



Stonegate Elementary School, Preliminary Forest Conservation Plan, MR2021035

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Description

Request to build new elementary school at 14801 Notley Road.

Location: 15 feet east of intersection Fieldstone Road in Silver Spring, MD

Acreage: 10.26 acres

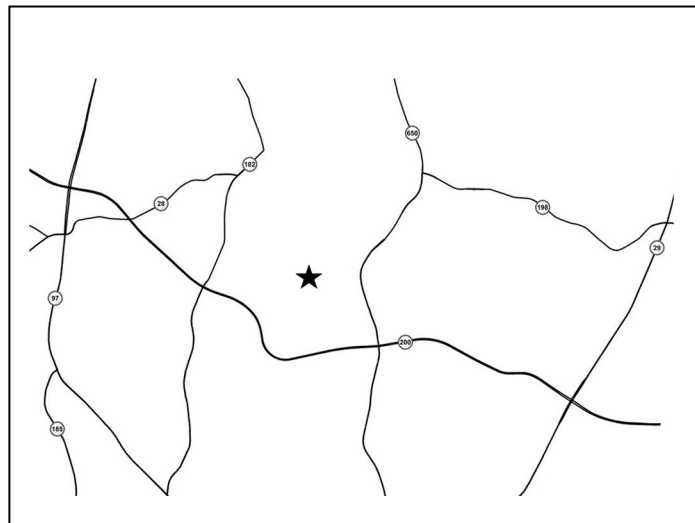
Zone: R-200

Master Plan: 1997 Cloverly Master Plan

Applicant: Montgomery County Public Schools

Accepted Date: July 7, 2021

Review Basis: Chapter 22A



Summary

- There are two items for Planning Board review for this project: The Preliminary Forest Conservation Plan and the Mandatory Referral.
- This memorandum covers Staff review and recommendations for the Forest Conservation Plan. The Planning Board's actions on the Forest Conservation Plan are regulatory and binding. The review and recommendations for the Mandatory Referral are covered in a separate memorandum.
- Staff recommends **approval with conditions** of the Preliminary Forest Conservation Plan
- Meets requirements of Chapter 22A, Forest Conservation Law.
- Staff has not received community correspondence on this application.

RECOMMENDATIONS:

Approval of the Preliminary Forest Conservation Plan ("PFCP") and variance request with the following conditions:

1. Applicant must submit revised PFCP to change variance tree mitigation plantings to reflect eight (8) variance trees totaling 263 DBH inches and providing a minimum of 66.75 caliper inches of mitigation, prior to approval of the PFCP.
2. Applicant must submit a Final Forest Conservation Plan ("FFCP") that is consistent with the approved Preliminary Forest Conservation Plan for review and approval prior to the issuance of the Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services ("DPS") for the Subject Property.
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 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 Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 66.75 caliper inches 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.
5. 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

The Stonegate Elementary School site consists of 10.26 acres, Parcels C and D, B. 3612 P. 689 and B. 4022 P. 421 respectively located at 14811 Notley Road, Silver Spring ("Site") and zoned R-200. The site is bounded to the north and south by residential development, to the west by Notley Road, and to the east by Montgomery Park property. A stream valley buffer for Rolling Stone Tributary (a tributary of Northwest Branch) exists on the south and east sides of the site. There is 0.92 acres of forest onsite along the east and south east portions of the Site. Additionally, individual trees ring the existing school use. The Site is within the boundaries of the 1997 Cloverly Master Plan.

