



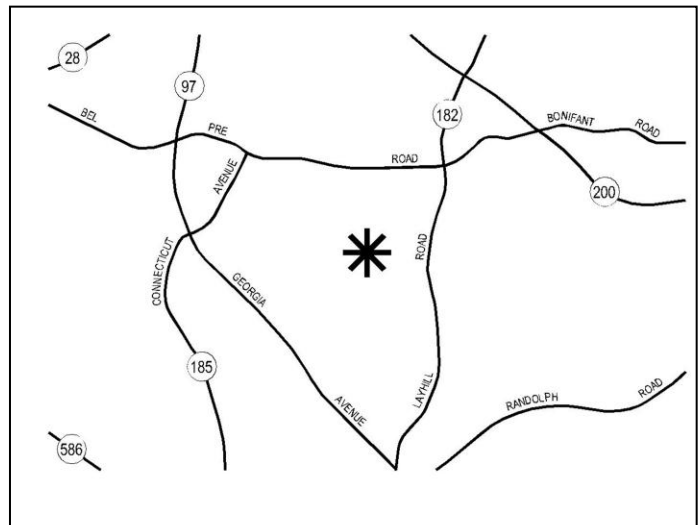
Bel Pre Elementary School, Amendment to Final Forest Conservation Plan MR2006502

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Completed: 04/27/12

Description

- Amendment to Final Forest Conservation Plan for MR2006502, Bel Pre Elementary School
- 13801 Rippling Brook Drive, Silver Spring, MD
- 8.8 acres, R-150, R-200 and R-90
- Aspen Hill Master Plan
- Applicant: Montgomery County Public Schools
- Filing date: October 12, 2011



Summary

The Applicant proposes to:

- Retain 1.85 acres of forest and plant 0.16 acres of forest.
- Record a Category I Conservation Easement over 2.01 acres of retained and planted forest by deed.
- Remove seven trees and impact 14 additional trees that require a variance, per Section 22A-12(b)(3).

Staff recommends **approval with conditions.**

Pursuant to Chapter 22A of the County Code, the Board’s actions on Forest Conservation Plans are regulatory and binding. Staff recommends **approval** of the amended Final Forest Conservation Plan, with variance, subject to the following conditions:

Conditions

1. The proposed development must be in compliance with the Final Forest Conservation Plan.
2. The Applicant must record a Category I Conservation Easement by deed over all areas of forest retention and planting prior to any demolition, clearing, or grading occurring onsite.
3. Limits of disturbance shown on Sediment Control Plan must match the limits of disturbance shown on the Final Forest Conservation Plan.
4. Applicant must enter into a Maintenance and Management Agreement approved by the Office of General Counsel to ensure compliance with conditions of the Final Forest Conservation Plan.
5. Copies of the Final Forest Conservation Plan, recorded Category I Conservation Easement, and Maintenance and Management Agreement must be kept at Bel Pre Elementary School and given to the Montgomery County Public Schools maintenance staff to ensure compliance with conditions of the Forest Conservation Plan.

Discussion

The Final Forest Conservation Plan (FFCP) was initially approved on September 21, 2006, in conjunction with a Mandatory Referral for the construction of a gym addition. The approved FFCP established areas of forest preservation and planting in Category I Conservation Easement. The proposed amendment accommodates the school modernization by modifying the areas protected by Category I Conservation Easement and slightly increasing the total acreage protected.

Project Description

The Montgomery County Public Schools (MCPS) is proposing to modernize Bel Pre Elementary School by demolishing and replacing the majority of the existing school. The elementary school site is surrounded by single-family detached houses to the north, south, and west and by Bel Pre Neighborhood Park to the east (Exhibit 1). The project will include the construction of a two-story school, major circulation improvements, play areas, and a ball field. The 8.83-acre property is owned by Montgomery County Public Schools and located at 13801 Rippling Brook Drive, Silver Spring, within the 1994 *Aspen Hill Master Plan*.



