





Wheaton Library, Community Recreation Center and Neighborhood Park, Preliminary Forest Conservation Plan No. MR2016004

 Amy Lindsey, Planner Coordinator, Area 2 Division, Amy.Lindsey@montgomeryplanning.org, 301.495.2189

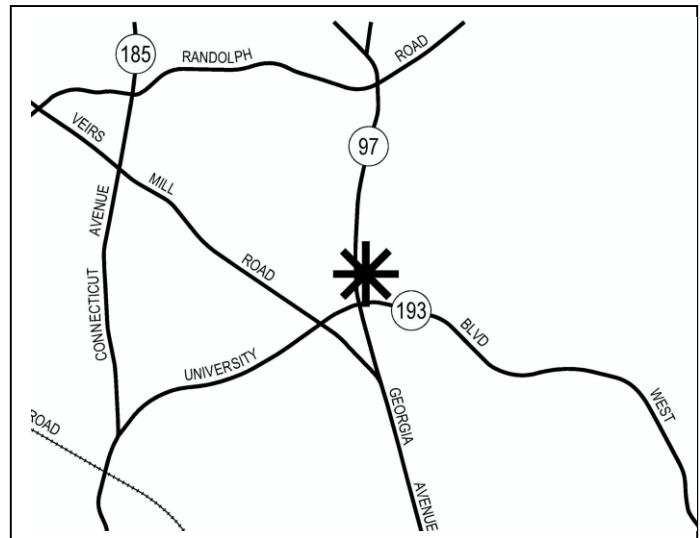
 Khalid Afzal, Planner Supervisor, Area 2 Division, Khalid.Afzal@montgomeryplanning.org, 301.495.4650

 Glenn Kreger, Chief, Area 2 Division, Glenn.Kreger@montgomeryplanning.org, 301.495.4653

Completed: 10/2/2015

Description

- Preliminary Forest Conservation Plan associated with the combined library, recreation center, and neighborhood park;
- Located at the northeast corner of the intersection of Georgia and Arcola Avenues;
- 5.63-acre site zoned R-90 in the *Master Plan for the Communities of Kensington-Wheaton* area;
- Applicants: Montgomery County Department of General Services, and M-NCPPC Parks;
- Filing Date: August 7, 2015.



Summary

Staff recommends **approval with conditions**.

The Applicants proposes to:

- Meet the 0.93-acre forest conservation through fee-in-lieu payment or off-site planting.
- Remove five trees and impact five trees that require a variance, per Section 22A-12(b)(3).

Pursuant to Chapter 22A of the County Code, the Board’s actions on Forest Conservation Plans are regulatory and binding.

Conditions of Approval

1. Prior to issuance of a Sediment Control Permit from the Department of Permitting Services, the Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
2. The Final Forest Conservation Plan must show the planting of 14 3-inch caliper native shade trees as mitigation for the loss of trees requiring a variance.
3. The Applicant must either pay the fee-in-lieu or record a certificate of compliance for the 0.93-acres forest planting requirement prior to any demolition, clearing, or grading on site.
4. The Applicant must plant 14 3-inch caliper native shade trees on the property within one year of construction completion.

Project Description

Montgomery County Department of General Services (MCPS) and Montgomery County Parks Department propose to replace the existing Wheaton Recreation Center and Wheaton Library with a collocated library and recreation center and adjoining park. The proposal also includes the closure of Hermitage Avenue and a shared parking structure under the proposed building.

Site Description

Existing Wheaton Recreation Center and Wheaton Library are located on a total of 5.63 acres, bifurcated by existing Hermitage Avenue. Georgia Avenue forms the western boundary, with Parker Avenue to the north and Arcola Avenue to the south. The site is bordered by single-family houses on the eastern edge.



The site slopes east from the frontage on Georgia Avenue, with an elevation change of approximately 8'. The site lies within the Rock Creek and Sligo Creek Watersheds and not within any Special Protection Areas.

ANALYSIS

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (#420140110) on October 11, 2013. There are no forests, streams, wetlands, floodplains, or environmental buffers on the site. The site contains 21 trees $\geq 24''$ diameter at breast height (DBH). The proposed project is in compliance with the Environmental Guidelines.

Forest Conservation

The site is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Applicant has submitted a Preliminary Forest Conservation Plan (Attachment 1) in conjunction with the Mandatory Referral. There is no forest on site. The Applicant proposes to meet a 0.93-acre planting requirement by either paying the fee-in-lieu or planting at a forest mitigation bank. Staff agrees that this is appropriate, as there are no priority reforestation areas or adjoining forest on-site.

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. 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. 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 Applicant submitted a variance request on 8/7/2015 for the impacts to trees (Attachment 2). The proposed layout will remove five trees and impact, but not remove, five trees that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law.

Unwarranted Hardship for Variance Tree Impacts

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. The requested variance is necessary due to the location of the existing trees on and around the site, the need to demolish two buildings prior to constructing the collocated facility, and the requirement to provide stormwater management for all facilities. The proposed library, recreation center, and park project is needed in order to provide the Wheaton area with adequate public facilities.

Leaving the requested trees in an undisturbed state would result in an unwarranted hardship because the Applicant would not be able to remove any existing features or install any new features or stormwater management facilities. All five of the trees proposed for removal will be impacted by the demolition of the existing facilities.

Variance Tree Location



- Impacted Tree
- Removed Tree
- LOD

Variance Tree Tables

Removals

ID	Species	Size	Condition	Notes
1	American elm	30"	Good	Demolition of existing facilities and construction of access road
2	Pignut hickory	30"	Good	Demolition of existing facilities and construction of access road
7	Red oak	32"	Good	Demolition of existing facilities, grading, and new stormwater conveyance pipes
10	Pin oak	40"	Good	Demolition of existing facilities, new parking area, and stormwater conveyances.
21	Black locust	31"	Good	Demolition of existing facilities, grading, stormwater management, and park facilities.

Impacts

ID	Species	Size	Condition	Notes
5	American elm	43"	Fair	Grading, stormwater management, and park facilities.
6	Red oak	33"	Fair	Grading, stormwater management, and park facilities.