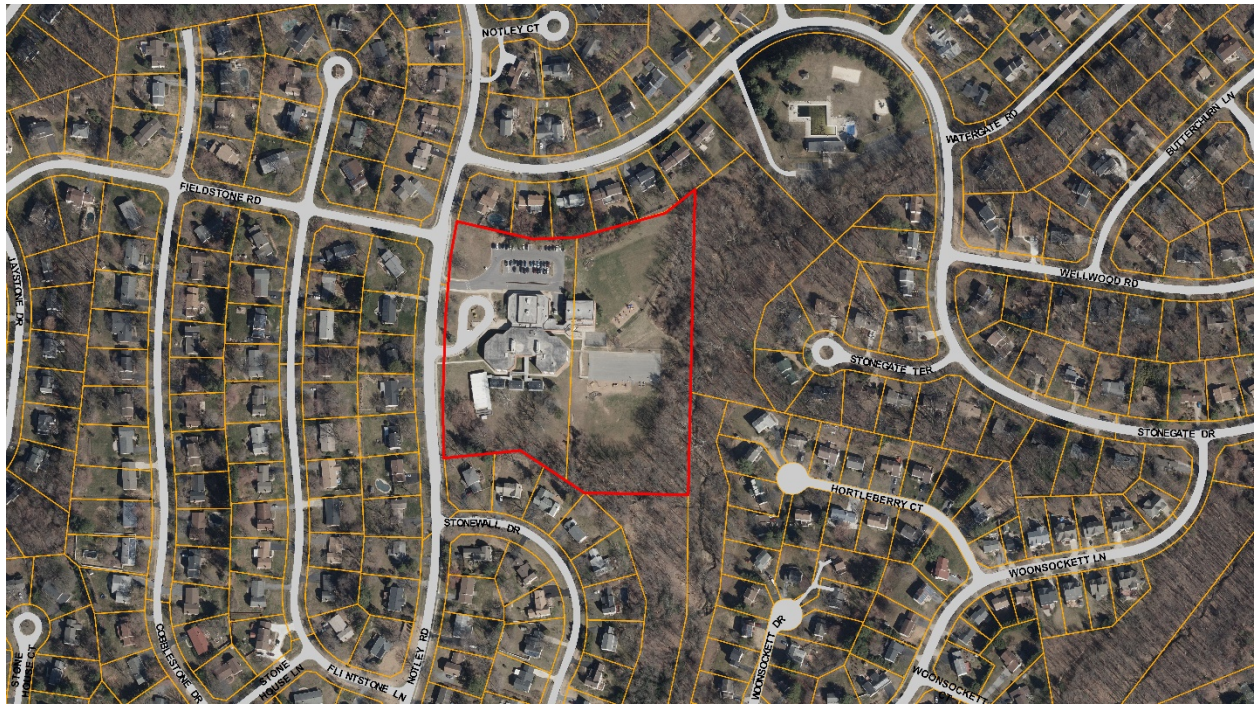


Figure 1: Aerial Photograph of the Vicinity



Figure 2: Aerial Photograph of the Site

PROJECT DESCRIPTION

Montgomery County Public School ("Applicant") is proposing to build the new Stonegate Elementary School. The project is proposed to be completed in July of 2023. The school will provide program spaces for Pre-Kindergarten, Kindergarten, and Grades 1 through 5 when completed.

The proposed site plan situates the new building near the northern center of the site, the parking, bus loop and student drop-off loop are located on the western side of the site along Notley Road, and the ballfields and play areas are located on the southeastern portion of the site.

The existing school, temporary classrooms, play areas and associated infrastructure are planned to be removed and replaced by a new building, play areas and associated infrastructure. The foundation of the existing gymnasium wing will remain and continue to be used for the new building. The new 3-story building includes approximately 84,130 square feet of gross floor area.

The new school will increase the program capacity of the school and will provide an enhanced learning environment for the students.

The plans include two drop off and parking loops that connect to Notley Road. The north loop will be used for school bus drop off and faculty parking and the south loop will be used for student drop off and additional faculty and visitor parking. ADA compliant paths will be provided to the building and the various play areas from the drop off loops and parking areas. In addition, concrete walk connections will be installed to provide access to the walks next to Notley Road.

Stormwater management requirements for the project will be met with the installation of micro-bioretenion facilities and bio swales that were chosen due to their ability to conform to existing site features. These practices will be concentrated around vehicular impervious areas whenever possible but will also be used to manage runoff from the building rooftop and play areas.

Utilities, including water, sewer, gas, and electric services will support the needs of the new facility.

FOREST CONSERVATION PLAN AMENDMENT ANALYSIS AND FINDINGS

The Application meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

Review for Conformance to the Forest Conservation Law

The Application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) under Section 22A-4(d) as a project by *“a government entity subject to a mandatory referral on a tract of land 40,000 square feet or larger...”* The Site included in the Application is 10.26 acres in size, 14811 Notley Road, Silver Spring, MD.

