



Montgomery County
Planning Department
2425 Reddie Drive, 14th Floor
Wheaton, MD 20902

Wildwood Swim Club
Request for Specimen Tree Variance
Final Forest Conservation Plan F20230xxx

On behalf of the property owner and pursuant to Section 22A-21 *Variance provisions* of the Montgomery County Forest Conservation Ordinance and 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 commercial construction project.

Project Description:

The Subject Properties

The combined properties total 4.75 acres comprised of two parcels. The site is currently developed as a private swim club within the community. This project is for the renovation of the pool house, pools, decking and minor parking improvements. The site is surrounded by residential properties.

Forest Conservation

Natural Resources Inventory/Forest Stand Delineation has been approved for the Subject Property. A Final Forest Conservation Plan is filed with this application. The property is encumbered by a stream buffer that is expanded for the steep slopes around the pool. Forest onsite is within the stream valley buffer and abuts the built environment. Forest conservation is proposed to be met onsite through conservation easements of the existing forest along. All available areas within the stream valley buffer that are not active or passive pool space are proposed to be placed in the category 1 conservation easement.

The following specimen trees require a variance:

Specimen Tree Impact Summary									
Tree #	Species (Scientific Name)	Species (Common Name)	D.B.H (inches)	CRZ (sf)	CRZ Impacts (sf)	CRZ Impacts (%)	Tree Condition	Disposition	Mitigation Removal Status
2	LIRIODENDRON TULIPIFERA	TULIP POPLAR	25,40	11310	4533	40%	GOOD	REMOVE, PAVEMENT WIDENING	YES, MITIGATE
7	QUERCUS ALBA	WHITE OAK	30	6362	411	6%	GOOD	IMPACTS ONLY, OUTFALL	
8	LIRIODENDRON TULIPIFERA	TULIP POPLAR	33	7698	411	5%	GOOD	IMPACTS ONLY, OUTFALL	
9	LIRIODENDRON TULIPIFERA	TULIP POPLAR	45	14314	14314	100%	GOOD	REMOVE, STORMWATER	YES, MITIGATE
10	LIRIODENDRON TULIPIFERA	TULIP POPLAR	43	13070	13070	100%	GOOD	REMOVE, STORMWATER	YES, MITIGATE
11	LIRIODENDRON TULIPIFERA	TULIP POPLAR	38	10207	10207	100%	GOOD	REMOVE, PARKING PAVEMENT, UTILITIES	YES, MITIGATE
12	LIRIODENDRON TULIPIFERA	TULIP POPLAR	44	13685	13685	100%	GOOD	REMOVE, STORMWATER	IN FOREST, NO MITIGATE
13	LIRIODENDRON TULIPIFERA	TULIP POPLAR	39	10751	10751	100%	GOOD	REMOVE, STORMWATER	IN FOREST, NO MITIGATE
14	LIRIODENDRON TULIPIFERA	TULIP POPLAR	39	10751	10751	100%	GOOD	REMOVE, STORMWATER	IN FOREST, NO MITIGATE
15	LIRIODENDRON TULIPIFERA	TULIP POPLAR	27,36	9161	9161	100%	GOOD	REMOVE, STORMWATER	IN FOREST, NO MITIGATE
16	LIRIODENDRON TULIPIFERA	TULIP POPLAR	30	6362	6362	100%	GOOD	REMOVE, UTILITIES, POOL DECK	IN FOREST, NO MITIGATE
20	LIRIODENDRON TULIPIFERA	TULIP POPLAR	37	9677	2597	27%	GOOD	IMPACTS ONLY, POOL DECK	
28	QUERCUS RUBRA	RED OAK	43	13070	3940	30%	FAIR	IMPACTS ONLY, POOL DECK	
32	QUERCUS RUBRA	RED OAK	41	11882	1602	13%	GOOD	IMPACTS ONLY, POOL DECK	
45	QUERCUS RUBRA	RED OAK	38	10207	879	9%	GOOD	IMPACTS ONLY, POOL DECK	
46	LIRIODENDRON TULIPIFERA	TULIP POPLAR	38,6	10207	25	1%	GOOD	IMPACTS ONLY, POOL DECK	
49	QUERCUS RUBRA	RED OAK	30,22	6362	1856	29%	GOOD	IMPACTS ONLY, POOL DECK	
53	LIRIODENDRON TULIPIFERA	TULIP POPLAR	44	13685	323	2%	GOOD	IMPACTS ONLY, POOL DECK	
54	QUERCUS RUBRA	RED OAK	43	13070	1740	13%	GOOD	IMPACTS ONLY, POOL DECK	
60	LIRIODENDRON TULIPIFERA	TULIP POPLAR	33	7698	787	10%	GOOD	IMPACTS ONLY, PAVEMENT WIDENING	
62	LIRIODENDRON TULIPIFERA	TULIP POPLAR	34	8171	137	2%	GOOD	IMPACTS ONLY, PAVEMENT WIDENING	
63	LIRIODENDRON TULIPIFERA	TULIP POPLAR	30	6362	127	2%	GOOD	IMPACTS ONLY, PAVEMENT WIDENING	
66	LIRIODENDRON TULIPIFERA	TULIP POPLAR	50	17671	78	1%	GOOD	IMPACTS ONLY, PAVEMENT WIDENING	
70	LIRIODENDRON TULIPIFERA	TULIP POPLAR	30	6362	1058	17%	GOOD	IMPACTS ONLY, PAVEMENT WIDENING	