Exhibit 1 Bel Pre Elementary School neighborhood

Site Description

The 8.83-acre Subject Property is constrained by areas of steep slopes, environmental buffer, and high priority forest to the east (Exhibit 2). The on-site forest is part of a larger, contiguous forest that extends onto Bel Pre Neighborhood Park. The Subject Property contains 2.00 acres of high priority forest and 0.49 acres of environmental buffer for Bel Pre Creek. A 0.03-acre pocket of wetlands lies at the base of a steep slope bordering Bel Pre Neighborhood Park.

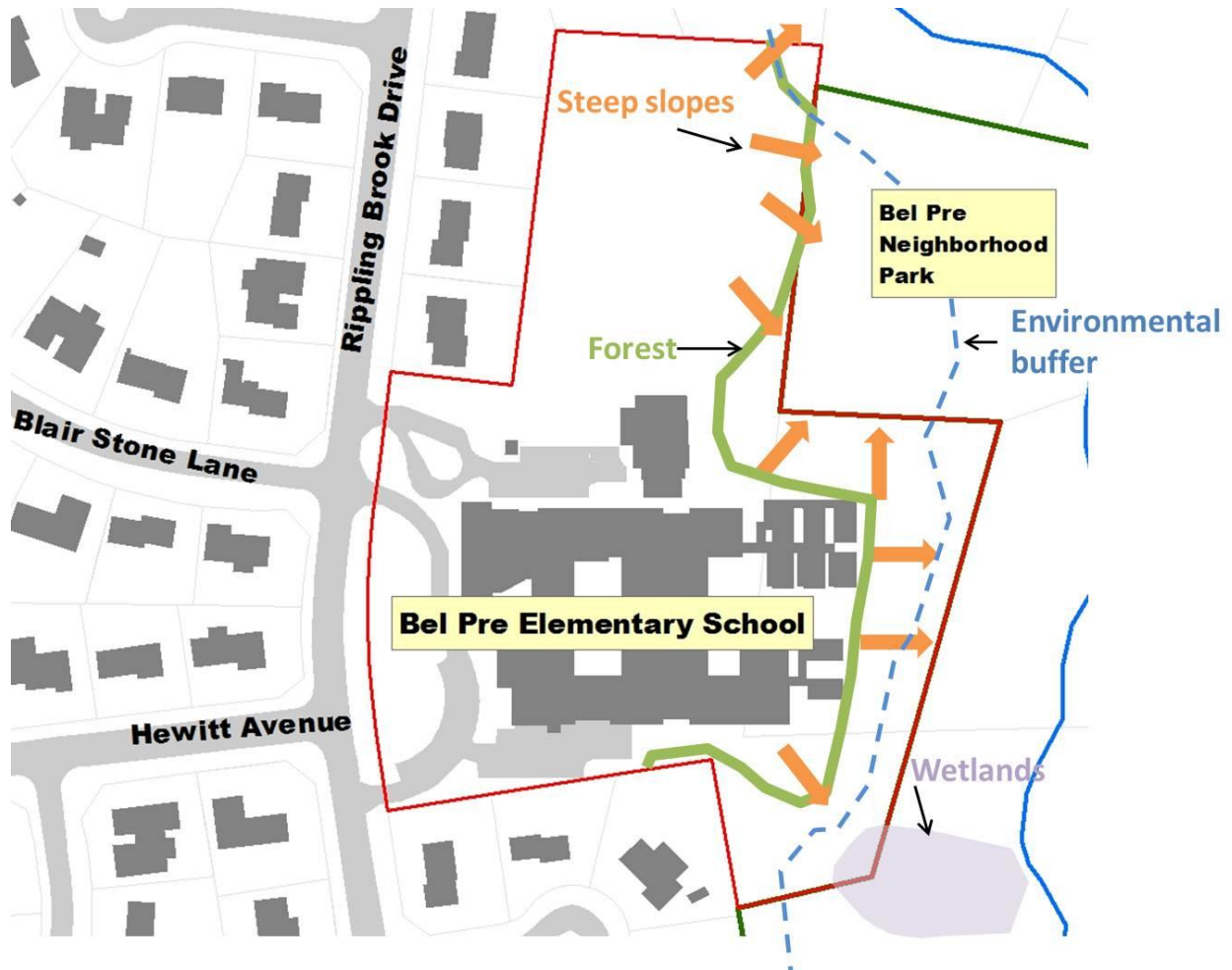


Exhibit 2 Environmental features

ANALYSIS

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420110380) for the Subject Property on 11/24/2010. The proposed school modernization protects all but 0.01 acres of environmental buffer in Category I Conservation Easement and is in compliance with the *Environmental Guidelines*.