Environmental Guidelines

A Natural Resources Inventory and Forest Stand Delineation (NRI/FSD) #420211510 was approved by Staff on March 12, 2021. The Site is within the Northwest Branch watershed, a Use IV designation. The Site contains 0.92 acres of forest, Stream Valley Buffer (SVB), and 100-year Floodplain. The Subject Property is not located within a Special Protection area or the Patuxent Management Area.

Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law (“FCL”). As required by Chapter 22A, a Preliminary Forest Conservation Plan (“PFCP”) was submitted with this Mandatory Referral Application. The total net tract area for forest conservation purposes is 10.42 acres which includes the Subject Property of 10.27 acres, plus off-site work of 0.15 acres of offsite improvements. The property is zoned R-200 and is classified as High Density Residential (“HDR”) as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Subject Property contains 0.92 acres of forest and is clearing or counted as clearing in the worksheet 0.61 acres. This results in a total afforestation requirement of 1.86 acres as calculated in the Forest Conservation Worksheet. The Applicant is proposing to meet this afforestation requirement by planting 1.92 acres of forest onsite protecting it with a Category I Conservation Easement (**Figure 3**).

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that there be no impact to: trees that measure 30 inches or greater diameter breast height (“DBH”); are part of an historic site or designated with an 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 high priority vegetation, including disturbance to the 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. Staff determined that

development of the Site requires impact to trees identified as high priority for retention and protection (Protected Trees). The Applicant has submitted a variance request for these impacts.

Variance Request

The Applicant submitted a variance request in a letter dated June 15, 2021, for the impact to eleven variance trees (Attachment C). The Applicant proposes to impact three protected trees and remove eight that are 30 inches or greater, DBH and are considered a high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. Details of the protected trees to be impacted or removed are provided in **Table 1** and shown graphically in **Figure 4**.

Unwarranted Hardship Basis

Pursuant to Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of the Subject Property. The Applicant contends that an unwarranted hardship would be created due to existing conditions on the Site and the development requirements for the Site. The Site contains eleven trees subject to the variance provision which will be impacted by this Application.

If MCPS was 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.

Variance Findings

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, for a variance to be granted. The following findings are required in the review of the variance request and the PFCP:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*
Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Subject Property. Granting a variance to allow land disturbance within the developable portion of the Subject Property is not unique to this Applicant. Granting of this variance is not a special privilege that would be denied to other applicants.
2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*
The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based on existing site conditions, including the location of the Protected Trees within developable area of the Subject Property, the new school construction, proposed utilities, and site grading.
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 need for a variance.
4. *Will not violate State water quality standards or cause measurable degradation in water quality.*
The Variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being impacted are not located within a stream buffer, wetland, or a special

protection area. Additional trees will be planted on the Subject Property as part of the forest conservation requirements.

In addition, the Montgomery County Department of Permitting Services (MCDPS) is reviewing a stormwater management concept for the proposed project. The stormwater management concept incorporates Environmental Site Design standards.

Mitigation for Protected Trees

There are eight trees proposed for removal in this Variance request resulting in a total of 263 inches of DBH being removed. The FCP includes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every 4 inches removed using trees that are a minimum of 3 caliper in size. This results in a total mitigation of 65.75 inches with an installation of 22 3-inch caliper trees.

Although these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost by the removal of these trees. These mitigation trees must be overstory trees native to the Piedmont Region of Maryland on the installed on the Subject Property outside of any rights-of-way and/or utility easements. It has been M-NCPPC policy not to require mitigation for specimen trees removed within forest stands since the removal of the forest stand is compensated for through the Forest Conservation Worksheet.

Variance Recommendation

Staff recommends Approval of the requested tree variance.

CONCLUSION

Staff recommends the Planning Board approve the Amended Final Forest Conservation Plan and the Amended Preliminary/Final Water Quality Plan with conditions specified above.

Attachments:

1. Final FCP Amendment Plan
2. Variance Request



FOREST CONSERVATION WORKSHEET
Stonegate Elementary School

NET TRACT AREA:

A. Total tract area ...	10.27
B. Additions to tract area (Off-Site Work, etc.; construction required by this plan)...	0.15
C. Land dedication acres (parks, county facility, etc.) ...	0.00
D. Land dedication for roads or utilities (construction not required by this plan) ...	0.00
E. Area to remain in commercial agricultural production/use ...	0.00
F. Other deductions (specify)	0.00
G. Net Tract Area	10.42

LAND USE CATEGORY: (from Chapter 22A-3. Definitions)

Input the number "1" under the appropriate land use, limit to only one entry.

