



MCPB
ITEM #
February 17, 2011

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Khalid Afzal, Team Leader, East County Team, Area 2 Division *KA*
Glenn Kreger, Acting Chief, Area 2 Division *GK*

FROM: Amy Lindsey, Senior Planner *AL*
Area 2 Division

DATE: February 7, 2011

PLAN NAME: Downcounty Consortium School #29 (McKenney Hills)

PLAN NUMBER: MR2010720

PLAN TYPE: Final Forest Conservation Plan

REVIEW BASIS: Chapter 22A of the County Code

APPLICANT: Montgomery County Public Schools

ENGINEER: Norton Land Design

RECOMMENDATION

Area 2 staff has reviewed the final forest conservation for the project referenced above. Staff recommends approval of the final forest conservation plan subject to the following conditions:

1. As per initial Planning Board approval, applicant must record a Category I conservation easement, prior to any clearing or grading occurring onsite, over all areas of forest retention.
2. Inspections consistent with Section 22A.00.01.10 of Forest Conservation Regulations.
3. A two year maintenance and management agreement must be approved prior to MNCPPC accepting any on-site planting.
 - a. A copy of the maintenance and management agreement must be kept on-site and given to MCPS maintenance staff to ensure compliance with conditions of the forest conservation plan.

- b. Maintenance and management agreement must include a three year monitoring plan for impacted trees.

BACKGROUND

Downcounty Consortium School #29 is a new school being constructed on the site of the former McKenney Hills Elementary School. This school housed an alternative learning center but was demolished in early 2010. The subject property is 12.6 acres and is located at the terminus of Hayden Drive in the Kensington-Wheaton planning area and Capital View sector plan area. Directly adjacent to the school property is the Capital View Park Open Space and McKenney Hills Neighborhood Park.

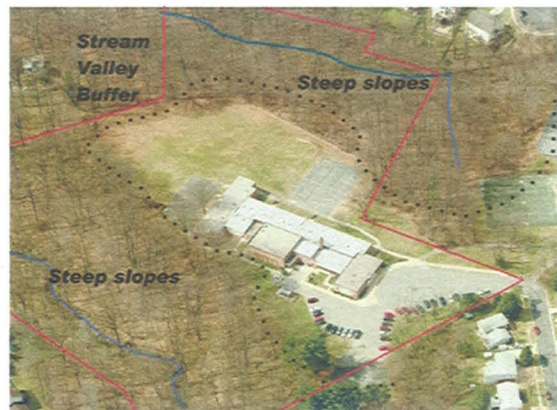


Other neighboring properties include Glenwood Recreation Club and single family residences. The proposed plan is to build a new three-story building, with parking lots, drop-off loops, an athletic field and stormwater management facilities.

The property is predominantly forested, with steep slopes on highly erodible soils leading down to streams. The only cleared area is an artificially created plateau where the razed school sat. There is 8.04 acres of high priority upland forest, in three separate stands. Two stands are dominated by tulip poplars; one stand is dominated by red and white oaks. While the forest stands differ in composition, all three stands have numerous mature trees greater 30" DBH. All forest on the site is considered a high priority for retention for the following reasons:

- Presence of stream valley buffer;
- Presence of steep slopes;
- Presence of specimen trees;
- Connection of contiguous forest;
- High quality forest.

There are more than 164 trees greater than or equal to 24" diameter at breast height (DBH) on-site. The precise number is not known because the applicant, at staff discretion and direction, was not required to survey all trees greater than 100' into the stream valley buffer. Of the 1 trees surveyed, 77 are large enough to be considered specimen-sized, that is 30" DBH and greater.



There is 7.33 ac of stream valley buffer on-site, extending from perennial streams crossing the property of directly adjacent on parkland. Stream valley buffers have been extended to protect steep slopes, as per the Planning Board's Environmental Guidelines. The property is within the Capital View Tributary subwatershed of the Lower Rock Creek watershed; a Use I watershed. The *Countywide Stream Protection Strategy* (CSPS) identifies this subwatershed as having poor water quality, due to uncontrolled runoff.

The mandatory referral and associated preliminary forest conservation plan were reviewed by the Planning Board on October 28, 2010. The mandatory referral was approved and a letter transmitted to MCPS with the Planning Board's comments and advice. The preliminary forest conservation plan was approved, with conditions, and the Planning Board resolution memorializing the action was mailed on January 10, 2011.

REGULATORY FRAMEWORK

One of the conditions of approval of the preliminary forest conservation plan is the approval of a final forest conservation plan consistent with the approved preliminary forest conservation plan. As per Section 22A.00.01.09.B of Forest Conservation Regulations, a final forest conservation plan must be based on final site grading and must be submitted with the final approval needed as part of a development application. The final forest conservation is a refinement of the preliminary forest conservation plan and reflects the Planning Board's conditions of approval of the preliminary forest conservation plan. For example, if the Planning Board required the placement of split rail fencing along a forest conservation easement, this will be reflected on the final forest conservation plan.

The final forest conservation plan is also based on final site design details and contains the proposed detailed tree preservation information. Generally, this plan is reviewed at the staff level and approved by the Planning Director or designees, in conjunction with the Department of Permitting Services review of the sediment control plan. This review allows staff to evaluate the impact of required sediment control devices on tree protection measures.

When a final forest conservation plan serves as an amendment to the approved preliminary forest conservation plan, the plan is approved according to the criteria laid out in the Forest Conservation Regulations. As per Section 22A.00.01.13 of Forest Conservation Regulations, minor amendments to the approved forest conservation plan are defined as those that do not result in more than a total of 5000 square feet of additional forest clearing or other field changes. These minor changes to the plan often occur between the approval of the preliminary forest conservation plan and the final forest conservation plan, as a result of plan refinement. Minor amendments to the forest conservation plan **may** be approved by the Planning Director (or designee) on a case by case basis.

The final forest conservation plan for Downcounty Consortium School #29 (McKenney Hills) qualifies as a minor amendment and could be approved by the Planning Director

(or designee). However, staff believes that the plan should be approved by the Planning Board due to the addition of a sewer connection, which increases the amount of forest clearing within the stream valley buffer, and the additional specimen tree impacts. The raised public interest in this plan adds to the rationale for Planning Board review and approval, in order to maintain transparency of process.

Forest Conservation

This property is subject to the Chapter 22A Montgomery County Forest Conservation Law and a final forest conservation plan has been submitted for approval. There are 8.04 acres of forest in three stands on the subject property. The forest is considered high priority for retention, due to stream valley buffer, steep slopes, specimen trees and forest contiguity.

The final forest conservation plan (FCP) differs from the approved preliminary forest conservation plan in two main regards.

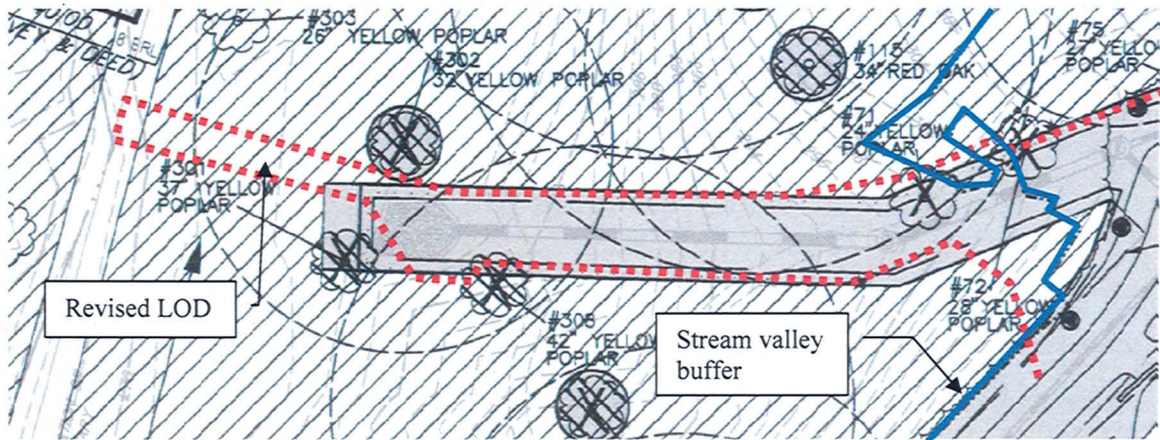
- A sewer line was added to provide a gravity sewer, which increases the amount of forest clearing in the stream valley buffer.
- There are additional impacts to some specimen trees due to the addition of the sewer line and the detailed development process. There are also some specimen trees that were previously affected by the plan that are no longer being impacted.

These two issues are discussed more fully below.