Forest Conservation

This property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). This site was originally the subject of a Final Forest Conservation Plan (FFCP) associated with Mandatory Referral MR2006502 to allow the construction of a gym addition. That FFCP showed approximately 1.68 acres of forest retention, 0.24 acres of reforestation, and 0.06 acres of landscape credit, for a total of 1.98 acres. 1.92 acres of forest were to be placed in Category I Conservation Easements. However, the requirements of the FFCP were not fulfilled, with neither planting nor easement recordation occurring (Attachment 1, Final Forest Conservation Plan).

The proposed amended FFCP meets Chapter 22A by retaining 1.85 acres of forest, and planting 0.16 acres of forest, for a total of 2.01 acres of forest in Category I Conservation Easement. The proposed amendment rearranges the easement locations to accommodate the modernization project, but the total area of Category I Conservation Easement increases by 0.09 acres, fulfilling all forest conservation planting requirements on-site (Attachment 2, Amended Final Forest Conservation Plan; Attachment 3, Easement exhibit). Planting areas are located to augment forest on adjacent park property and in areas of unforested environmental buffer. The amended Final Forest Conservation Plan also includes the mitigation plantings for the forest conservation variance as follows.

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 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 a variance to impact trees that: measure 30 inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as 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 10/12/2011 and a revised variance request on 3/5/2012 for the impacts to trees with the proposed layout (Attachment 2). The Applicant has applied to remove seven trees¹, and impact, but not remove, 14 trees that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law (Attachment 4).

Unwarranted Hardship - As per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship. In this case, the unwarranted hardship is caused by

- the small size of the site;
- the public need to modernize the school in response to increased enrollment; and
- the environmental requirement to protect the steep slopes, existing forest, wetlands, and environmental buffer.

The Applicant has responded to the challenges of fitting the required program on a constrained site by designing a compact, two-story school with innovative stormwater management that works with the topography of the site. If the Applicant was not allowed to impact the requested trees, the Applicant would not be able to demolish the existing school and build a new school to meet the needs of the community.

¹ While the Applicant's request lists 8 trees to be removed, one of the trees, #12, 28" Sawtooth oak, is a specimen tree but does not require a variance to be removed.

