



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
5-19-11

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, Area 2 Division *AL*
DATE: May 5, 2011
PLAN NAME: Weller Road Elementary School
PLAN NUMBER: MR 2011204
PLAN TYPE: Preliminary Forest Conservation Plan pursuant to a Mandatory Referral Review
REVIEW BASIS: Chapter 22A of the County Code
ZONE: R-60
LOCATION: 3301 Weller Road north of Bluhill Road
MASTER PLAN: Kensington/Wheaton
APPLICANT: Montgomery County Public Schools (MCPS)
HEARING DATE: May 19, 2011

RECOMMENDATIONS

Approval of the Preliminary Forest Conservation Plan subject to the following conditions:

1. The proposed development shall comply with the conditions of the Preliminary Forest Conservation Plan. The applicant shall satisfy all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits:
 - a. Approval of Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to any clearing, grading or demolition on the site.
2. Final Forest Conservation Plan must include:
 - a. Planting plan with canopy cover on both Weller Road Elementary School and A. Mario Loiederman Middle School.
 - b. Detailed and specific tree protection measure for on and off-site trees affected by development.
3. Required site inspections by M-NCPPC monitoring staff must occur as specified in "Trees Technical Manual".
4. A copy of the maintenance and management agreement must be kept at both Weller Road Elementary School and Loiederman Middle School and given to the Montgomery County Public Schools (MCPS) maintenance staff to ensure compliance with conditions of the forest conservation plan.

DISCUSSION

There are two items for the Planning Board to review for this Mandatory Referral application:

- 1) Mandatory Referral MR2011204
- 2) A Preliminary Forest Conservation Plan (MR2011204)

This memorandum covers staff's review and recommendations on the Preliminary Forest Conservation Plan (PFCP). Unlike the review of the Mandatory Referral, the Board's actions on Forest Conservation Plans, pursuant to Chapter 22A of the County Code, are regulatory and binding. The Planning Board must act on the forest conservation plan before it can act on the mandatory referral.

Project Description - The Montgomery County Public Schools (MCPS) is proposing a partial replacement (Modernization) of Weller Road Elementary School, located at 3301 Weller Road. The elementary school is located directly adjacent to A. Mario Loiederman Middle School, surrounded by single-family detached houses. The project will include the demolition of the existing school facility, except for the 2007 addition, and the construction of a new school, parking, drop-off location, play areas, and ball fields.



Figure 1: 2010 Aerial Photograph

ANALYSIS

Environmental Guidelines - A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420101160) was approved by staff on January 29, 2010. The 10.01 acre site contains no forest, streams, wetlands, or environmental buffers. The property is within the Rock Creek watershed – a Use I watershed. The proposed project does not have any proposed activities within any streams,

wetlands, or environmental buffers and is in compliance with the *Environmental Guidelines*.

Specimen Tree Removal - During maintenance activities on this property, a specimen tree (37" White Pine labeled as #34 on the plan) was removed. The tree was removed after the NRI/FSD was approved but prior to the Preliminary Forest Conservation Plan being approved. The removal of this tree would require a variance to Section 22A-12(b) (3) of Forest Conservation Law. Tree #34 was designated as being in good condition at the time of NRI/FSD. This tree was located within the proposed limits of disturbance (LOD) line and would not be recommended for retention. However, as the removal of this tree was clearly a direct consequence of the applicant's actions, staff is recommending compensation at a 1" diameter at breast height (DBH) replacement for every 4" DBH lost, using trees with a minimum size of 3" DBH. This translates into 4 trees with a minimum size of 3" DBH above and beyond planting requirements for this development.

