



Martha B. Gudelsky Child Development Center, 8901 and 8907 Colesville Road: Preliminary Forest Conservation Plan, Conditional Use No. CU202008



Tsaiquan Gatling, Senior Planner, DownCounty Planning
tsaiquan.gatling@montgomeryplanning.org 301.495.2116



Stephanie Dickel, Supervisor, DownCounty Planning
stephanie.dickel@montgomeryplanning.org, 301.495.4527

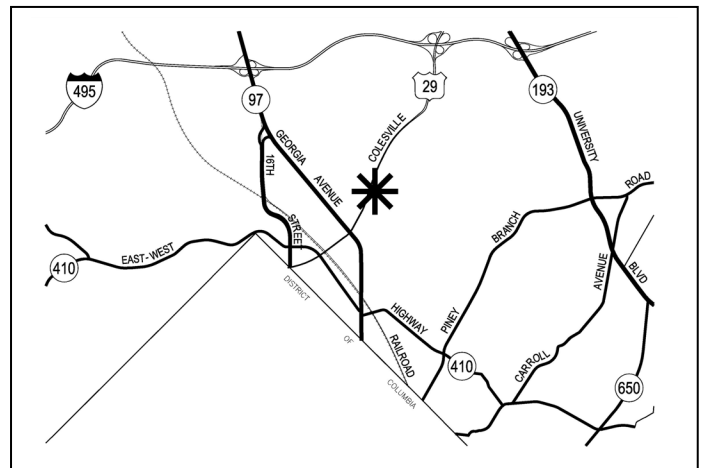


Elza Hisel-McCoy, Chief, DownCounty Planning
Elza.Hisel-McCoy@montgomeryplanning.org, 301.495.2115

Completed 9-04-20

Description

- Request for approval of a preliminary forest conservation plan and associated variance request for a Day Care Center of up to 180 children to be established in the former Silver Spring Library building
- Location: 8901 and 8907 Colesville Road, Silver Spring
- Zone: R-60
- Master Plan: 2000 *North and West Silver Spring Master Plan*
- Current Property Size: 95,906 square feet (2.2 acres)
- Application Accepted: May 22, 2020
- Applicant: Martha B. Gudelsky Child Development Center, Inc.
- Review Basis: Chapter 22A
- Hearing Examiner Public Hearing: October 12, 2020



Summary

- Staff recommends approval with conditions.
- Preliminary Forest Conservation Plan for a Conditional Use request to allow a Day Care Center for up to 180 children to be established in the existing, former Silver Spring Library building located at 8901 Colesville Road, Silver Spring, MD; The proposal includes an addition to the building. The property lies within the North and West Silver Spring Master Plan and is in the R-60 Zone.
- The Recommendations for Conditional Use Application CU2020-08 are described in a separate report.

STAFF RECOMMENDATION

Down County Planning Staff recommends **approval** of the Preliminary Forest Conservation Plan **with the following conditions**:

1. Prior to any clearing, grading or demolition on the site, the Applicant must submit and receive approval of a Final Forest Conservation Plan, which must be consistent with the approved Preliminary Forest Conservation Plan and associated conditions.
2. Prior to demolition or any land disturbing activities occurring onsite the Applicant must receive approval from the M-NCPPC Office of the General Counsel for a Certificate of Compliance for an off- site forest mitigation bank for an equivalent credit of 0.33 acres or as determined by the Final Forest Conservation Plan.
3. The development must comply with the Final Forest Conservation Plan which is to include a Tree Save Plan prepared by an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert. Additionally, as part of the preconstruction activities, the Applicant must enter into a contract with the tree care professional to implement a five-year maintenance and management plan for Tree 8. Mitigation plantings will be required if the tree dies or severely declines within the five-year timeframe.
4. Any proposed activity that triggers the requirements of a Forest Conservation Variance must be addressed per Section 22A-21 of the County Forest Conservation Law.



Figure 1: Rear view of existing building looking west from Ellsworth Drive

Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for the Subject Property on April 17, 2020. The Subject Property is located within the Sligo Creek watershed, a Use I watershed¹, which is also a tributary to Anacostia River. The main stem of Sligo Creek lies about 2,500 feet, north of the site. The Property, which consists of Parcel P933 to the North and Parcel P959 to the South, contains mature trees subject to the Variance provision of the Forest Conservation law, including specimen trees which measure 30-inches or greater in diameter-at-breast height (DBH). The northern portion of the site is bordered on three sides by pockets of man-made steep slopes having gradients of 25% or greater as well as slopes of 15-25% gradients. Soils on the property are largely 2B Glenelg silt loam and soil defined as Urban land; neither soil type is considered to be highly erodible or hydric.

There are no known rare, threatened, or endangered species on site; there are no 100-year floodplains, stream buffers, or wetlands on site. Other than the watershed itself and mature specimen trees, there are generally no environmentally sensitive resources associated with the Subject Property.

Forest Conservation

Although there is no forest on-site, this Application is subject to Chapter 22A Forest Conservation Law and has included a Preliminary Forest Conservation Plan with this Application. The Forest Conservation Worksheet included in the Plan shows a calculated Afforestation Requirement of 0.33-acres, which Staff recommends be met through credits purchased from an off-site Forest Conservation Bank.

¹ WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial water supply.

