

Montgomery Planning

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item No. 4B

Date: 6.24.21

Burnt Mills Elementary School, Final Forest Conservation Plan No. MR2021017

 Amy Lindsey, Planner Coordinator, Mid-County Planning, Amy.Lindsey@montgomeryplanning.org, 301-495-2189

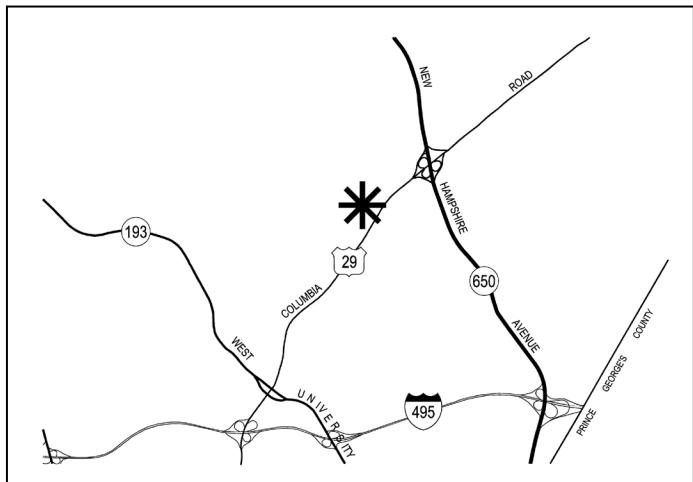
 Jessica McVary, Supervisor, Mid-County Planning, Jessica.McVary@montgomeryplanning.org, 301-495-4723

 Carrie Sanders, Chief, Mid-County Planning, Carrie.Sanders@montgomeryplanning.org, 301-495-4653

Completed: June 14, 2021

Description

- Final Forest Conservation Plan associated with a Mandatory Referral for the construction of a new elementary school and related recreation facilities, parking, circulation, and stormwater management.
- Location: 11211 Childs Street, Silver Spring; on approximately 15.15 acres of land zoned R-90; within the 1997 *White Oak Master Plan* area.
- Acceptance date: April 29, 2021.
- Review Basis: Chapter 22A.



Summary

- Staff recommends approval with conditions.
- The Applicant proposes to:
 - Clear 0.70 acres of forest.
 - Retain 3.89 acres of forest in a Category I Conservation Easement.
- Pursuant to Chapter 22A of the County Code, the Planning Board's actions on Forest Conservation Plans are regulatory and binding.
- No community correspondence has been received as of the date of this Staff Report.

RECOMMENDATION AND CONDITIONS

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

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. 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 Inspection Staff.
3. Prior to the start of any demolition, clearing, grading, or construction for this development Application, the Applicant must record a Category I Conservation Easement over all areas of forest retention and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.
4. The Limits of Disturbance (LOD) on the Final Forest Conservation Plan must be consistent with the LOD on the Sediment and Erosion Control Plan.
5. No clearing, grading, or any demolition may occur prior to receiving approval of the Sediment and Erosion Control Plan.
6. The Applicant must plant mitigation for the removal of two (2) trees subject to the variance provision, in the form of planting native canopy trees totaling 16caliper inches, with a minimum planting stock size of three (3) caliper inches. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC forest conservation inspector. The trees must be planted within six months of forest conservation inspector approval of the removal of tree protection fencing.
7. 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 Final Forest Conservation Plan.
8. The Applicant must install the variance tree mitigation plantings, as shown on the certified FFCP, within 1 year following the preconstruction meeting (as seasonally appropriate) or as directed by the M-NCPPC Forest Conservation Inspection Staff.
9. Copies of the Final Forest Conservation Plan and recorded Category I Conservation Easement must be kept at Burnt Mills Elementary School and given to the school maintenance staff(s) to ensure compliance with conditions of the Final Forest Conservation Plan.

PROJECT DESCRIPTION AND BACKGROUND

Project Description

Montgomery County Public Schools (MCPS) proposes to demolish the existing Burnt Mills Elementary School and build a new, enlarged elementary school in its place. In addition to increasing the student capacity, the new Burnt Mills Elementary School will have a parent drop-off loop separate from the bus loop, entering from Prelude Drive.



Figure 1: Vicinity Map (site in red)

Site Description

Burnt Mills Elementary School (Subject Property or Property) is a 15.15-acre site located in the northwest quadrant of the intersection of Northwest Drive and US 29 – Columbia Pike. All site access is currently provided from the terminus of Childs Street. The Property slopes up from US 29 – Columbia Pike and has a retaining wall supporting the slope, with the high point in the southeast corner. The Property is relatively flat across the existing developed portions but steeply slopes down to meet Prelude Drive. The Property is partially forested, with a stream flowing from the northeast corner to the northwest corner and into a pipe, crossing under Prelude Drive.



Figure 2: Subject Property

ANALYSIS

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD No. 420210500) for Burnt Mills Elementary School on October 5, 2020. There are 6.13 acres of forest on the Property. A partially piped tributary to the Northwest Branch runs across the northeast corner of the Property, with 1.66 acres of stream valley buffer associated with it. No disturbance is proposed in the stream valley buffer and the plan is in compliance with the Environmental Guidelines.

Forest Conservation

The Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Applicant has submitted a Final Forest Conservation Plan (FFCP) in conjunction with the Mandatory Referral (Attachment 1). The Property has 6.13 acres of forest, but 1.54 acres of forest are within existing utility easements or rights-of-way (ROW), so this forest cannot be counted as removed or retained and is instead subtracted from all calculations. The Applicant is proposing to retain 3.89 acres of forest (of the 4.59 acres outside of easements and ROW) in a Category I Conservation Easement. While the worksheet shows 0.70 acres of forest clearing, the Applicant is only proposing to remove approximately 0.37 acres of forest for the construction of the entrance and parent drop-off loop and athletic field construction. The remaining 0.33 acres of forest are either not deep enough to be placed in a Category I Conservation Easement or are located adjacent to US Route 29 - Columbia Pike and will be cleared in the future as part of a planned bicycle path. All forest conservation requirements are being met on-site.

