



September 16, 2016

Ms. Mary Jo Kishter
M-NCPPC
Environmental Planning Division
8787 Georgia Avenue
Silver Spring, MD 20910

Re: RCCG Jesus House
Final Forest Conservation Plan - Variance Request
WSSI Project Number MD1183.01

Dear Ms. Kishter,

On behalf of RCCG - Jesus House , WSSI is requesting a variance for the removal of two (2) specimen trees and for critical root zone (CRZ) impacts to six (6) specimen trees, all 30 inches or greater in DBH, as required under Section 22A-21 of Montgomery County's Forest Conservation Law and 2010 revisions to the State Forest Conservation Law enacted by State Bill 666, where it notes the variance pertains to "Trees having a diameter measured at 4.5 feet above the ground of 30 inches diameter or 75% of the diameter of the current state champion tree of that species as designated by the department". The removal or impact of these trees is to allow for the construction of a place of worship and associated facilities at 15730 New Hampshire Ave, in Silver Spring Maryland.

Project Information

The subject property consists of three parcels, 15.55 acres in size, which is zoned RE-2. The property is located on the West Side of New Hampshire Avenue, approximately 700 linear feet north of the intersection of McNeil Lane.

Our Client proposes to construct a church building, required parking, and a grass sports field.

The approved Natural Resources Inventory shows seven (7) specimen trees located on the property and six (6) specimen trees located offsite, but within 100 feet of the property boundary.

Trees Impact Chart

Listed below are the Specimen trees identified for impact on the Preliminary Forest Conservation Plan Amendment.



TREE #	COMMON NAME	BOTANICAL NAME	DBH	CRZ (SF)	CRZ IMPACT	% OF IMPACT	PROPOSED STATUS
5	Post Oak	<i>Quercus stellata</i>	34	8,167	2,548	31%	Tree Save
7	Northern Red Oak	<i>Quercus rubra</i>	53	19,843	9,431	48%	Remove – In LOD
8	White Oak	<i>Quercus alba</i>	34	8,167	4,278	52%	Tree Save
9	White Oak	<i>Quercus alba</i>	31	6,789	3,440	51%	Tree Save
10	White Oak	<i>Quercus alba</i>	34	8,167	4,382	54%	Tree Save
11	Scarlet Oak	<i>Quercus coccinea</i>	43	13,063	7,715	59%	Remove - In LOD
14	Yellow Poplar	<i>Liriodendron tulipifera</i>	30	6,362	1,375	22%	Tree Save
23	Yellow Poplar	<i>Liriodendron tulipifera</i>	30	6,362	323	5%	Tree Save

Tree Removal

There are two (2) specimen trees that are proposed to be removed. The trees to be removed are either located entirely within the limits of disturbance (LOD) or the LOD impacts to their critical root zones are too large to expect tree survival.

Critical Root Zone Impacts

There are six (6) specimen trees located within the limits of disturbance (LOD) for the development that are proposed for preservation. While these six trees will each have disturbances within their CRZs, the applicant will attempt to preserve them during site development work. Tree protection fencing will be erected for each of these four trees and root pruning will be conducted per Montgomery Standards prior to construction activities commencing. An arborist will be involved in overseeing the implementation of preservation and protection measures as approved by MNCPPC, as detailed on the Final Forest Conservation plan.

Mitigation for Tree Removal

The client will provide additional tree planting to compensate for the removal of specimen trees currently located outside of the forest at a rate of one fourth replacement of removed DBH through the planting of trees that are a minimum of 3” caliper. Two (2) existing specimen trees proposed for removal and three (3) other specimen trees with significant CRZ disturbance meet these criteria and their total DBH equals 186”. The mitigation provided will be in the form of native species tree stock sized at 3” caliper to equal 47” caliper. These trees are shown on the Final Forest Conservation Plan.

Additional Application Requirements

Montgomery County's Forest Conservation Law Section 22A-21(b) of the *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) Provided any other information appropriate to support the request.

Pursuant to: Item "(1) describe the special conditions peculiar to the property which would cause the unwarranted hardship; and" Item "(2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas":

The current land use is residential, as the property contains a vacant single family home and associated out buildings.

An unwarranted hardship exists for the applicants because traffic circulation and the required parking facilities to accommodate this project require that several specimen trees be impacted. The specimen trees primarily exist along the edge of the property and along the property line where an access drive aisle must be constructed. A cut needs to be made in the median of New Hampshire Avenue to accommodate left turns for cars travelling north to access the site. The drive aisle needs to align with that median cut. Traffic engineering will only accommodate the median cut in the location specified. Because of this reason, the drive aisle cannot be constructed in any other location that would avoid impacts to the specimen trees.

Prohibiting the removal and impact of the specimen trees would deprive the applicants of the rights commonly enjoyed by others who are in similar areas that have many of the same features as the subject property.

Pursuant to "(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"

The trees proposed for removal are not directly connected to any streams, or part of a riparian buffer system. The proposed stormwater management plan for the development project makes provision for stormwater runoff that would have been intercepted by these trees.

Pursuant to "(4) Provided any other information appropriate to support the request."

Tree 11, a 43 inch DBH Scarlet Oak, is in poor condition and will present a risk to life and property when the proposed church facility is in use. This tree should be removed.

Minimum criteria for Variance

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

Pursuant to “(1) *Will confer on the applicant a special privilege that would be denied to other applicant*”, the use of this site will be for a church and common associated infrastructure such as parking and community facilities. This is not a special privilege to be conferred on the applicants because this is an allowed use per zone RE-2 of the Montgomery County Zoning Code.

Pursuant to “(2) *Is based on conditions or circumstances which are the result of actions by the applicant; and (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property*”, the applicant has taken no actions leading to the conditions or circumstances that are the subject of this variance request. Furthermore, the surrounding land uses do not have any inherent characteristics that have created this particular need for a variance.

Pursuant to “(4) *Will violate State water quality standards or cause measurable degradation in water quality*”, the applicant cites the reasoning in the previous response to requirement 22A-21 (b)(3), and restates its belief that granting this variance request will not violate State water quality standards or cause measurable degradation in State water quality standards

For these reasons listed above, we believe it is appropriate to grant this request for a variance. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Wetland Studies and Solutions, Inc.



Michael J. Klebasko, P.W.S.
Qualified FCA Professional