Sewer Line

The original McKenney Hills Elementary School had a gravity sewer connection that extended down the hill to the east. This connection failed at some point in the past and WSSC required that MCPS install a grinder pump station in order to use the sewer line located uphill from the site. At the time of mandatory referral, MCPS had proposed a new grinder pump to connect to the same location and during initial WSSC reviews the pump size and location were acceptable. However, in subsequent reviews, WSSC determined that a full main-line sized and equipped pumping station would be required. The size and configuration of the pumping system precluded its use on this site, as it would have required an additional area of grading and clearing.

WSSC did find that there was a suitable point of connection for gravity service, directly adjacent to the stormwater management outfall. The stormwater management outfall was redesigned and slightly relocated to minimize the amount of clearing necessary to accommodate both conveyances. The original stormwater management outfall design required approximately 3175 square feet of clearing within the stream valley buffer. The revised design requires approximately 3600 square feet of clearing within the stream valley buffer to accommodate the stormwater management outfall and the sewer connection. The graphic below shows the limit of disturbance (LOD) from the final forest conservation plan superimposed onto the approved preliminary forest conservation plan.



No compensation is required for this additional encroachment into the stream valley buffer as it is for necessary infrastructure and is allowed the same way that stormwater management outfalls are.

Large and Specimen Tree Impacts

The proposed impacts to large and specimen trees have changed since the preliminary FCP was approved by the Planning Board in October 2010. These changes are due to:

1. The changes in the LOD because of the addition of the sewer line.
2. Adjustments to the LOD made to preserve forest and specimen trees.
3. Incorporation of the arborist's recommendations.
4. Development of construction details.

Sewer Line Impacts The changes to the LOD caused by the addition of the sewer line have meant more impacts for a few trees and fewer impacts for others. The stormwater management outfall was redesigned at the same time and both facilities were field located to cause the least possible damage to large and specimen trees. The degree of impacts changed for a few trees. For example, tree 302 (32" yellow poplar) was previously slated for removal, with arborist evaluation. Now it is proposed for definite removal, due to the shifting of the LOD. However, tree 301 (37" yellow poplar) directly adjacent, which was previously listed for removal, is proposed for retention.

The additional trees affected by this construction were mainly due to the extension of the sewer line to the stream. Trees 303 (26" yellow poplar), 304 (26" yellow poplar), and 305 (29" sycamore) will have minor impacts due to this construction, but will all be retained with only minor amounts of root pruning needed.

LOD Adjustments The LOD on the final FCP has been modified from that on the preliminary FCP in two locations, which has decreased the forest clearing and impacts to individual trees. The design of a microbioretention facility has been modified, as well as one of the major conveyance pipes for the stormwater management system. On the preliminary FCP, tree 68 (34" white oak) was recommended for removal and tree 69 (38" yellow poplar) was recommended for removal, subject to arborist evaluation. Now both

trees are significantly less affected and will be retained, along with numerous smaller trees.

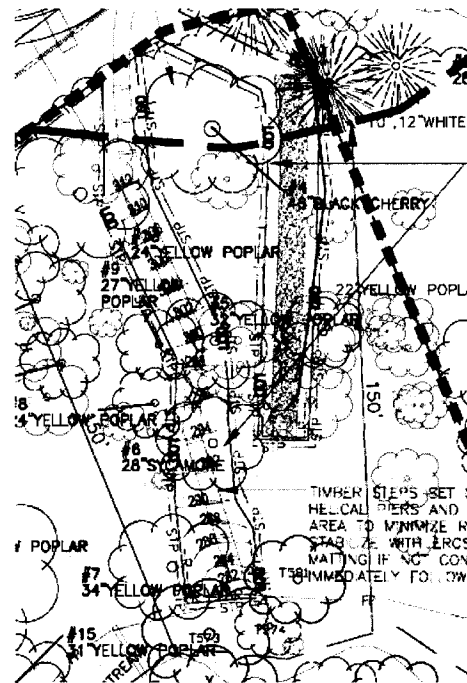
Arborist Recommendations An arborist has performed a detailed evaluation of all of the significant and specimen trees along the LOD as part of developing final tree protection recommendations. The retention and removal recommendations are based on the arborist's evaluation in conjunction with the sediment control plans, as the sediment control measures can affect the ability to protect trees. The arborist used the following criteria to base his recommendations: size, condition, species, impact amount and type, proximity to structures, people, and vehicles, utility locations, and exposure to weather.

This evaluation is reflected on the tree retention and removal recommendations on the final FCP and has resulted in changes from the preliminary FCP. For example, on the preliminary FCP tree 30A was recommended for removal, subject to arborist evaluation. Upon evaluation, the tree was found to have a defect in the main stem, which increases the risk for failure and the location creates a hazard. On the final FCP, this tree is recommended for removal.

Construction Details The preliminary FCP made assumptions, which included the worst-case scenario of sediment control devices and construction techniques. These assumptions would result in root pruning along the entire LOD. This is what the initial variance request and tree retention and removal recommendations were based on. The final FCP represents detailed construction design and sediment control measures, which has allowed major changes in the impacts to both forest and trees. The forest that was previously shown as being removed is now shown as retained and protected because the construction has been minimized.

The three major areas where there are major changes are on the steep slope to the south and east of the proposed school. The first area is the existing concrete steps. These steps will be removed by hand, with no sediment control devices required. All of the trees in this area that were previously shown as having major impacts and needing to be removed, pending arborist evaluation will all be saved, but monitored for impacts.

The second area is a highly eroded channel that was proposed for stabilization. The exact method of stabilization was not determined at the time of preliminary FCP but has now been resolved. A mineral soil will be used as fill within the channel, but not completely compacted. This will allow the area to be stabilized without crushing the existing



exposed roots. A series of timber steps will be set at grade, using helical piers to minimize damage. This new set of steps will replace the concrete steps scheduled for removal, as mentioned above. The trees located along this channel, previously shown as removed, pending arborist evaluation, will all be retained but monitored for impacts.

The third area of change is the old stormwater management outfall that will be stabilized. This area will also be filled in with a compacted mineral soil. As with the other two areas, these trees, previously shown as removed, pending arborist evaluation, will all be retained but monitored for impacts.

There are a number of trees that are now shown with critical root zone impacts that were previously not shown. This is because the final FCP includes the impacts for constructing two bridges across the stream. The impacts are shown on the plan but the actual bridges will be constructed in the future and will require a minor plan amendment, which will be approved at the staff level. The first bridge will be located near the base of the existing concrete steps and will connect to existing trails. The second bridge will be constructed at the base of the new steps, to facilitate access to both the school and surrounding trails. These bridges will span the floodplain and be approximately 50 feet long. The bridges will sit on helical piers to disturb the least amount of tree roots. The bridges are modular and can be carried in by hand and assembled in place. This allows construction in sensitive areas without additional land disturbance. However, a number of trees are shown as being retained but monitored because there is work being done within the critical root zones.

Comparison of Plans

All of the changes and refinements to the forest conservation plan between the preliminary and final versions have resulted in the summary table below.

	Preliminary FCP	Final FCP
Forest retained	7.49 ac	7.53 ac
Forest cleared	0.55 ac	0.51 ac
Forest cleared in stream valley buffer	0.16 ac	0.08 ac
Forest planted	0.00 ac	0.07 ac
Trees on variance request	8 trees removed 22 trees arborist evaluated, removal possible 13 trees impacted and retained	15 trees removed 19 trees retained but monitored, removal possible 17 trees impacted and retained

Fulfillment of Conditions of Approval

The preliminary plan was approved with a number of conditions specific to this plan. The final forest conservation plan fulfills all of the approval conditions, as shown in the following table.

Condition	Compliance
Detailed and specific tree protection measure for impacted trees prepared by an ISA-certified arborist.	Recommendations have been field verified, tree protection measures are specific for species, location, amount of critical root zone impacted.
A detailed planting plan to replant areas of clearing, where possible, and minimize further tree loss due to the creation of new forest edges.	Planting plan developed and shown on final FCP using species occurring in the area. All areas replanted that are possible to replant.
Provide an edge determination with all trees with a 6" DBH or greater located within 25' of the LOD	Edge determination shown on final FCP and used to alter LOD where possible.
Field locate all disturbance into the forest to minimize tree loss. This includes areas of erosion repair and path removal or development.	Disturbance field located and designed to minimize tree impacts.
Revise the stream valley buffer to accurately reflect the approved NRI/FSD.	Stream valley buffer revised on plan and shown correctly

Variance

Section 1607(c) of the Natural Resources Article, Maryland Annotated Code, identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or any disturbance within a tree's 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 Code. The law requires no impact the retention and protection to the greatest extent possible of all trees that measure 30" diameter at DBH or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; and rare, threatened and endangered species. Since this project did not obtain approval of a preliminary forest conservation plan prior to October 1, 2009 and the applicant is proposing to impact 51 trees greater than 30 inches DBH, a variance is required.

