



Woodlin Elementary School, Final Forest Conservation Plan No. MR2021029



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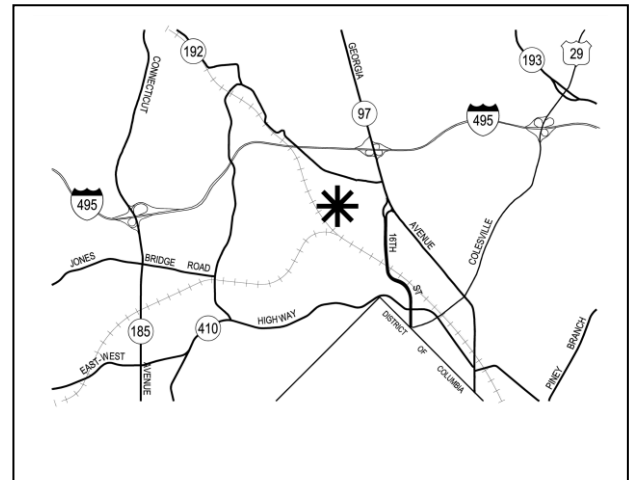
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Completed: 9/20/2021

Description

Request for approval of a Final Forest Conservation Plan associated with Mandatory Referral No. MR2021029 to replace the existing Woodlin elementary school and childcare facility with an updated building and redesigned parking and drop off areas.

- **Location:** 2101 Luzerne Drive
- **Zone:** R-60
- **Master Plan:** 2000 North and West Silver Spring Master Plan
- **Property size:** 10.4 acres
- **Applicants:** Montgomery County Public Schools
- **Acceptance Date:** May 17, 2021
- **Review Basis:** Chapter 22A



Summary

- Staff recommends **APPROVAL** with conditions of Final Forest Conservation Plan MR2021029.
- This Application is for a Final Forest Conservation Plan in conjunction with a Mandatory Referral Application, to replace the existing Woodlin Elementary School.
- This proposal requires a Forest Conservation Plan and associated Variance Request for impacts to and removal of specimen trees as well as afforestation requirements associated with the proposed disturbance.
- This application is associated with Mandatory Referral Application No. MR2021029, which is being reviewed by the Planning Board for Master Plan Conformance and is described in a separate Staff Report.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Final Forest Conservation Plan Amendment No. MR2021029, with the following conditions:

1. The Applicant should 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, forest planting and environmental buffers as specified on the approved Final 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. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
5. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Rock Creek watershed to satisfy the afforestation requirement for a total of 1.13 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Rock Creek watershed or by making a fee-in-lieu payment if mitigation credits are not available at any bank.
6. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the afforestation plantings, mitigation trees, and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
7. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
8. The Applicant must install the Afforestation/Reforestation plantings for the planting area as shown on the approved FCP, within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
9. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 87 caliper inches, or as shown on the approved FCP.

Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

10. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the FCP.
11. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

SITE DESCRIPTION

Property Description

The Property is currently zoned R-60 and features an existing elementary school and childcare center, sports fields to the north bounded by a wooded area along Brookville Road, and an athletic field to the east shared with the neighboring Torah School.

