

Note: Variance trees 15, 16, 17, and 18, also being removed during this phase, have been previously approved for removal during the Preliminary Forest Conservation Plan Approval H

Mitigation

All twenty two (22) of the trees listed above are outside of forest stand areas and are inadequate to a conglomerated DBH of 2.97. This yields a requirement of sixty one (61) 3.5 caliper trees for mitigation caliper replacement for every 4 . All of these replacement trees are provided onsite as indicated in the Forest Conservation Plan throughout the site as street trees and within park. The following table lists the proposed mitigation trees for the site:

TREE VARIANCE MITIGATION PLANTING SCHEDULE					
Qty #	COMMON NAME	BOTANICAL NAME	CAL	B&B / CONT.	REMARKS
8	Red Maple	<i>Acer rubrum</i>	3.5 cal.	B&B	Full, Limb to 7' from ground
13	Honey Locust	<i>Gleditsia triacanthos</i>	3.5 cal	B&B	Full, Limb to 7' from ground
7	Willow Oak	<i>Quercus phellos</i>	3.5 cal	B&B	Full, Limb to 7' from ground
6	Swamp White Oak	<i>Quercus bicolor</i>	3.5 cal	B&B	Full, Limb to 7' from ground
27	American Basswood	<i>Tilia americana</i>	3.5 cal	B&B	Full, Limb to 7' from ground
61	Total 3.54				
214	Total Cal. Replaced				

Additional Application Requirements

-21(b) of the Application Requirements states that

the applicant must:

- (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) provide any other information appropriate to support the request.

(1) Pursuant to (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship

There are recommendations for the Project site as stipulated in the applicable Master Plan (Rock Spring Se Plan) and as supplanted by the Rock Spring and White Flint 2 Design Guidelines provide guidance that turn restricts development on the site and necessitates the removal and impact of fourteen (14) specimen trees.

The eleven (11) trees in Group 4 fronting Fernwood Road are to be removed because of master planned road improvements. During the preliminary plan review, MCDOT and MNCPPC have requested that t

sidewalk in front of the building be shifted away from the bike lane to enhance pedestrian safety which also further impacts the existing trees. The addition of a wider sidewalk shifted onto the property and a bike lane under this application will cause insurmountable impacts to the critical root zone of these eleven (11) trees.

In consultation with Don Zimar, RPF #377, RCA #446, it was determined that the canopies of the trees located on the Fernwood Road frontage extend 30-40 feet into the site requiring significant pruning in order to construct the proposed buildings. Even with a high level of commitment and attention to detail, the high level of activity caused by development will cause substantially high risk. He concluded that given the level of effort required, high risk of failure, and effect on design objectives, it is not recommended to preserve these trees.

The remaining seven (7) trees in Group 1 and Group 3 are to be removed due to the removal of the existing parking lot, existing building, and site landscaping areas, along with the new infrastructure required for roads, utilities and stormwater, where the Sector Plan and Design Guidelines recommend that new development be located.

This phase of the plan is the construction of the Building 1.1 and 1.2, the construction of Connector Internal Drive, Health Center Internal Drive, and Garage Internal Drive, and the relocation of Shared Entrance Drive. Future phases are to retain the existing garage on-site per the master plan's recommendation and to re-use a portion of the existing development which limits the location of new development on-site. Other trees will be impacted or removed in later phases.

As these development guidelines are recommended by the County, **it would cause an unwarranted hardship** to the developer to both maintain the twenty-six (26) specimen trees without impact and meet the requests of the applicable Master Plan and Design Guidelines.

(2) Pursuant to “(2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas”:

Enforcement of a prohibition of impacting the specimen trees would **deprive the applicant of the rights commonly enjoyed by others** who are in similar areas that have many of the same features as the subject property. The recommendations of the Master Plan and Design guidelines apply to the Rock Spring Central area, which is characterized by office buildings containing similar form and planting patterns.