The applicant requested and received a variance as part of the Planning Board approval of the preliminary forest conservation plan. However, as the limits of disturbance have changed with the addition of the sewer line and bridges, new trees have been added to the request and the disposition of some of the trees has changed. As there are no provisions to allow for a modification of a variance request, a new variance request has been submitted for approval with the final forest conservation plan. This request reflects the changes to tree impacts as discussed above.

These trees can be divided into three categories of degree of impact. The first is trees that clearly will need to be removed as a consequence of development. Either the trees are located within the development footprint or will be so greatly affected by development that retaining them would be hazardous. There are 15 trees in this category. The second grouping is trees that are being impacted and will be monitored for health, as shown with the current LOD. Every practical effort will be made to save these trees, but a variance to remove them is being requested at this time, so if the trees become hazardous, they can be removed. There are 19 trees in this category. The final category is those trees with critical root zone impacts that are minor and the trees will be retained. There are 17 trees in this grouping.

The applicant has requested a variance to impact the following trees:

Tree #	Species	D.B.H (inches)	Tree Condition	Ownership	% Impact on Trees to	Status
2	WHITE PINE	32	FAIR	SCHOOL		REMOVE
18	YELLOW POPLAR	35	DEAD	SCHOOL		REMOVE
29	RED OAK	33	GOOD	SCHOOL		REMOVE
30A	YELLOW POPLAR	30	POOR	SCHOOL		REMOVE
31	YELLOW POPLAR	30	GOOD	SCHOOL		REMOVE
32	RED OAK	34	GOOD	SCHOOL		REMOVE
59	YELLOW POPLAR	42	GOOD	SCHOOL		REMOVE
77	YELLOW POPLAR	34	GOOD	C.O-OWNED		REMOVE
78	BLACK LOCUST	37	POOR	C.O-OWNED		REMOVE
79	BLACK LOCUST	31	FAIR	C.O-OWNED		REMOVE
102	BLACK LOCUST	33	DEAD	PARK PROPERTY		REMOVE
302	YELLOW POPLAR	32	GOOD	SCHOOL		REMOVE
308	YELLOW POPLAR	42	GOOD	SCHOOL		REMOVE
310	WHITE OAK	41	GOOD	SCHOOL		REMOVE
403	WHITE OAK	38	DEAD	PARK PROPERTY		REMOVE
4	BLACK CHERRY	46	FAIR	SCHOOL		SAVE WITH PERMISSION TO REMOVE
5	YELLOW POPLAR	32	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
7	YELLOW POPLAR	34	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
44	YELLOW POPLAR	33	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
45	YELLOW POPLAR	30	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
46	YELLOW POPLAR	33	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
301	YELLOW POPLAR	37	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
315	YELLOW POPLAR	34	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
323	YELLOW POPLAR	36	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
402	RED OAK	39	FAIR/POOR	PARK PROPERTY		SAVE WITH PERMISSION TO REMOVE
404	RED OAK	31	GOOD	PARK PROPERTY		SAVE WITH PERMISSION TO REMOVE
405	WHITE OAK	30	GOOD	PARK PROPERTY		SAVE WITH PERMISSION TO REMOVE
406	RED OAK	36	GOOD	PARK PROPERTY		SAVE WITH PERMISSION TO REMOVE
407	LINDEN	34	GOOD	PARK PROPERTY		SAVE WITH PERMISSION TO REMOVE
T515	YELLOW POPLAR	33	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
T517	YELLOW POPLAR	45	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
T573	YELLOW POPLAR	37	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
T574	YELLOW POPLAR	46	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
T576	YELLOW POPLAR	44	GOOD	SCHOOL		SAVE WITH PERMISSION TO REMOVE
11	YELLOW POPLAR	33	GOOD	SCHOOL	17% IMPACT	IMPACTS ONLY
16	YELLOW POPLAR	44	GPPD	SCHOOL	<1% IMPACT	IMPACTS ONLY
36	RED OAK	36	GOOD	SCHOOL	<1% IMPACT	IMPACTS ONLY
53	YELLOW POPLAR	39	GOOD	SCHOOL	9% IMPACT	IMPACTS ONLY
58	RED OAK	58	GOOD	PARK PROPERTY	16% IMPACT	IMPACTS ONLY
66	RED OAK	32	GOOD	SCHOOL	<1%	IMPACTS ONLY
87	PIN OAK	36	GOOD	SCHOOL	8% IMPACT	IMPACTS ONLY
68	WHITE OAK	34	GOOD	SCHOOL	22% IMPACT	IMPACTS ONLY
69	YELLOW POPLAR	38	GOOD	SCHOOL	14% IMPACT	IMPACTS ONLY
70	RED OAK	40	GOOD	SCHOOL	16% IMPACT	IMPACTS ONLY
103	YELLOW POPLAR	30	GOOD	PARK PROPERTY	7% IMPACT	IMPACTS ONLY
106	YELLOW POPLAR	30	GOOD	PARK PROPERTY	2% IMPACT	IMPACTS ONLY
115	WHITE OAK	34	GOOD	SCHOOL	14% IMPACT	IMPACTS ONLY
116	YELLOW POPLAR	46	GOOD	SCHOOL	7% IMPACT	IMPACTS ONLY
142	BLACK LOCUST	37	GOOD	PARK PROPERTY	<1% IMPACT	IMPACTS ONLY
322	RED OAK	46	GOOD	SCHOOL	7% IMPACT	IMPACTS ONLY
401	RED OAK	41	GOOD	PARK PROPERTY	<1% IMPACT	IMPACTS ONLY

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The variance request was referred to the Montgomery County Arborist on February 3, 2010. The County Arborist has and has elected not to review the variance request (see Attachment A).

In accordance with Section 22A-21(e), Planning staff recommends a finding by the Planning Board that the Applicant has met all criteria required to grant the variance.

1. *Will confer on the applicant a special privilege that would be denied to other applicants.*

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. The applicant has minimized impacts to trees by restricting limits of disturbance. The use of this site for a public elementary school is an established use and is not a special privilege conferred on the applicant.

2. *Is based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The inherent site characteristics of stream valley buffer and steep slopes with highly erodible soils severely limit the development footprint of the school. The applicant has minimized disturbance by taking the following steps:

- a) Using a compact building form that works with the natural landform. The proposed school is a three-storey building that takes advantage of the natural grade in the design of outdoor spaces associated with the building and the needed ingress/egress points.
- b) Reducing the parking constructed to support the school by working with the adjacent Glenwood Recreation Club to share an existing parking lot on the recreation club's property.
- c) Minimizing outdoor recreation facilities associated with the school. An optimal elementary school facility incorporates two softball fields (with a 200' radius) and one soccer field (sized 150' x 240') superimposed over them. This school proposes only one multipurpose field (sized 85' x 160'), with a single backstop (with a 80' radius).
- d) Using facilities provided to meet multiple functions. For example, the basketball courts also serve as required turnarounds for fire and rescue equipment.
- e) Field locating the stormwater management outfall and new sewer line. The exact placement of the necessary outfall and conveyance was determined in

- the field to minimize tree loss and the design takes advantage of the natural landform by using an existing gully.
- f) Using an arborist to provide detailed and specific tree protection measures to retain trees impacted by development.
 - g) Developing a detailed planting plan to replant areas of clearing, where possible, and minimize further tree loss due to the creation of new forest edges.
 - h) Using construction techniques that minimize damage to tree critical root zones.
3. *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.

4. *Will violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. While some trees are proposed to be removed within the stream valley buffer, the site currently has no stormwater management controls on it. On balance, development of this site should be a positive contribution to water quality, even with the loss of trees.

Compensation

Staff is not requesting any additional mitigation for the impact and removal of specimen trees located within forest for they will be compensated as part of the overall forest conservation plan. The removal of existing forest will be compensated for in accordance with Chapter 22A of the County code. There are two on-site specimen trees that are not within existing forest. These are #79, 31" black locust, and #29, 33" red oak. As the applicant will be replanting areas of forest removal and supplement the forest edge, staff believes that all requirements for mitigation and compensation are being met for on-site tree loss.

Staff is not requesting any additional mitigation for the impact and removal of specimen trees located on adjacent Park property, as this will be covered by Park staff as part of the Park permit process.

As a result of the above findings Environmental Planning staff recommends the approval of the applicant's request for a variance from individual tree retention requirements of the Forest Conservation Law to impact the 51 trees. The variance approval is assumed into the Planning Board's approval of the forest conservation plan.

RECOMMENDATION

Area 2 Division recommends approval of the Final Forest Conservation Plan with the conditions above.

