE, FUNGUS, PRUNED, SPLITS AT 6'(24,24,12)	SAVE & PROTECT
112	ACER RUBRUM	RED MAPLE	38	10207	273	3%	GOOD	OFFSITE, FUNGUS, PRUNED, SPLITS AT 7'(26,28)	SAVE & PROTECT

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