ID	Species	Size	Condition	Notes
14	Red maple	34"	Fair	Parking and access road
15	Yellow poplar	32"	Fair	Parking and access road
16	Red maple	36"	Good	Sidewalk and stormwater management

Variance Findings - Based on the review of the variance request and the proposed Preliminary 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 this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is a result of the need to build a new library and recreation center, parking, and park. The proposed development is the continuation of an existing, reasonable use of the site and disturbance has been minimized to retain trees where possible. The size and configuration of the site preclude alternative site designs that would allow the variance trees to remain undisturbed.

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 that are the result of actions by the Applicant. The variance is necessary due to the constraints of size, the requirements to demolish existing facilities, and the location of the existing trees on and around the 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 location of trees and the impacts by the proposed layout of the new library, recreation center and park, and not a result of land or building use on a neighboring property. The impact to the trees is the minimum disturbance necessary to demolish and rebuild library and recreation center, to provide a park facility, and to provide associated upgrades to the site.

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

The Applicant will plant 14 3" caliper native shade trees to replace the form and function of the variance trees proposed for removal. In addition, the site will be developed in accordance with the Maryland Department of the Environment criteria for stormwater management, including the provision of Environmental Site Design to protect natural resources to the maximum extent practicable. Water quality will improve with the proposed development and State water quality standards will not be violated.

Mitigation for Trees Subject to the Variance Provisions

The Applicant is requesting a variance to remove five trees. The five trees (listed in the removal table above) are outside of a forest and will be mitigated at a rate of 1" caliper per 4" DBH removed, using a minimum 3" caliper native shade tree. The Applicant will plant 14, 3-inch caliper trees, which will be shown on the Final Forest Conservation Plan.

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 County Arborist has reviewed the variance request and recommended approval with mitigation (Attachment 3).

Variance Recommendation - Staff recommends that the variance be granted.

CONCLUSION

Staff concludes that the proposed Preliminary Forest Conservation Plan meets the requirements of Chapter 22A Forest Conservation Law. Staff therefore recommends that the Planning Board approve the Preliminary Forest Conservation Plan and associated variance, with the above conditions.

Attachments:

1. Preliminary Forest Conservation Plan
2. Variance request
3. Letter from County Arborist

ATTACHMENT 1



CLIENT:
MONTGOMERY COUNTY MARYLAND
 DEPARTMENT OF GENERAL SERVICES
 OFFICE OF PLANNING & DEVELOPMENT
 101 MONROE STREET
 ROCKVILLE, MARYLAND 20850

ARCHITECT:
G+P GRIMM AND PARKER
 11720 BELTSVILLE DRIVE, SUITE 600
 CALVERTON, MARYLAND 20705
 T: 301-662-1000 F: 301-662-0089
 www.grimmandparker.com

CONSULTANT:
ADTEK
 CIVIL, STRUCTURAL, SPECIALTY ENGINEERING
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 97 MONOCACY BLVD, UNIT H
 FREDERICK, MD 21701
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REGISTRATION:

NO.	DATE	ISSUE DESCRIPTION
1	07-27-15	DD SUBMISSION

NO.	DATE	ISSUE DESCRIPTION
1	07-27-15	DD SUBMISSION

PROJECT NO:
 DRAWN BY: LYV
 CHECKED BY: JEB

MANDATORY REFERRAL
 SUBMISSION
 JULY 31, 2015

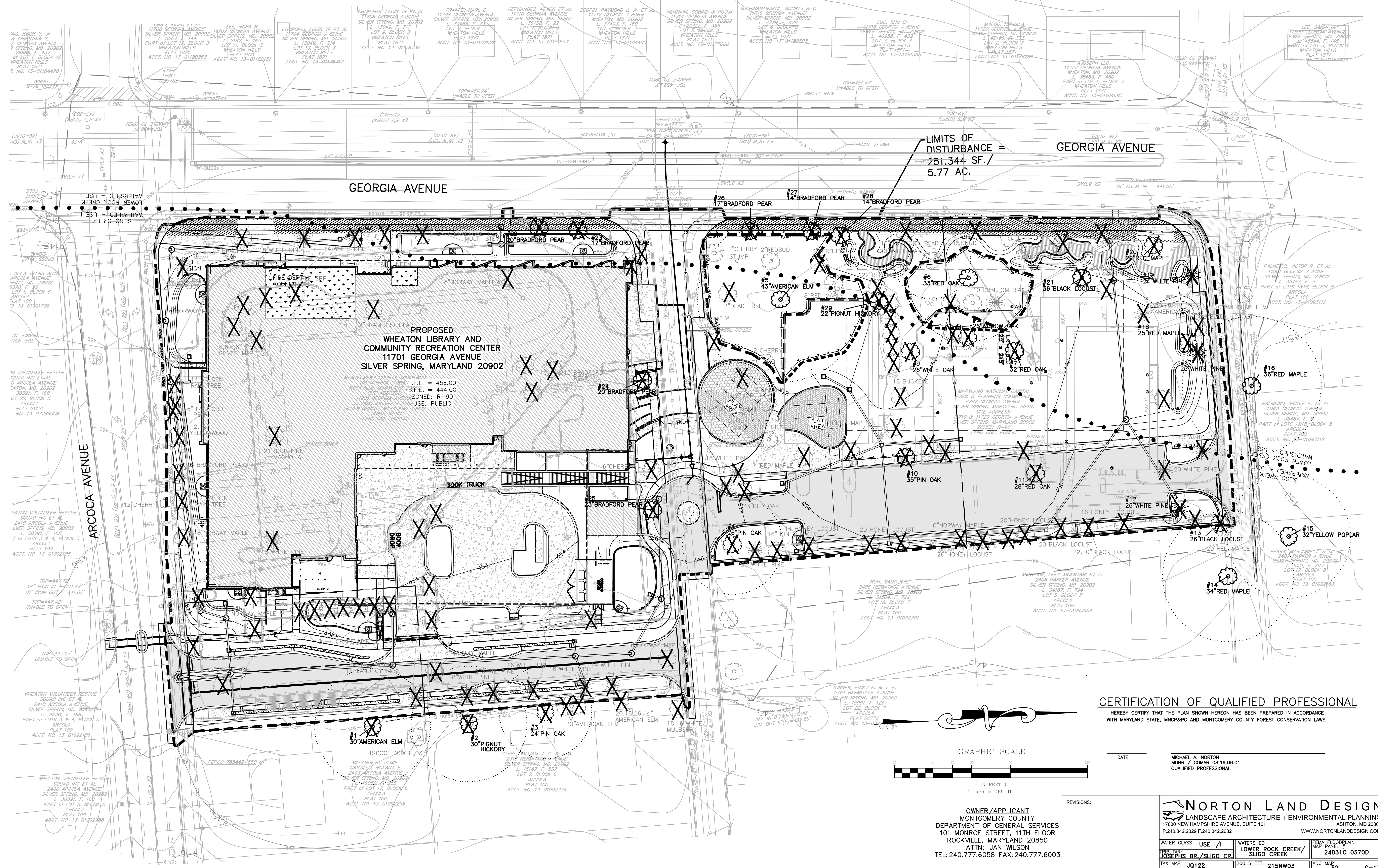
SHEET TITLE:
**PRELIMINARY FOREST
 CONSERVATION PLAN**