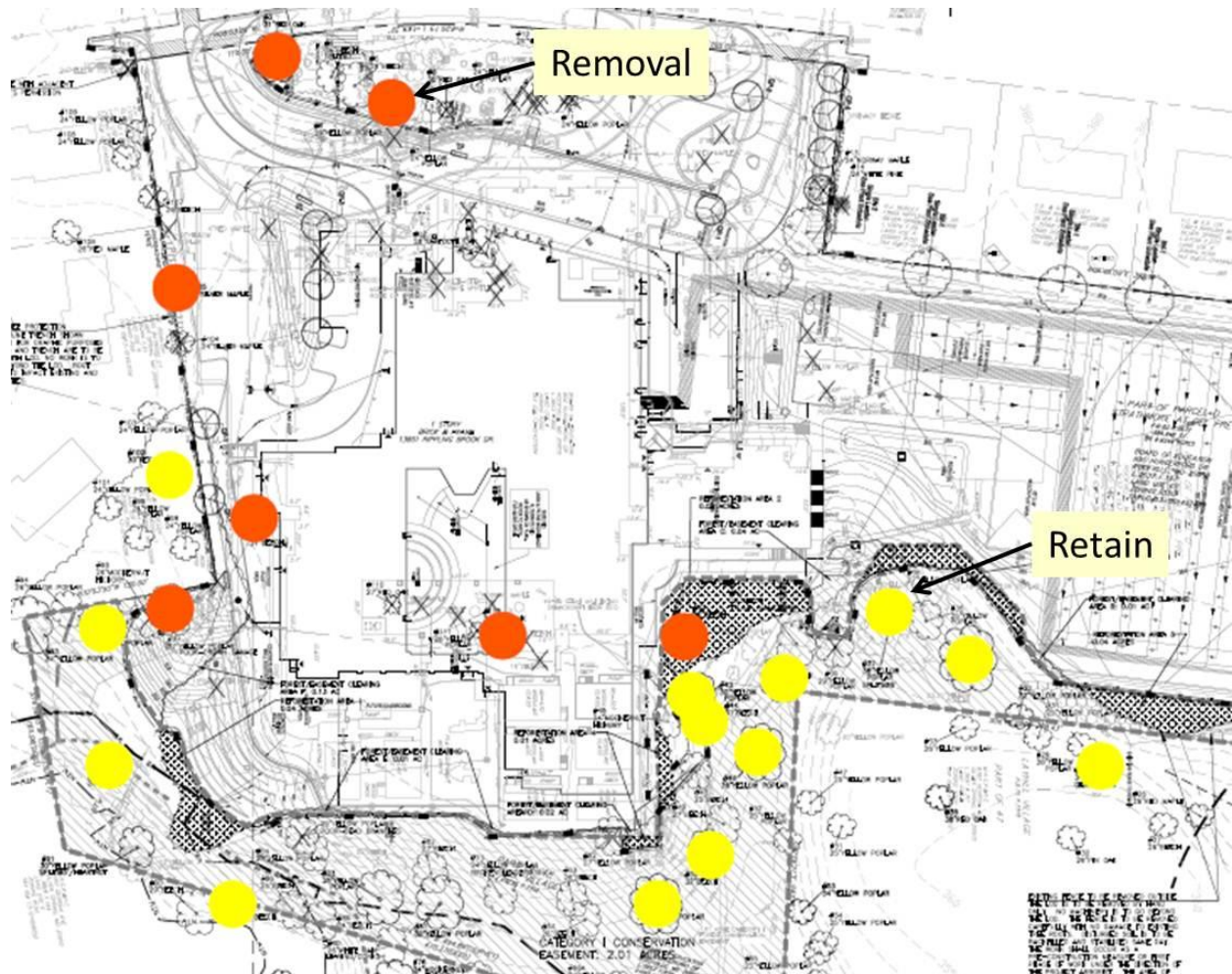


Exhibit 3 Trees requiring variance

Variance Findings - Based on the review of the variance request and the proposed Final Forest Conservation Plan, staff makes the following findings:

1. *Granting the 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 of the specified trees are due to the modernization of an existing school site. Disturbance has been minimized and tree protection measures have been used to minimize damage. Therefore, staff believes that is not a special privilege that would be denied to other applicants.

2. *The need for the variance 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 a result of the need for Bel Pre Elementary School to be modernized to meet the needs of a growing school enrollment in this area. The Applicant has minimized impacts to trees through site planning and facility design on a constrained site.

3. *The need for the variance 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 school modernization on the Subject Property and not a result of land or building use on a neighboring property.

4. *Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.*

The proposed school modernization should improve water quality by the addition of stormwater management. None of the trees proposed for removal are within the environmental buffer, and only one tree, #92 34" Beech, will have any impacts. These impacts are due to the stormwater management system and are minor. All areas of unforested environmental buffer, with the exception of the 0.01 acres of encroachment, will be planted in forest.

Mitigation for Trees Subject to the Variance Provisions – The proposed variance for possible impacts to CRZs of 14 trees and removal of seven trees is mitigated by additional plantings. Generally, mitigation is not recommended for trees impacted but retained. The Applicant has proposed to plant 21 native canopy trees, with a minimum size of 3" caliper, in addition to meeting all forest conservation planting requirements on-site. This planting ensures that there will be no loss of canopy on this site.

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. Staff forwarded the request to the County Arborist on 10/12/2011, and forwarded a revised variance request on 3/5/2011. The County Arborist has reviewed the variance request and recommended approval (Attachment 5).

Variance Recommendation - Staff recommends that the variance be granted.

CONCLUSION

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

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Attachments

1. Final Forest Conservation Plan
2. Amended Final Forest Conservation Plan
3. Easement exhibit
4. Variance application
5. Letter from County Arborist