Attachments:

- A. Letter from County Arborist
- B. Approved preliminary forest conservation plan
- C. Copy of forest conservation plan submitted for PB approval
- D. Correspondence received on forest conservation issues

Attachment (A)



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

February 3, 2011

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: McKenney Hills ES, MR2010720, NRI/FSD applied for on 1/30/2009

Dear Ms. Carrier:

Based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC), the application for the above referenced request is required to comply with Chapter 22A of the Montgomery County Code. As stated in a letter to Royce Hanson from Bob Hoyt, dated October 27, 2009, the County Attorney's Office has advised me that the specific provisions pertaining to significant trees in the State's Forest Conservation Act do not apply to any application that was submitted before October 1, 2009. Since this application was submitted before this date, I will not provide a recommendation pertaining to the approval of this request for a variance.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief

- GENERAL NOTES**
1. This property is zoned R-60.
 2. The total tract area is 12.28 acres.
 3. November 18, 2009.
 4. This site is within the Lower Rock Creek watershed, Unit 1.
 5. This property is not within a SPA or PMA.
 6. There are no wetlands on the property. Source of the information is from FEMA flood map.
 7. There are no riparian areas on the property. Source of the information is from FEMA flood map.
 8. Community-Phase Number 24031C03200. There is a floodplain easement on adjacent 9310 Hollow Green Place.
 9. Topography and boundary survey was provided performed by Meridian Survey, Inc. on January 24, 2009.
 10. There are no game agricultural soils on the property.
 11. All trees 24" and greater diameter were measured by Michael Stock, Nottoway Land Design LLC. All measured structures are located by available aerial photographs and/or field estimate.
 12. All trees less than 24" diameter are measured by field estimate only by Michael Stock, Nottoway Land Design LLC. All measured structures are located by available aerial photographs and/or field estimate.
 13. No tree, insect or other pest was observed on or off the site at the time of the field investigation by Michael Stock, Nottoway Land Design LLC.
 14. There are no county champion trees on the property. There are two white pine trees within 100' of the stream.
 15. The current contours on the property are shown on the map.
 16. Soil Types:
 17. 24B - Glendon Urban Land Complex, 0.8% Slopes
 18. 24C - Boulder Bottoms Community set com., 2.5% to 10% Slopes, grade to 11/20/2009
 19. The record instrument was reconfirmed at a pre-measurement referral meeting on 11/20/2009.
 20. All forest stands were identified on the map(S) as Priority Area 1, High, due to the stream buffer, wildlife and specimen trees.

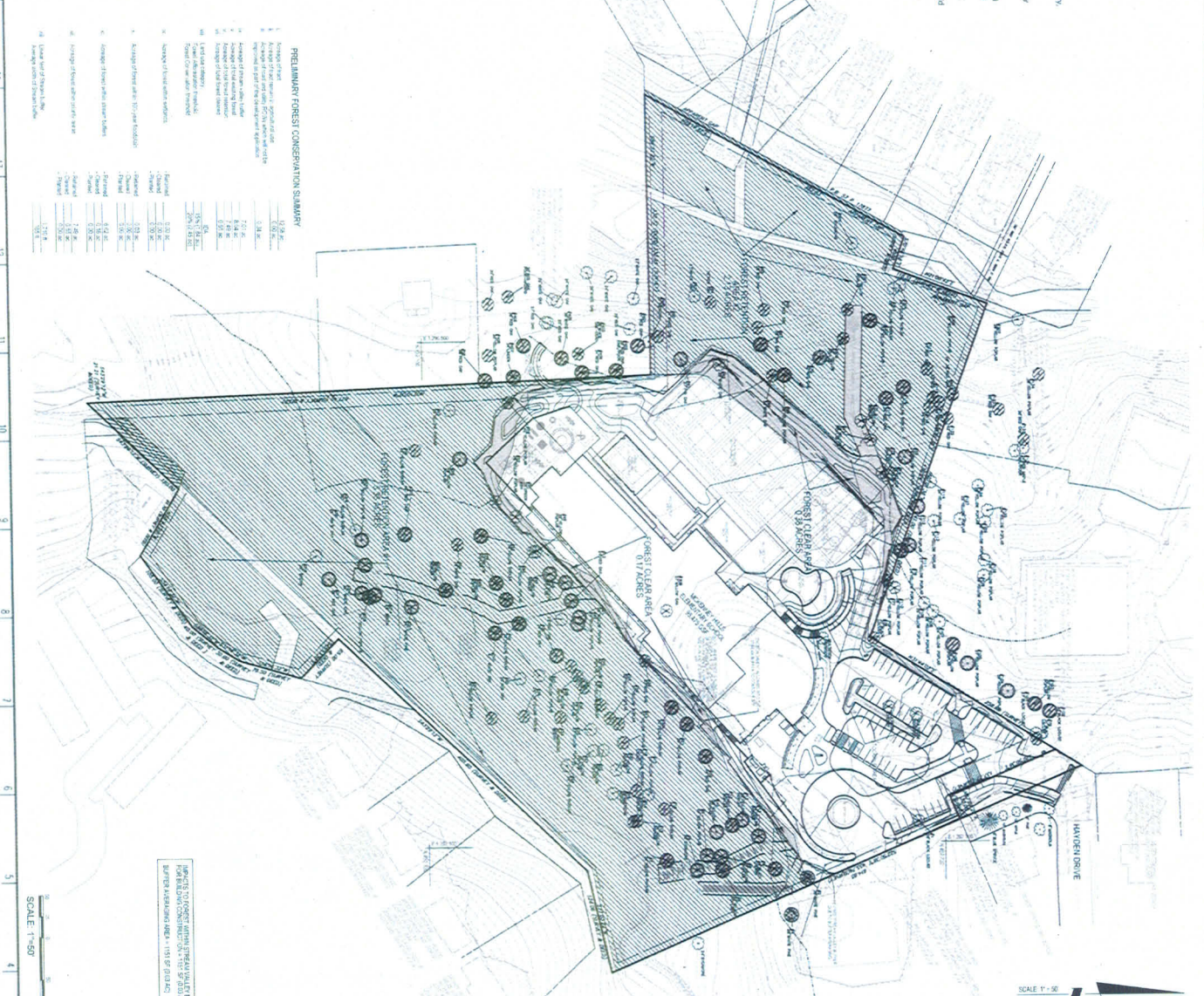
- LAND USE CATEGORIES (from Forest Technical Manual)**
- Enter the number "1" under the appropriate land use area to signify the category.
- | Category | AM | UM | CM | CFM | SM | DM |
|----------------|-------|----|----|-----|----|----|
| A. Openland | 0 | 0 | 0 | 0 | 0 | 0 |
| B. Agriculture | 0 | 0 | 0 | 0 | 0 | 0 |
| C. Urban | 0 | 0 | 0 | 0 | 0 | 0 |
| D. Suburban | 0 | 0 | 0 | 0 | 0 | 0 |
| E. Rural | 0 | 0 | 0 | 0 | 0 | 0 |
| F. Forest | 12.28 | 0 | 0 | 0 | 0 | 0 |
| G. Wetland | 0 | 0 | 0 | 0 | 0 | 0 |
| H. Water | 0 | 0 | 0 | 0 | 0 | 0 |
| I. Other | 0 | 0 | 0 | 0 | 0 | 0 |
| J. Total | 12.28 | 0 | 0 | 0 | 0 | 0 |

- NETWORK AREA**
- FOR THE FOREST CONSERVATION PLAN
- | Category | AM | UM | CM | CFM | SM | DM |
|----------------|-------|----|----|-----|----|----|
| A. Openland | 0 | 0 | 0 | 0 | 0 | 0 |
| B. Agriculture | 0 | 0 | 0 | 0 | 0 | 0 |
| C. Urban | 0 | 0 | 0 | 0 | 0 | 0 |
| D. Suburban | 0 | 0 | 0 | 0 | 0 | 0 |
| E. Rural | 0 | 0 | 0 | 0 | 0 | 0 |
| F. Forest | 12.28 | 0 | 0 | 0 | 0 | 0 |
| G. Wetland | 0 | 0 | 0 | 0 | 0 | 0 |
| H. Water | 0 | 0 | 0 | 0 | 0 | 0 |
| I. Other | 0 | 0 | 0 | 0 | 0 | 0 |
| J. Total | 12.28 | 0 | 0 | 0 | 0 | 0 |

- LAND USE CATEGORIES (from Forest Technical Manual)**
- Enter the number "1" under the appropriate land use area to signify the category.
- | Category | AM | UM | CM | CFM | SM | DM |
|----------------|-------|----|----|-----|----|----|
| A. Openland | 0 | 0 | 0 | 0 | 0 | 0 |
| B. Agriculture | 0 | 0 | 0 | 0 | 0 | 0 |
| C. Urban | 0 | 0 | 0 | 0 | 0 | 0 |
| D. Suburban | 0 | 0 | 0 | 0 | 0 | 0 |
| E. Rural | 0 | 0 | 0 | 0 | 0 | 0 |
| F. Forest | 12.28 | 0 | 0 | 0 | 0 | 0 |
| G. Wetland | 0 | 0 | 0 | 0 | 0 | 0 |
| H. Water | 0 | 0 | 0 | 0 | 0 | 0 |
| I. Other | 0 | 0 | 0 | 0 | 0 | 0 |
| J. Total | 12.28 | 0 | 0 | 0 | 0 | 0 |