Although the Applicant proposes to retain much of the existing building currently onsite, this work will have impact on specimen trees, triggering the need for a Variance Request for impacts of these mature trees. In addition to the mature native trees, which should be saved as possible, some of the trees are jointly owned by the neighboring property, which is parkland and would require Park Permit requirements for the related construction impacts.

Tree Save and Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree 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 law requires no impact to trees that measure 30 inches DBH or greater; 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% of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The subject Application includes disturbance of trees that are $\geq 30''$ DBH, therefore a variance is required. The Applicant submitted a variance request on August 14, 2020² (Attachment B) for the impacts to four subject trees that are considered high-priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. Although the submitted variance request includes the removal of Tree #12, the Applicant has decided to retain this street tree and is instead proposing very minor impacts to its CRZ.

Table 1: Trees to be Impacted but Retained

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
5	American basswood	34"	0.4%	Good	SAVE
6	Red Mulberry	34"	11.1%	Poor	SAVE
8	Scarlet Oak	33"	48.3%	Good	SAVE
12	Ailanthus	31"	5.7%	Poor	SAVE

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, Staff has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship due to a number of distinct, yet related reasons. The mature trees existing onsite are associated with an older defunct facility in need of repurposing; the impacts to the subject trees are due to construction and demolition activities for this proposed redevelopment and are unavoidable if this building and site are to be refitted for future use. The proposed layout, which has been coordinated between the Applicant and MNCPPC Staff, as conditioned, has been established to minimize CRZ impacts to existing specimen trees by utilizing specialized construction techniques, minimizing limits of

² The Applicant initially submitted a variance request dated August 14, 2020 which included the removal of Tree #12. However, a revised variance request for the impact of four trees, with no subject tree removals, was submitted September 4, 2020. This updated variance request was also forwarded to the County Arborist on September 4th.

disturbance as feasible and implementing a five-year maintenance and management plan for the tree which is most impacted (Tree #8).

Staff has reviewed this Application, and, based on the existing circumstances and conditions on the Property, Staff agrees that there is an unwarranted hardship.

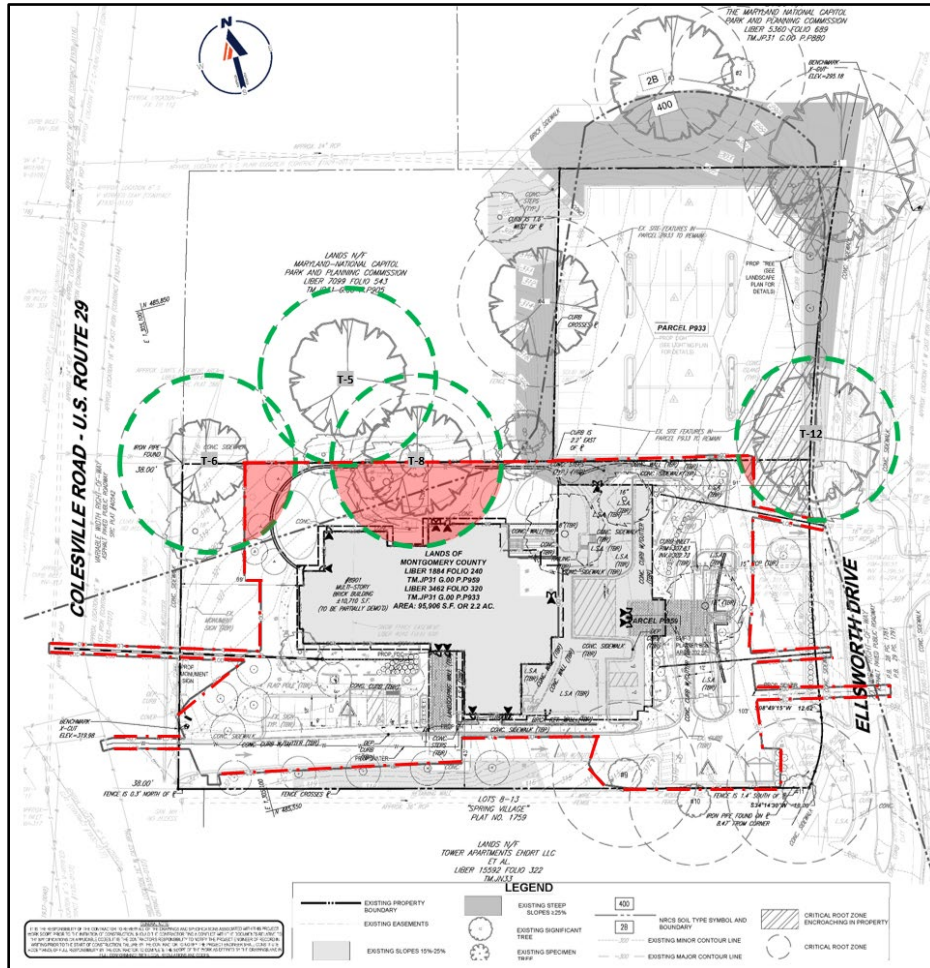


Figure 2: PFCP showing impacted variance trees;

Variance Findings

Staff has made the following determination based on the required findings for granting of the requested variance:

1. Will not confer on the applicant a special privilege that would be denied to other applicants.

The Applicant's proposal to reuse and expand the existing building onsite greatly reduces the impacts that would otherwise occur if the Applicant proposed demolition of the existing building and construction of a completely new building and infrastructure. Further, the Applicant's proposal will provide a use cited by the Master Plan as a fulfilling a need for this community. With these factors considered, Staff concludes the variance request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

As stated above, the requested variance and associated tree impacts are due to the programmatic concerns related to the improvement of the site and existing building which are essential to the rejuvenation of the existing structures included in the proposed development. The variance request submitted by the Applicant reflects efforts to lessen overall site impacts and retain mature trees which provide shade and buffering from adjacent uses. Without this flexibility in the proposed design and construction, far greater subject tree impacts would be expected. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant.