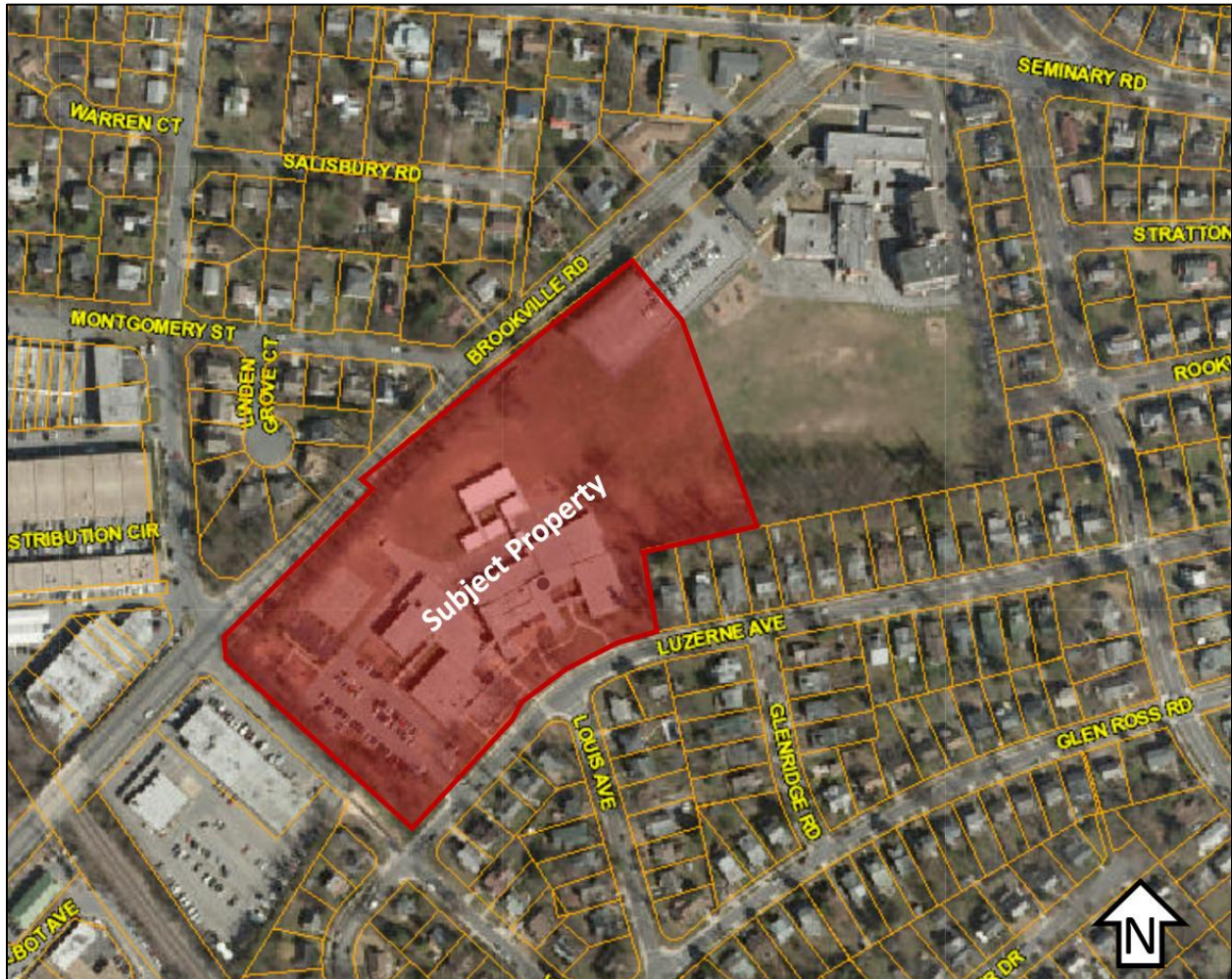


Figure 1 – Aerial photo of the Subject Site (shaded in red)

The Subject Property is within the Lower Rock Creek watershed which is a Use I watershed¹. In addition to the watershed, there is an underground stream onsite which surfaces in the southwest corner of the property before running into a storm drain network. This stream has an associated 100' buffer which overlaps with existing man-made features including Luzerne avenue, Warren Street, the school parking lot, and a wooden bridge. There are numerous significant and specimen trees throughout the site, mostly along the North, West, South and south eastern perimeter.

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.

Soils on the property are a combination of Urban Land and silt loam type soils, which are not considered sensitive however, there are minor areas of steep slopes along the grass playfield to the north east of the property. The Site is not associated with any further environmentally sensitive features such as flood plains, wetlands, forest, or rare/threatened/endangered species. There are also no cultural facilities or historic sites located within or adjacent to this Site.

PROJECT DESCRIPTION

Proposal

The current Application proposes the construction of a replacement facility for Woodlin Elementary School and the adjacent childcare facility; the existing facilities will be demolished prior to the construction of the new facility. In order to better align with the County's goal of educational facilities being a fixture within the neighborhood, the new facility will also feature redesigned vehicular circulation and parking facility as well as a separate bus drop off area along Brookville Road. The site will also feature modern environmental site design features to improve stormwater management onsite; these features will include micro bioretention, green roof, and structural sand filters.