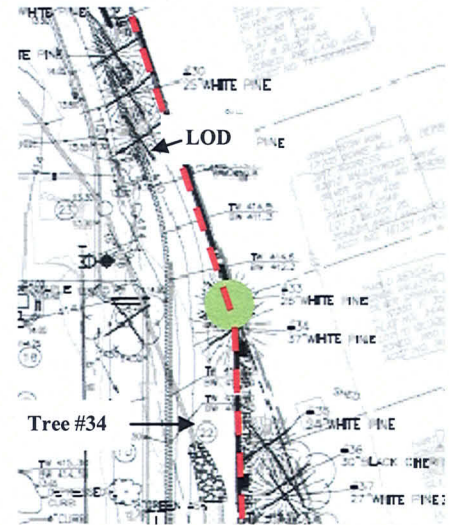


Figure 2: Specimen Tree Removal

Forest Conservation - This project is subject to the Montgomery County Forest Conservation law (Chapter 22A of the Code) under section 22A-4(d) which states "a government entity subject to mandatory referral on a tract of land 40,000 square feet or larger..." The site is 10.01 acres in size, and contains no forest, but has 24 trees with a diameter greater than 24" in (DBH). While there is no forest located on this property, the proposed development plan still generates a planting requirement of 1.56 acres based on the size of the property. MCPS has submitted a PFCP that proposes to satisfy this planting requirement by planting 0.66 acres of forest on-site and using an off-site planting bank to meet the remaining 0.90 acres. (See Figure 3)

While staff believes that this PFCP satisfies the requirements of Forest Conservation Law, staff has proposed a revision to the plan that meets Forest Conservation Law and increases the local tree canopy. The subject property has no existing forest or priority planting areas, as defined by Forest Conservation Regulations Section 1.08E (COMCOR 22a.00.01.08E), and a school is an institutional land use. Therefore, in accordance with Forest Conservation Regulations Section 1.08G (COMCOR 22a.00.01.08G), staff recommends that the afforestation planting requirement be met through the establishment of tree cover. While there is insufficient space available on Weller Road Elementary School to accommodate the number of trees required, additional space is available on the adjacent A. Mario Loiederman Middle School. (See Figure 1)

Using both school sites to meet the planting requirements of Weller Road Elementary School will allow MCPS to meet all planting requirements on their own property, in the same watershed, without creating an isolated forest. Both schools will need to retain the maintenance and management agreement on-site to ensure compliance with the Forest Conservation Plan. While there will be no easements, the landscape plantings will be protected through the Forest Conservation Plan, as is standard practice. MCPS has agreed with this concept and the conditions of approval.

