



September 30, 2021

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

Re: Neelsville Middle School
Request for Specimen Tree Variance
MR# -
NRI# - 420211360
Norton# 20-104

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 middle school. Neelsville Middle School is located at 11700 Neelsville Church Rd, in Germantown, Montgomery County, Maryland. This is a 29.17-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 all sides, as well as Neelsville Presbyterian Church on the north side. The site has vehicle access from Neelsville Church Road.

Proposed construction consists of a new building to replace the existing, new parking circulation, new athletic/play 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 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 three (3) specimen trees. Zero (0) 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 impact as little amount of forest and specimen trees as possible while providing the desired school site design.

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 existing school demolition and proposed bus drive aisle/parking. 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 existing building would fail to be demolished, restricting the new school building to be built. The bus drive aisle will also fail to be placed in the back of the school building as desired.

- (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: No specimen trees will be removed as part of the development. Trees to be removed will be subsequently replaced through onsite landscaping, sustaining and/or improving the overall site tree canopy. Additionally, the limits of disturbance has been designed to preserve the majority of the onsite forest; the applicant will be placing 11.16 acres of the existing 11.53 acres forest into a Category 1 Conservation Easement for long term protection.

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 & religious institutions) 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.

Significant/SpecimenTree Summary 24" + Variance Table								
Tree	Species (Scientific Name)	Species (Common Name)	D.B.H (inches)	Tree Condition	Comments	Disposition	Variance	Mitigation
#							Required	Required
34	QUERCUS MONTANA	CHESTNUT OAK	41	GOOD		SAVE/PROTECT	YES	NO
150	QUERCUS MONTANA	CHESTNUT OAK	33	GOOD		SAVE/PROTECT	YES	NO
156	QUERCUS MONTANA	CHESTNUT OAK	36	GOOD		SAVE/PROTECT	YES	NO

Conclusion:

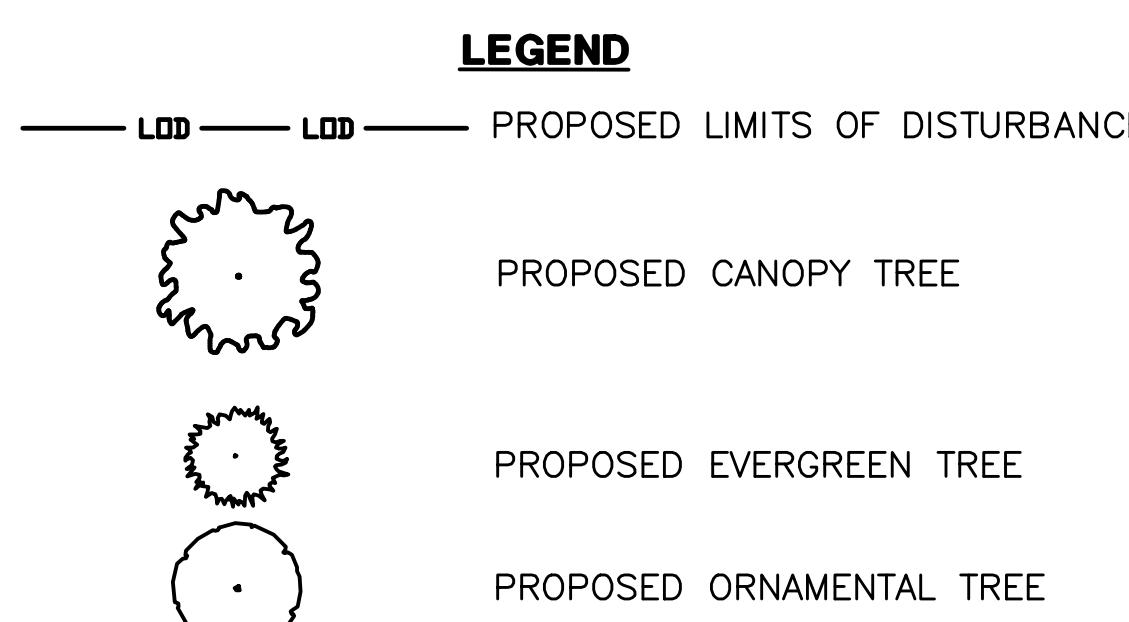
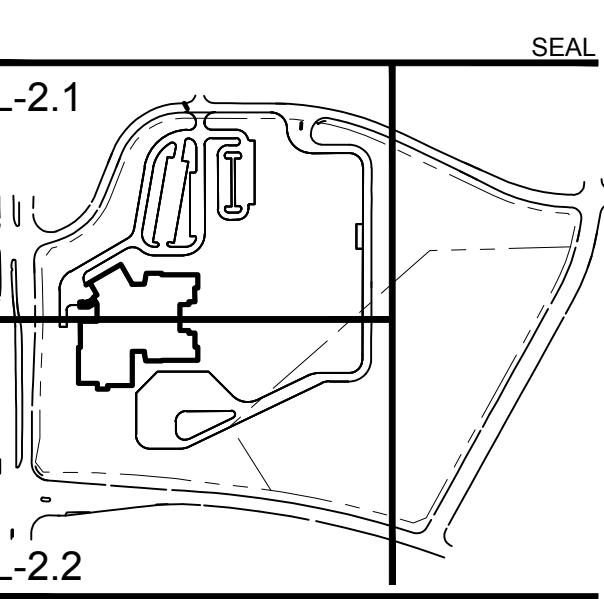
For the above reasons, the applicant respectfully requests that the Planning Board APPROVE its request for a variance from the provisions of Section 22A of the Montgomery County Forest Conservation Ordinance, and thereby, GRANTS permission to impact/remove the specimen trees in order to allow the construction 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

