

## ATTACHMENT 4



January 23, 2015

Ms. Amy Lindsey  
Maryland National Capital Park and Planning Commission (M-NCPPC)  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Bethesda-Chevy Chase Middle School 2  
Request for Specimen Tree Variance  
MNCPPC NRI# 420140980

Dear Ms. Lindsey:

On behalf of the Montgomery County Public Schools 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 or the removal of the following trees identified on the approved Natural Resource Inventory/Forest Stand Delineation and proposed Preliminary Forest Conservation Plan for the above-named County construction project:

### **Project Description:**

The proposed Bethesda-Chevy Chase Middle School 2 is located at 3701 Saul Road in Kensington, Montgomery County, Maryland. The site is approximately 13.39 acres and is comprised of one parcel owned by The Board of Education. The site currently hosts ballfields, street hockey area, play areas and associated parking. There is approximately 3.55 acres of forest onsite, and there is an offsite stream with a buffer that extends onto the subject property. The site is surrounded by senior housing to the north, residential single family properties to the east and south ,along with MNCPPC property to the west.

Proposed construction consists of a new school, improved circulation and parking, ball fields additional play areas and updates for ADA accessibility.

### **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 area middle 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 minimize forested stream buffer impacts and work with the existing slopes .

This buildable site area is restricted by slopes and a stream buffer that lead to a tight fit for middle school.

This work will require removal of a total of thirty-one (31) specimen trees and impacts to two (2) specimen trees. The removal of specimen tree #7 & #8 are due to the declining health only. Several designs were studied as part of the feasibility period with the specimen trees and stream buffer mapped to work at minimizing the impacts. At the end of the study period, it was determined to compact the parking and drive aisles with retaining walls and multi-story building It should be noted that the majority of trees which requires removal are part of the existing forest on site.

Two (2) of the specimen trees (#51 & 52) between the tennis courts, stormwater and Saul Road are showing impacts and as removal but intend to be saved as part of the screening efforts in the landscape plan. There is also impact shown for the installation of a sidewalk that will work with the grades and have little impact on the trees. The forest in this area is also labeled as cleared for planning purposes but is highly invased and proposed for invasive species removal and reinforcement with native plantings.

If MCPS is not allowed to remove the trees as requested, the school will not be able to be construct the school and facilities due to the close proximity of specimen trees to the school parking, amenities and stormwater facilities. 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 built 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;