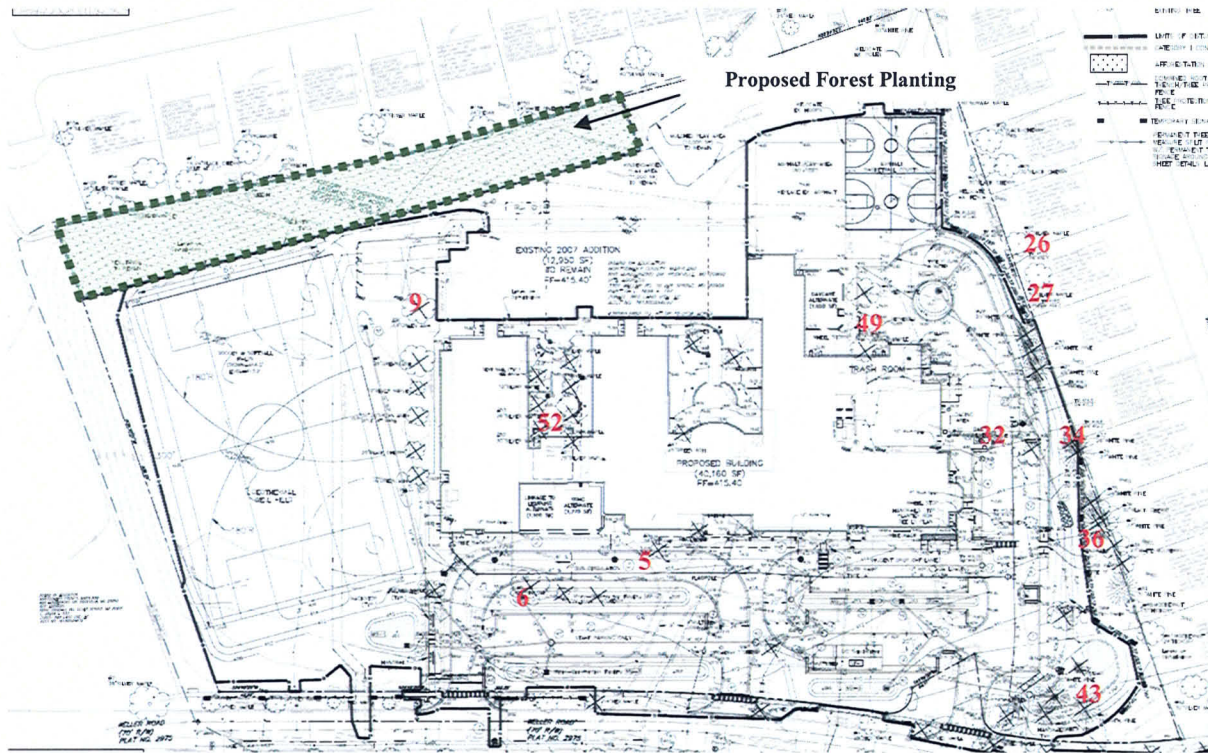


Figure 3: Proposed Preliminary Forest Conservation Plan

Forest Conservation Variance - Section 22A-12(b) (3) of Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the 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 Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The applicant submitted a variance request on March 22, 2011 for the impacts/removal to trees with the proposed layout (Attachment A). The applicant proposes to remove 13 trees that are 30 inches and greater, DBH, and to impact, but not remove, nine others that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Tree Number	Species	DBH	Status
5	Pin Oak	38"	75% of the County Champion, within the LOD
6	Pin Oak	33"	Within the LOD
9	Green Ash	33"	75% of the County Champion, within the LOD, save and protect if possible
26	Silver Maple	32"	Offsite, impacts, save and protect, removed

			only with owner's permission
27	Silver Maple	30"	Offsite, impacts, save and protect, removed only with owner's permission
32	Silver Maple	75"	Multistem, within the LOD
34	White Pine	37"	Previously removed
36	Black Cherry	30"	Outside LOD, significant impacts, save and protect if possible
43	White Pine	33"	75% of the County Champion, within the LOD
49	Red Maple	31"	Within the LOD
52	Silver Maple	30"	Within the LOD
55	Silver Maple	39"	Offsite, impacts, save and protect, removed only with owner's permission
56	Silver Maple	38"	Offsite, impacts, save and protect, removed only with owner's permission

Table 1: Trees to be removed or potentially removed

Tree Number	Species	D.B.H	CRZ Impact	Status
7	Silver Maple	39"	<1%	
19	White Pine	30"	<1%	
21	Mockernut Hickory	35"	<1%	
22	Norway Maple	40"	<1%	
24	Black Cherry	30"	4%	
25	Black Cherry	30"	<1%	
39	White pine	31"	15%	75% of the County Champion
40	Mockernut Hickory	32"	13%	
42	Silver Maple	30"	<1%	

Table 2: Trees to be affected but retained

The applicant has offered the following justification of the variance request:

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

Response: "As part of the program, the task was to provide the community with an updated elementary school facility that can accommodate a growing number of students as well as a modernized, safe and healthy environment for young students to learn. Efforts have been made to impact as little of the trees on site as possible because a specimen tree is a highly valuable resource. Some of the trees were impacted, but onsite afforestation and landscape planting will provide more square feet of forest than existed prior to construction. This work will require disturbance of the root zones of some trees described above but will not require their removal. However, it will require the removal of trees as listed in the status column above."