SHEET NUMBER:
L-1.1

- LEGEND**
- 14" RED OAK EXISTING TREE <24" DBH TO BE REMOVED
 - #1 26" RED OAK EXISTING SIGNIFICANT TREE >24" AND <30" DBH WITH TAG NUMBER TO BE REMOVED
 - #2 32" RED OAK EXISTING SPECIMEN TREE >30" DBH WITH TAG NUMBER TO BE REMOVED
 - PROPERTY BOUNDARY
 - LIMITS OF DISTURBANCE
 - COMBINED ROOT PRUNE TRENCH/TREE PROTECTION FENCE (TEMPORARY)
 - TREE PROTECTION FENCE (TEMPORARY)
 - TEMPORARY TREE PROTECTION SIGNAGE (APPROX. 50' O.C.) SIGNAGE AT 50' O.C.

TREE PROTECTION NOTES FOR TREE NUMBERS 5 & 6
 TREES ARE PROPOSED TO BE SAVED, MONITORED & MAINTAINED (BY APPLICANTS ARBORIST) DURING CONSTRUCTION AND FOR A PERIOD OF 3 YEARS AFTER CONSTRUCTION IS COMPLETE (DEFINED AS AUTHORIZED REMOVAL OF TEMPORARY TREE PROTECTION FENCE). IF TREE BEGINS TO SHOW SIGNS OF DECLINE OR HAZARDOUS CONDITIONS, IT MAY BE REMOVED AT THE EXPENSE OF THE APPLICANT. WORK PERFORMED IN ROOT ZONE OF TREES CALL 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.
 - MYCORRHIZAE TREATMENT IS TO BE APPLIED TO THE DAMAGED ROOTS.
 - VERTICAL MULCHING IS TO BE APPLIED TO THE UNAFFECTED ROOT AREA.
 - WATERING OF ROOT ZONE IN RESPONSE TO SIGNS OF DROUGHT STRESS.
 - DEADWOOD PRUNING OF LIMB DIEBACK

- GENERAL FCP NOTES**
- ROOT PRUNE TRENCH IS NOT TO IMPACT UTILITIES.
 - THE EXTENT OF ROOT PRUNING IS TO BE DETERMINED AT THE PRECONSTRUCTION MEETING.
 - NO CLEARING IS TO TAKE PLACE OUTSIDE OF THE LIMITS OF DISTURBANCE.
 - AREAS SHOWN TO BE CLEARED OUTSIDE OF THE LIMITS OF DISTURBANCE ARE FOR CALCULATIONS ONLY.



CLIENT:



MONTGOMERY COUNTY MARYLAND
DEPARTMENT OF GENERAL SERVICES
OFFICE OF PLANNING & DEVELOPMENT
101 MONROE STREET
ROCKVILLE, MARYLAND 20850

PROJECT:

ARCHITECT:



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REGISTRATION:

Table with 3 columns: NO., DATE, ISSUE DESCRIPTION. Row 1: 1, 07-27-15, DD SUBMISSION.

PROJECT NO:

DRAWN BY: LYV

CHECKED BY: JEB

MANDATORY REFERRAL
SUBMISSION
JULY 31, 2015

SHEET TITLE:

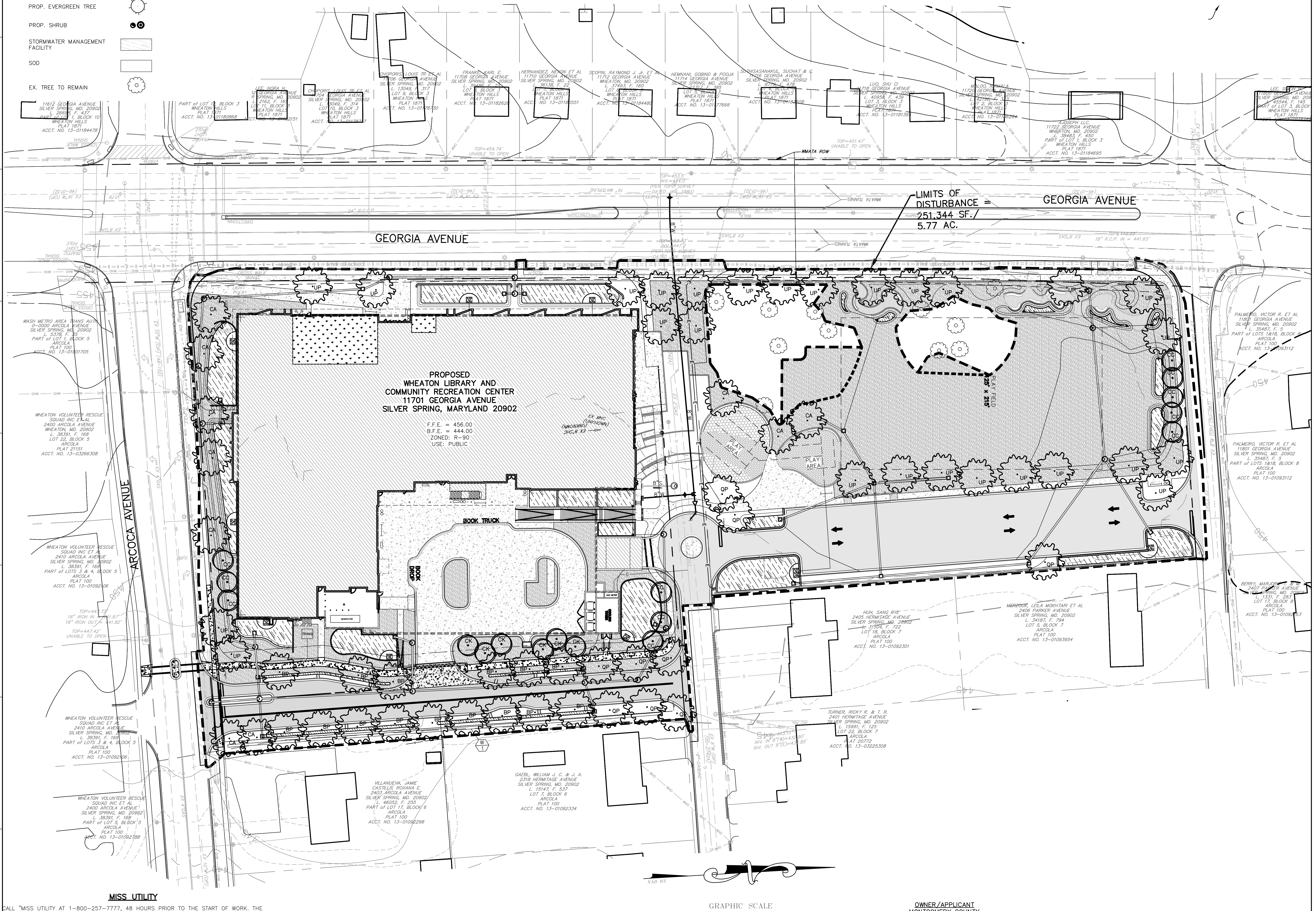
LANDSCAPE PLANTING
PLAN

SHEET NUMBER:

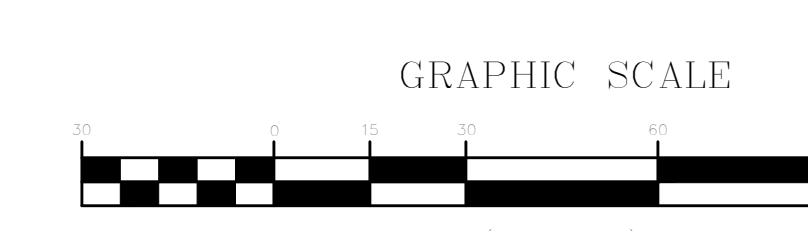
L-2.1

LEGEND

- PROP. CANOPY TREE
PROP. ORNAMENTAL TREE
PROP. EVERGREEN TREE
PROP. SHRUB
STORMWATER MANAGEMENT FACILITY
SOD
EX. TREE TO REMAIN



PROPOSED
WHEATON LIBRARY AND
COMMUNITY RECREATION CENTER
11701 GEORGIA AVENUE
SILVER SPRING, MARYLAND 20902
F.F.E. = 456.00
B.F.E. = 444.00
ZONED: R-90
USE: PUBLIC



OWNER/APPLICANT
MONTGOMERY COUNTY
DEPARTMENT OF GENERAL SERVICES
101 MONROE STREET, 11TH FLOOR
ROCKVILLE, MARYLAND 20850
ATTN: JAN WILSON
TEL: 240.777.6058 FAX: 240.777.6003

NORTON LAND DESIGN
LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING
17830 NEW HAMPSHIRE AVENUE, SUITE 101
ROCKVILLE, MARYLAND 20850
WWW.NORTONLANDDESIGN.COM

MISS UTILITY
CALL "MISS UTILITY AT 1-800-257-7777, 48 HOURS PRIOR TO THE START OF WORK. THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITH UNDERGROUND FACILITIES IN THE AREA OF PROPOSED EXCAVATION AND HAVE THOSE FACILITIES LOCATED BY THE UTILITY COMPANIES PRIOR TO COMMENCING EXCAVATION...

PLANTING SPECIFICATIONS

SCOPE: Consists of supplying the planting trees, shrubs and herbaceous materials (groundcovers) including the staking of trees as specified herein and the supplying of materials, labor, equipment and work related services necessary for some as specified herein.

The work of this section includes, but is not limited to:

- mulching
watering
soil preparation
planting
maintenance
fertilizing
wrapping
staking
plant materials
replacement

MATERIALS: Wherever the following items appear in the specifications, they shall be as follows:

Topsoil: The Contractor shall provide required natural, friable, fertile, fine sandy loam possessing the characteristics of representative topsoil in the vicinity which produce heavy growths of vegetation.

Water: Shall be furnished by the Contractor for the execution of all work specified in this contract. The Contractor shall verify that the water available is suitable for irrigation and free from ingredients harmful to plant life.

Peat: Shall be only moss (sphagnum) peat; brown acid reaction approximately 4 to 5 pH; of standard commercial quality delivered to the site in bags or other convenient containers, in air dry condition.

Brace Stakes: Wood brace stakes shall be common lumber or the sizes in the following table:

Table with 2 columns: Tree Size, Brace Stakes. Rows include 1"-2.5" or < 8' tall, 2.5"-3" or > 8' tall.

Wire shall be good commercial quality of galvanized wire. Wire used to stake trees shall be No. 12 gauge minimum.

Hose Collars: Hose collars shall be new two ply fabric bearing garden hose not less than 2 inch inside diameter.

PLANT MATERIAL STANDARDS:

Association of Nurserymen, Inc., as published in the "American Standard for Nursery Stocks", latest edition. No substitutions of size or grade shall be permitted without written permission from the Landscape Designer.

Health: All plants including their roots shall be free from disease, insects, or other injurious qualities. All local, state, and federal laws pertaining to the inspection, sale, and shipment of plant materials shall be complied with.

Quality: All plants shall be true to type; they shall have normal, well-developed branch systems, and a vigorous fibrous root system; they shall be sound, healthy, vigorous plants free from defects, disfiguring knots, sunscald injuries, abrasions of the bark, plant diseases, insect eggs, borers, and all forms of infestation.

Ball and Burlap: All balled and burlapped plants shall conform to the "American Standard for Nursery Stock", latest edition. All balls shall be of natural earth in which the plant has been growing.

Plant List: The list of plants furnished with the specifications is for the information of the Contractor. The height and caliper of trees, the height or spread of shrubs, the diameter of the ball or roots are to be the minimum dimensions required.

Measurements: Shall conform to those specified on the plant list except as follows:

Over-size plants may be used only after approval by the designer.

Use of such plants shall not increase the contract price.