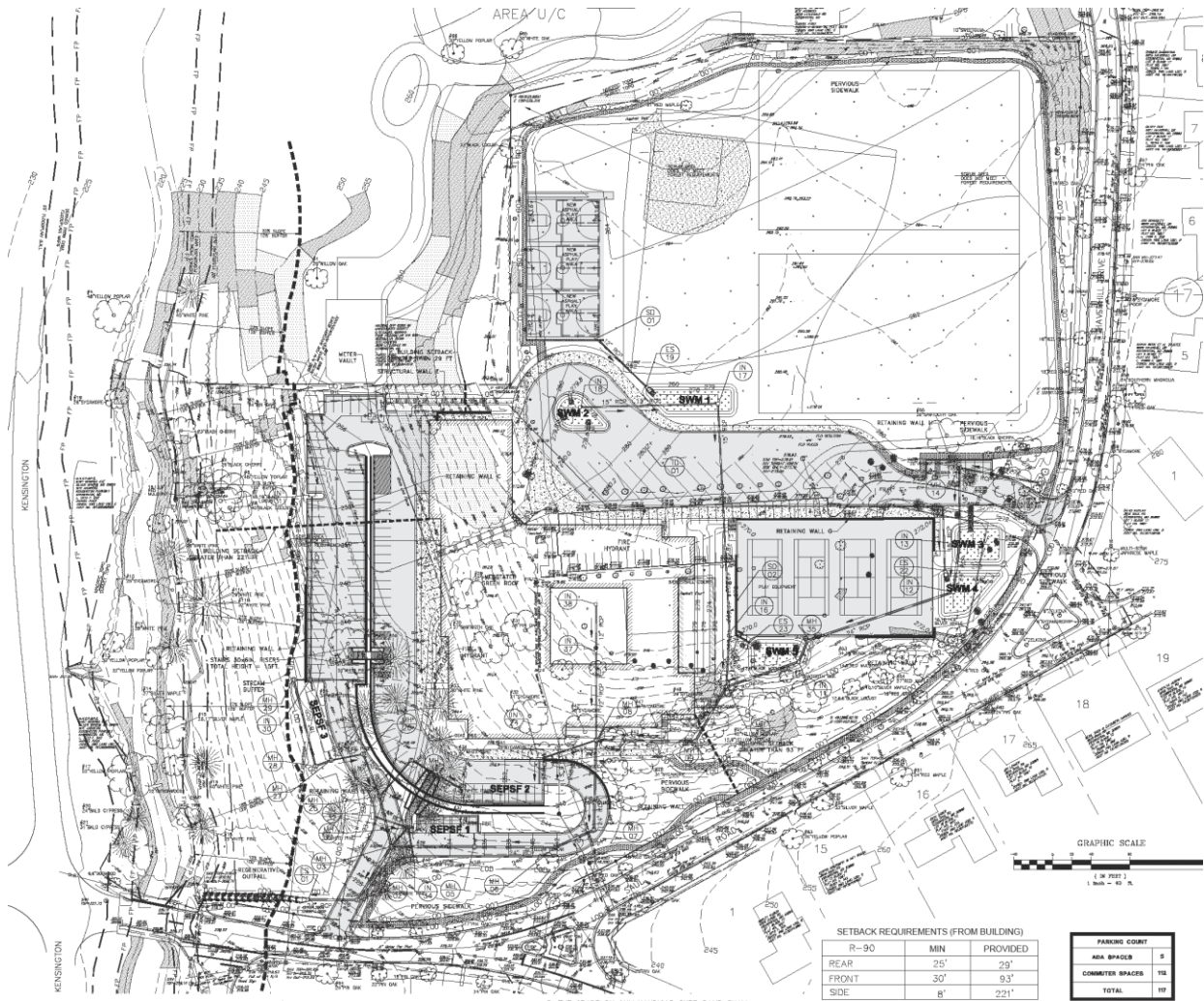
**Response:** The forested stream buffer has been protected and additional 0.24 acres of forest is proposed to be planted in the buffer. In addition, this property will be developed in accordance with the latest Maryland Department of the Environment criteria for stormwater management. This includes 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 forest onsite is preserved to the greatest extent possible. Additional forest planting and a substantial native landscape planting plan will serve to create greater ecological quality while establishing further buffering of adjacent land uses (residential).