"If we are not allowed to impact the trees, the school will not be able to be update due to the

close proximity of specimen trees to the school building. As such, this would cause an *unwarranted hardship* to the community that it serves.”

All of the on-site trees proposed for removal are directly adjacent to or within the limits of disturbance (LOD). Tree #5 is at the front entrance of the existing school and in a location that will become part of the new bus drop off loop. Tree #6 is within the existing parking lot and parent drop-off loop, which is being reconfigured as a bus drop-off loop with stormwater management. Tree #9 is located adjacent to the 2007 school addition and within the disturbed area. However, the applicant will reevaluate the grading at time of Final Forest Conservation Plan to try to retain this tree. Trees #26 and 27 are on neighboring properties but affected by a daycare drop-off loop/service access and associated retaining wall. MCPS has committed to providing tree protection measures for these trees. However, as MCPS does not own these trees, the homeowners may elect to have these trees removed. This is the reason for the inclusion of these trees on the variance request as potential removals, rather than trees affected but retained. Tree #32 is adjacent to an existing parking lot, which is being reconfigured and enlarged to meet the schools parking and circulation needs. Tree #34 was previously removed, as discussed above but would have required removal due to the parking lot enlargement. Tree #36 is adjacent to existing parking and will be affected by development and may require the removal of this tree. This tree will be further evaluated at the time of Final Forest Conservation Plan. Tree #43 is located in a planting area at the facility entrance on Weller Road. This area is being used for a new microbioretention area, which requires grading and tree removal. Tree #49 is located adjacent to part of the school planned for demolition and is within the LOD. Tree #52 is inside a courtyard of the existing school, which will be demolished as part of this modernization. Trees #55 and 56 are off-site but will be affected by a stormdrain connection. As the degree of impact will not be known until final designs are developed, the applicant has requested permission for removal of trees #55 and 56 but intends to save and protect them if possible.

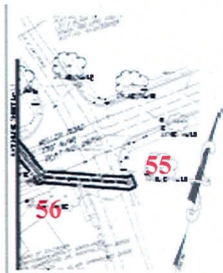


Figure 4: Offsite Stormdrain Connection

(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 building would fail to be updated due to the close proximity of specimen trees.”

(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: “The trees to be removed have been limited to the central area of the site and away from natural drainage systems. 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. 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: “The reforestation planned for the site is meant to enhance the quality of the forest onsite and provide a greater environmental and educational quality to the school after its modernization.”

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings - Staff has made the following determination based on the required findings that granting of the requested variance:

Will not confer on the applicant a special privilege that would be denied to other applicants.

Granting the variance will not confer a special privilege on the applicant as disturbance and removal of the specified trees are due to the development of the site. The trees and/or their critical root zones lie within the developable area of the site. Granting a variance request to allow land disturbance within the developable portion of a site is not unique to this applicant. This variance is necessary to achieve the County goals of enlarging this public school facility to operate adequately and safely. Therefore, staff believes that is not a special privilege that would be denied to other applicants.

1. *Is not 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 requested variance is based on the proposed site layout and design to achieve adequate level of service and safety for the school.

2. *Is not based on a condition relating to land or building use, either permitted or non-conforming, 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.

3. *Will not violate State water quality standards or cause measurable degradation in water*

quality.

DPS has approved a stormwater management concept, dated April 18, 2011 (Attachment B) for the proposed project. The approved concept will consist of Environmental Site Design in accordance with the latest revisions to the MDE Stormwater Design Manual. In addition, there are no impacts to trees or forest within environmental buffers. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions - There are 13 trees proposed for removal as a result of the proposed development. Five of the trees may be retained but permission for removal has been requested. There will also be some disturbance within the CRZ of another nine trees on-site but they are excellent candidates for safe retention.

Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, staff is recommending that replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" DBH. This means that for the 479 caliper inches of trees removed, they will be mitigated by the applicant with 40 native canopy trees with a minimum size of 3" DBH on the site. While these trees will not be as large as the trees lost, they will provide some immediate canopy and will help augment the canopy coverage and eventually fill in open areas of the forest where the large trees have been removed. As MCPS is showing 57 native canopy trees as part of the landscape planting plan, staff finds this to be adequate mitigation for the loss of trees in requiring a variance.

The trees subject to this variance to be impacted but retained are excellent candidates for safe retention and will receive adequate tree protection measures. No mitigation is recommended for trees impacted but retained.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on April 11, 2011. On April 18, 2011 the County Arborist issued her recommendations on the variance request and recommended the variance be approved with mitigation (Attachment C).

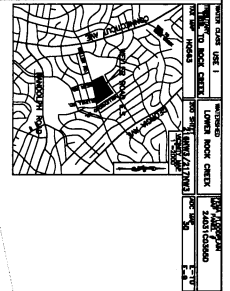
Variance Recommendation - Staff recommends that the variance be granted.

CONCLUSION

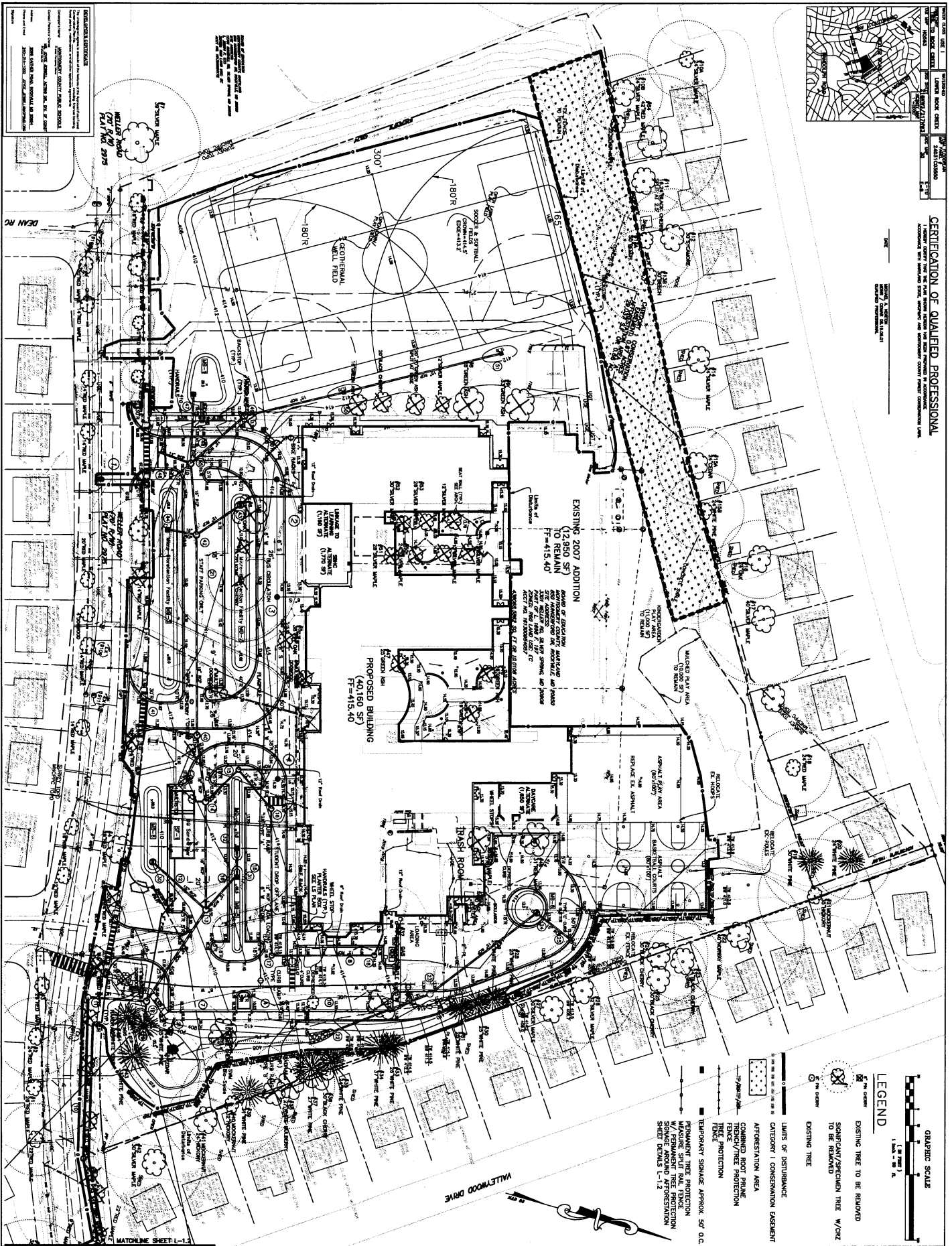
Staff recommends that the Planning Board approve the Preliminary Forest Conservation Plan with the conditions cited in this staff report. The variance approval is assumed into the Planning Board's approval of the Preliminary Forest Conservation Plan