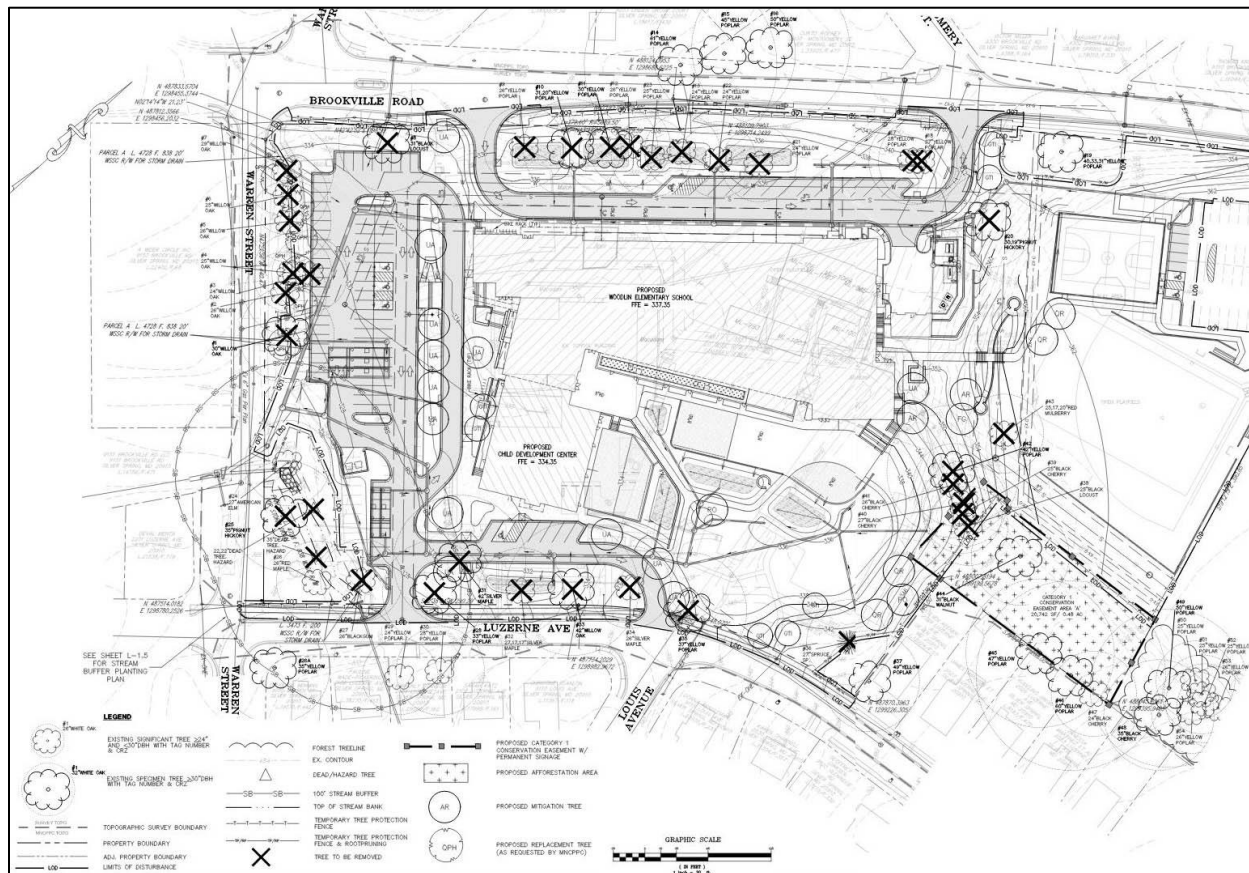


Figure 2 – Forest Conservation Plan

Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD), designated no. 420210250, was approved for the Subject Property on November 10, 2020. The approved NRI/FSD describes the existing and natural features of the site including an inventory of significant and mature trees measuring 24-inches or greater in diameter-at-breast height (DBH). Those trees which are 30" DBH and above are subject to the Variance provision of the Forest Conservation Law for any proposed impacts and/or removals.

The Applicant has acknowledged and made efforts to preserve the environmental features of the site which include the mature trees and existing stream. In consideration of the stream and the associated 100' buffer, which is currently encroached upon with approximately 12,400 sf of impervious cover, the Applicant has made efforts to reduce impervious cover and provide supplemental plantings. The efforts to protect and improve this area where greatly impacted by the presence of utilities and their associated easements which overlap with the existing stream buffer; these features preclude the possibility to protect this area via conservation easement, however the Applicant has reduced the existing impervious area encroachment by nearly 2,000 sf and has restricted the LOD in this area to the greatest extent possible.

Just north of the stream buffer area, along the western property line, the Applicant has proposed work which will further minimize the impervious parking area and shift the proposed parking lot edge to the east. In doing so, numerous trees sized greater than 24" but less than 30" will be impacted and may be destabilized by the asphalt work. Mitigation for these trees has been proposed, however the Applicant aims to retain the trees as they provide screening from adjacent uses as well as shading and habitat value. With this proposal, the Applicant shows dedication to protecting and enhancing the environmental resources onsite while managing a project with many overlapping areas of constraints.

Forest Conservation

Although there is no forest onsite, this Application is subject to Chapter 22A Forest Conservation Law and has included a Final Forest Conservation Plan with this Application. The Forest Conservation Plan shows that within the 10.40-acre site area, and the additional 0.34-acres of offsite work, there will be a calculated afforestation requirement of 1.61-acres. Of this requirement, 0.48-acres will be met onsite via afforestation planting areas to be protected with a Category 1 Conservation Easement. This area is proposed to be withheld from the impacted LOD and enhanced with native plantings. The remaining 1.13-acres of afforestation will be met via credits from an off-site forest bank or via fee-in-lieu, as conditioned.