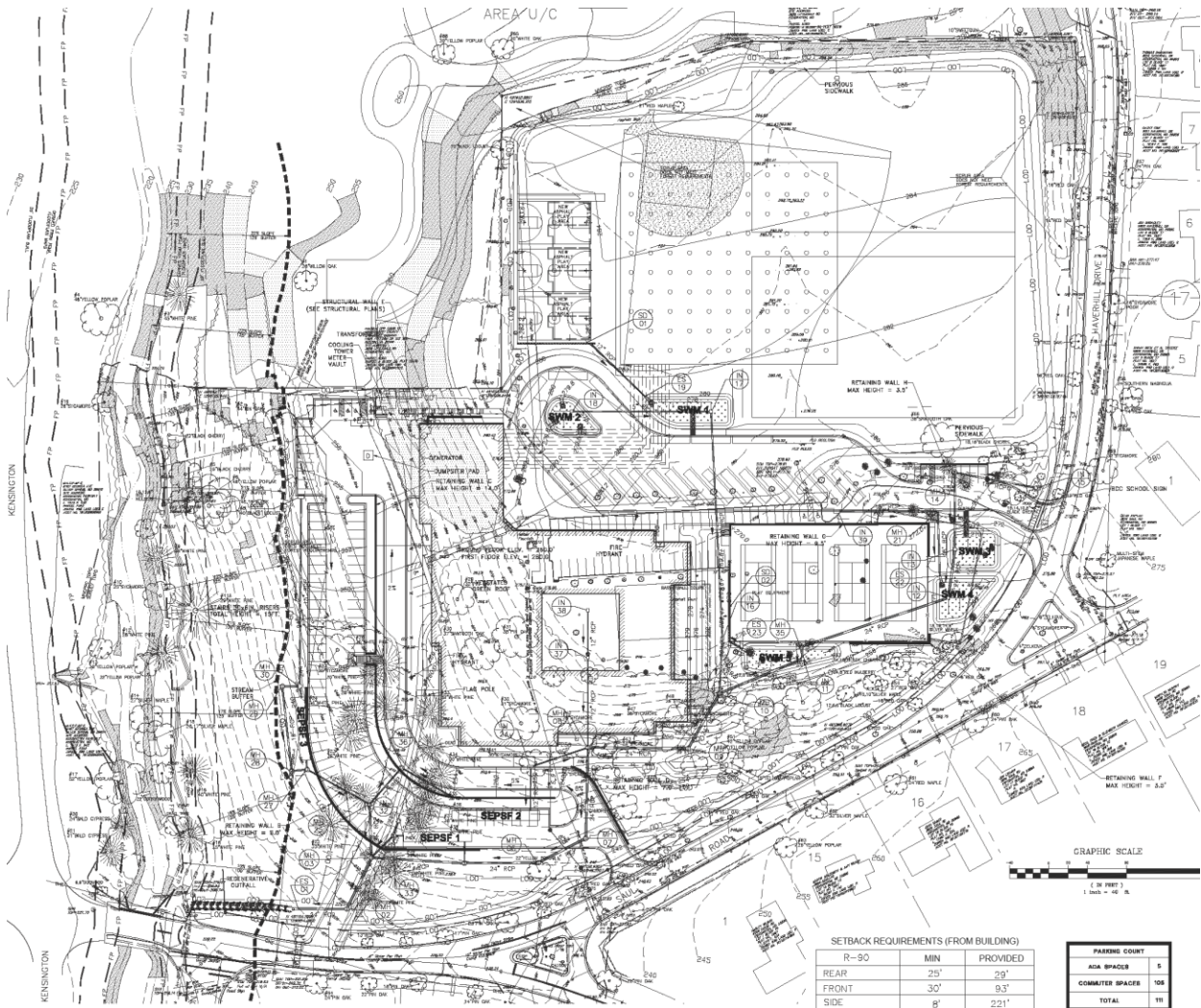
The project went through several changes from the initial drawings which resulted in selecting option 2 as the Mandatory Referral and Preliminary Forest Conservation Plan. For reference, options 1 and 3 are shown and briefly described below:

Option 1, below, was the original plan submitted for Mandatory Referral. The plan was further refined into the current submittal package. Of note, the micro-bioretenction facility south of the tennis courts has been elongated to reduce the LOD at trees #51 & #52. Although the trees are still shown as removals, the intent is to save the trees. The parking has also been reconfigured to add space between the walls for planting, which did result in the loss of a few parking spaces. The sidewalk to the west of the entrance has been eliminated and the sidewalk along Saul Road has been moved onto Board of Education Property to work toward saving more of the trees within the right-of-way.



Option 1 Study

Option 3, below, shows an alternate entrance plan. This plan was intended to study reduction in the retaining wall heights and impacts to specimen trees. The overall tree impact remains the same after grading the new entrance and utilities. Also, of note, this pushes the entrance further into the community and the retaining walls on the outside of the vehicle circulation, closer to Saul Road. This option was abandon after no gain in tree preservation and increased community disturbance.



Option 3 Study

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 Bethesda-Chevy Chase Middle School 2 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 Public Schools has taken no *actions leading to the conditions or circumstances* that are the subject of this variance request.**

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

**Response: The surrounding land uses (residences) do not have any inherent characteristics or conditions that have created or contributed to this 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.**