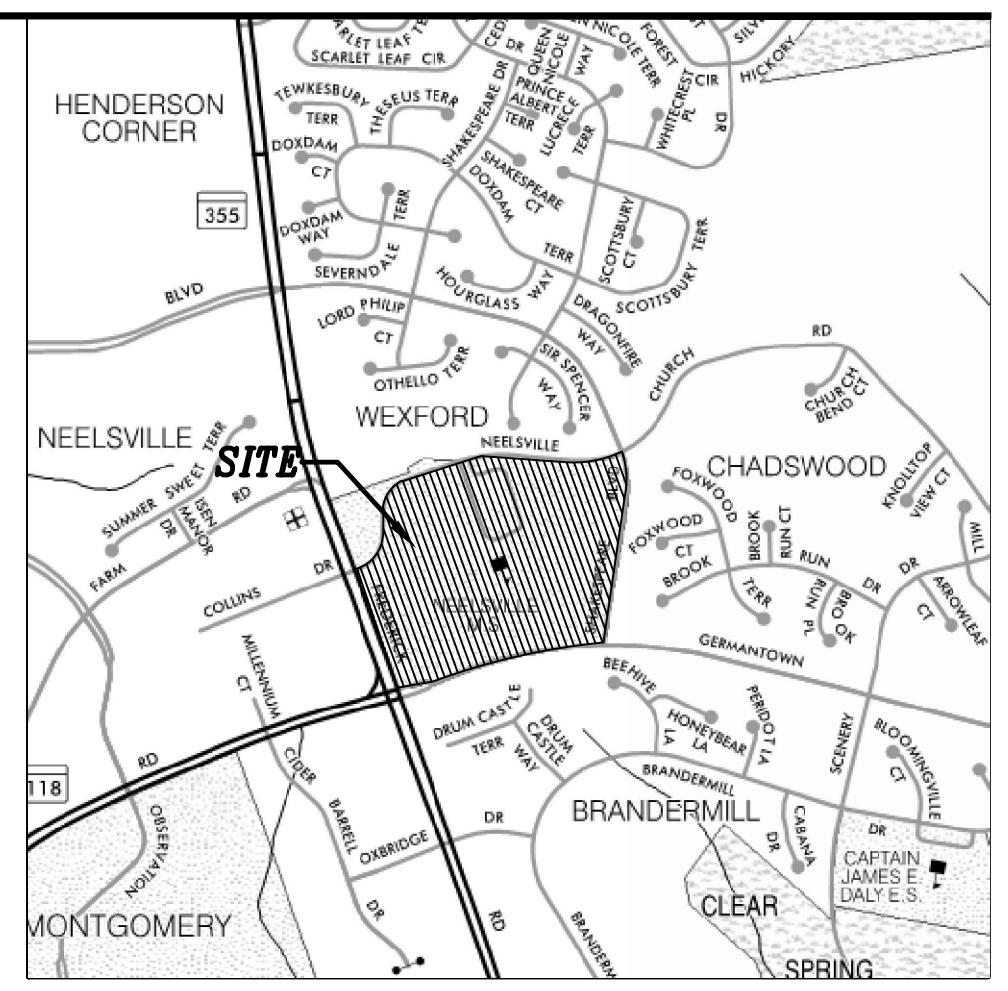


NORTON LAND DESIGN
LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING
5146 DORSEY HALL DRIVE, 2ND FLOOR
ELLIOTT CITY, MD 21042
P.443.542.9199
WWW.NORTONLANDDESIGN.COM