3. *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 proposed site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The subject property does not currently contain any stormwater management features. The Applicant proposes a development which will meet current State and local stormwater management standards; this will be verified by the submission of a Stormwater Management Plan to the Department of Permitting Services. A measurable degradation in water quality is not anticipated as the development will provide Best Management Practices (BMP) areas to meet ESD requirements for the site in order to achieve water quality standards. This Application contains limited additional impervious surfaces, as the proposed building addition falls mainly on the existing parking lot. This development will also provide stormwater management on-site, where there are currently no such measures. Thus the application will ultimately result in an improvement of water quality, rather than cause measurable degradation.

County Arborist's Recommendations

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 Applicant's request was forwarded to the County Arborist on August 14, 2020. Any response received will be presented at the time of Planning Board Hearing.

Maintenance & Monitoring for Impacted Trees Subject to the Variance Provisions

It is important to disclose additional information regarding the proposed significant impact on Tree 8, a 33" DBH Scarlet Oak. This tree is located on the Property Line between Parcel P959 and the adjacent park. Although the work proposed at this location is planned to consist of mostly surface work, rather than traditional excavation or grading, this tree is subject to a significant amount of disturbance as indicated by its 48.3% CRZ impact. Staff recommends the Applicant work with an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert to prepare a tree-save plan which includes protective measures for Tree 8. Staff further recommends the Applicant enter into a contract with an appropriate tree care professional to implement a five-year tree care program to ensure the long-term health of this tree and safety of future CentroNia patrons. This level of care is needed due to the combination of impact proposed and the location of Tree 8, which has a canopy that extends over the proposed outdoor play and outdoor classroom areas for the proposed daycare. The detailed terms of the program shall be determined in coordination with the tree care professional and M-NCPPC at the time of Preliminary Plan submission.

Staff Recommendation on the Variance

As a result of the above findings, Staff recommends approval of the Applicant's request for a variance from the Forest Conservation Law to impact, but retain, four subject trees associated with the application. There are no subject tree removals approved under this application.

Stormwater Management (SWM)

The Project must comply with the requirements of Chapter 19 of the Montgomery County Code. There are no known stormwater management facilities located on the Property. As such, the Applicant will utilize Environmental Site Design ("ESD") to the Maximum Extent Practicable to significantly improve the onsite treatment of stormwater runoff. Stormwater management treatment for quality will be provided on site through several micro-bioretenement planters. A stormwater waiver will be requested from DPS for any remaining treatment that cannot be provided for the existing site. The Property is not in a Special Protection Area, so no separate water quality monitoring plan is required. A Sediment and Erosion Control Plan will be prepared and submitted to DPS for approval prior to construction.

Conclusion

Staff recommends approval of the Preliminary Forest Conservation Plan, with conditions as enumerated in the Staff Report. Staff also recommends approval of the variance request as submitted on September 4, 2020 and described in this report.

ATTACHMENTS:

Attachment A: Preliminary Forest Conservation Plan

Attachment B: Applicant's variance request letter

ATTACHMENT A

NOTES:

- OWNER: MONTGOMERY COUNTY
101 MONROE STREET
ROCKVILLE, MD 20850
 - APPLICANT: MARTHA B. GUELSKY CHILD DEVELOPMENT CENTER, INC. (TIA MARTHA GUELSKY CHILD DEVELOPMENT CENTER)
11800 TECH ROAD,
SILVER SPRING, MD 20904
 - AREA = 95,906 SQUARE FEET OR 2.2 ACRES
 - EXISTING FOREST ON-SITE: NONE
 - CURRENT ZONING: RESIDENTIAL (R-60)
 - WSSC 200 SCALE BASE MAP: 211NW01
 - TAX ID #: 13-00971462, 13-00972821
- TAX MAP: JP31
 - WATERSHED: SLIGO CREEK
USE CLASS: 1
 - SPECIAL PROTECTION AREA: NO
 - SPECIAL PROTECTION OR PRIMARY MANAGEMENT AREA: NO
 - FOREST STAND DELINEATION FIELD WORK WAS CONDUCTED BY MICHAEL J. KLEBASKO (QUALIFIED PROFESSIONAL OF WETLAND STUDIES AND SOLUTIONS, INC. ON JANUARY 24, 2019). THIS SITE DOES NOT CONTAIN ANY AREAS QUALIFYING AS FOREST UNDER THE STATE FOREST CONSERVATION ACT.
 - 100-YEAR FLOODPLAIN SOURCE: NONE
 - PERENNIAL, INTERMITTENT AND EPHEMERAL STREAMS: NONE
 - NO JURISDICTIONAL WETLANDS OR OTHER WATERS OF THE U.S. WERE IDENTIFIED ON THE PROPERTY.