Forest Conservation Variance

Section 22A-12(b) (3) of Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires a variance to impact trees that: measure 30 inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to these trees, including removal or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

The Applicant submitted a variance request to remove five (5) trees and to impact, but not remove, 18 trees that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law (Attachment 2). The Applicant will plant 62 caliper inches of native shade trees, using a minimum 3-inch caliper size, to replace the form and function of the variance trees proposed for removal.

Unwarranted Hardship for Variance Tree Impacts

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. The requested variance is necessary due to the need to demolish the existing facility and build a new larger, modern elementary school.

Leaving the requested trees in an undisturbed state would result in an unwarranted hardship because the Applicant would not be able to demolish the existing school and build a new school, with updated circulation, playing fields, and stormwater management facilities. The disturbance has been constrained to the currently developed areas as much as possible to minimize forest and tree loss.

Variance Tree Tables

Removals

ID	Species	Size	Condition	Impacts
3	Liriodendron tulipifera	32"	Good	Circulation, sidewalk
103	Liriodendron tulipifera	31"	Good	Circulation, grading
105	Liriodendron tulipifera	33"	Fair	Circulation, grading
106	Liriodendron tulipifera	33"	Good	Circulation, grading
129	Pinus strobus	30"	Good	Stormwater management, utilities, grading

Impacts

ID	Species	Size	Condition	CRZ Impacts	Impacts
4	Liriodendron tulipifera	32"	Fair	13%	Sidewalk, demolition, utilities
6	Liriodendron tulipifera	31"	Fair	12%	Sidewalk, demolition, utilities
7	Quercus palustris	35"	Good	5%	Sidewalk, demolition

ID	Species	Size	Condition	CRZ Impacts	Impacts
9	Liriodendron tulipifera	33"	Good	18%	Sidewalk, demolition, utilities
10	Liriodendron tulipifera	33"	Good	39%	Sidewalk, demolition, new building
11	Liriodendron tulipifera	54"	Good	22%	Sidewalk, demolition, new building
13	Quercus palustris	35"	Fair	19%	Sidewalk, demolition, new building
14	Liriodendron tulipifera	35"	Good	28%	Stormwater management
19	Liriodendron tulipifera	30"	Good	24%	Stormwater management
20	Liriodendron tulipifera	30"	Good	12%	Stormwater management, grading
31	Liriodendron tulipifera	35"	Good	15%	Stormwater management, grading
32	Liriodendron tulipifera	30"	Poor	10%	Grading
47	Liriodendron tulipifera	40"	Fair	18%	Grading
62	Liriodendron tulipifera	35"	Good	18%	Grading
64	Liriodendron tulipifera	40"	Fair	12%	Grading, playing field
117	Quercus rubra	31"	Good	7%	Circulation
120	Liriodendron tulipifera	30"	Fair	10%	Circulation, utilities
121	Liriodendron tulipifera	30"	Fair	17%	Circulation

Variance Findings - Based on the review of the variance request and the proposed Final Forest Conservation Plan, staff makes the following findings:

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

Removal of and disturbance to the trees is due to the need for the demolition and reconstruction of an outdated institutional structure that meets all the necessary and current State and County development standards. 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 and provide safe and efficient access while minimizing impacts to specimen trees. 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 site layout to maximize forest retention.

- 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 specimen trees present near the existing development on the Subject Property and the impacts associated with the new 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.*

The Applicant is not disturbing any areas of stream valley buffer on-site and is protecting the forested stream valley buffer in a Category I Conservation Easement. The Applicant is also providing mitigation plantings for the loss of two (2) trees located outside of forest. The Property redevelopment includes the addition of stormwater management facilities. Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

The Applicant is requesting a variance to remove five (5) trees. Two (2) of the five (5) trees are outside of forest that is being cleared and will be mitigated at a rate of 1" caliper per 4" DBH removed, using a minimum 3" caliper native shade tree. The Applicant is mitigating for the loss of 62" DBH of trees and will plant 16 caliper inches of native shade trees, using a minimum 3-inch caliper tree size as mitigation. The tree locations and species will be shown on the Certified Final Forest Conservation Plan.