Attachments:

- A. Forest Conservation Plan submitted for PB approval
- B. Letter from Department of Permitting Services
- C. Letter from County Arborist



CERTIFICATION OF QUALIFIED PROFESSIONAL
 I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON WAS PREPARED BY AN ARCHITECT
 ACCORDANCE WITH MONTGOMERY COUNTY, MARYLAND AND DEVELOPMENT CODES (MONTGOMERY COUNTY, MARYLAND)



GENERAL NOTES:
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
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SCALE	AS SHOWN
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CHECKED	M.A.N.
DATE	11.2010
SCALE	AS SHOWN
DATE	11.2010
DRAWN	M.A.N.
CHECKED	M.A.N.

WELLER ROAD ELEMENTARY SCHOOL
 3301 WELLER ROAD, SILVER SPRING, MARYLAND 20906
 MONTGOMERY COUNTY PUBLIC SCHOOLS

Deimar Architects, P.A.
 101
 201
 301
 401
 501
 601
 701
 801
 901
 1001

LEGEND
 EXISTING TREE TO BE REMOVED
 SIGNIFICANT/SPECIMEN TREE W/C/RZ TO BE REMOVED
 EXISTING TREE
 LIMITS OF DISTURBANCE
 CATEGORY 1 CONSERVATION ESSENTIAL
 AFFORESTATION AREA
 COMBINED ROOT PROTECTION FENCE/TREE PROTECTION FENCE
 TEMPORARY SIGNAGE APPROX. 50' O.C.
 PERMANENT TREE PROTECTION MEASURE SHIRT PAIL FENCE
 SIGNAGE APPROX. 50' O.C.
 SIGNAGE APPROX. 50' O.C.
 SHEET DETAILS T-1, T-2

SITE PLANNING & REFORESTATION GENERAL NOTES

1. Drawings are for the construction and reforestation program of planting, clearing and site preparation and should be read in conjunction with the specifications and other documents for the project. The reforestation program is to be completed within 180 days of the start of construction.
2. In reforestation areas all staked locations shall be planted with native species 2.0" x 2.0" or larger, unless otherwise specified.
3. Do not plant trees or shrubs shall 3"-4" of the diameter of stems or greater.
4. "BALSAMITE" (1-800-557-7777) must be certified a minimum of 48 hours prior to planting with any exception for plant material produced from a nursery located in Maryland.
5. Plant material shall be planted directly in front of roadway sign right-of-way.
6. All plants shall be planted in accordance with the "Landscaping Specifications Guidelines for the Baltimore-Washington Metropolitan Area," dated 12/2002, available from the Maryland Department of General Services, 100 North E Street, Baltimore, MD 21201. The following list of plants shall be planted only during the planting season, from August, September, October, and November, (if not specified).
7. All plants shall be planted with a minimum of 20% of each species.
8. All plants shall be planted with a minimum of 20% of each species.
9. All plants shall be planted with a minimum of 20% of each species.
10. All plants shall be planted with a minimum of 20% of each species.
11. All plants shall be planted with a minimum of 20% of each species.
12. Plants shall be inspected by the contractor and any material that is unacceptable shall be removed from the site. The contractor shall be responsible for the removal of any material that is unacceptable from the site. The contractor shall be responsible for the removal of any material that is unacceptable from the site.
13. Stakes will be placed in random order to indicate correct placement of the trees.
14. Plants shall be inspected by the contractor and any material that is unacceptable shall be removed from the site. The contractor shall be responsible for the removal of any material that is unacceptable from the site.
15. Clearing and grubbing shall be completed prior to planting.