- A FORESTRY DIAMETER TAPE WAS USED TO MEASURE THE DIAMETER OF THE SIGNIFICANT AND SPECIMEN TREES IDENTIFIED ON THIS PLAN. A TOTAL OF TWO (2) SIGNIFICANT TREES AND FIVE (5) SPECIMEN TREES WERE IDENTIFIED ON THE SITE.
- NO RARE, THREATENED, OR ENDANGERED SPECIES WERE OBSERVED ON THE PROPERTY DURING THE COURSE OF THE FOREST STAND DELINEATION WORK.
- THIS PROPERTY IS NOT LOCATED ON THE LOCATIONAL ATLAS AND INDEX OF HISTORIC SITES.
- NO TREES WERE IDENTIFIED ON-SITE THAT ARE 75% OF THE STATE OR COUNTY CHAMPIONS.
- THERE ARE STEEP SLOPES ON-SITE.

REFERENCES:

- THE SUBJECT PARCELS ARE THE LANDS OF MONTGOMERY COUNTY AS RECORDED IN LIBER 1884 FOLIO 240 AND LIBER 3462 FOLIO 320, ALL AMONG THE LANDS RECORDS OF MONTGOMERY COUNTY, MARYLAND SHOWN ON TAX MAP JP31 AS PARCELS P959 AND P933 PER THE DEDICATION OF ASSESSMENTS.
- AREA = 95,906 SQUARE FEET OR 2.202 ACRES
- LOCATION OF ALL UNDERGROUND UTILITIES ARE APPROXIMATE. SOURCE INFORMATION FROM PLANS AND MARKINGS HAS BEEN COMBINED WITH OBSERVED EVIDENCE OF UTILITIES TO DEVELOP A VIEW OF THOSE UNDERGROUND UTILITIES. HOWEVER, LACKING EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. WHERE ADDITIONAL OR MORE DETAILED INFORMATION IS REQUIRED, THE CLIENT IS ADVISED THAT EXCAVATION MAY BE NECESSARY.
- THIS SURVEY WAS PERFORMED IN THE FIELD ON JANUARY 28, 2020 UTILIZING THE REFERENCE DOCUMENTS AS LISTED HEREON AND DEPICTS BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS.
- THE EXISTENCE OF UNDERGROUND STORAGE TANKS, IF ANY, WAS NOT KNOWN AT THE TIME OF THE FIELD SURVEY; HOWEVER, NO PHYSICAL INDICATIONS OF SUCH WERE FOUND AT THE TIME OF THE FIELD INSPECTION OF THIS SITE.

- ELEVATIONS ARE BASED ON NGVD29 DATUM DETERMINED BY GPS OBSERVATIONS AND TIED IN TO WSSC BENCHMARK NO. 5201 WITH A PUBLISHED ELEVATION OF 351.278 FEET.
- THE PROPERTY IS LOCATED IN OTHER AREAS ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN PER MAPS ENTITLED "FIRM FLOOD INSURANCE RATE MAP, MONTGOMERY COUNTY, MARYLAND AND INCORPORATED AREAS, PANEL 370 OF 480", MAP NUMBER 24031003700 AND "FIRM FLOOD INSURANCE RATE MAP, MONTGOMERY COUNTY, MARYLAND AND INCORPORATED AREAS, PANEL 480 OF 480", MAP NUMBER 24031004800, BOTH WITH A MAP EFFECTIVE DATE OF SEPTEMBER 29, 2006.
- PARCEL 1 AND PARCEL 2 ARE CONTIGUOUS WITHOUT STRIPS, GAPS OR GORES BETWEEN THE PARCELS.
- EXISTING PARKING: 93 STANDARD
97 TOTAL SPACES



LOCATION MAP

SCALE: 1" = 200'

REVISIONS

REV	DATE	COMMENT	DRAWN BY



THE FOLLOWING STATES REQUIRE NOTIFICATION BY EXCAVATORS, DESIGNERS, OR ANY PERSON PREPARING TO DISTURB THE EARTH'S SURFACE ANYWHERE IN THE STATE IN VIRGINIA, MARYLAND, THE DISTRICT OF COLUMBIA, AND DELAWARE CALL: 811 (WV: 1-800-468-4449) (PA: 1-800-242-1778) (DC: 1-800-267-7777) (MD: 1-800-552-7091) (ND: 1-800-267-7777) (DE: 1-800-282-8559)

NOT APPROVED FOR CONSTRUCTION

THIS DRAWING IS INTENDED FOR MUNICIPAL AND/OR AGENCY REVIEW AND APPROVAL. IT IS NOT INTENDED AS A CONSTRUCTION DOCUMENT UNLESS INDICATED OTHERWISE.

PROJECT No.: MB192136
DRAWN BY: IBG
CHECKED BY: BF
DATE: 04/30/2020
CAD ID: FCP

MARTHA B. GUELSKY CHILD DEVELOPMENT CENTER

FOR
MARTHA B. GUELSKY CHILD DEVELOPMENT CENTER, INC.

