



July 13, 2012

Mr. Mark Pfefferle
Environmental Planning Division
Maryland National Capital Park and Planning Commission (M-NCPPC)
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Dennis Avenue Health Center
Request for Tree Disturbance Variance
MNCPPC NRI# 420120810

Dear Mr. Pfefferle:

On behalf of the Montgomery County, Department of General Services, Division of Building Design & Construction and pursuant to Section 22A-21 *Variance provisions* of the Montgomery County Forest Conservation Ordinance and recent revisions to the State Forest Conservation Law enacted by S.B. 666, we are writing to request a variance(s) to allow impacts to and/or removal of the following trees identified on the approved Natural Resource Inventory/Forest Stand Delineation for the above-named County construction project:

Project Description:

The existing Dennis Avenue Health Center is located at 2000 Dennis Avenue in Silver Spring, Montgomery County, Maryland. The site is approximately 6.96 acres and is comprised of one parcel owned by Montgomery County. The site currently hosts the existing health center, ball field and associated parking and circulation. A small portion of the site is wooded (0.39 acres). The site is surrounded by medical and business parks to the west and south. Residential areas flank the property to the north and east.

Proposed construction consists of an entire site modernization. The program calls for the medical facility to be updated completely to provide appropriate technology and service to the community. The parking and circulation require to be updated as well, and the entire site will be brought up to ADA standards and compliance.

Requirements for Justification of Variance:

Section 22A-21(b) *Application requirements* states that the applicant must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

Justification of Variance

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

Response: As part of the program, the task was to provide the community with an updated health center that can accommodate a growing population as well as a modernized, safe and healthy environment for medically related functions. The site is relatively small for a facility of this nature, and much of the site is required to incorporate the needs of the program including the stormwater management to meet the requirements of the Environmental Site Design regulations. The building utilizes two stories and a basement to decrease the footprint of the building. Efforts have been made to impact the trees around the perimeter of the site as little as possible.

This work will require disturbance of the root zones of a total of four (4) specimen trees. The proposed plans will require the removal of three (3) of the impacted trees. If we are not allowed to impact or remove these trees, there would not be adequate room for the development program.

If we are not allowed to impact the trees, the health center will not be able to be updated due to the close proximity of a specimen trees to the health center building and due to the grade change across the site. As such, this would cause an *unwarranted hardship* to the community that it serves.

- (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 rebuilt due to the close proximity of a specimen tree to the building and the grade change across the site which must be managed to accommodate for parking requirements and ADA compliance.

- (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 property has been developed for many years and does not contain natural drainage areas in danger of being disrupted. 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 afforestation/reforestation required for the site is proposed offsite to improve and protect the natural and sensitive ecological habitat in a forest bank in the County.

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) Will confer on the applicant a special privilege that would be denied to other applicants;

Response: The Dennis Avenue Health Center modernization is in conformance with the County's General plan. As such, this is not a *special privilege* to be conferred on the applicant.

- (2) Is based on conditions or circumstances which are the result of the actions by the applicant;

Response: Montgomery County has taken no *actions leading to the conditions or circumstances* that are the subject of this variance request.

- (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or

Response: The surrounding land uses (residences/business park/medical park) do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.

- (4) Will violate State water quality standards or cause measurable degradation in water quality.

Response: Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.

Significant/Specimen Tree Summary 24" +

Tree #	Species (Scientific Name)	Species (Common Name)	D.B.H (inches)	Tree Condition	Comments	Status	Variance Request	% CRZ Impacts
1	FAGUS GRANDIFOLIA	AMERICAN BEECH	37	GOOD	OFFSITE/EXPOSED&DAMAGED ROOTS/WEAK ATTACHMENTS/BROKEN LIMBS	SAVE & PROTECT	YES	18%
4	ACER SACCHARINUM	SILVER MAPLE	31,19,11	GOOD	CO-OWNED	POTENTIAL REMOVAL	YES	40%
5	QUERCUS PHELLOS	WILLOW OAK	45	GOOD	EXPOSED&DAMAGED ROOTS/WEAK ATTACHMENTS/BROKEN LIMBS	TO BE REMOVED	YES	100%
15	ROBINIA PSEUDOACACIA	BLACK LOCUST	30	FAIR	VINES/CAVITY/HEART ROT/DEAD&BROKEN LIMBS	TO BE REMOVED	YES	100%

The following specimen trees will be impacted by construction and require specific treatment to enhance survivability based on conditions noted during the NRI/FSD field investigations. Some of the impacted trees designated to be saved will require prolonged monitoring due to proposed work and/or health conditions and may require future removal if the condition of the tree begins to decline:

Tree #1: The tree is proposed to be saved. The sidewalk construction is to be replacement in kind by hand and will take precaution not to disturb the root system. The project arborist will determine at the pre-construction meeting if the tree requires pruning during construction. Work performed in the root zone of the tree calls for remediation of the damaged roots to be performed by a licensed tree expert.

- Roots are to be properly pruned at the point of construction damage.
- Mychorrizae treatment is to be applied to the damaged roots.
- Vertical mulching is to take place in the area of the affected roots.

Tree #4: The tree will have approximately 40% impacts to the Critical Root Zone during the proposed construction. The final disposition of the tree will be determined at the pre-construction meeting. If the tree is determined to be removed during construction, permission from the adjacent property owner is required to remove a co-owned tree. If the tree is determined to be saved, the tree will require pruning during construction. The tree is to be monitored during and after construction. If the tree begins to show signs of decline or hazardous conditions, it may be removed with adjacent owner's permission. Work performed in the root zone of the tree calls for remediation of the damaged roots to be performed by a licensed tree expert:

- Roots are to be properly pruned at the point of construction damage.
- Mychorrizae treatment is to be applied to the damaged roots.
- Vertical mulching is to take place in the affected root area.

Conclusion:

For the above reasons, the applicant respectfully requests that the Planning Board APPROVE its request for a variance from the provisions of Section 22A of the Montgomery County Forest Conservation Ordinance, and thereby, GRANTS permission to impact/remove the specimen trees in order to allow the construction of this vital project.

The recommendations in this report are based on tree conditions noted at the time the NRI/FSD field work was conducted. Tree condition can be influenced by many environmental factors, such as wind, ice and heavy snow, drought conditions, heavy rainfall, rapid or prolonged freezing temperatures, and insect/disease infestation. Therefore, tree conditions are subject to change without notice.

The site plans and plotting of tree locations were furnished for the purpose of creating a detailed Tree Protection Plan. All information is true and accurate to the best of my knowledge and experience. All conclusions are based on professional opinion and were not influenced by any other party.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Norton', written in a cursive style.

Michael Norton

Copy to:

Kassa Seyoum, MCDGS

David Oakes, Grimm+Parker Architects

Shawn Benjaminson, Adtek Engineers