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 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.

Justification of Variance

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

Response: This work will require disturbance of the root zones of a total of twenty-four (24) specimen trees. Nine (9) of the impacted trees will be required to be removed. Each of the existing variance trees lies within or very near the existing pool built environment, existing infrastructure to be removed, grading due to topographic conditions, or proposed utilities. The trees that require removal to renovate the pool grounds are primarily associated with adding stormwater management to the existing parking lot. Impacts to the specimen trees are primarily due to the close proximity of forest to the existing pools.

Unwarranted hardship is demonstrated, for the purpose of obtaining a Specimen Tree Variance when an applicant presents evidence that denial of the Variance would deprive the Applicant of the reasonable and substantial use of the property. This property is currently developed as a swim club and impacts are due to the location of the built environment, stream valley buffers and forest. The proposed impacts cannot be relocated or redeveloped as not to impact or remove the specimen trees indicated on the plan.

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

Response: If the requested Variance were denied, the Applicant would suffer unwarranted hardship and would be deprived of rights commonly enjoyed by other property owners of other swim clubs in the area. Typical of most swim clubs in Montgomery County, they are encumbered by stream valley buffers that limit the renovations and updates necessary with aging infrastructure. With limited space, to update the facility, the club would be deprived the rights of others in similar circumstances.

If the variance were not granted for the trees identified on the attached chart would have to remain and the Applicant would be unable to update and renovate the property in the disparate treatment of the Applicant in comparison the exercise of rights commonly enjoyed by others in the same area.

- (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 careful 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 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. Therefore, the proposed activity will not degrade the water quality of the downstream areas and will not result in *measurable degradation in water quality*.

Specimen tree removals outside of existing forest are proposed to be mitigated for onsite through new plantings as depicted on the FCP. Additional canopy planting will serve to create greater ecological quality while establishing further buffering of adjacent land uses (residential). The steep slopes, stream valley buffer and remaining forest will be protected through a category 1 conservation easement.

- (4) Provide any other information appropriate to support the request.

Response: The Approved and Adopted Trees Technical Manual lists several factors for consideration when reviewing applications for clearing that now require the approval of a Specimen Tree Variance. Generally, the Technical Manual recognizes that clearing and impact is appropriate for renovations and improvements to existing developed properties

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 renovation to the existing aging swim club is critical to community infrastructure and amenity spaces within the built environment. 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: The Applicant 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) do not have any inherent characteristics or conditions that have created or contributed to this 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. The specimen tree removal is further proposed to be mitigated through the installation of 11 – 3” caliper trees along with extensive conservation easements.

Conclusion:

For the above reasons, the applicant respectfully requests that the MNCPPC Staff 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 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 'M. Norton', written in a cursive style.

Michael Norton