8901/8907 COLESVILLE ROAD
MONTGOMERY COUNTY
SILVER SPRING AND MARYLAND
PARCEL: P933 & P959
TAX MAP: JP31
WSSC GRID: 211NW01

BOHLER

16701 MOLFORD BLVD., SUITE 310
BOWIE, MARYLAND 20715
Phone: (301) 809-4500
Fax: (301) 809-4501
MD@BohlerEng.com

WETLAND STUDIES AND SOLUTIONS, LLC
1151 BENFIELD BOULEVARD, SUITE L
MILLERSVILLE, MARYLAND 21108
PHONE: (410) 672-5990
FAX: (410) 672-5993

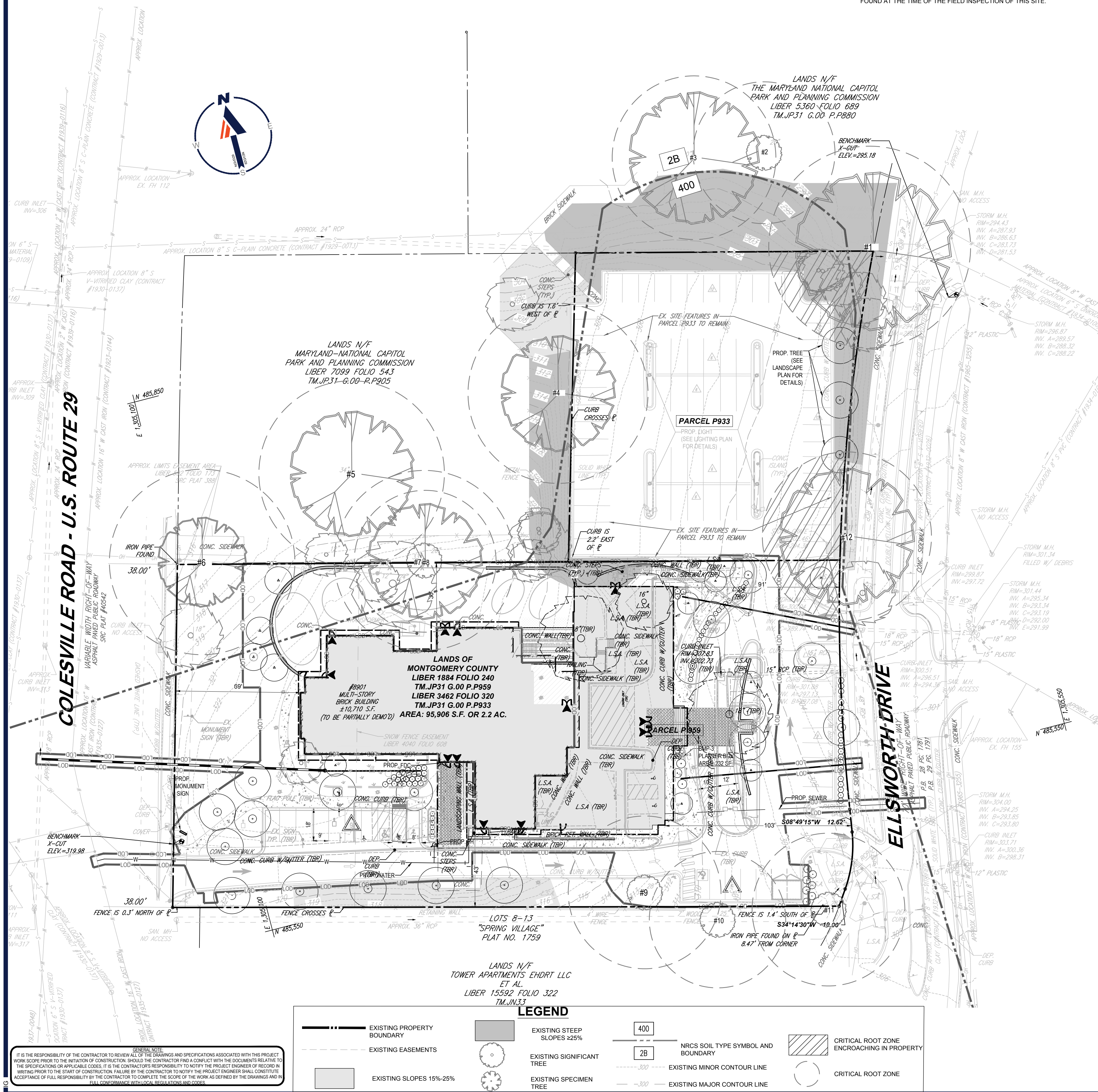
PLAN CERTIFIED BY: 04/27/20
MICHAEL J. KLEBASKO
QUALIFIED PROFESSIONAL
COMAR 08.19.06.01

PRELIMINARY FOREST CONSERVATION PLAN

SHEET NUMBER:

1

ORG. DATE - 04/30/20



Sequence of Events for Properties Required to Comply With Forest Conservation Plans, Exemptions from Submitting Forest Conservation Plans, and Tree Save Plans	
The property owner is responsible for ensuring all tree protection measures are performed in accordance with the approved final forest conservation plan or tree save plan, and as modified in the field by a Planning Department Forest Conservation Inspector. The measures must meet or exceed the most recent standards published by the American National Standards Institute (ANSI A300).	
Pre-Construction	
1. An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged and before any land disturbance.	
2. The property owner must arrange for the meeting and following people should must participate at the pre-construction meeting: the property owner or their representative, construction superintendent, International Society of Arboriculture (ISA) certified arborist/Maryland Licensed Tree Expert (representing owner) that will implement the tree protection measures, The Planning Department Forest Conservation Inspector, and Montgomery County Department of Permitting Services (DPS) Sediment Control Inspector. The purpose of this meeting is to verify the limits of disturbance and discuss specific tree protection and tree care measures shown on the approved plan. No land disturbance shall begin before tree protection and stress-reduction measures have been implemented and approved by the Planning Department's Forest Conservation Inspector.	
a. Typical tree protection devices include:	
i. Chain link fence (four feet high)	
ii. Super all fence with wire strung between the support poles (minimum 4 feet high) with high visibility flagging.	
iii. 14 gauge, 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.	
b. Typical stress reduction measures may include, but are not limited to:	
i. Root pruning with a root cutter or vibratory plow designed for that purpose. Trenchers are not allowed, unless approved by the Forest Conservation Inspector.	
ii. Crown Reduction or pruning	
iii. Weeding	
iv. Fertilizing	
v. Vertical mulching	
vi. Root aeration systems	
Measures not specified on the Forest Conservation Plan may be required as determined by the Forest Conservation Inspector in coordination with the property owner's arborist.	
3. A Maryland Licensed Tree expert must perform, or directly supervise, the implementation of all stress reduction measures. Documentation of the process (including photographs) may be required by the Forest Conservation Inspector, and will be determined at the pre-construction meeting.	
4. Temporary tree protection devices must be installed per the approved Forest Conservation Plan, Exemption Plan, or Tree Save Plan and prior to any land disturbance. The Forest Conservation Inspector, in coordination with the DPS Sediment Control Inspector, may make field adjustments to increase the survivability of trees and forest shown as noted on the approved plan.	

Forest Conservation Data Table	
Remaining in Agricultural Use Road & Utility ROW's Total Existing Forest Forest Retention Forest Cleared	Number of Acres
	2.2 AC
	0.00 AC
	0.00 AC
	0.00 AC
Land Use & Thresholds Land Use Category Conservation Threshold Afforestation Threshold	HDR 20% percent 15% percent
	ABA, MDR, IDA, HDR, MDP, or DA
Total Channel Length (ft.)	
Average Buffer Width (ft.)	
Stream(s)	
Acres of Forest in	
Wetlands	
100-Year Floodplain	
Stream Buffers	
Priority Areas	
Only Road or Utility ROW's not to be improved as part of development application.	
Information from FC Land Use Categories & Thresholds document.	
Measured from stream edge to buffer edge	

FOREST CONSERVATION WORKSHEET						
MCCDC-CENTRONA						
NET TRACT AREA:						
A. Total tract area						
B. Land dedication acres (parks, county facility, etc.)						
C. Land dedication for roads or utilities (not being constructed by this plan) ...						
D. Area to remain in commercial/agricultural production/use						
E. Other deductions (specify)						
F. Net Tract Area*						
LAND USE CATEGORY: (from Trees Technical Manual)						
Input the number "1" under the appropriate land use. limit to only one entry.						
ARA	MDR	IDA	HDR	MPD	CA	
0	0	0	1	0	0	
G. Afforestation Threshold 15% x F =						
H. Conservation Threshold 20% x F =						
EXISTING FOREST COVER:						
I. Existing forest cover*						
J. Area of forest above afforestation threshold*						
K. Area of forest above conservation threshold*						
BREAK EVEN POINT:						
L. Forest retention above threshold with no mitigation*						
M. Clearing permitted without mitigation*						
PROPOSED FOREST CLEARING:						
N. Total area of forest to be cleared*						
O. Total area of forest to be retained*						
PLANTING REQUIREMENTS:						
P. Reforestation for clearing above conservation threshold*						
Q. Reforestation for clearing below conservation threshold*						
R. Credit for retention above conservation threshold*						
S. Total afforestation required*						
T. Total afforestation required*						
U. Credit for landscaping (may not exceed 20% of "S")*						
V. Total reforestation and afforestation required*						
Worksheet updated 6/5/2012						

SPECIMEN TREE TABLE					
No.	Common Name	Scientific Name	DBH (Inches)	Condition Rating	Comments
1	Siberian elm	<i>Ulmus pumila</i>	37	Good	Split at 6 feet, scarring on one of leaders and healed over, fungus on bark, large dead wood, broken branches, damaged and exposed roots, non-native, potentially invasive species
3**	Japanese zelkova**	<i>Zelkova serrata</i>	30	Good	Located off-site in park north of property, few broken branches
4	white pine	<i>Pinus strobus</i>	33	Fair	One-sided branching, large dead wood, cut and broken branches, located on steep slope, slightly leaning and slightly curved trunk
5**	American basswood**	<i>Tilia americana</i>	34	Good	Few broken branches, exposed roots
6	red mulberry	<i>Morus rubra</i>	34	Poor	One-sided, split at base with codominant leaning leader, second leader split at 62 inches, poor structure, large dead wood, broken branches, growth into power lines, chicken growth on trunk, trunk leaning and curved, english ivy (<i>Hedera helix</i>) growth on trunk
8	scarlet oak	<i>Quercus coccinea</i>	33	Good	Few broken branches
12	tree of heaven	<i>Ailanthus altissima</i>	31	Good	Non-native highly invasive species, fairly l-sided, broken limbs and branches, some large dead wood, cut and broken branches