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/removal of trees that are ≥ 30 " DBH, therefore a variance is required. The Applicant submitted a variance request on August 10, 2021 (Attachment B) for the impacts to nine subject trees and proposed removal of ten subject trees, 19 trees in total, that are considered high-priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Table 1: Trees to be Removed

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
1	Willow Oak	30"	49%	Fair	REMOVE
8	Black Locust	31"	100%	Fair	REMOVE
10	Tulip Poplar	31", 20"	100%	Good	REMOVE
11	Tulip Poplar	30"	100%	Good	REMOVE
20	Hickory	30", 19"	100%	Fair	REMOVE
28	Tulip Poplar	33"	100%	Good	REMOVE
31	Silver Maple	42"	100%	Good	REMOVE
33	Willow Oak	42"	100%	Good	REMOVE
35	Tulip Poplar	37"	100%	Good	REMOVE
42	Tulip Poplar	42"	100%	Good	REMOVE

Table 2: Trees to be Impacted but Retained

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
14	Tulip Poplar	61"	20%	Good	SAVE
15	Tulip Poplar	45"	6%	Good	SAVE
16	Tulip Poplar	50"	5%	Fair	SAVE
19	Tulip Poplar	40", 33", 31"	25%	Fair	SAVE
26A	Tulip Poplar	35"	2%	Good	SAVE
37	Tulip Poplar	49"	7%	Good	SAVE
44	Black Walnut	31"	8%	Good	SAVE
46	Tulip Poplar	60"	2%	Fair	SAVE
49	Tulip Poplar	50"	2%	Good	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 related reasons. For MCPS to implement the full program, this 10-acre site would appear to be quite appropriate; however, after protecting the sensitive site features such as the stream buffer and slopes, respecting the necessary utility easements, and improving site accessibility/circulation, the usable area becomes quite restricted. Without granting this variance, MCPS would be faced with diminished progress towards creating a well-designed school that fosters equity and community connection. The limits of disturbance as well as proposed tree protection and mitigation measures have evolved throughout the review process in order to minimize disturbance and support protection and enhancement of the natural resources of the site. These factors are further supported via conditions of approval of the Final Forest Conservation Plan. Based on the limiting, but necessary, constraints on the site paired with MCPS's goal to provide a community serving facility that will be a lasting resource for years to come, Staff agrees that there is an unwarranted hardship without approval of this variance request.

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 construct a school is in conformance with the County's General plan. Further, any Applicant would be required to adhere to the utility easements onsite and limit impact to sensitive environmental features. 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 concerns related to the improvement of site while adhering to certain constraints. 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 surrounding land uses do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.

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

The development proposal for the site includes the planting of variance mitigation trees, as well as tree plantings as potential replacement for trees not subject to the variance provisions of Chapter 22A but which may be impacted/removed. Additionally, the Applicant proposes to reduce impervious cover within and near the existing stream buffer, provide supplemental plantings and afforestation plantings onsite, and support the native ecological community through removal of

invasive species. Collectively, these actions will improve soil permeability, support the infiltration and uptake of water onsite, and reduce areas contributing to water runoff and erosion.

Further, the Applicant proposes a development which will meet current State and local stormwater management standards while the site currently does not; adherence to the current standards has been verified by the submission, and subsequent approval, of a Stormwater Management Plan to the Department of Permitting Services. MCDPS found the plan acceptable for providing the required stormwater treatment onsite without the use of waivers. Thus, the Application will ultimately result in an improvement of water quality, rather than cause measurable degradation.

Mitigation for Trees Subject to the Variance Provisions

There are ten subject trees proposed for removal in association with this Application. Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. As a result of the proposed removal of ten subject trees, for a total of 348" DBH removed, which results in a mitigation requirement of at least 87 caliper inches of native canopy trees sized at least 3 caliper inches each. The Applicant has proposed a total of 87 caliper inches of trees to be planted in order to meet the mitigation requirements. Staff supports this proposal as it adequately meets the requirements and will greatly enhance the natural features onsite following the proposed development.

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, nine subject trees and to remove ten subject trees associated with the 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. As described in the Stormwater Concept Approval letter from the Montgomery County Department of Permitting services, dated June 29, 2021, stormwater management will be provided onsite through micro-bioretention planters, green roofs, and a structural sand filter. With these measures, the Applicant will meet the required stormwater treatment without the use of waivers.

Conclusion

Staff recommends approval of the Final Forest Conservation Plan, with conditions as enumerated in the Staff Report. Staff also recommends approval of the variance request as submitted on August 10, 2021 and described in this report.

ATTACHMENTS:

Attachment A: Final Forest Conservation Plan

Attachment B: Applicant's variance request letter