- PRELIMINARY FOREST CONSERVATION SUMMARY**
- | Category | AM | UM | CM | CFM | SM | DM |
|----------------|-------|----|----|-----|----|----|
| A. Openland | 0 | 0 | 0 | 0 | 0 | 0 |
| B. Agriculture | 0 | 0 | 0 | 0 | 0 | 0 |
| C. Urban | 0 | 0 | 0 | 0 | 0 | 0 |
| D. Suburban | 0 | 0 | 0 | 0 | 0 | 0 |
| E. Rural | 0 | 0 | 0 | 0 | 0 | 0 |
| F. Forest | 12.28 | 0 | 0 | 0 | 0 | 0 |
| G. Wetland | 0 | 0 | 0 | 0 | 0 | 0 |
| H. Water | 0 | 0 | 0 | 0 | 0 | 0 |
| I. Other | 0 | 0 | 0 | 0 | 0 | 0 |
| J. Total | 12.28 | 0 | 0 | 0 | 0 | 0 |

- PLANTING RECOMMENDATIONS**
- A. Plant native species.
 - B. Plant species that are native to the region.
 - C. Plant species that are native to the region.
 - D. Plant species that are native to the region.
 - E. Plant species that are native to the region.
 - F. Plant species that are native to the region.
 - G. Plant species that are native to the region.
 - H. Plant species that are native to the region.
 - I. Plant species that are native to the region.
 - J. Plant species that are native to the region.



LEGEND

GENERAL NOTES

SCALE 1"=50'

PROJECT TO CORRECT MAPPING ERRORS AND TO PROVIDE FOR BOUNDARY SURVEY AND TO PROVIDE FOR FOREST CONSERVATION PLAN.

DATE: 11/20/09

PROJECT: FOREST CONSERVATION PLAN

CLIENT: MRS. J. J. [Name]

LOCATION: 2600 HAYDEN DRIVE, SILVER SPRING, MD 20902

GRIMM + PARKER ARCHITECTS

270 BELLEVILLE RD SUITE 60 CALVERTON, MD 20616

270 BELLEVILLE RD SUITE 60 MCLAN, VA 22066

TEL: 410-326-1100 FAX: 410-326-1100

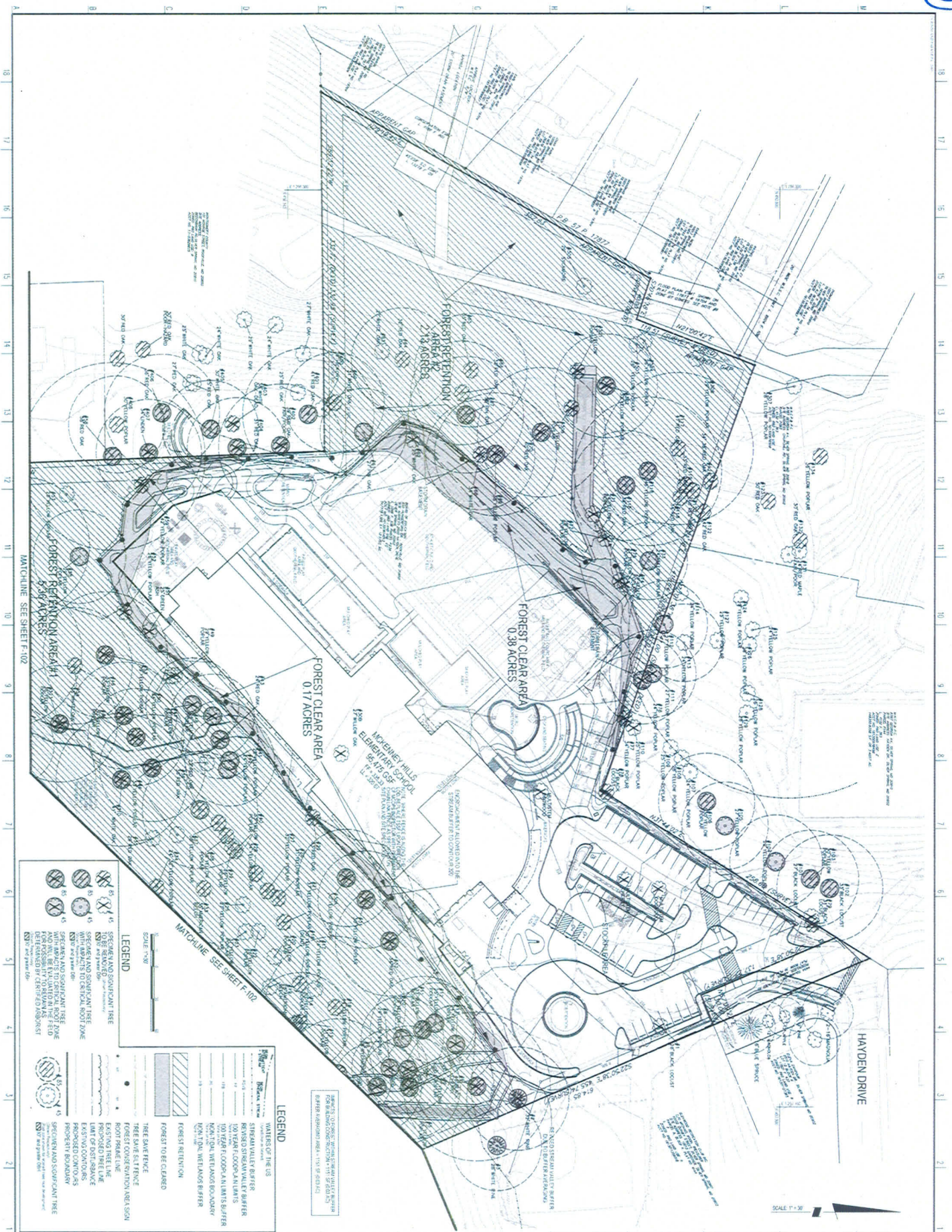
THE TRENORING PAK TRENORING

ROCKVILLE OFFICE

2 Research Plaza, Suite 100

Rockville, MD 20850

1-301-946-2700 • 301-946-6507



LEGEND

SCALE: 1" = 30'

	100	REMOVING SIGNIFICANT TREE TO BE REMOVED
	101	REMOVING SIGNIFICANT TREE TO BE REMOVED
	102	REMOVING SIGNIFICANT TREE TO BE REMOVED
	103	REMOVING SIGNIFICANT TREE TO BE REMOVED
	104	REMOVING SIGNIFICANT TREE TO BE REMOVED
	105	REMOVING SIGNIFICANT TREE TO BE REMOVED
	106	REMOVING SIGNIFICANT TREE TO BE REMOVED
	107	REMOVING SIGNIFICANT TREE TO BE REMOVED
	108	REMOVING SIGNIFICANT TREE TO BE REMOVED
	109	REMOVING SIGNIFICANT TREE TO BE REMOVED
	110	REMOVING SIGNIFICANT TREE TO BE REMOVED
	111	REMOVING SIGNIFICANT TREE TO BE REMOVED
	112	REMOVING SIGNIFICANT TREE TO BE REMOVED
	113	REMOVING SIGNIFICANT TREE TO BE REMOVED
	114	REMOVING SIGNIFICANT TREE TO BE REMOVED
	115	REMOVING SIGNIFICANT TREE TO BE REMOVED
	116	REMOVING SIGNIFICANT TREE TO BE REMOVED
	117	REMOVING SIGNIFICANT TREE TO BE REMOVED
	118	REMOVING SIGNIFICANT TREE TO BE REMOVED
	119	REMOVING SIGNIFICANT TREE TO BE REMOVED
	120	REMOVING SIGNIFICANT TREE TO BE REMOVED

LEGEND

	WATERS OF THE US
	STRAIGHT WALL BUFFER
	REINFORCED STRAIGHT WALL BUFFER
	100 YEAR FLOODPLAIN LIMITS
	100 YEAR FLOODPLAIN LIMITS BUFFER
	NON-TYP. WETLANDS BUFFER
	NON-TYP. WETLANDS BUFFER
	FOREST RETENTION
	FOREST TO BE CLEARED
	TREE SAVE FENCE
	TREE SAVE SET FENCE
	FOREST CONSERVATION AREA SIGN
	EXISTING TREE LINE
	ROOT PRUNE LINE
	LIMIT OF DISTURBANCE
	EXISTING CONTOURS
	PROPOSED CONTOURS
	PROPERTY BOUNDARY
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE
	SPERMATOPHYTES SIGNIFICANT TREE