ARA	MDR	IDA	HDR	MPD	CIA
0	0	0	1	0	0

G. Afforestation Threshold ...	15%	x G =	1.56
H. Conservation Threshold ...	20%	x G =	2.08

EXISTING FOREST COVER:

I. Existing forest cover	0.92
J. Area of forest above afforestation threshold	0.00
K. Area of forest above conservation threshold	0.00

BREAK EVEN POINT:

L. Forest retention above threshold with no mitigation	0.00
M. Clearing permitted without mitigation	0.00

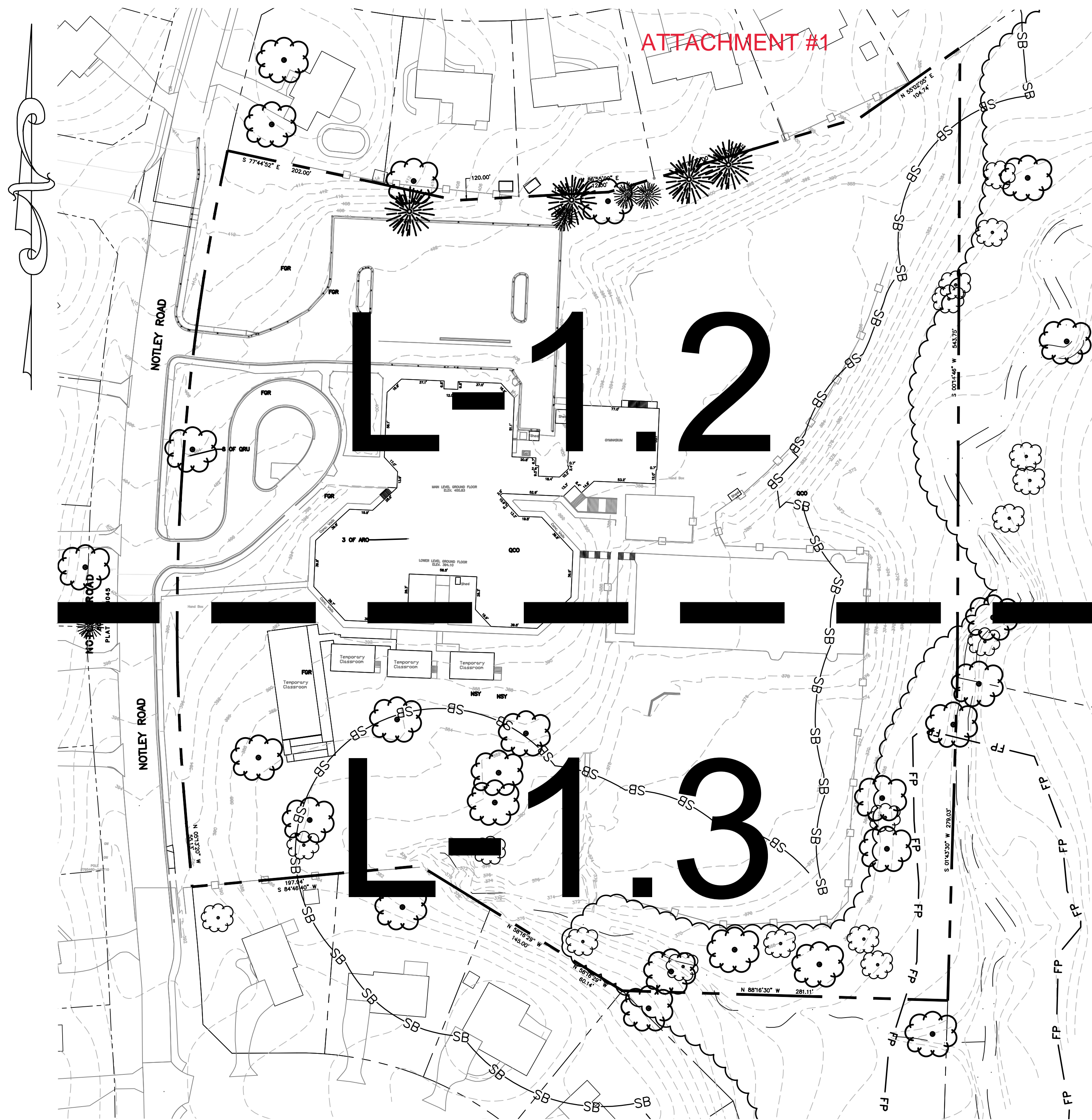
PROPOSED FOREST CLEARING:

N. Total area of forest to be cleared	0.61
O. Total area of forest to be retained	0.31

PLANTING REQUIREMENTS:

P. Reforestation for clearing above conservation threshold	0.00
Q. Reforestation for clearing below conservation threshold	1.22
R. Credit for retention above conservation threshold	0.00
S. Total reforestation required	1.22
T. Total afforestation required	0.64
U. Credit for landscaping (may not exceed 20% of "S")	0.00
V. Total reforestation and afforestation required	1.86

ATTACHMENT #1



SITE TABULATIONS:

ACREAGE OF TRACT:	10.42*
ACREAGE OF TRACT REMAINING IN AGRICULTURE:	0
ACREAGE OF ROAD AND UTILITY R/W WHICH WILL NOT BE IMPROVED AS PART OF DEV. APPLICATION:	0
ACREAGE OF EX. FOREST:	0.92
ACREAGE OF TOTAL FOREST RETENTION:	0.31
ACREAGE OF TOTAL FOREST CLEARED:	0.61**
LAND USE CATEGORY:	HDR
AFFORESTATION THRESHOLD	1.56
CONSERVATION THRESHOLD	2.08
ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN WETLANDS	0.00/0.00/0.00
ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN 100-YEAR FLOODPLAIN	0.17/0.00/0.00
ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN STREAM BUFFERS	0.31/0.61**/1.98
ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITH PRIORITY AREAS	0.00/0.00/0.00
LINEAR EXTENT & AVERAGE WIDTH OF STREAM BUFFER	260'/125'

TOTAL DBH INCHES OF SPECIMEN TREES REMOVED***	233
X 0.25 = REQUIRED CALIPER INCHES MITIGATION	59
TOTAL AMOUNT OF 3" CAL. TREES FOR SPECIMEN TREE MITIGATION	20

*TOTAL TRACT AREA PLUS 0.05 AC OF OFFSITE LOD
**0.60 AC OF CLEARING IS FOR COMPUTATIONS ONLY

OVERALL SITE

SCALE: 1" = 60'-0"

GENERAL FCP NOTES:

- ROOT PRUNE TRENCH IS NOT TO IMPACT UTILITIES.

- THE EXTENT OF ROOT PRUNING IS TO BE DETERMINED AT THE PRECONSTRUCTION MEETING.

- NO CLEARING IS TO TAKE PLACE OUTSIDE OF THE LIMITS OF DISTURBANCE.

- AREAS SHOWN TO BE CLEARED OUTSIDE OF THE LIMITS OF DISTURBANCE ARE FOR CALCULATIONS ONLY.

SITE PLANTING NOTE:

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

INSPECTIONS

All field inspections must be requested by the applicant.

Field Inspections must be conducted as follows:

Plans without Planting Requirements

- After the limits of disturbance have been staked and flagged, but before any clearing or grading begins.
- After necessary stress reduction measures have been completed and protection measures have been installed, but before any clearing and grading begin and before release of the building permit.
- After the completion of all construction activities, but before removal of tree protection fencing, to determine the level of compliance with the provision of the forest conservation.

Additional Requirements for Plans with Planting Requirements

- Before the start of any required reforestation and afforestation planting.
- After the required reforestation and afforestation planting has been completed to verify that the planting is acceptable and prior to the start the maintenance period.
- At the end of the maintenance period to determine the level of compliance with the provisions of the planting plan, and if appropriate, release of the performance bond.