Height and spread dimensions indicated refer to the main body of the plant and not from branch tip to branch tip. All trees and shrubs shall be measured when their branches are in normal position.

Inspection: The Planting Contractor shall be responsible for all inspection and approval of the plant material that may be required by state, federal and other authorities, and he shall secure any permits and certificates that may be required.

All plants shall be subject to inspection, and approval at place of growth before digging, or upon delivery, for quality, size and variety; such approval shall not impair the right of rejection at the project site during progress of the work.

DIGGING AND HANDLING:

Protection from extremes in exposure and rough handling shall be provided all plant materials during transport and storage.

All plant materials shall be assembled in one location on the job site to permit inspection and approval by the designer. The Contractor shall notify the designer five (5) working days prior to planting so that a mutually agreeable time may be arranged for inspection.

PROCEDURE:

Tree Planting

Layout: All trees shall be located as designated in the field by the planting plan. Where below ground or overhead obstructions are encountered, the trees shall be relocated by the designer.

Planting Pits: Shall be a diameter two (2) times the diameter of the ball of the tree or container diameter. The depth of the pit shall be enough to accommodate the ball or roots of the tree when the tree is set to finish grade.

Planting Soil Preparation: Mix then one part peat moss with five parts topsoil.

Setting of Trees: Before setting the trees, pits shall be watered. All plants shall be placed at such a level that, after settlement, the natural relationship between the original grade at which the plant grew, the ball shall be 1/8 higher than the finish grading.

Mulch: Shall be applied to all tree pits to a depth of 3". Pruning: All trees shall be neatly pruned after planting in accordance with the best standard practices and as directed by the designer.

Shrub and Herbaceous Materials (groundcover)

Layout: Herbaceous planting beds and shrub pit locations shall be designated by the designer in accordance with the plant list and the tentative locations shown on the planting plan.

Preparation of Herbaceous Planting Beds: The ground shall be thoroughly broken to a depth of 12 inches. The top 4 inches shall be worked by the contractor until the soil is completely fined and in a mellow condition to finish grade.

Shrub Planting Pits: Shall not have vertical sides. The diameter of the pits shall be two times greater than the diameter of the ball or container of the shrub.

Shrub Planting Soil: Mix one part peat moss with five parts topsoil. Mix all components thoroughly before backfilling.

Setting of Shrubs: All materials shall be planted 2" higher in relation to the finish grade as they had before transplanting.

The Backfill of Topsoil: Shall be tamped in successive 8" layers. When the hole has been 2/3 backfilled, water shall be poured in filling the hole, and allowed to soak away so that all voids or air pockets under or around the roots are eliminated.

MISS UTILITY

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LANDSCAPE SHRUB

DECIDUOUS PLANTS - (2" Caliper or Larger)