F-101

PRELIMINARY FOREST CONSERVATION PLAN

DOWNCOUNTY CONSORTIUM ES #29
2600 HAYDEN DRIVE, SILVER SPRING, MD 20902

GRIMM+PARKER ARCHITECTS

210 BELLEVILLE RD SUITE 400 CALVERTON, MD 20614
TEL: 410.330.0000 FAX: 410.330.0000

200 NEWBURY ROAD SUITE 85 MELLEN, VA 22641
TEL: 703.938.9800 FAX: 703.938.9800

ROOVLIVE OFFICE
2 Riverside Plaza, Suite 102
Roooville, MD 20860
1.301.540.2700 | 301.544.9667

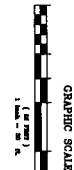
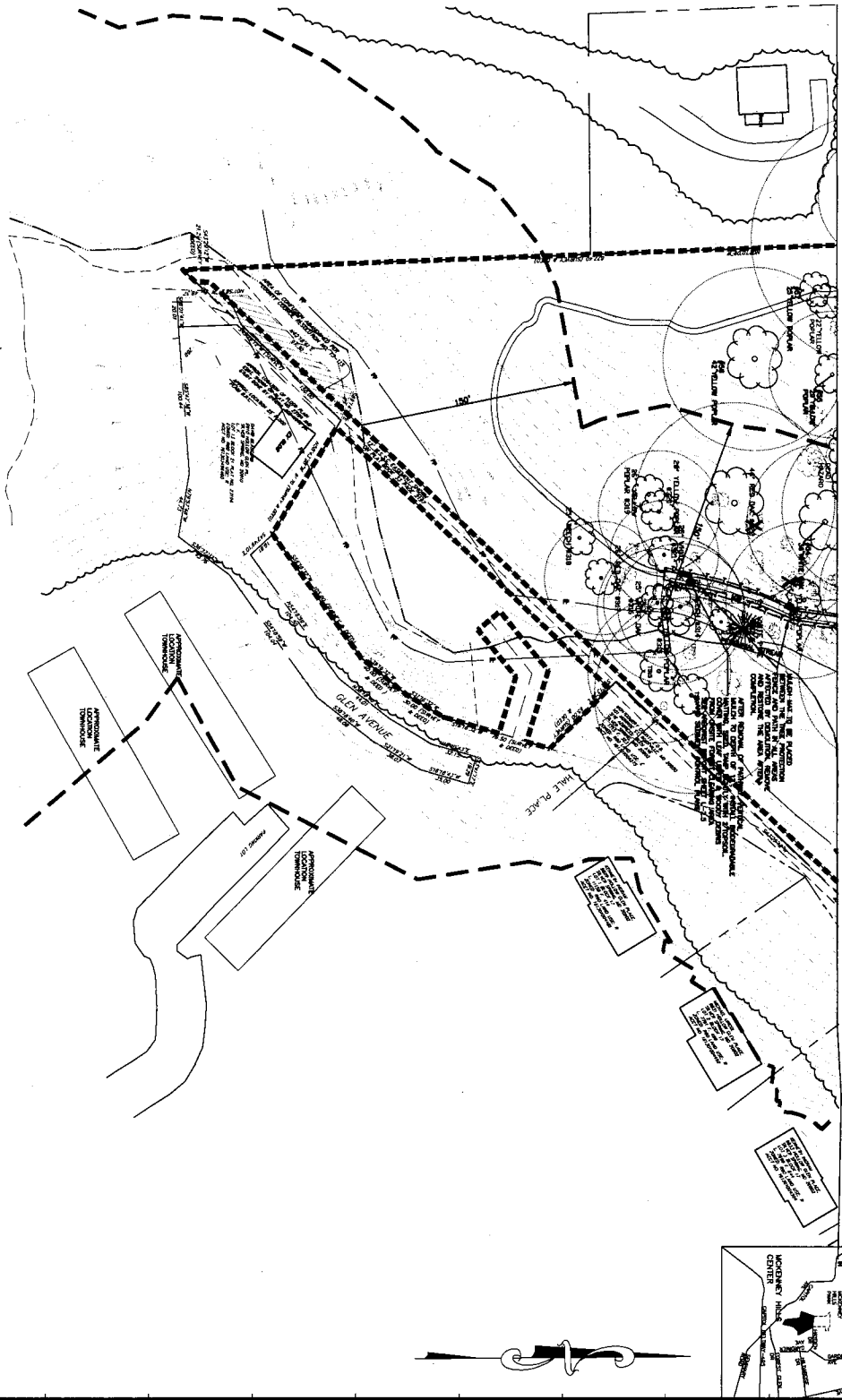


LEGEND

	SPECIMEN AND SIGHTING TREE		STREAM VALLEY BUFFER
	SPECIMEN AND SIGHTING TREE		NON-TIDAL WETLANDS BUFFER
	SPECIMEN AND SIGHTING TREE		FOREST RETENTION
	SPECIMEN AND SIGHTING TREE		FOREST TO BE CLEARED
	SPECIMEN AND SIGHTING TREE		TREE SAVE FENCE
	SPECIMEN AND SIGHTING TREE		TREE SAVE SIGN
	SPECIMEN AND SIGHTING TREE		EXISTING TREE LINE
	SPECIMEN AND SIGHTING TREE		PROPOSED TREE LINE
	SPECIMEN AND SIGHTING TREE		LIMIT OF DISTURBANCE
	SPECIMEN AND SIGHTING TREE		PROPOSED CONTOURS
	SPECIMEN AND SIGHTING TREE		PROPERTY BOUNDARY
	SPECIMEN AND SIGHTING TREE		STREAM VALLEY BUFFER

Attachment C

MATCHLINE SHEET L-2.1



- LEGEND**
- EXISTING TREE
 - ORISTE SIGNIFICANT/SCREENING TREE W/TAG NUMBER
 - FIELD RAIN SURVEY BORDER
 - FOREST TRENCH BOUNDARY
 - STREAM
 - STREAM VALLEY BUFFER (SVB)
 - SPRING TREE W/CRZ TO BE REMOVED
 - LIMITS OF DISTURBANCE
 - SPECIAL TREE PROTECTION FENCE W/SIGNAGE
 - POST PROTECTIVE FENCE
 - TRE PROTECTIVE FENCE W/SIGNAGE
 - TRENCH/TREE PROTECTION FENCE WITH SIGNAGE
 - W/REQUIREMENT OF TREE PLACEMENT SIGNAGE 500'.C. & COMMENTS
 - FOREST CLEANING AREA
 - RESTORATION AREA
 - FLOODPLAIN

CERTIFICATION OF QUALIFIED PROFESSIONAL

STATE OF MARYLAND
 PROFESSIONAL ENGINEERING BOARD
 I, _____, a duly Licensed Professional Engineer, do hereby certify that the above described work was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer in the State of Maryland.

- GENERAL NOTES**
1. The proposed project is to be located on the site shown on the site plan.
 2. The site plan shows the location of the proposed project and the location of the existing trees.
 3. The site plan shows the location of the proposed project and the location of the existing trees.
 4. The site plan shows the location of the proposed project and the location of the existing trees.
 5. The site plan shows the location of the proposed project and the location of the existing trees.
 6. The site plan shows the location of the proposed project and the location of the existing trees.
 7. The site plan shows the location of the proposed project and the location of the existing trees.
 8. The site plan shows the location of the proposed project and the location of the existing trees.
 9. The site plan shows the location of the proposed project and the location of the existing trees.
 10. The site plan shows the location of the proposed project and the location of the existing trees.
 11. The site plan shows the location of the proposed project and the location of the existing trees.
 12. The site plan shows the location of the proposed project and the location of the existing trees.
 13. The site plan shows the location of the proposed project and the location of the existing trees.
 14. The site plan shows the location of the proposed project and the location of the existing trees.
 15. The site plan shows the location of the proposed project and the location of the existing trees.
 16. The site plan shows the location of the proposed project and the location of the existing trees.
 17. The site plan shows the location of the proposed project and the location of the existing trees.
 18. The site plan shows the location of the proposed project and the location of the existing trees.
 19. The site plan shows the location of the proposed project and the location of the existing trees.
 20. The site plan shows the location of the proposed project and the location of the existing trees.