LANDSCAPE PLANTING PLAN
SCALE:
L-2.1

MANDATORY REFERRAL SUBMISSION
NOT FOR CONSTRUCTION
OCTOBER 25, 2021

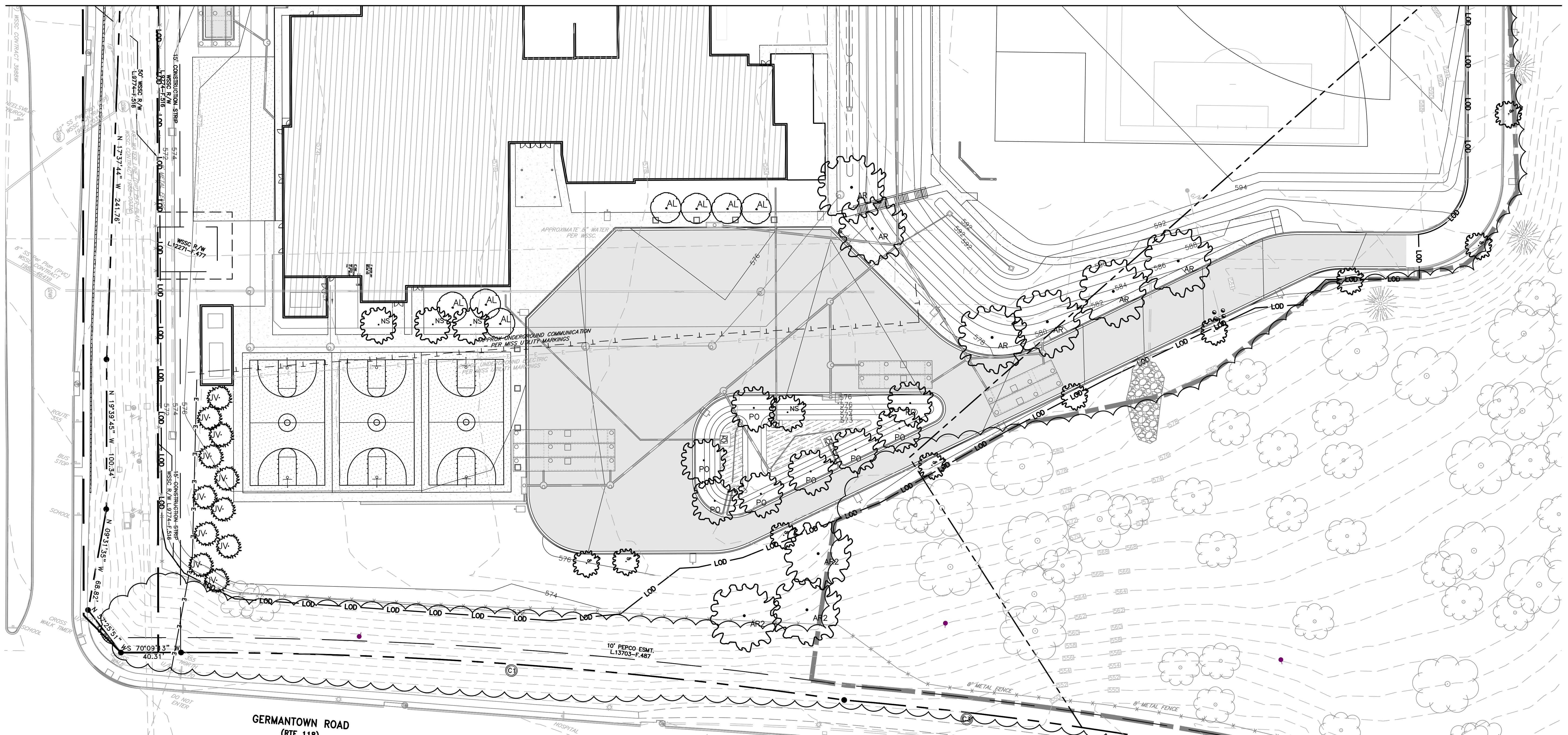
NO DATE ISSUE
09/30/2021 MANDATORY REFERRAL



VICINITY MAP
SCALE: 1" = 2,000±
(WSSC GRID: 228 NW 11/12)
MONTGOMERY COUNTY
ADC MAP PAGE: 33
GRIDS: C-2
(2011 EDITION)



MATCHLINE SHEET L-2.1



GERMANTOWN ROAD
(RTE 118)

- LEGEND**
- LOD LOD PROPOSED LIMITS OF DISTURBANCE
 - PROPOSED CANOPY TREE
 - PROPOSED EVERGREEN TREE
 - PROPOSED ORNAMENTAL TREE
 - STORMWATER MANAGEMENT FACILITY
 - PROPOSED CATEGORY 1 CONSERVATION EASEMENT
(SEE FCP FOR FURTHER DETAILS)
 - SOD STABILIZATION AREA

OWNER/APPLICANT
MONTGOMERY COUNTY PUBLIC SCHOOLS
ATTENTION: ROBBIE BADSTIBNER
45 WEST GUIDE DRIVE, SUITE 4300
ROCKVILLE, MD 20850
(240) 314-1018
ROBBIE_S_BADSTIBNER@CPSMD.ORG

GRAPHIC SCALE
(IN FEET)
1 inch = 30 ft

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LANDSCAPE
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PLAN

SCALE:

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