SEQUENCE OF EVENTS FOR PROPERTY OWNERS REQUIRED TO COMPLY WITH FOREST CONSERVATION PLAN/FIRE SAFE PLAN

Procedures:

1. All trees to be preserved are to be marked and inventoried.
2. The status of existing trees shall be recorded and mapped.
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14. The status of existing trees shall be recorded and mapped.
15. The status of existing trees shall be recorded and mapped.

PROPOSED REFORESTATION PLANT MATERIALS

TOTAL	BOTANICAL NAME	COMMON NAME	SIZE	UNIT/FOOT	SPACE	FORM
10	ASER MERRILL	RED WAX	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
5	QUERCUS PRINUS	CESTRUNT OAK	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
6	HAMAMILUS VIRGINIANA	WITCH HAZEL	2" CALIBER	CONT.	RANDOMLY 2000' O.C.	SHRUB
5	CARYA TORREYANA	HOPKINSON HICKORY	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
8	LINDERA BICOLOR	SPICEBUSH	1/2" HEIGHT	CONT.	RANDOMLY 2000' O.C.	SHRUB
6	AMELANCHER CAUDICIS	SPICEBERRY	1/2" HEIGHT	CONT.	RANDOMLY 2000' O.C.	SHRUB
10	LINDERA TORREYANA	TULIP POPULAR	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
5	NYSIA SYLVATICA	BLACK GLIM	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
5	PRUNUS VIRGINIANA	WILD CHERRY	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
11	QUERCUS RUBRA	RED OAK	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
6	LINDERA TORREYANA	SWEETGUM	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
7	QUERCUS ALBA	WHITE OAK	2" CALIBER	BAB	RANDOMLY 2000' O.C.	TREE
6	VIRGINIANA ASPERNA	WIDE LEAF VIRGINIAN	1/2" HEIGHT	CONT.	RANDOMLY 2000' O.C.	SHRUB
53 BA	-	-	-	-	60 LBS. PER ACRE	SEED
23 BA	-	-	-	-	10,000 SF	SEED

NOTE: 100% SURVIVAL AFTER 3 YEARS OF GROWING SEASON IS REQUIRED FOR ALL REFORESTATION AREAS SHOWN. STABILIZE DISTURBED OR BARE AREAS WITH NATIVE PLANTS AND COMPANION SEED MIX. TREES ARE TO BE PLANTED WITH INDIVIDUAL TREES SPACED FOR DETAILED SHEET L-12 OR APPROVED EQUAL.

SITE TABULATIONS:

AGREEMENT OF TRACT	AGREEMENT OF ROAD AND UTILITY	AGREEMENT OF TOTAL FOREST COVERED	AGREEMENT OF TOTAL FOREST CLEARED	AGREEMENT OF TOTAL FOREST RETAINED	AGREEMENT OF TOTAL FOREST PLANTED	AGREEMENT OF FOREST RETAINED	AGREEMENT OF FOREST CLEARED	AGREEMENT OF FOREST PLANTED
10.36	0	0	0	0	0	0	0	0
1.58	0	0	0	0	0	0	0	0
2.08	0	0	0	0	0	0	0	0
0/0/0	0	0	0	0	0	0	0	0
0/0/0	0	0	0	0	0	0	0	0
0/0/0	0	0	0	0	0	0	0	0
0/0/0	0	0	0	0	0	0	0	0

NO COUNT CHAMPION TREES WERE PRESENT ON THE SITE ACCORDING TO MONTGOMERY COUNTY CODES.