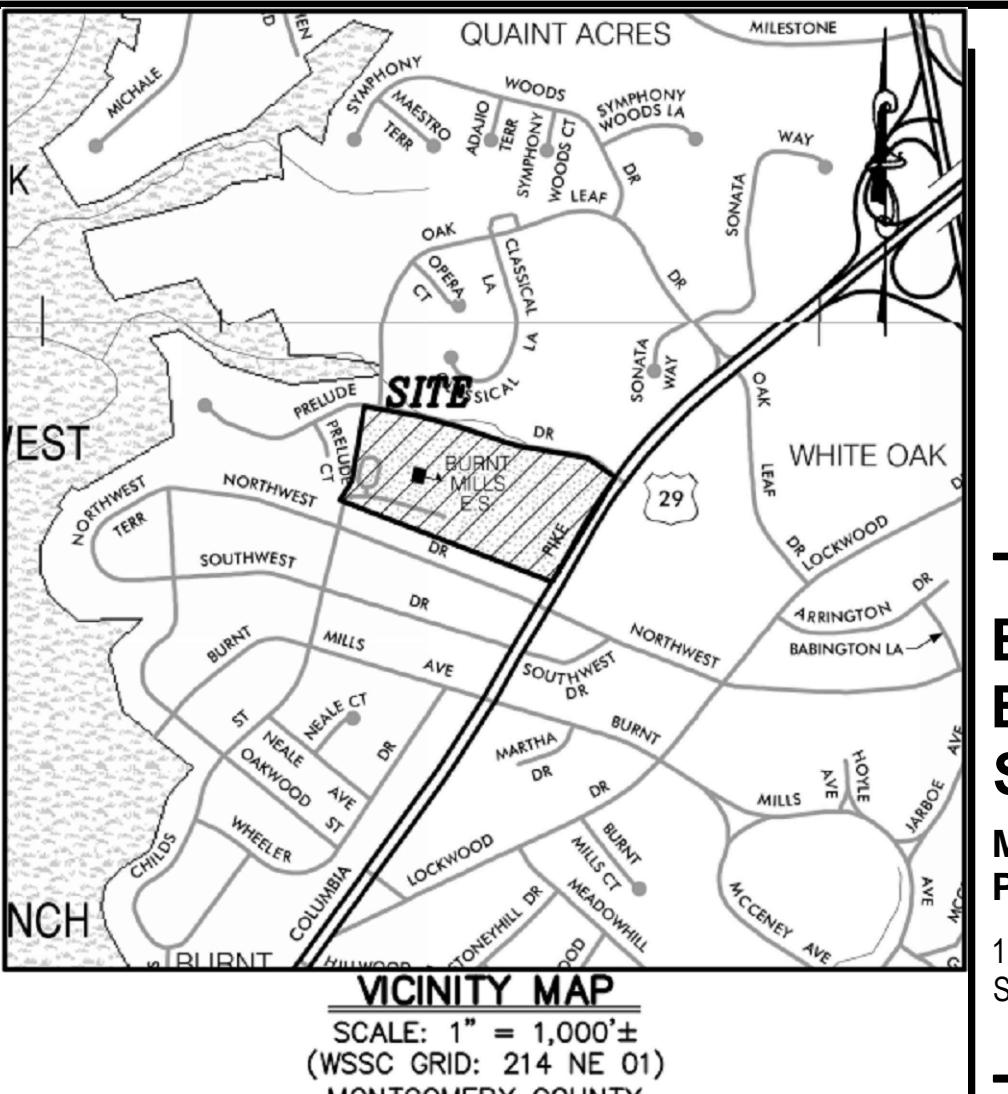

Variance Recommendation - Staff recommends that the variance be granted.

CONCLUSION

Staff concludes that the proposed Final Forest Conservation Plan meets the requirements of Chapter 22A Forest Conservation Law. Staff therefore recommends that the Planning Board approve the Final Forest Conservation Plan and associated variance, with the above conditions.

Attachments

1. Final FCP
2. Variance Application



MTFA
architecture
3200 LEE HIGHWAY, ALEXANDRIA, VIRGINIA 22307
p. 703.524.4616 | www.MTFA.net

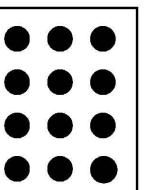
Burnt Mills Elementary School
MONTGOMERY COUNTY PUBLIC SCHOOLS
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Potomac, MD, VA 20855
571.323.0320

PROJECT # 20042
DATE: ISSUE: #
01/29/2021 IAC SD Submission



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Burnt Mills Elementary School

MONTGOMERY COUNTY PUBLIC SCHOOLS
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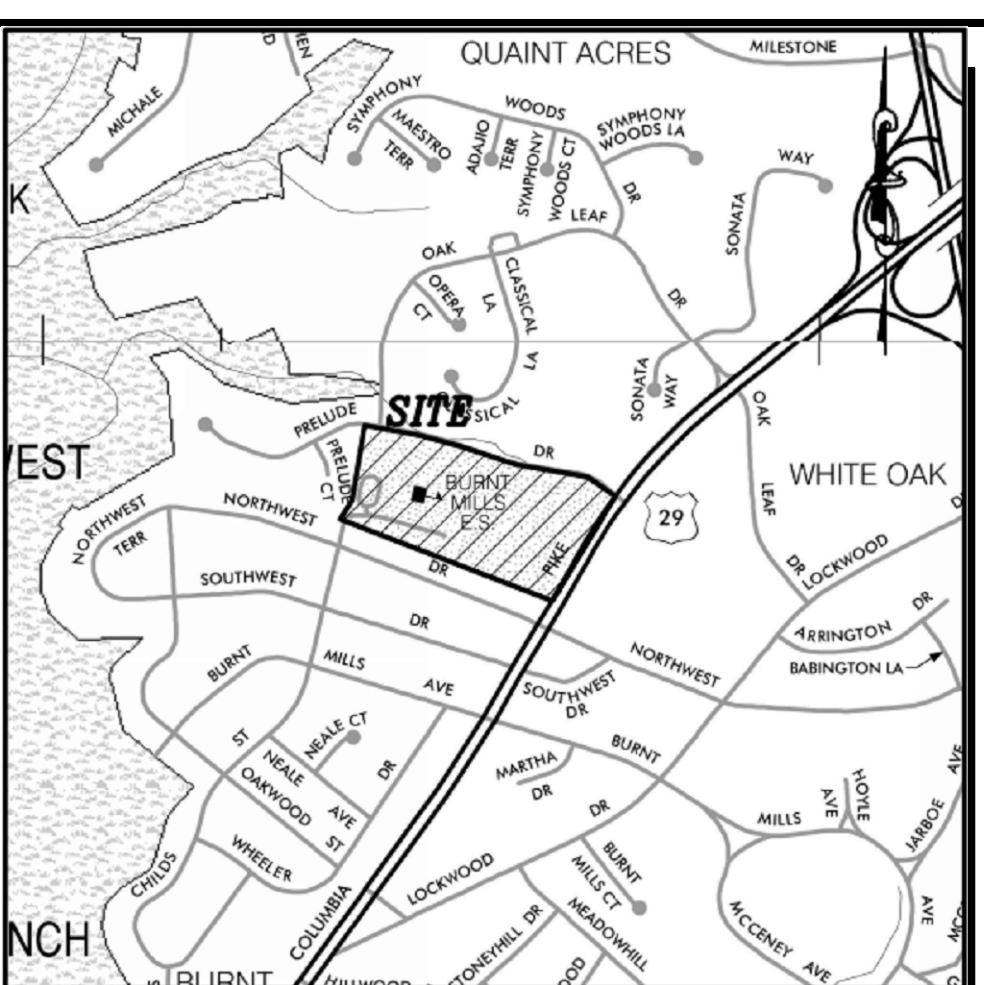
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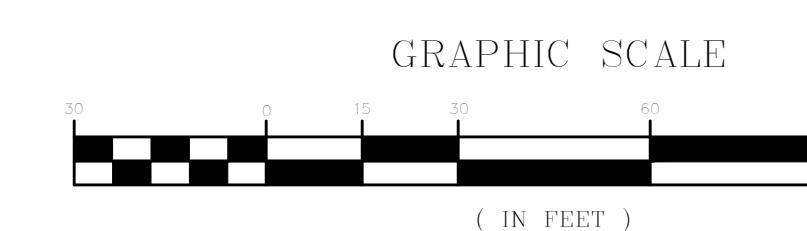
LEGEND