** Denotes Specimen tree located off-site

SIGNIFICANT TREE TABLE					
No.	Common Name	Scientific Name	DBH (Inches)	Condition Rating	Comments
2**	Japanese zelkova**	<i>Zelkova serrata</i>	26	Good	Located off-site in park north of property, few broken branches
7	willow oak	<i>Quercus phellos</i>	26	Good	Slight lean, small dead wood, broken branches, poison ivy (<i>Toxicodendron radicans</i>) growth on trunk
9	red maple	<i>Acer rubrum</i>	28	Good	Codominant leader at 8 feet, large dead wood, broken branches
10**	red maple**	<i>Acer rubrum</i>	25	Fair	Located in grass right-of-way between high-rise apartment building and parking lot, leaning, exposed roots, very close to adjacent building, broken limbs, one-sided
11**	red maple**	<i>Acer rubrum</i>	28	Good	Located in grass right-of-way west of sidewalk along Ellsworth Drive, southeast of property. Significantly girdled roots, disturbed critical root zone, slight lean, one-sided and few cut or broken branches

** Denotes Significant tree located off-site

MAPPED SOIL TYPES				
Map Unit	Soil Description	Hydrologic Soil Group	K-factor (whole soil)	Hydric Rating
2B	Glenelg silt loam, 3 to 8% slopes	B	0.37	0
400	Urban land	D	None specified	0

Source: <http://websoilsurvey.nrcs.usda.gov> (January, 2020)

PROFESSIONAL CERTIFICATION
I, BRAD FORD FOX, HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 3786, EXPIRATION DATE: 11/30/2021



16701 Melford Boulevard, Suite 310
Bowie, MD 20715
301.809.4500

September 4, 2020

VIA E-MAIL

Mr. Marco Fuster
M-NCPPC
2425 Reddie Drive, 4th Floor
Wheaton, MD 20902

Re: Specimen Tree Variance Request 8901 Colesville Rd., Silver Spring, MD 20910
Conditional Use Plan 20-08

Dear Mr. Fuster:

On behalf of the Applicant, Martha B. Gudelsky Child Development Center, Inc., we are requesting a tree variance pursuant to the provisions of Section 22A-21 of the Montgomery County Code from Section 22A-12(b)(3) for significant impacts to specimen trees. More specifically, Section 22A-12(b)(3) provides for the non-disturbance of "any tree with a diameter, measured at 4.5 feet above the ground, of: (i) 30 inches or more; or (ii) 75% or more of the diameter, measured at 4.5 feet above ground, of the current State champion tree of that species."

I. APPLICANT'S PROPOSAL

The Applicant has submitted a Preliminary Forest Conservation Plan as part of a Conditional Use application (CU-20-08) for the Project, "MGCDC-CentroNia". The proposed development will establish a Day Care Facility with a secure playground.

There is a total of seven (7) specimen trees on or near the Property. Four (4) specimen trees are being impacted by construction and demolition activities. The trees identified in this variance request for CRZ impacts are shown on the Forest Conservation Plan.

II. GENERAL DESCRIPTION AND JUSTIFICATION FOR TREES FOR WHICH A VARIANCE IS REQUESTED

The proposed disturbance of trees 30" DBH or greater (specimen trees) is being requested to allow the proposed development of the day care facility. The proposed layout has been thoroughly vetted in coordination with MNCPPC Staff in an effort to significantly minimize CRZ impacts to existing specimen trees by minimizing limits of disturbance and limiting impervious areas.

For reasons described in Sections III and IV below, the Applicant respectfully requests the approval of the variance trees listed, in order to construct the day care facility, fenced in playground, associated open space, amenities, and infrastructure.

Tree #8, scarlet oak (*Quercus coccinea*) with a 33' DBH. The tree is listed in good condition by the environmentally qualified professional. Due to the proposed improvements, including the proposed building, sidewalk and drive aisles, there is a 48.3% impact on the critical root zone. Given that the impact for each tree is primarily at or near the surface of the ground, the applicant will use reasonable

efforts to preserve this tree but requires approval of a variance for impacting the critical root zone by greater than 30%.

Critical Root Zone (CRZ) impacts

There are three (3) additional specimen trees impacted by the limit of disturbance within the limits of the Property. Tree # 5, American basswood, has a 0.4% critical root zone impact and is located off-site. All effort shall be made to coordinate with the adjoining property to save the offsite tree. Tree #12, tree of heaven, has a 5.7% critical root zone impact. Tree #6, red mulberry, has a 11.1% critical root zone impact. The impacts associated with these trees are the result of the grading and proposed playground associated with the proposed day care facility on the Property. Tree protection measures will be adopted to protect them from being damaged during and after construction.

SPECIMEN TREE TABLE					
<i>No.</i>	<i>Common Name</i>	<i>Scientific Name</i>	<i>DBH (inches)</i>	<i>Condition Rating</i>	<i>Comments</i>
1	Siberian elm	<i>Ulmus pumila</i>	37	Good	Split at 6 feet, scarring on one of leaders and healed over, fungus on bark, large dead wood, broken branches, damaged and exposed roots, non-native, potentially invasive species
3**	Japanese zelkova**	<i>Zelkova serrata</i>	30	Good	Located off-site in park north of property, few broken branches
4	white pine	<i>Pinus strobus</i>	33	Fair	One-sided branching, large dead wood, cut and broken branches, located on steep slope, slightly leaning and slightly curved trunk
5**	American basswood**	<i>Tilia americana</i>	34	Good	Few broken branches, exposed roots
6	red mulberry	<i>Morus rubra</i>	34	Poor	One-sided, split at base with codominant leaning leader, second leader split at 62 inches, poor structure, large dead wood, broken branches, growth into power lines, lichen growth on trunk, trunk leading and curved, english ivy (<i>Hedera helix</i>) growth on trunk
8	scarlet oak	<i>Quercus coccinea</i>	33	Good	Few broken branches
12	tree of heaven	<i>Ailanthus altissima</i>	31	Good	Non-native highly invasive species, fairly 1-sided, broken limbs and branches, some large dead wood, cut and broken branches
** Denotes Specimen tree located off-site					