MISS UNLITZ

DATE: _____

PROJECT: _____

PROJECT NO.	DATE	PROJECT	DATE
111	11/13	111	11/13
111	11/13	111	11/13
111	11/13	111	11/13

FINAL FOREST CONSERVATION PLAN
 DOWNCOUNTY CONSORTIUM ES #29
 2600 HAYDEN DRIVE, SILVER SPRING, MD. 20902

17720 Balacella Drive Suite 600 Calverton, MD 20705
 Tel 901.955.1000 Fax 901.955.0088

1555 Beverly Road Suite 105 Midway, VA 43041
 Tel 703.903.8100 Fax 703.903.8795

C2

L-2.2
 01.10.2010

Attachment C

PROPOSED REFORESTATION PLANT MATERIALS

TOTAL	BOTANICAL NAME	COMMON NAME	SIZE	LMT/ROOT	SPACING	FORM
3	ASPE FERNUM	RED MAPLE	2" CALIPER	500	30' x 30'	TREE
2	FRAX OXYPHYLLA	AMERICAN BEECH	2" CALIPER	500	30' x 30'	TREE
2	QUERCUS RUBRA	RED OAK	2" CALIPER	500	30' x 30'	TREE
2	QUERCUS ALBA	WHITE OAK	2" CALIPER	500	30' x 30'	TREE

NOTE: 100% SURVIVAL AFTER 2 YEARS OF GROWING SEASON IS REQUIRED FOR ALL REFORESTATION ACRES SHOWN. SEEDS ARE TO BE PLANTED WITH REDWOOD TREES SPACING PER DETAIL SHEET L-23A ON APPROVED EQUAL OR BETTER PLAN OR DESIGN WHEN PLAN OR DESIGN IS NOT SPECIFIED.

SITE TABULATIONS:

ACRES OF TRACT REMAINING IN AGRICULTURE	ACRES OF ROAD AND UTILITY E/W WHICH WILL NOT BE EMPLOYED AS PART OF DEV. APPLICATION:	ACRES OF TOTAL FOREST RESTORATION:	ACRES OF TOTAL FOREST CLEMEN:	ACRES OF TOTAL FOREST CLEMEN:	ACRES OF FOREST REMOVED, CLEARED, AND PLANTED WITHIN 100-YEAR FLOODPLAIN:	ACRES OF FOREST REMOVED, CLEARED, AND PLANTED WITHIN STREAM BUFFERS:	ACRES OF FOREST REMOVED, CLEARED, AND PLANTED WITHIN STREAM BUFFERS:
12.36	0	0.34	0.51	0.51	0.00	0.00	0.00

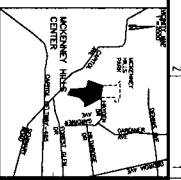
NET TRACT AREA

NET TRACT AREA	ACRES	NET TRACT AREA	ACRES
12.36	12.36	12.36	12.36

1. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies. The contractor shall also be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
2. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
3. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
4. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
5. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
6. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
7. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
8. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
9. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.
10. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate regulatory agencies, including the U.S. Forest Service, the State Department of Natural Resources, and the local health and environmental agencies.

CERTIFICATION OF QUALIFIED PROFESSIONAL

CERTIFICATION OF QUALIFIED PROFESSIONAL
 I, the undersigned, certify that I am a duly licensed and qualified professional in the State of Maryland, and that I am duly licensed and qualified to perform the services herein required of me.
 Signature: _____
 Title: _____
 Date: _____



CA

FINAL FOREST CONSERVATION PLAN
 DOWNCOUNTY CONSORTIUM ES #29
 2600 HAYDEN DRIVE, SILVER SPRING, MD 20902

1790 Baltimore Drive
 Suite 600
 Columbia, MD 21045
 Tel 301.551.0000
 Fax 301.551.0080

1355 Beverly Road
 Suite 105
 Millersville, VA 22661
 Tel 703.505.9100
 Fax 703.505.9795

L-2.4
 01.10.2010

December 17, 2010

Amy Lindsey, John Carter, & Mary Beth O'Quinn --

The following trees on the southeast slope were identified in the FCP as being impacted, in need of "evaluation in the field for possibility to remain as determined by certified arborist":

4,5,6,7,8,9,13,30A,31,32,48,302,313

Why has their status changed to "to be removed"?

-- Bruce Cohen
301-816-9394
bruce.b.cohen@gmail.com

**McKENNEY HILLS MCPS FFCP REVIEWED
McKENNEY HILLS FOREST PRESERVATION GROUP (MHFPG)
12/17/10**

INTRODUCTION

The McKenney Hills Forest Preservation Group (MHFPG) has reviewed MCPS' Final Forest Conservation Plan (FFCP Dec 8 2010-1.pdf) (hereinafter "FFCP") and compared it to the preliminary FCP (McKenney_FCP_F-100.pdf) (hereinafter "FCP") to identify differences between the two plans.

There are many differences between the FCP given conditional approval by the M-NCPPC Planning Board on October 28, 2010 and the MCPS' FFCP submitted to M-NCPPC on December 8, 2010. Many differences reflect the Planning Board's conditions which incorporated the MOU between MCPS and MHFPG and also incorporated the recommendations of the M-NCPPC's Community Based Planning Division (John Carter and Mary Beth O'Quinn).

However, other elements of the FFCP do not appear to be represented in either the Planning Board's conditional decision or the documents on which it was based. One result is that an additional 13 specimen or significant trees not slated for removal under the FCP are now slated for removal under the FFCP.

The MHFPG's understanding was that MCPS was bound by decision of the M-NCPPC Planning Board. Since many of the changes in the FFCP are not part of any of the documents on which the Planning Board's decision was based, the rationale for including those changes in the FFCP is not apparent. Thus, there is no apparent basis for the removal of an additional 13 specimen or significant trees as is called for in the FFCP.

Moreover, there is no evidence that certain points contained in the MOU have been applied to the FFCP. One case in point is #3 of the MOU which addresses the manner in which the concrete steps are to be removed. The only changes between the FCP and the FFCP in this area are to designate additional trees for removal or for more serious negative impact than was indicated in the FCP. This indicates that the more environmentally sensitive means for removing of the steps stipulated in point #3 of the MOU have not been applied to the FFCP.

The Planning Board decided to approve the MCPS FCP with conditions and those conditions were our MOU and Carter and O'Quinn's recommendations. Nowhere were additional changes contemplated that

did not conform to the Planning Board's decision. Moreover, in subsequent discussions with MCPS, it was insisted that both the letter of the MOU and the Planning Board's decision be adhered to. There was no indication that any deviation from the conditionally approved FCP or the agreements and decisions on which such approval was based was possible. MHFPG agreed with that proposition all along. Therefore, we respectfully request that the M-NCPPC consider the questions we have raised concerning MCPS' FFCP and, wherever appropriate, also insist that the letter of its conditional decision to approve MCPS' FFCP be reflected in that document.

The review of MCPS' FCP and FFCP proceeded from the northernmost part of the site at Hayden Drive in a clockwise direction until the circle was completed. All differences identified in the 2 plans are noted below.

EASTERN BOUNDARY

1). Area Around Northeastern Boundary

A series of bold horizontal lines that appear to be following the contours of the slope have been drawn on the FFCP Dec 8 2010 map in the area around the northeastern boundary of the site. This area is now referred to on that map as being "additional area adjacent to buffer to mitigate encroachment = 0.03 acres".

A 46" Black Cherry (Tree #4) was designated in the FCP as possibly having "impacts to the critical root zone and will be evaluated in the field for possibility to remain as determined by certified arborist".

In the FFCP it appears to be designated as a "specimen tree to be removed."

What precisely is going on with the changes on the FFCP map, specifically the designation "additional area adjacent to buffer to mitigate encroachment = 0.03 Acres"? It appears that a greater level of intrusion into and destruction of the forest is planned than was indicated in the FCP. What exactly is being proposed in this instance?

Why is it that additional trees can be taken and additional areas of disturbance can be designated in the FFCP that were not present in the FCP?

2). LOD For Future Pathway Improvements

An area called "LOD for Future Pathway Improvements" is designated in both the FCP and the FFCP. However, in the FFCP it is accompanied

with the following language: "which will be submitted as a plan revision for future pedestrian bridge". This area is south of the "northeastern boundary area" referred to above.

On the F-100 map, 6 specimen or significant trees that are located within the LOD of this area (Trees: #13: 24" yellow Poplar; #9: 27" Yellow Poplar; #5: 32" Yellow Poplar; #8: 24" Yellow Poplar; #6: 28" Sycamore; #7: 34" Yellow Poplar) are designated as possibly having "impacts to the critical root zone and will be evaluated in the field for possibility to remain as determined by certified arborist".

In the FFCP, the designation for these same 6 specimen or significant trees has changed to "specimen and significant tree to be removed."

There are also 3 specimen or significant trees to the south and west of the above area, that in the F-100 map were designated as "specimen or significant tree with impacts to the critical root zone". These are the following trees: #32: 34" Red Oak; #31: 30" Yellow Poplar; #30A: 30" Yellow Poplar.

In the FFCP the designations for these 3 trees have been changed to "specimen or significant tree to be removed."

Why have these negative changes, i.e. the removal of 9 additional trees that were not designated for removal in the FCP been incorporated into the FFCP? Are such changes not subject to additional Planning Board review?