- EXISTING TREE <24"DBH
- EXISTING SIGNIFICANT TREE >24" AND <30"DBH WITH TAG NUMBER AND CRZ
- EXISTING SPECIMEN TREE >30"DBH WITH TAG NUMBER AND CRZ
- FOREST BOUNDARY
- SCRUB AREA/NON-FOREST CANOPY
- SURVEY TOPO — MNCPPC TOPO
- LIMITS OF SURVEY
- PROPERTY BOUNDARY
- STREAM (TOP OF BANK)
- SB — STREAM BUFFER
- FOREST CLEARING AREA
- FOREST CLEARING AREA FOR COMPUTATIONS ONLY
- FOREST RETAINED AREA
- EXISTING EASEMENTS REMOVED FROM COMPUTATIONS
- TREE PROTECTION FENCE
- TP/RP — TREE PROTECTION FENCE/ROOT PRUNE
- TREE TO BE REMOVED
- PROPOSED CATEGORY 1 CONSERVATION EASEMENT
- PERMANENT CONSERVATION EASEMENT SIGNAGE



VICINITY MAP
SCALE: 1" = 1,000' (WSSC GRID: 214 NE 01)
MONTGOMERY COUNTY

MATCHLINE SHEET L-1.3



DEVELOPER'S CERTIFICATE

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

Developer's Name: MONTGOMERY COUNTY PUBLIC SCHOOLS

Printed Company Name

Contact Person or Owner: GARY MOESMAN
DIRECTOR, DIVISION OF FACILITIES MANAGEMENT, MCPS

Printed Name

Address: 45 WEST GUDGE DRIVE, SUITE 4300, ROCKVILLE, MD 20850

Gary_D_Mosesman@mcpssm.org

Phone and Email:

Signature: _____

DRAWN: CHECKED:
BP MN

SCALE:

SHEET TITLE:

FINAL FOREST CONSERVATION PLAN

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SHEET #

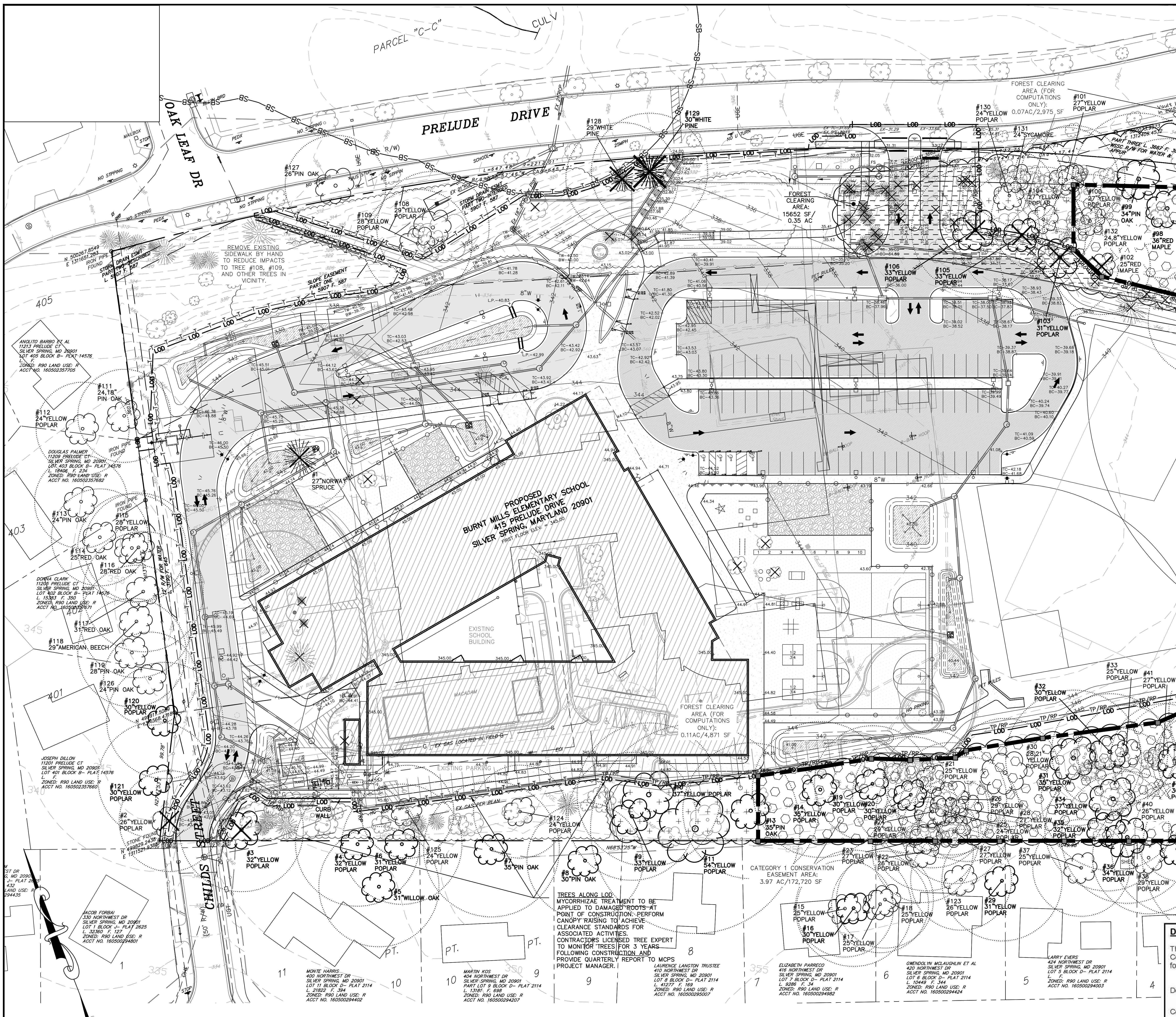
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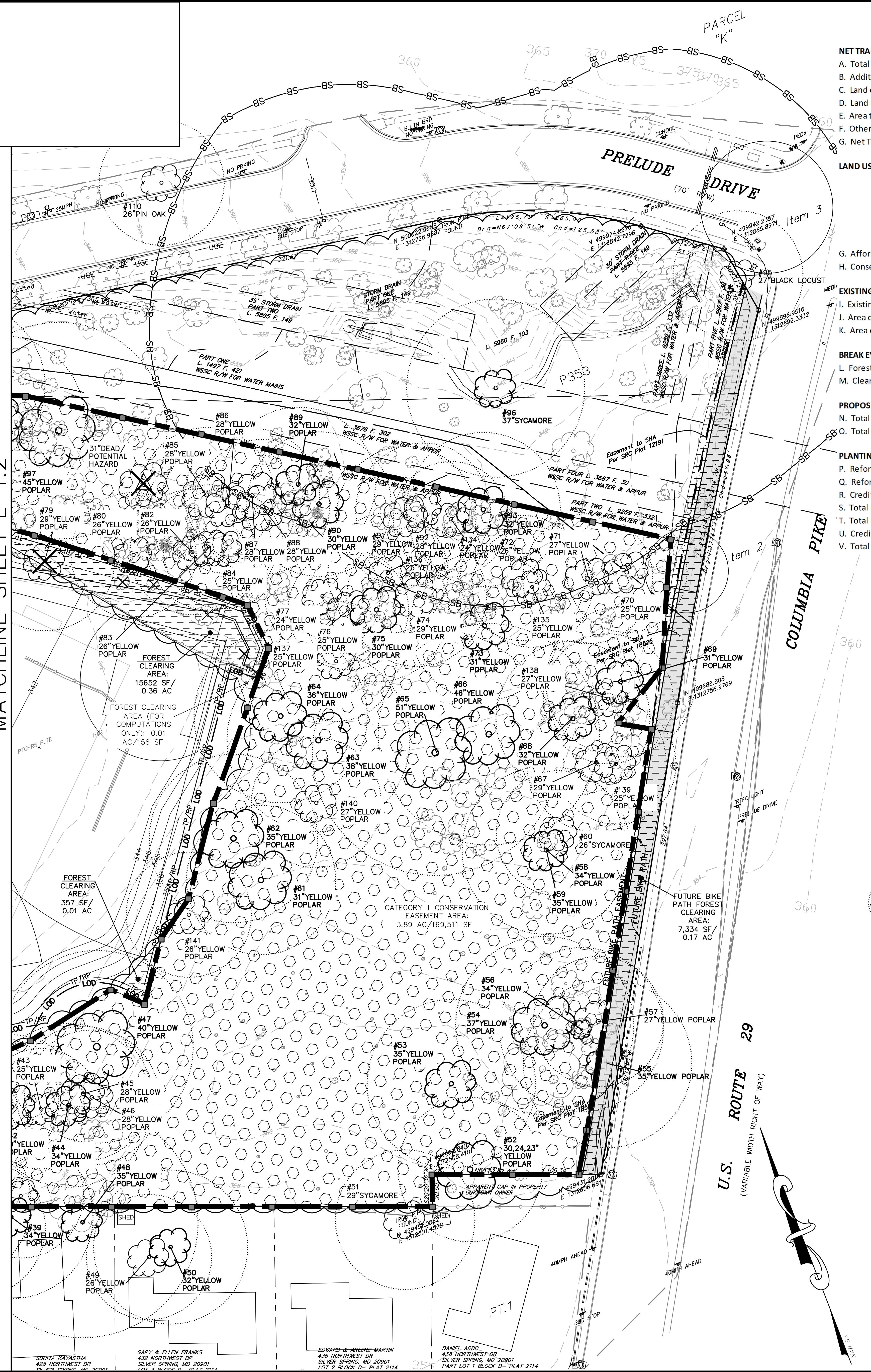
CERTIFICATION OF QUALIFIED PROFESSIONAL