CERTIFICATION OF QUALIFIED PROFESSIONAL

MISS TUDLEY

CALL MISS TUDLEY AT 1-800-557-7777. 48 HOURS PRIOR TO THE START OF CONSTRUCTION. MISS TUDLEY WILL BE AVAILABLE TO THE CLIENT FOR ANY REVISIONS TO THE PLAN. MISS TUDLEY WILL BE AVAILABLE TO THE CLIENT FOR ANY REVISIONS TO THE PLAN. MISS TUDLEY WILL BE AVAILABLE TO THE CLIENT FOR ANY REVISIONS TO THE PLAN.

NO COUNT CHAMPION TREES WERE PRESENT ON THE SITE ACCORDING TO MONTGOMERY COUNTY CODES.

CHAMPION TREE NOTE
NO COUNT CHAMPION TREES WERE PRESENT ON THE SITE ACCORDING TO MONTGOMERY COUNTY CODES.

Delmar Architects, P.A.

3301 WELLER ROAD, SILVER SPRING, MARYLAND 20806

WELLER ROAD
ELEMENTARY SCHOOL

MONTGOMERY COUNTY PUBLIC SCHOOLS

JOB NO. _____

SCALE AS SHOWN

DATE 1.7.2010

DRAWN M.A.M.

CHECKED M.A.M.

PRELIMINARY
FOREST CONSERVATION PLAN

L-13 OF



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

April 18, 2011

Kenneth D. Jones
Macris, Hendricks & Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, Maryland 20886-1279

Re: Stormwater Management **CONCEPT** Request
for Weller Road Elementary School
SM File #: 239206
Tract Size/Zone: 10 Ac. / R-60
Total Concept Area: 10 Ac.
Parcel: P014
Watershed: Lower Rock Creek

Dear Mr. Jones:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals by providing ESD practices to the maximum extent practicable (MEP). A green roof, porous pavement, 5 micro-bioretenion facilities, 3 bioretention facilities and a bio-swale are proposed.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is **not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mike Geier at 240-777-6342.

Sincerely,

Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB: tia CN239206 Weller Road Elem.mjg.doc

cc: C. Conlon
SM File # 239206

ESD Acres: 5
STRUCTURAL Acres: 5
WAIVED Acres: 0



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

April 18, 2011

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

RE: Weller Road Elementary School, MR2011103, NRI/FSD applied for on 1/4/2010

Dear Ms. Carrier:

The County Attorney's Office has advised me that the provisions contained in Section 5-1607 of Title 5 (Natural Resources) of the Maryland Code apply to any application required by Chapter 22A of the Montgomery County Code submitted after October 1, 2009. Since the application for the above referenced request is required to comply with Chapter 22A based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC) and was submitted after this date, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

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

Applying the above conditions to the plan submitted by the applicant results in the following findings:

Françoise Carrier
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1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this condition.
2. Based on a discussion on March 19, 2010 with representatives of the Maryland Department of Natural Resources Forest Service and the MNCPPC, the disturbance of trees, or other vegetation, is not interpreted as a condition or circumstance that is the direct result of the actions by the applicant and, therefore, the variance can be granted under this condition, as long as appropriate mitigation is provided for the resources disturbed.
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this condition.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this condition.

Therefore, I recommend that this applicant qualify for a variance conditioned upon mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law. Until other guidelines are developed, I recommend requiring mitigation based on the area of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

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