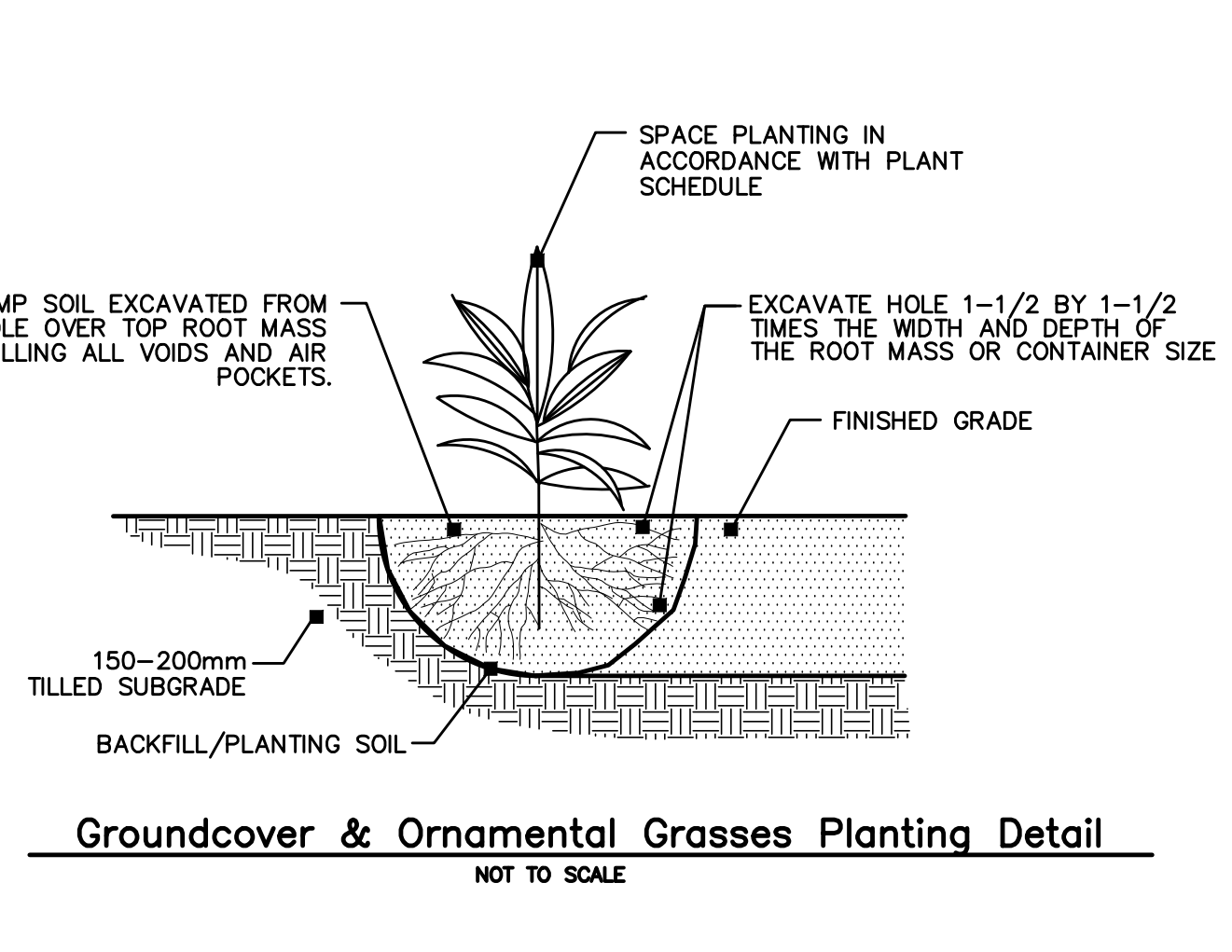
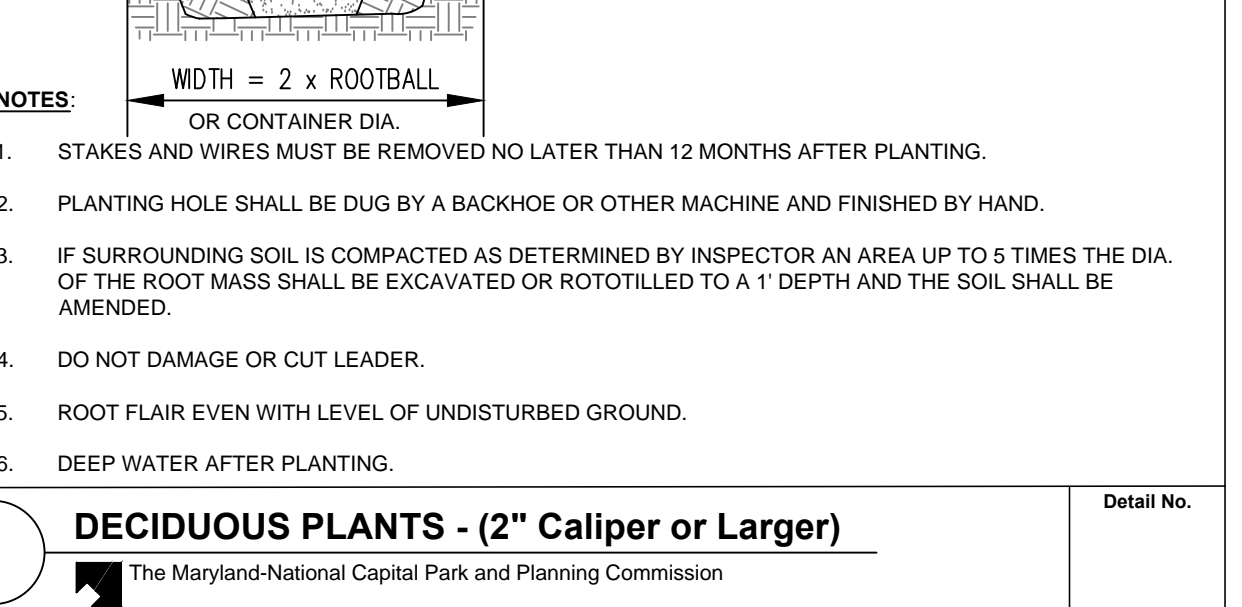
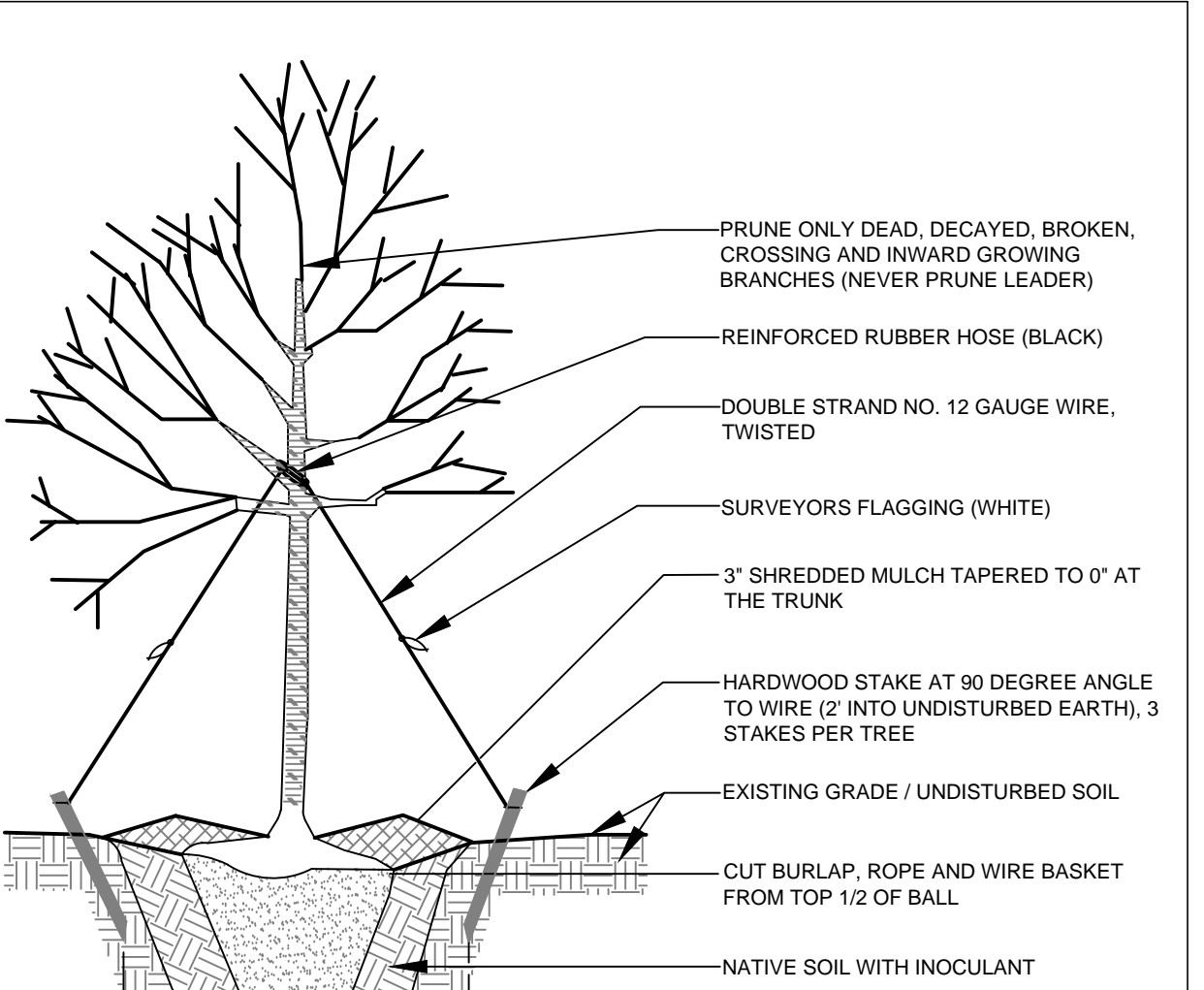