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

6.07.2021
DATE

MICHAEL A. NORTON
MDNR / COMAR 08.19.06.01
QUALIFIED PROFESSIONAL




FOREST CONSERVATION WORKSHEET
Burnt Mills Elementary School
**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 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 the completion and stress-reduction measures have been implemented as required by the Planning Department's Forest Conservation Inspector.

a. Typical tree protection devices include:

- i. Chain link fence (four feet high)
- ii. Super silt 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 cutting 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. Watering
- 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

0.70

3.89

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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 saved on the approved plan.

5. Tree protection fencing must be installed by the property owner for the duration of construction project and must not be altered without prior approval from the Forest Conservation Inspector. All construction activity within protected tree and forest areas is prohibited. This includes the following activities:

- a. Parking or driving of equipment, machinery or vehicles of any type.
- b. Storage of any construction materials, equipment, stockpiling, fill, debris, etc.
- c. Dumping of any chemicals (i.e., paint thinner), mortar or concrete remainder, trash, garbage, or debris of any kind.
- d. Felling of trees in a protected area.
- e. Trenching or grading for utilities, irrigation, drainage, etc.

6. Forest and tree protection signs must be installed as required by the Forest Conservation Inspector. The signs must be waterproof and wording provided in both English and Spanish.

During Construction

7. Periodic inspections will be made by the Forest Conservation Inspector. Corrections and repairs to tree protection devices must be completed within the timeframe given by the Inspector.

8. The property owner must immediately notify the Forest Conservation Inspector of any damage to trees, forests, understory, ground cover, and any other undisturbed areas shown on the approved plan. Remedial actions, and the relative timeframes to restore these areas, will be determined by the Forest Conservation Inspector.

Post-Construction

9. After construction is completed, but before tree protection devices have been removed, the property owner must request a final inspection with the Forest Conservation Inspector. At the final inspection, the Forest Conservation Inspector may require additional corrective measures, which may include:

- a. Removal, and possible replacement, of dead, dying, or hazardous trees
- b. Pruning of dead or declining limbs
- c. Soil aeration
- d. Fertilization
- e. Watering
- f. Wound repair

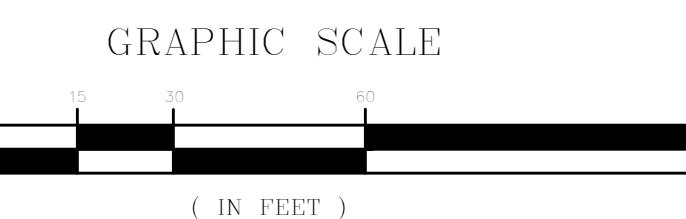
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g. Clean up of retention areas, including trash removal

10. After the final inspection and completion of all corrective measures the Forest Conservation Inspector will request all temporary tree and forest protection devices be removed from the site. Removal of tree protection devices that also operate for erosion and sediment control must be coordinated with both DPS and the Forest Conservation Inspector and cannot be removed without permission of the Forest Conservation Inspector. No additional grading, sodding, or burial may take place after the tree protection fencing is removed.