CERTIFICATION OF QUALIFIED PROFESSIONAL

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

6.25.2021
DATE

MICHAEL A. NORTON
MDNR / COMAR 08.19.06.01
QUALIFIED PROFESSIONAL

NORTON LAND DESIGN
LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING
5400 DORSETT HALL DRIVE, 2ND FLOOR
BELLCASTLE CITY, MD 21104
P 410.542.9199 WWW.NORTONLANDDESIGN.COM

WATER CLASS	IV	WATERSHED	NORTHWEST BRANCH	LOCAL JURISDICTION	ROLLING STONE
TAX MAP	J3341	200 SHEET	220NW01	ADC MAP	24031C0360D
SCALE	AS SHOWN	DATE	JUNE 2021	PROJ. NO.	20-121
				SHEET NO.	L-1.1

LEGEND

EXISTING SIGNIFICANT TREE ≥24" AND ≤30"DBH WITH TAG NUMBER & CRZ

EXISTING SPECIMEN TREE ≥30"DBH WITH TAG NUMBER & CRZ

PROPERTY BOUNDARY

ADJ. PROPERTY BOUNDARY

FOREST TREELINE

EX. CONTOUR

TOP OF STREAM BANK

125'+ STREAM BUFFER

FEMA 100YR FLOODPLAIN

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

- An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged and before any land disturbance.
- 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 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.
 - Typical tree protection devices include:
 - Chain link fence (four feet high)
 - Super silt fence with wire string between the support poles (minimum 4 feet high) with high visibility flagging.
 - 14 gauge, 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.
 - Typical stress reduction measures may include, but are not limited to:
 - Root pruning with a root cutter or vibratory plow designed for that purpose. Trenchers are not allowed, unless approved by the Forest Conservation Inspector
 - Crown Reduction or pruning
 - Watering
 - Fertilizing
 - Vertical mulching
 - Root aeration systemsMeasures 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.
- A Maryland Licensed Tree expert must perform, or directly supervise, the implementation of all stress reduction measures. Documentation of the process (including

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- photographs) may be required by the Forest Conservation Inspector, and will be determined at the pre-construction meeting.
- 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.
 - Tree protection fencing must be installed and maintained 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:
 - Parking or driving of equipment, machinery or vehicles of any type.
 - Storage of any construction materials, equipment, stockpiling, fill, debris, etc.
 - Dumping of any chemicals (i.e., paint thinner, mortar or concrete remainder, trash, garbage, or debris of any kind).
 - Felling of trees into a protected area.
 - Trenching or grading for utilities, irrigation, drainage, etc.
 - 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

- 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.
- The property owner must immediately notify the Forest Conservation Inspector of any damage to trees, forests, understorey, 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

- 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:
 - Removal, and possible replacement, of dead, dying, or hazardous trees
 - Pruning of dead or declining limbs
 - Soil aeration
 - Fertilization
 - Watering
 - Wound repair
- 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.
- 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.

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February 2017

DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. MR2021035, including, financial bonding forest planting, maintenance, and all other applicable agreements.

Developer's Name:

MONTGOMERY COUNTY PUBLIC SCHOOLS

Contact Person or Owner:

GARY MOSEMAN
DIRECTOR, DIVISION OF FACILITIES MANAGEMENT, MCPS

Printed Name:

Address:

45 WEST GUDE DRIVE, SUITE 4300, ROCKVILLE, MD 20850

Phone and Email:

Gary_D_Moseman@mcpsmd.org

Signature:

ARCHITECT



9211 CORPORATE BLVD, SUITE 340
ROCKVILLE, MD 20850
301-770-5177(P) 301-330-3224(F)

CIVIL

MACRIS, HENDRICKS & GLASCOCK, P.A.
9220 WIGHTMAN RD, SUITE 120
MONTGOMERY VILLAGE, MD 20886

(301) 670-6840

KITCHEN

NYIKOS-GARCIA
FOODSERVICE DESIGN INC.
7146 STARMOUNT WAY NEW MARKET, MD 21774

(240) 683-9530

STRUCTURAL

COMPREHENSIVE

STRUCTURAL SOLUTIONS, LLC

9220 WIGHTMAN ROAD, SUITE 120,
MONTGOMERY VILLAGE, MD 20886
(240) 200-5569

MECH/ELECTRICAL/PLUMBING

JAMES POSEY
ASSOCIATES INC.
11155 RED RUN BLVD, OWINGS MILLS, MD 21117

(410) 265-6100

LEED

DOO CONSULTING

531 PICCADILLY RD, TOWSON, MD 21204

(443) 653-3792

CONSTRUCTION MANAGER

KELLER CONSTRUCTION CO.