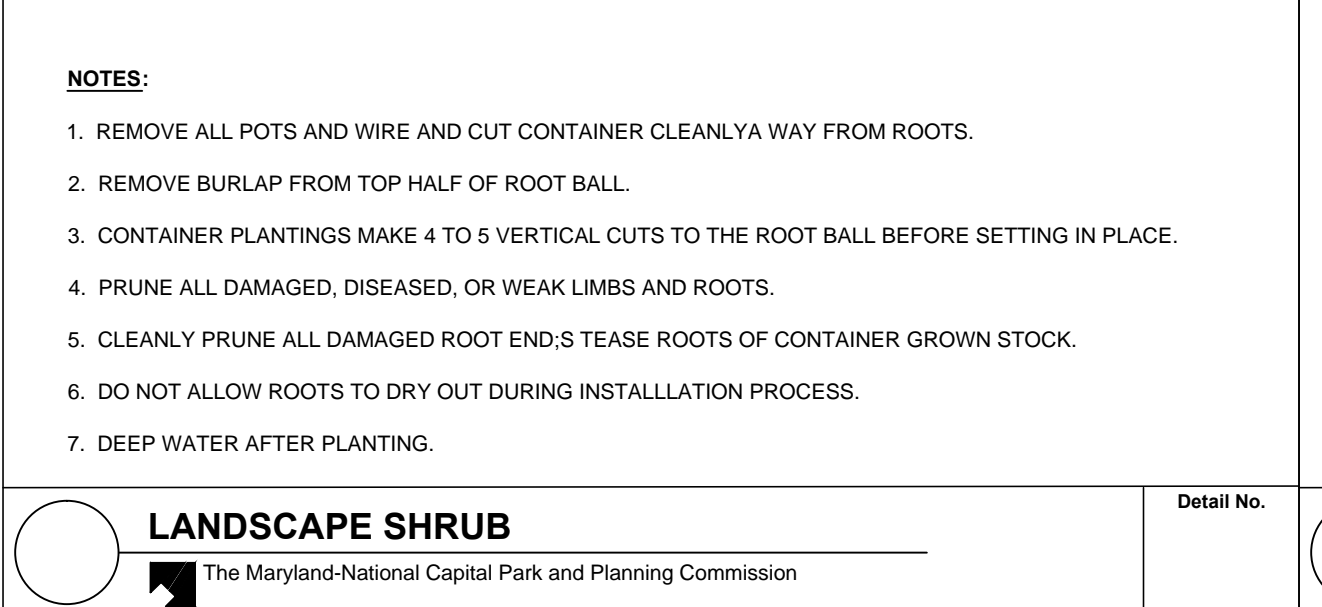
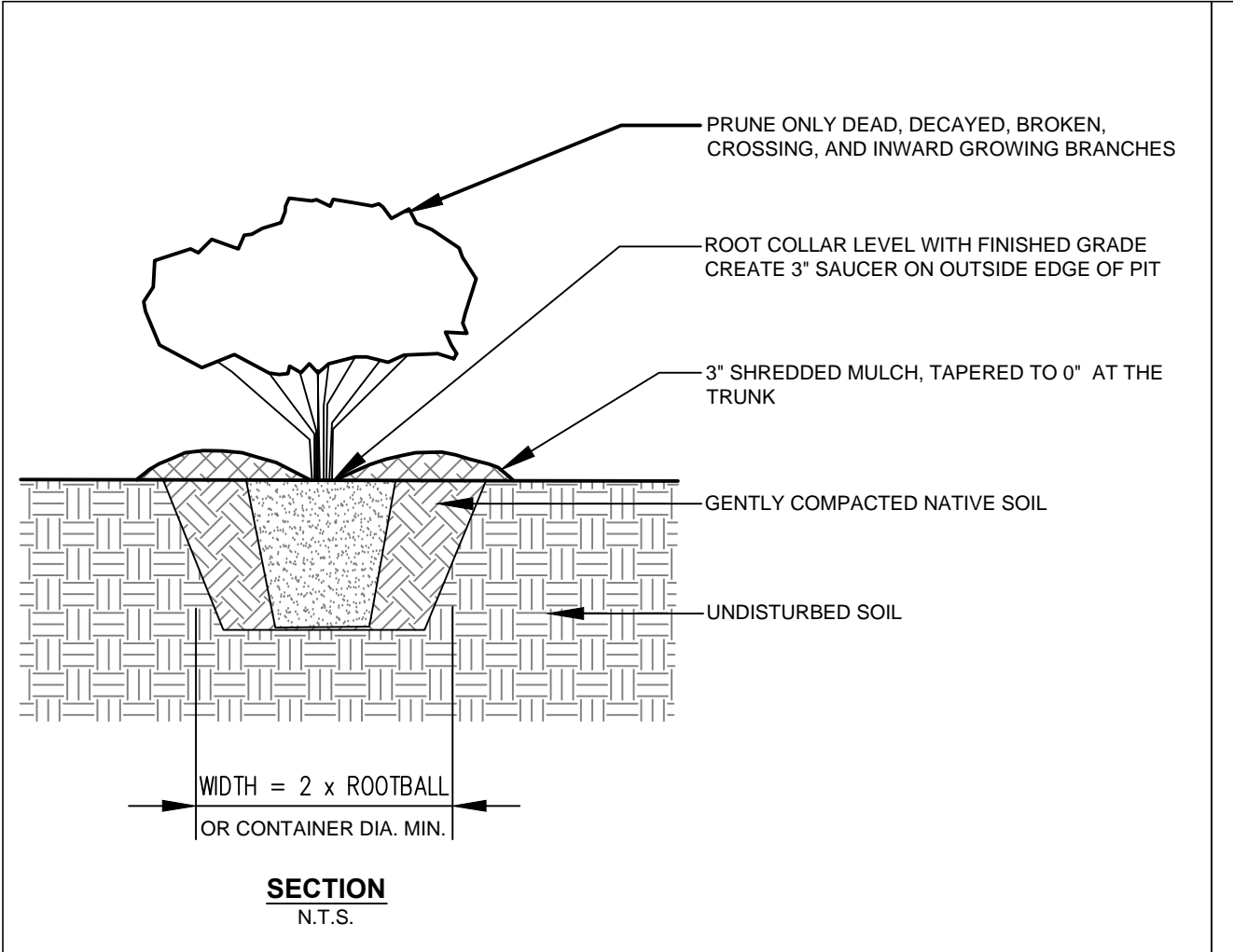
SITE LANDSCAPE PLANT SCHEDULE