11. Long-term protection measures, including permanent signage, must be installed per the approved plan. Installation will occur at the appropriate time during the construction project. Refer to the approved plan drawing for the long-term protection measures to be installed.


CERTIFICATION OF QUALIFIED PROFESSIONAL

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

6.07.2021

MICHAEL A. NORTON
MCPMSD, CFAA, LEED AP BD+C
QUALIFIED PROFESSIONAL

DEVELOPER'S CERTIFICATE

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

Developer's Name: MONTGOMERY COUNTY PUBLIC SCHOOLS

Printed Company Name: GARY MOESMAN

Contact Person or Owner: DIRECTOR, DIVISION OF FACILITIES MANAGEMENT, MCPS

Printed Name: 45 WEST GUDIE DRIVE, SUITE 4300, ROCKVILLE, MD 20850

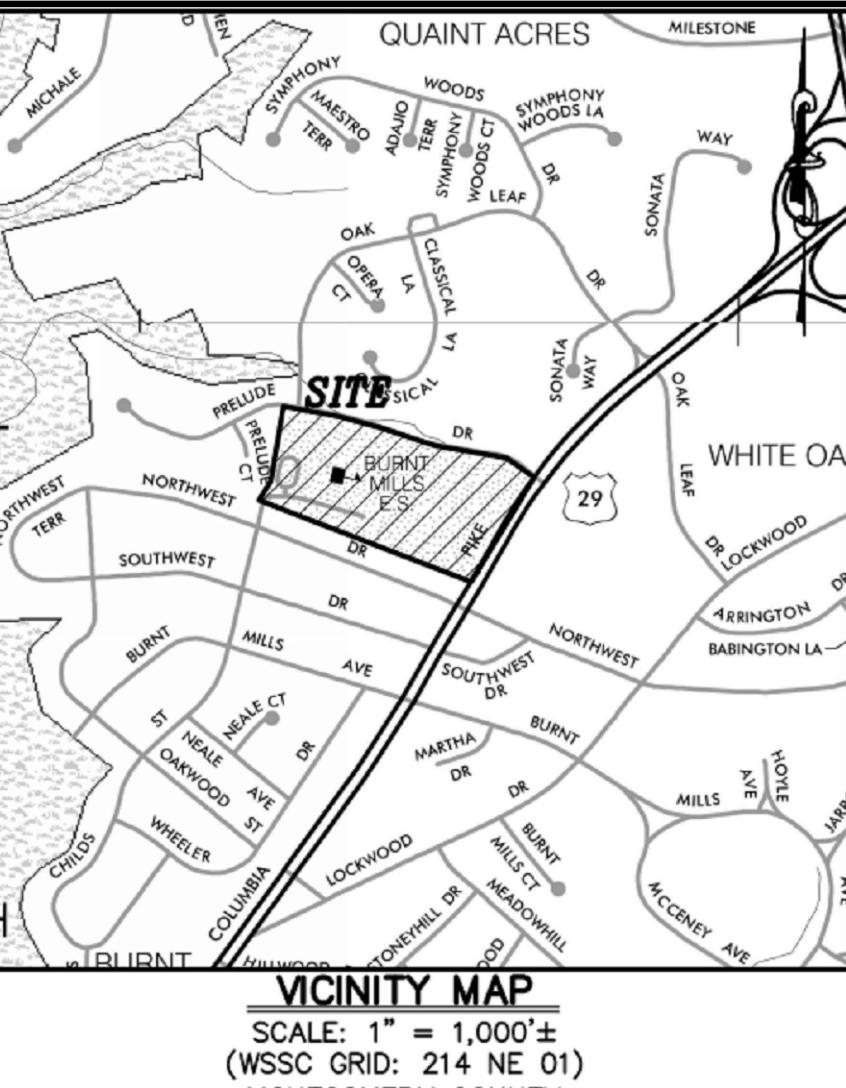
Address: Gary_D_Mosesman@mcpsmd.org

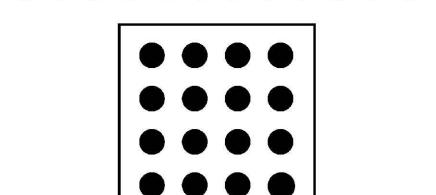
Phone and Email:

Signature:

**Burnt Mills
Elementary
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**MONTGOMERY COUNTY
PUBLIC SCHOOLS**
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Significant Specimen Tree Summary 24+*												
Tree Species	Species	D.B.H.	CRZ	IMPACT	IMPACTS	Tree	Comments	Status	Variance	Mitigation		
#	(Scientific Name)	(Common Name)	(inches)	(SF)	(%)	Condition						
1	PIECA ABIES	NORWAY SPRUCE	29	5945	100	GOOD	PRUNED/BROKEN LIMBS	REMOVE	NA	NA		
2	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4778	100	GOOD	HEAVY VINE COVER	REMOVE	NA	NA		
3	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	32	7238	2814	GOOD	VINES/BROKEN LIMBS	REMOVE	YES			
4	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	32	7238	957	13	FAIR	OFFSITE/MUCH VINES	SAVE/PROTECT	YES		
5	QUERCUS PALUSTRIS	WHITE OAK	31	6362	0	GOOD	DEAD&BROKEN LIMBS	SAVE/PROTECT	NO			
6	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	31	6793	929	12	FAIR	OFFSITE/MUCH VINES/BROKEN LIMBS	SAVE/PROTECT	NO		
7	QUERCUS PALUSTRIS	PIN OAK	35	8859	408	5	GOOD	BROKEN LIMBS	SAVE/PROTECT	YES		
8	QUERCUS PALUSTRIS	PIN OAK	30	6362	0	GOOD	OFFSITE/BACK	SAVE/PROTECT	NO			
9	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	33	7698	1370	18	GOOD	HEAVY VINE COVER	SAVE/PROTECT	YES		
10	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	37	9877	2767	39	GOOD	VINES	SAVE/PROTECT	YES		
11	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	54	20612	4434	22	GOOD	HEAVY VINES/DEAD&BROKEN LIMBS	SAVE/PROTECT	YES		
12	VOID	VOID										
13	QUERCUS PALUSTRIS	PIN OAK	35	8859	1647	19	FAIR	MUCH VINES/DEAD&BROKEN LIMBS	SAVE/PROTECT	YES		
14	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8859	2463	28	GOOD	PRUNED	SAVE/PROTECT	YES		
15	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4418	0	GOOD	OFFSITE	SAVE/PROTECT	NA			
16	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	0	GOOD	OFFSITE	SAVE/PROTECT	NO			
17	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4418	0	GOOD	OFFSITE	SAVE/PROTECT	NA			
18	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4418	0	GOOD	OFFSITE	SAVE/PROTECT	NA			
19	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	36	8330	1555	24	GOOD	VINES/DEAD&BROKEN LIMBS	SAVE/PROTECT	YES		
20	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	36	8330	780	12	GOOD	DEAD&BROKEN LIMBS	SAVE/PROTECT	YES		
21	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4418	922	21	GOOD	MINI TRUNK DANA GEAT 3/VINES	SAVE/PROTECT	NA		
22	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	26	4778	0	GOOD	OFFSITE/BROKEN LIMBS	SAVE/PROTECT	NA			
23	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	27	5153	0	0	FAIR	BROKEN LIMBS	SAVE/PROTECT	NA		
24	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	29	5945	0	0	GOOD	SAVE/PROTECT	NA			
25	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	24	4072	0	0	GOOD	SAVE/PROTECT	NA			
26	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	29	5945	327	6	GOOD	SAVE/PROTECT	NA			
27	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	27	5153	0	0	GOOD	SAVE/PROTECT	NA			
28	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	27	5153	0	0	GOOD	VINES	SAVE/PROTECT	NA		
29	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	31	6793	0	0	FAIR	OFFSITE/MUCH VINES/DEAD&BROKEN LIMBS	SAVE/PROTECT	NO		
30	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	28.21	5542	394	7	GOOD	SAVE/PROTECT	NA			
31	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	33	8859	1296	15	GOOD	DEAD&BROKEN LIMBS	SAVE/PROTECT	YES		
32	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	627	10	Poor	TRUNK DAMAGE >30'	SAVE/PROTECT	NO		
33	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4418	52	1	FAIR	VINES/DEA&BROKEN LIMBS	SAVE/PROTECT	NA		
34	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	37	9677	0	0	GOOD	SPLITS @ 6'	SAVE/PROTECT	NO		
35	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	36	8330	7236	0	0	GOOD	BROKEN LIMBS	SAVE/PROTECT	NO	
36	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	24	4418	0	0	GOOD	GIRDLED ROOTS	SAVE/PROTECT	NA		
37	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4418	0	0	GOOD	VINES/DEA&BROKEN LIMBS	SAVE/PROTECT	NO		
38	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	29	5945	0	0	GOOD	OFFSITE	SAVE/PROTECT	NA		
39	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	34	8171	0	0	GOOD	OFFSITE/EXPOSED ROOTS	SAVE/PROTECT	NO		
40	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	26	4778	0	0	GOOD	SAVE/PROTECT	NA			
41	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	27	5153	0	0	GOOD	HEAVY VINE COVER	SAVE/PROTECT	NA		
42	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	39	6362	0	0	GOOD	SAVE/PROTECT	NO			
43	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	4418	0	0	GOOD	SAVE/PROTECT	NA			
44	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	34	8171	0	0	GOOD	VINES/DEA&BROKEN LIMBS	SAVE/PROTECT	NO		
45	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	28	5542	0	0	Poor	DEA DLEADER POTENTIAL HAZARD	SAVE/PROTECT	NA		
46	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	25	5542	0	0	FAIR	VINES/TOP LEA/NEA&BROKEN LIMBS	SAVE/PROTECT	NA		
47	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310	2047	18	FAIR	VINES/PRUNED SCAFFOLD/DEA&BROKEN LIMBS	SAVE/PROTECT	YES		
48	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8859	0	0	GOOD	OFFSITE/DEAD BRANCHES	SAVE/PROTECT	NO		
49	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	29	5945	0	0	GOOD	OFFSITE/DEA&BROKEN LIMBS	SAVE/PROTECT	NA		
50	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	0	0	FAIR	OFFSITE/LEAN/BROKEN LIMBS	SAVE/PROTECT	NO		
51	PLATANUS OCCIDENTALIS	SYCAMORE	29	5945	0	0	FAIR	DEA DLEADER DAMAGE AT 1/6/DEA&BROKEN LIMBS	SAVE/PROTECT	NO		
52	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30,24,23	6362	0	0	GOOD	SPLITS AT 3/MAY VINES/BROKEN LIMBS	SAVE/PROTECT	NO		
53	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8859	0	0	GOOD	SAVE/PROTECT	NO			
54	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	37	9677	1123	12	FAIR	SPLITS AT 5/DEA&BROKEN LIMBS	SAVE/PROTECT	YES		
55	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8859	8659	100	GOOD	HEAVY VINES/DEA&BROKEN LIMBS	SAVE/PROTECT	YES		
56	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	34	8171	2270	28	FAIR	SPLITS AT 6/DEA&BROKEN LIMBS	SAVE/PROTECT	YES		
57	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	27	5153	0	0	FAIR	SPLITS AT 6/DEA&BROKEN LIMBS	SAVE/PROTECT	NA		
58	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	34	8171	0	0	GOOD	BROKEN LIMBS	SAVE/PROTECT	NO		
59	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8859	0	0	GOOD	BROKEN LIMBS	SAVE/PROTECT	NO		
60	PLATANUS OCCIDENTALIS	SYCAMORE	29	5945	0	0	GOOD	VINES/BROKEN LIMBS	SAVE/PROTECT	NA		
61	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	31	6793	0	0	GOOD	SAVE/PROTECT	NO			
62	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8859	1517	18	GOOD	PRUNED	SAVE/PROTECT	YES		
63	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	38	10207	20	<1	GOOD	DEA&BROKEN LIMBS	SAVE/PROTECT	YES		
64	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310	1							



March 5, 2021

Maryland National Capital Park and Planning Commission (M-NCPPC)
2425 Reedie Drive,
Wheaton, Maryland 20902

Re: Burnt Mills Elementary School
Request for Specimen Tree Variance
MR# -
NRI# - 420210500
Norton# 20-088

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 proposed school is going to replace the existing Burnt Mills Elementary, located at 11211 Childs Street, in Silver Spring, Montgomery County, Maryland. This is a 15.15-acre site that is owned by the Montgomery County Board of Education. The site currently hosts an existing school, associated parking, athletic fields and play areas. The site is bordered by residential properties on the north, west, and south sides; and U.S. Route 29 to the east side. The site has vehicle access from Childs Street.