3). Forest Clear Area Along Eastern LOD

The forest clear area along the southeastern LOD adjacent to the school building has been reduced from 0.17 acres in the FCP to 0.15 acres in the FFCP.

The following language also appears at the point on the FFCP map where the "forest clear area" information is printed: "Area of Encroachment into SVB: 0.01 acres".

What is the "SVB"?

4). Area Around the Concrete Stairs

At the top of the stairs where they are closest to the LOD of the school site, a significant tree (#48, a 24" Yellow Poplar) that was designated as having "impacts to its critical root zone that will be evaluated in the field

with possibility to remain as determined by a certified arborist” has had this designation changed to “significant tree to be removed”.

Tree #36, a 36” red oak, that is located to the north of the stairs near the top, was designated in the FCP as a specimen tree that was being retained is now designated in the FFCP as having “impacts to the critical root zone”.

A 24” white pine (tree #313) that was designated in the FCP as designated as possibly having “impacts to the critical root zone and will be evaluated in the field for possibility to remain as determined by certified arborist” has been re-designated in the FFCP as a significant tree to be removed”.

It is important to note that the designations of the remaining trees (those not mentioned above in this section) that are located on either side of the concrete steps and walkway, have not changed between the FCP and the FFCP. Most trees on either side of the concrete steps and path are designated as having “impacts to the critical root zone” and “impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist”.

Section #3 of the MOU stipulates the following:

“MCPS will preserve as many large trees as possible in removing the concrete stairway on the eastern hillslope, through use of light equipment such as jack hammers and other similar hand tools with no use of heavy equipment. Demolition and clearing will be done in a manner that minimizes tree losses and impacts”....

It would seem that as a result of the implementation of this language there would be far less disturbance in the area around the steps than was likely to have occurred under the FCP. Why has there not been a positive improvement in the status of the trees in this area that is shown on the FFCP? Is it not logical to expect that there should be a positive impact as a result of the application of this language in the context of the FFCP that would result in far fewer trees being negatively impacted and removed? Instead there is either no change or the changes that have been indicated go the other way, i.e. to greater impacts and more tree removal. This is illogical. These questions need to be answered.

It is also important to note that there are also no changes in the designation of the trees near the foot bridge. Four trees will still sustain “impacts to the critical root zone and will be evaluated in the field for possibility to remain as determined by certified arborist” and three more nearby will sustain “impacts to the critical root zone”. This does not

reflect the second half of section #3 of the MOU which states the following:

“The portion of the stairway that currently adjoins the wooden foot bridge will be preserved if warranted by placement of the new bridge. Construction and placement of a replacement bridge will be done in a manner that minimizes tree losses and impacts.”

5). Forest Retention Area #1

The amount of acreage included in Forest Retention Area #1 has been changed. In the FCP it was 5.36 acres and in the FFCP it is 5.38 acres.

6). Category 1: Conservation Easement

At the southeastern corner of the site in the FFCP, “Category 1: Conservation Easement” has been typed onto the FFCP. A line then points to the eastern boundary of the site. This did not appear in the FCP. What does it mean? Is this a sufficient designation on the map to create a conservation easement covering the entire eastern portion of the MCPS site?

What about the western portion of the MCPS site that was supposed to be placed in a conservation easement? Has this been eliminated from the FFCP?

SOUTHERN BOUNDARY

7). Interface With legacy Open Space At Milton Property

Tree #407, a 34” Linden, has been re-designated from “impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist” to “impacts to the critical root zone”.

Inside the LOD at the southern boundary in the FCP only a drawing showing a connection with a mulched or natural trail outside the LOD was shown. Now in the FFCP this trail has been turned into a concrete sidewalk that is now shown as continuing inside the LOD where it links up with a “paved trail to property line”.

This appears to indicate that there will be a point of access here allowing entrance and exit from the site into the woods around the Milton house. Its this a correct interpretation of this point? If not, what is the correct interpretation?

It should be noted that the entire purpose in removing the concrete stairs on the east side of the site was to prevent undesired and unsafe access to the site by persons who might have nefarious intent. Why then has another point of access been provided?

Section #2 of the MOU states the following:

“At the request of the Department of Parks MCPS will revise its current plans and designs to provide a 25’ buffer zone along the southern edge of the site adjoining the M-NCPPC Legacy Open Space property (the Milton Property), to protect the roots of trees located near the property boundary. Except for the construction of a short length of 4’-wide sidewalk, the buffer is to be free of any and all construction, footings, stormwater facility elements, and play equipment. The total additional protected area resulting from this provision is approximately 1296 square feet.”

There is no mention of the concrete sidewalk inside the LOD linking up with the path outside in the MOU. What are the details on this possible access point are missing from the FFCP? What is the intent of this feature of the site? Does that intent conflict with any aspect of the decision of the Planning Board?

8). Unidentifiable Lines on Map at Southern Boundary

A lightly hatched line that appears on the FCP that runs from inside the LOD to outside at an angle to the LOD has been changed in the FFCP into a bold, black line. In the legend of the map, the bold, black line is supposed to represent a property boundary. What does it represent here and why has there been a change from the FCP to the FFCP?

In the FCP, tree #403, a 38” white oak was slated for removal with the reason given that it was dead. It is not so designated in the FFCP, which apparently leaves it standing.

Tree #404, a 31” Red Oak that was designated in the FCP as having “impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist” was re-designated in the FFCP as “impacts to the critical root zone”.

Tree #402, a 39” Red Oak listed as “poor/fair condition” in the FCP as having “impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist” was re-designated in the FFCP as “impacts to the critical root zone”.

Tree #401, a 41" Red Oak that was designated in the FCP as a specimen tree with "impacts to the critical root zone" has been re-designated in the FFCP as being "retained".

WESTERN BOUNDARY

9). Forest Clear Area

In the FCP the "Forest Clear Area" is listed as 0.38 acres. Whereas, in the FFCP the "Forest Clear Area #1" is listed as 0.27 acres.

10). Forest Retention Area #2

In the FCP, the Forest Retention Area #2 is listed as 2.13 acres. Whereas, in the FFCP the Forest Retention Area #2 is listed as 2.24 acres.

Tree #69, a 38" Yellow Poplar that was designated in the FCP as having "impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist" appears to have been re-designated in the FFCP as being "retained".

Tree #68, a 34" White Oak that was designated as "to be removed" in the FCP has been re-designated in the FFCP as "retained".

Tree #70, a 40" Red Oak that appears on the FCP as having "impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist" appears to have been re-designated in the FFCP as "impacts to the critical root zone". However, the map is not so clear that this is definitive. Clarification is required here.

Stormwater LOD and Bioretention Areas

Despite the reduction of the stormwater LOD from 20' to 15' in width, two trees that were marked for removal at the bottom of the stormwater LOD are still slated for removal in the FFCP: Tree #308, a 42" Yellow Poplar and Tree #301, a 37" Yellow Poplar. They are joined by Tree #302, a 32" Yellow Poplar that will also be removed despite the fact that in the FCP it was designated as having "impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist".

What is going on here? Shouldn't the reduction in the LOD from 20' to 15' in width have a positive impact on Tree #302 rather than a negative one? Why are the same trees that were identified for removal in the FCP still designated for removal in the FFCP?

There is a major difference in the FCP and the FFCP near the top of the stormwater LOD, just to the west (down the slope) from the micro-bio-retention facility. In the FCP there is a light hatched line looping through this area. In the FFCP that lightly hatched line has been replaced with a bold line with bold hatch marks throughout. The following words describe what is in store for this area: "Additional Area Adjacent To Buffer To Mitigate Encroachment = 0.07 Acres".

This different designation between the FCP and the FFCP does not appear to have affected the status of the three large trees in the immediately surrounding area to the north and west, which under both plans will experience "impacts to critical root zones".

It is not clear what the designation "Additional Area Adjacent To Buffer To Mitigate Encroachment = 0.07 Acres" means. This point needs to be clarified. This change needs to be assessed in terms of whether it will or will not affect any significant or specimen trees more than the FCP initially called for.

Immediately north of the micro-bio-retention facility a new heavy black line has been drawn onto the FFCP that did not appear on the FCP. This appears to designate the northern boundary of the "Additional Area Adjacent To Buffer To Mitigate Encroachment = 0.07 Acres". This line is broken in one spot near the property boundary line with the MNCPPC Parkland and then it arcs north into the Parkland.

What is this line? Clarification is required here.

The forest clear area of the FFCP near the boundary with the Parkland has been slightly reduced from what it was in the FCP. This appears to have permitted 2 significant trees located on the boundary line (Tree #111 , a 27" Yellow Poplar and Tree #7 , a 24" Yellow Poplar) to be re-designated from having "impacts to its critical root zone that will be evaluated in the field with possibility to remain as determined by a certified arborist" to "impacts to critical root zone."