Table with columns: KEY, BOTANICAL NAME, COMMON NAME, SIZE, FORM, SPACING, QUANTITY, COMMENTS. Rows include CARPINUS CAROLINIANA, CERCIS CANADENSIS, CORNUS KOUSA, etc.

SOD & SEED MIX DESCRIPTIONS table with columns: SOD, SOD -TALL FESCUE/KENTUCKY BLUEGRASS, SQUARE YARD, STABILIZATION AROUND SITE.

NOTE: ALTERNATE #1: SOD ALL GRASS AREAS. CONTRACTOR TO FURNISH AND INSTALL SOD IN LIEU OF SEED. BASE BID: CONTRACTOR TO PROVIDE SEEDING AND SOD IN AREAS AS SPECIFIED.

- 1. Examine and evaluate grades, soils and water levels, observe the conditions under which work is to be performed, and notify the Landscape Architect of unsatisfactory conditions.



OWNER/APPLICANT: MONTGOMERY COUNTY DEPARTMENT OF GENERAL SERVICES, 101 MONROE STREET, 11TH FLOOR, ROCKVILLE, MARYLAND 20850

NORTON LAND DESIGN LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING

CLIENT:



MONTGOMERY COUNTY MARYLAND DEPARTMENT OF GENERAL SERVICES OFFICE OF PLANNING & DEVELOPMENT

PROJECT:

ARCHITECT:



11720 BELTSVILLE DRIVE, SUITE 600 CALVERTON, MARYLAND 20705

CONSULTANT:



PATRICK EAST BUSINESS CENTER 97 MONOCACY BLVD UNIT H FREDERICK, MD 21701

REGISTRATION:

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PROJECT NO:

DRAWN BY: LYV

CHECKED BY: JEB

MANDATORY REFERRAL SUBMISSION JULY 31, 2015

SHEET TITLE:

LANDSCAPE PLANTING NOTES & DETAILS

SHEET NUMBER:

L-2.2

ATTACHMENT 2



August 3, 2015

Revised September 10, 2015

Ms. Amy Lindsey

Maryland National Capital Park and Planning Commission (M-NCPPC)

8787 Georgia Avenue

Silver Spring, Maryland 20910

Re: Wheaton Regional Library and Community Center
Request for Specimen Tree Variance

Dear Ms. Lindsey:

On behalf of the Montgomery County Department of General Services 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 Wheaton Regional Library is located along Georgia Avenue between Parker Avenue and Arcola Avenue, Montgomery County, Maryland. The site is approximately 6.17 acres (including the offices LOD) and is comprised of four parcels owned by Montgomery County and MNCPPC. The site currently hosts two buildings, play areas and associated parking. There is no forest onsite. The site is within a residential neighborhood.

Proposed construction consists of a new combined Library and Community Center, 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 library facility that can accommodate a growing population as well as a modernized, safe and healthy environment for young and old alike.

This work will require impacts and/or removal of a total of ten (10) specimen trees. Several designs were studied as part of the feasibility period with the specimen trees 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

If Montgomery is not allowed to remove the trees as requested, the school will not be able to be construct the facilities due to the close proximity of specimen trees to the buildings and 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: 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: A substantial landscape planting plan will serve to create greater ecological quality while establishing further buffering of adjacent land uses (residential).

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 new library and community center 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) 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.

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

Tree Species #	Scientific Name	Species (Common Name)	D.B.H (inches)	Tree Condition	Comments
1	ULMUS AMERICANA	AMERICAN ELM	30	GOOD	OFFSITE/INCLUDED BARK/BROKEN LIMBS
2	CARYA GLABRA	PIGNOT HICKORY	30	GOOD	OFFSITE/DEAD&BROKEN LIMBS
5	ULMUS AMERICANA	AMERICAN ELM	43	FAIR	EXPOSED&DAMAGED&GIRDLED ROOTS/TRUNK DAMAGE 1'-6' WITH MINIMAL HEART ROT/BROKEN LIMBS
6	QUERCUS RUBRA	RED OAK	33	FAIR	EXPOSED&DAMAGED ROOTS/FUNGUS ON FLARE/DEAD LIMBS
7	QUERCUS RUBRA	RED OAK	32	GOOD	PRUNED/DIEBACK
10	QUERCUS PALUSTRIS	PIN OAK	35	GOOD	PRUNED/DIEBACK
14	ACER RUBRUM	RED MAPLE	34	FAIR	OFFSITE/EXPOSED ROOTS/LARGE CONK/DEAD&BROKEN LIMBS
15	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	32	GOOD	OFFSITE
16	ACER RUBRUM	RED MAPLE	36	FAIR/POOR	OFFSITE/EXPOSED&DAMAGED ROOTS/MUCH TRUNK DAMAGE AT BASE/HEAVILY PRUNED
21	ROBINIA PSEUDOACACIA	BLACK LOCUST	36	FAIR	WATERSPROUTS/BROKEN LIMBS

TO BE REMOVED WITH NEIGHBOR PERMISSION
TO BE REMOVED WITH NEIGHBOR PERMISSION

SAVE AND PROTECT
SAVE AND PROTECT

TO BE REMOVED
TO BE REMOVED

SAVE AND PROTECT
SAVE AND PROTECT

SAVE AND PROTECT
TO BE REMOVED

ATTACHMENT 3



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Lisa Feldt
Director

September 21, 2015

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

RE: Wheaton Regional Library and Community Center, MR 2016004, NRI/FSD recertification submitted on 7/19/2013

Dear Mr. Anderson:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, 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, I make the following findings as the result of my review:

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 criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the



variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

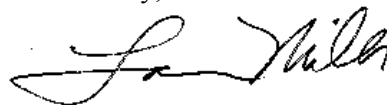
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, 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 criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet 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.

In the event that minor revisions to the impacts to trees subject to variance provisions are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

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

Sincerely,



Laura Miller
County Arborist

cc: Amy Lindsey, Planner Coordinator