The six trees in Group 1 and Group 2 are all within the existing office building and parking lot which, according to the new Design Guidelines, new development should be supported (Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans, p. 44). These trees are also impacted by shifting the Shared Entrance Drive to enhance and expands the open space network and greenway connector link through the Rock Spring neighborhood in order to improve open spaces and the environment per the master plan and design guidelines. (Rock Spring Sector Plan pg. 42-48, 54-57, and 60).

The eleven (11) trees in Group 4 fronting Fernwood Road are to be removed because of master planned road improvements, a relocated water line, and proposed buildings required to front onto Fernwood Road

per the above master plan and guidelines (see Figure 3.19 Rock Spring Central Concept Diagram on page 57 and Figure 3.21 Illustrative Plans of Marriott International Headquarters Site Showing a Potential Redevelopment Scenario). During the preliminary plan review, MCDOT and MNCPPC have requested that the interim Fernwood Road cross section (Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans p. 75) be constructed from the centerline to the property line with the addition of the sidewalk in front of the building be shifted away from the bike lane to enhance pedestrian safety which also further impacts the existing trees. Fire and Rescue also asked for an additional 1' of lane width for travel per code as well. The addition of a wider sidewalk shifted onto the property, a bike lane, a wider drive lane, the removal of a water line, and buildings fronting the street which are all recommended in the Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans will cause insurmountable impacts to the critical root zone of these fourteen (14) trees.

(3) Pursuant to “(3) verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance”:

The applicant recognizes that the Cabin John Creek Watershed is in poor health and that in concept, the removal of fourteen (14) specimen trees in Groups 1 and 2 may arouse concern for the potential further degradation of its waters, specifically of Thomas Branch. However, no specimen trees within stream valley buffer to be removed. During this phase, the entrance drive is being shifted away from the stream and parking removed in the stream valley buffer as well which will enhance the water quality of the stream. New stormwater devices are proposed as well to enhance the water quality of the stream. All other trees proposed to be removed are outside the stream valley buffer in areas recommended for development or required as part of master plan improvements. Stormwater regulations have revolutionized since the 1980's when the thirty existing trees were planted. The applicant is confident that the stormwater facilities installed in conjunction with the new development will not just protect the current water quality, but enhance it, and that **granting this variance will not violate state water quality standards.**

(4) Pursuant to “(4) provide any other information appropriate to support the request”: While the proposed development necessitates the impact to seven specimen trees, it will mitigate a portion of those trees on-site.

Minimum criteria for Variance

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) will confer on the applicant a special privilege that would be denied to other applicants;
- (2) is based on conditions or circumstances which are the result of actions by the applicant;
- (3) arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
- (4) will violate State water quality standards or cause measurable degradation in water quality

Pursuant to “(1) will confer on the applicant a special privilege that would be denied to other applicants”:

The use of this site for a continuing care retirement community (CCRC) is a permitted and approved use in the underlying CR zone for this project site. The Design Guidelines recommend acceptance of new

development in the Rock Spring Central area, including infill buildings, adaptive reuse, and tear downs. In addition, the neighboring Montgomery Row property was approved to remove specimen trees in order to construct new development in accordance with the Rock Spring Sector Plan. As such, development of the site and the subsequent tree impact is **not a special privilege** to be conferred upon the applicant.

Pursuant to “(2) is based on conditions or circumstances which are the result of actions by the applicant; and (3) arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property”

The applicant has taken no **actions leading to the conditions or circumstances** that are the subject of this variance request. Furthermore, the surrounding land uses do not have any **inherent characteristics that have created** this particular need for a variance.

Pursuant to “(4) will violate State water quality standards or cause measurable degradation in water quality”

Per the previous response, the applicant restates its confidence that granting this variance request **will not violate State water quality standards or cause measurable degradation in State water quality standards.**

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

Sincerely,
SOLTESZ

Keely D. Lauretti