1012 RISING RIDGE ROAD, MT. AIRY, MD 21771

(301) 607-9300

PROFESSIONAL SEAL:

PRINTS ISSUED

NO.	DESCRIPTION:	DATE:
1	DD PRICING SET	04/02/2021
2	DD IAC SUBMISSION	04/30/2021

NOT FOR

CONSTRUCTION

STONEGATE

ELEMENTARY

SCHOOL

MONTGOMERY

COUNTY PUBLIC

SCHOOLS

SHEET TITLE:

FINAL FOREST
CONSERVATION PLAN –
OVERALL DRAWING KEY

PROJECT NO:

20008

DATE:

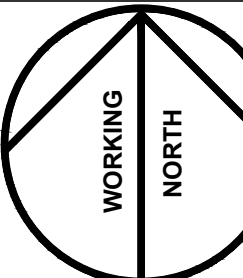
6.25.2021

SCALE:

AS SHOWN

SHEET NO:

L-1.1





June 15, 2021

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

Re: Stonegate Elementary School
Request for Specimen Tree Variance
MR# - MR2021035
NRI# - 420211510
Norton# 20-121

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 Stonegate Elementary, located at 14811 Notley Road, in Silver Spring, Montgomery County, Maryland. This is a 10.27-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 Park & Planning property to the east. The site has vehicle access from Notley Rd.

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 or other conditions which would cause the unwarranted hardship;
- (2) Describe how enforcement of this Chapter 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 or other conditions 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 the 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 eleven (11) specimen trees. Eight (8) 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 this Chapter 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 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 (SF)	IMPACTS (%)	Tree Condition	Comments	Status	Variance	Mitigation	Impact Comments
2	ACER RUBRUM	RED MAPLE	48	16286	5642	35	GOOD	SPLIT @ 5'. OFFSITE	SAVE/PROTECT	YES	NO	PROPOSED DUMPSTER AND GENERATOR BOX
3	QUERCUS RUBRA	RED OAK	30	6362	569	9	GOOD	OFFSITE	SAVE/PROTECT	YES	NO	GRADING AND STORMWATER MANAGEMENT
5	QUERCUS PALUSTRIS	PIN OAK	32	7238	7238	100	GOOD	MINOR BROKEN BRANCHES	REMOVE	YES	YES	NEW DRIVE AISLE
9	ACER RUBRUM	RED MAPLE	45	14314	14314	100	GOOD		REMOVE	YES	YES	GRADING AND NEW DRIVE AISLE
10	ACER RUBRUM	RED MAPLE	30	6362	1619	25	FAIR	LEANING. BROKEN BRANCHES	REMOVE	YES	NO	GRADING AND STORMWATER MANAGEMENT
13	PLATANUS OCCIDENTALIS	SYCAMORE	51	18385	9831	53	GOOD	MINOR BROKEN BRANCHES. KNOBS IN TRUNK	REMOVE	YES	YES	GRADING AND NEW DRIVE AISLE
14	ACER RUBRUM	RED MAPLE	34	8171	8171	100	FAIR	BROKEN BRANCHES. SPLIT @ 5'	REMOVE	YES	YES	UTILITIES AND NEW PLAY AREA
15	QUERCUS PALUSTRIS	PIN OAK	32	7238	149	2	FAIR	SLIGHT LEAN. BROKEN BRANCHES.	SAVE/PROTECT	YES	NO	UTILITIES AND NEW PLAY AREA
45	PINUS STROBUS	WHITE PINE	33	7698	2866	37	FAIR	THINNED CANOPY	REMOVE	YES	YES	STORMWATER MANAGEMENT
48	QUERCUS PALUSTRIS	PIN OAK	38	10207	10207	100	FAIR	MANY BROKEN BRANCHES	REMOVE	YES	YES	STORMWATER MANAGEMENT
49	PINUS STROBUS	WHITE PINE	30	6362	6362	100	FAIR	THINNED CANOPY	REMOVE	YES	YES	NEW PLAY AREA AND STORMWATER MANAGEMENT

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,

A handwritten signature in black ink, appearing to read 'Michael Norton', with a stylized, cursive script.

Michael Norton