Proposed construction consists of a new building to replace the existing, new parking circulation, updates to the athletic 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 facility that includes safe access to school by way of updated vehicle circulation. The school must be large to handle growing student capacity. Stormwater management is designed to ensure environmental quality following the construction of the new building and parking areas.

This work will require disturbance of the root zones of a total of twenty-three (23) specimen trees. Five (5) of the impacted trees will be required to be removed. Impact justification for each variance tree is provided in the "Tree Variance Table" below. The limits of disturbance has been designed to maximize tree survival.

If MCPS is not allowed to impact the trees, the school will not be able to be constructed due to the close proximity of specimen trees to the proposed school, proposed utilities, and site grading. 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, 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, in tandem with the site landscaping, will serve to create greater ecological quality onsite.

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.

TREE VARIANCE TABLE													
Tree #	Species (Scientific Name)	Species (Common Name)	D.B.H (inches)	CRZ (SF)	IMPACT (%)	IMPACTS	Tree Condition	Comments	Status	Variance	Mitigation	Impact Comments	
3	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	32	7238	2814	39	GOOD	VINES/BROKEN LIMBS	REMOVE	YES	YES	DRIVE CIRCULATION, UTILITIES, SIDEWALK	
4	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	32	7238	957	13	FAIR	OFFSITE/MUCH VINES	SAVE/PROTECT	YES	NO	NEW SIDEWALK, ASPHALT REMOVAL, UTILITIES	
6	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	31	6793	828	12	FAIR	OFFSITE/MUCH VINES/BROKEN LIMBS	SAVE/PROTECT	YES	NO	NEW SIDEWALK, ASPHALT REMOVAL, UTILITIES	
7	QUERCUS PALUSTRIS	PIN OAK	35	8659	408	5	GOOD	BROKEN LIMBS	SAVE/PROTECT	YES	NO	NEW SIDEWALK, ASPHALT REMOVAL	
9	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	33	7698	1370	18	GOOD	HEAVY VINE COVER	SAVE/PROTECT	YES	NO	NEW SIDEWALK, ASPHALT REMOVAL, UTILITIES	
10	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	37	9677	3767	39	GOOD	VINES	SAVE/PROTECT	YES	NO	NEW SIDEWALK, ASPHALT REMOVAL, UTILITIES, SCHOOL BUILDING	
11	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	54	20612	4434	22	GOOD	HEAVY VINES/DEAD&BROKEN LIMBS	SAVE/PROTECT	YES	NO	NEW SIDEWALK, ASPHALT REMOVAL, SCHOOL BUILDING	
13	QUERCUS PALUSTRIS	PIN OAK	35	8659	1647	19	FAIR	MUCH VINES/DEAD&BROKEN LIMBS	SAVE/PROTECT	YES	NO	NEW SIDEWALK, ASPHALT REMOVAL, SCHOOL BUILDING	
14	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8659	2463	28	GOOD	PRUNED	SAVE/PROTECT	YES	NO	NEW SWM FACILITY	
19	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	1555	24	GOOD	VINES/DEAD&BROKEN LIMBS	SAVE/PROTECT	YES	NO	NEW SWM FACILITY	
20	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	780	12	GOOD	VINES	SAVE/PROTECT	YES	NO	NEW SWM FACILITY, SITE GRADING	
31	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8659	1296	15	GOOD	DEADBROKEN LIMBS	SAVE/PROTECT	YES	NO	SITE GRADING	
32	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	627	10	POOR	TRUNK DAMAGE 0-30°	SAVE/PROTECT	YES	NO	SITE GRADING	
47	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310	2047	18	FAIR	VINES/PRUNED/BROKEN SCAFFOLD/DEAD&BROKEN LIMBS	SAVE/PROTECT	YES	NO	SITE GRADING	
62	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	35	8659	1517	18	GOOD	PRUNED	SAVE/PROTECT	YES	NO	SITE GRADING	
64	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310	1324	12	FAIR	VINES/BROKEN SCAFFOLD/BROKEN LIMBS	SAVE/PROTECT	YES	NO	SITE GRADING, BASEBALL FIELD INSTALLATION	
103	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	31	6793	6793	100	GOOD	BROKEN LIMBS	REMOVE	YES	NO	SITE GRADING, NEW DRIVE CIRCULATION	
105	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	33	7698	7698	100	FAIR	VINES/DEAD&BROKEN LIMBS	REMOVE	YES	NO	SITE GRADING, NEW DRIVE CIRCULATION	
106	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	33	7698	7698	100	GOOD	DEADBROKEN LIMBS	REMOVE	YES	NO	SITE GRADING, NEW DRIVE CIRCULATION	
117	QUERCUS RUBRA	RED OAK	31	6793	475	7	GOOD	OFFSITE	SAVE/PROTECT	YES	NO	DRIVE CIRCULATION	
120	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	611	10	FAIR	OFFSITE/VINES/BROKEN LIMBS	SAVE/PROTECT	YES	NO	DRIVE CIRCULATION, UTILITIES	
121	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	1103	17	FAIR	OFFSITE/HEAVY VINES/BROKEN LIMBS	SAVE/PROTECT	YES	NO	DRIVE CIRCULATION	
129	PINUS STROBOS	WHITE PINE	30	6362	6362	100	GOOD	FEW DEAD BRANCHES	REMOVE	YES	YES	STORMWATER UTILITY, SITE GRADING	

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