



February 2, 2023

Maryland National Capital Park & Planning Commission
2425 Reedie Drive
Wheaton, MD 20902

Re: The Diener School FFCP
MHG Project No. 22.181.11

To Whom It May Concern:

On behalf of The Diener School, the applicant of the above referenced Forest Conservation Plan, we hereby request a variance from Section 22A-12.b(3)(C) of the Montgomery County Code, Chapter 22A for the removal of three specimen trees and impact of four specimen trees, as required by the Maryland Natural Resources Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code. The proposed removal of three trees and impacts to four trees over thirty inches satisfies the variance application requirements of section 22A-21(b).

1. *Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The Diener School is renovating an existing building, adding an addition and making improvements to the site for vehicular circulation and stormwater management. The total property area subject to the associated forest conservation plan includes 2.52 acres with a total of 0.19 acres of forest. The property slopes from the back toward Old Georgetown road with approximately 30-feet of grade change from west to east. The back of the property contains a small area of forest and a large amount of bamboo. As part of the proposed improvements to the property, MNCPPC Transportation Planning Staff has requested that the master planned frontage improvements be built prior to use and occupancy. These frontage improvements will require an approximately 22-foot wide section in the right-of-way along Old Georgetown Road to meet ADA requirements to accommodate a new 11-foot wide side path, 8-foot street buffer and approximately 2-foot wide maintenance strip, which will subsequently impact the existing grades along the existing loop drive aisle at the front of the site. Additionally, the buildings ingress and egress must meet ADA sidewalk requirements, creating the need for additional grading along and around the building and adjacent drive aisles. To accommodate the additional grading a retaining wall along the southern property line will be needed. The construction of this wall will impact trees 8, 9, 10 and 11 which are located along the property line and are in close proximity to the disturbance for the retaining wall. This amount of impact is too much for trees 8, 9, and 11 to be able to survive. The limited space between the existing building to remain and the property line does not give adequate room to shift the wall away from the trees. Tree 10, a Tulip Poplar in Fair condition, will be impacted but saved. It is further away from the disturbance than trees 9 and 11 and is smaller than both

tree 9 and 11 and is in better condition than tree 11. Trees 9 and 11 will be removed carefully from the applicants side of the property potentially using temporary root matting and/or a lift bucket. Tree #10 will be protected with stress reduction measures as needed to prevent any disturbance during the removal of trees 9 and 11. In the rear of the property the grading change also impacts trees #2, #14, and #17. These impacts are minor and these trees will be saved as well.

For all impacted trees, necessary stress reduction measures will be provided by an arborist to promote their survivability. For all of the above reasons, not allowing the proposed removals and impacts would be a hardship that is not warranted.

2. *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;*

The landowner's rights to develop their property as is done by others in similar areas would be deprived by not allowing the removal and impacts to the subject trees. As detailed above, both the removals and the root zone impacts are unavoidable in order to develop the property to meet the ADA and County frontage requirements. The inability to remove and impact the subject trees would limit the development of the property. This creates a significant disadvantage for the applicant and deprives the applicant of the rights enjoyed by the neighboring and/or similar properties not subject to this approval process.

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;*

A Stormwater Management Concept was submitted for the proposed improvements. Approval of this plan will confirm that the goals and objectives of the current state water quality standards are being met. The proposed stormwater management facilities are managing the stormwater flows on-site including treating the vehicular areas, improving the water quality. The proposed improvements reduce the total impervious area which will also improve the water quality. Although three trees along the edge of the property are required to be removed, eight trees are being proposed as variance mitigation as well as numerous more trees being planted all around the site increasing shading of the road and on-site impervious surfaces which will result in improvements to water quality.

4. *Provide any other information appropriate to support the request.*

Mitigation will be provided for all specimen trees to be removed. The 25.25" mitigation requirement will be met by planting 8 native shade trees (3" to 4" caliper) for a total of 26" tree inches planted. Stress reduction measures provided for all of the impacted trees. A copy of the Forest Conservation Plan and a variance tree spreadsheet has been provided as part of this variance request. Please let us know if any other information is necessary to support this request.

Please contact me via email, at fjohnson@mhgpa.com, or by phone, at (301) 670-0840 should you have any additional comments or concerns.

Thank you,

Frank Johnson

Frank Johnson

VARIANCE TREE IMPACT TABLE					
Tree ID#	DBH	Species	% Impacted	Condition	Protective & Stress Reduction Measures*
2	42	White Oak	0.03%	Good	Tree Fence and Root Pruning
10	30	Tulip Poplar	19%	Good	Tree Fence and Root Pruning
14	30	Tulip Poplar	0.03%	Good	Tree Fence and Root Pruning
17	33	Tulip Poplar	0.08%	Good	Tree Fence and Root Pruning
*Additional stress reduction measures may be determined in the field					

VARIANCE TREE REMOVAL TABLE					
Tree ID#	DBH	Species	% Impacted	Condition	Mitigation
8	30	Tulip Poplar	48	Good	30
9	34	Tulip Poplar	36	Fair	34
11	37	Tulip Poplar	37	Poor	37

101" removed/4 = 25.25" to be mitigated