III. SATISFACTION OF THE CRITERIA LISTED IN SECTION 22A-21(b) OF THE MONTGOMERY COUNTY CODE

Section 22A-21(b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above. This Forest Conservation Plan variance request is for one (1) on-site specimen tree to be impacted greater than 30% and three (3) Specimen trees to be impacted less than 30% (two on-site and one off-site).

“(1) describe the special conditions peculiar to the property which caused the unwarranted hardship.”

There are a number of special conditions peculiar to the Property which would cause unwarranted hardship, absent the variance.

- Specimen Tree 8 is currently located along the northern edge of the property line directly in front of the existing and proposed building footprint. The proposed demolition, grading, and site layout are in proximity of the Specimen Tree. In order to accommodate all required aspects of development - installation of a secured playground facility for the daycare - it is necessary to impact the specimen tree. Given a number of factors associated with the Property, there are no other feasible locations for the playground. Because it is important to preserve the design aesthetic of the existing building and its visibility from Colesville Road, locating the playground in the front of the building was not an option. Moreover, this exposed location also would create security concerns. The proposed location is desirable given its close proximity to the building. The center will serve very young children and the transition times involved in moving from an indoor activity to the playground takes a considerable amount of time. For this reason, locating the playground close to the building is important to the operation of the center. Given the existing layout of the remainder of the Property and the need for the existing parking spaces, no alternative locations were available for the playground.

“(2) Describe how enforcement of these rules will deprive the owner of rights commonly enjoyed by others in similar areas.”

Without the allowance of variance tree impacts, the Applicant would not be able to provide the square footage of the building and fenced in playground needed to achieve the operations of the facility and provide needed childcare to the desired number of children. The size of the playground is mandated by State licensing requirements. Given the distribution of the specimen trees, precluding the impacts of the trees will severely restrict the development of the Property. Strict enforcement which prevents impacts of a specimen tree will prevent the desired redevelopment of the Property, which will deprive the applicant of rights commonly enjoyed by others in similar areas. Specimen Tree 8 would prevent demolition of the existing site features and the grading for the proposed improvements. Additional tree plantings to replace existing trees are proposed which will ultimately grow into healthier stronger 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.”

The proposed stormwater management design will meet current State and local stormwater management standards. The state water quality standards will not be violated. A measurable degradation in water quality will not occur as a result of the granting of the variance. The proposed development will provide Best Management Practices (BMP) areas to meet ESDv requirements for the site and in turn ensure water quality is achieved. The development of the property will require approval of a Stormwater Management Plan which will ensure that water quality measures are implemented on the property.

“(4) Provide any other information appropriate to support the request.”

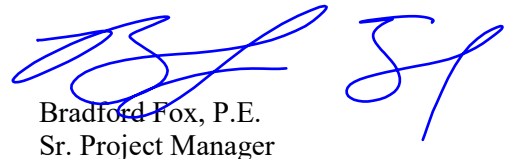
The Applicant believes the information set forth above is adequate to justify the requested variance to impact the specimen trees on the subject property.

The specific rationale in support of the request for this variance is as follows:

1. The requested tree variance is necessary for implementation of this redevelopment project consistent with the overall planning principles for the site. There is no forest on the subject property nor are there any environmental buffers. The conditions related to this request are the unavoidable consequence of the development process under the zoning. Not granting the variance is an unwarranted hardship. The three subject trees are impacted by the proposed redevelopment, and necessary location of the daycare to meet the objectives of the development.
2. The requested variance is based on development plans that are consistent with the zoning approved through the County planning process, not conditions or circumstances resulting from actions by the applicant. The County awarded the Property to the applicant in order to redevelop it to provide needed childcare for up to 180 children. The variance trees are impacted by the proposed redevelopment for which a Conditional Use Plan has been submitted. Strict protection of the variance trees would deprive the applicant from making changes to the site and complying with the County's policy and planning objectives. The impacts to trees 5, 6, 8, and 12 are required to implement the location of the building and fenced in playground area. There are no conditions relating to land or building use, either permitted or non-conforming, on a neighboring property that have played a role in the need for this variance.
3. The stormwater management plan incorporates environmental site design. The specimen trees being impacted are not in a stream valley buffer, wetland or special protection area. The plan provides stormwater treatment to the MEP of the project site. Therefore, granting the variance with respect to these two trees will not result in any violation of state water quality standards or degradation of water quality.

Upon your review, should you have any questions or require additional information, please do not hesitate to contact this office at (301) 809-4500. Thank you.

Sincerely,
Bohler Engineering VA, LLC



Bradford Fox, P.E.
Sr. Project Manager

cc: Matthew K. Jones, P.E., Bohler Engineering (w/o Enc)

BF/kd

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