Specimen Tree Summary							
Tree #	Species (Scientific Name)	Species (Common Name)	D.B.H (inches)	Tree Condition	Impact Comments	Percent Rootzone Impacts	Status
2	QUERCUS PALUSTRIS	PIN OAK	45	FAIR	GRADING, UTILITY CONNECTION & PARKING LOT	35	REMOVE
7	ROBINIA PSEUDOACACIA	BLACK LOCUST	36,19,15	FAIR/POOR	REMOVE DUE TO POOR CONDITION, FLUSH CUT	0	REMOVE
8	ROBINIA PSEUDOACACIA	BLACK LOCUST	41	FAIR/POOR	REMOVE DUE TO POOR CONDITION, FLUSH CUT	0	REMOVE
22	PINUS STROBUS	WHITE PINE	34	GOOD	IMPACTS FOR UTILITIES AND DRIVE ENTRANCE	55	REMOVE
23	PINUS STROBUS	WHITE PINE	36	GOOD	IMPACTS FOR UTILITIES AND DRIVE ENTRANCE	100	REMOVE
24	PINUS STROBUS	WHITE PINE	35	GOOD	RETAINING WALLS BETWEEN DRIVES	100	REMOVE
26	PINUS STROBUS	WHITE PINE	37	FAIR	IN DRIVE AISLE	100	REMOVE
27	PLATANUS OCCIDENTALIS	SYCAMORE	36	GOOD	IN DRIVE AISLE	100	REMOVE
28	QUERCUS PALUSTRIS	PIN OAK	30	GOOD	IN BUILDING	100	REMOVE
29	QUERCUS PALUSTRIS	PIN OAK	33	GOOD	IN BUILDING	100	REMOVE
30	QUERCUS ACUTISSIMA	SAWTOOTH OAK	37	FAIR/POOR	IN BUILDING	100	REMOVE
31	QUERCUS PALUSTRIS	PIN OAK	39	FAIR/POOR	IN BUILDING	100	REMOVE
32	PLATANUS OCCIDENTALIS	SYCAMORE	32	POOR	IN BUILDING	100	REMOVE
33	PINUS STROBUS	WHITE PINE	31	GOOD	GRADING FOR BUILDING, WALK, DRIVE AISLE	100	REMOVE
34	PINUS STROBUS	WHITE PINE	31	GOOD	IN PROPOSED WALK ALONG DRIVE AISLE	100	REMOVE
37	PINUS STROBUS	WHITE PINE	31	GOOD	IN RETAINING WALL BETWEEN DRIVE AISLES	100	REMOVE
38	PINUS STROBUS	WHITE PINE	33	GOOD	IN PARKING	100	REMOVE
40	PINUS STROBUS	WHITE PINE	31	GOOD	GRADING FOR DRIVE AISLE	100	REMOVE
41	PLATANUS OCCIDENTALIS	SYCAMORE	30	FAIR	GRADING AND WALK FOR DRIVE	100	REMOVE
42	PLATANUS OCCIDENTALIS	SYCAMORE	39	GOOD	GRADING AGAINST BUILDING	100	REMOVE
46	PLATANUS OCCIDENTALIS	SYCAMORE	32	GOOD	SIDEWALK CIRCULATION AND GRADING	100	REMOVE
47	PLATANUS OCCIDENTALIS	SYCAMORE	36	GOOD	IN BUILDING	100	REMOVE
48	PLATANUS OCCIDENTALIS	SYCAMORE	30	GOOD	IN BUILDING	100	REMOVE
49	PLATANUS OCCIDENTALIS	SYCAMORE	33	GOOD	GRADING FOR BUILDING AND SIDEWALK CIRCULATION	100	REMOVE
50	PLATANUS OCCIDENTALIS	SYCAMORE	30	GOOD	SIDEWALK CIRCULATION AND SOFT PATH THROUGH WOODS	74	REMOVE**
51	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	44	GOOD	GRADING AND STORM WATER MANAGEMENT	32	REMOVE**
52	QUERCUS ACUTISSIMA	SAWTOOTH OAK	38	GOOD	GRADING AND STORM WATER MANAGEMENT	30	REMOVE**
53	PRUNUS SEROTINA	BLACK CHERRY	35,17	GOOD	GRADING, TENNIS COURT & SIDEWALK ALONG ROAD	100	REMOVE
55	QUERCUS ACUTISSIMA	SAWTOOTH OAK	40	GOOD	IN THE BALLFIELD AREA	100	REMOVE
59	PLATANUS OCCIDENTALIS	SYCAMORE	33	FAIR	SIDEWALK AND RIGHT-OF-WAY	8	SAVE
62	ACER SACCHARINUM	SILVER MAPLE	36	GOOD	ACTUAL IMPACTS ACROSS SAUL ROAD NOT LIKELY	8	SAVE
70	PINUS VIRGINIANA	VIRGINIA PINE	23.3	GOOD	SIDEWALK, ENTRANCE DRIVE AND GRADING	100	REMOVE
73	QUERCUS PALUSTRIS	PIN OAK	30	FAIR	IN BUILDING	100	REMOVE

\*\*TREES ARE TO TRY TO BE SAVED DURING CONSTRUCTION BUT IMPACTS ARE SUBSTANTIAL TO LIST AS REMOVAL

**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