Schoo Residence (Resubdivision): Preliminary Plan No. 120160250

Staff Report Date: 3/10/17

Doug Johnsen, Senior Planner, douglas.johnsen@montgomeryplanning.org, 301-495-4559
Richard Weaver, Acting Chief, richard.weaver@montgomeryplanning.org, 301-495-4544

Description

Schoo Residence: Preliminary Plan No. 120160250:
Application to resubdivide existing Part of Lot 1, Block 10 and Parcel 203 into two lots for two single family detached dwellings, located at 9927 Carmelita Drive, Potomac, MD; 1.49 acres; Zoned R-200; 2002 Potomac Subregion Master Plan.

Staff Recommendation: Approval with conditions

Applicant: Sara E. Schoo
Submittal Date: April 8, 2016
Review Basis: Chapter 22A, Chapter 50

Summary

- Staff recommends Approval with conditions.
- Application is being reviewed under the 2012-2016 Subdivision Staging Policy since the application was submitted prior to January 1, 2017.
- Application is being reviewed under the older version of Chapter 50 since the application was submitted prior to February 13, 2017.
- Subject Property is located in the R-200 zone.
- Application substantially conforms to the 2002 Potomac Subregion Master Plan by providing residential infill development.
- Application meets resubdivision criteria, Section 50-29(b)(2) by creating lots of the same character in terms of size, shape, width and orientation.
- Application satisfies the afforestation requirements of Chapter 22A, Forest Conservation Law by proposing to make a fee-in-lieu payment to the Forest Conservation Fund.
- Carmelita Drive is classified as a secondary roadway which requires a sidewalk along the frontage of these two lots. DPS may waive this requirement.
- Staff has not received any citizen correspondence on the Application.
SECTION 1 – RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN NO. 120160250: Staff recommends approval of the Preliminary Plan subject to the following conditions:

1. This Application approval is limited to two (2) lots for two (2) single family detached homes.

2. The Applicant must comply with the conditions of approval for the Preliminary/Final Forest Conservation Plan No. 120160250, approved as part of this Preliminary Plan, including:
   a. Applicant must install the five (5) 3” caliper variance mitigation trees during the first planting season following the issuance of the sediment and erosion control permit.
   b. Applicant must have all required site inspections performed by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
   c. Prior to any clearing, grading or construction on the project site the Applicant must submit the required Forest Conservation Fund fee-in-lieu payment to the M-NCPPC Development Application and Regulatory Coordination Division.
   d. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC Forest Conservation Inspector.
   e. The limits of disturbance (LOD) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Preliminary/Final Forest Conservation Plan.

3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MC DOT”) in its letter dated March 7, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MC DOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

4. The Applicant must satisfy the provisions for access and improvements as required by MC DOT prior to the issuance of access permits.

5. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (“MC DPS”) – Water Resources Section in its stormwater management concept letter dated March 11, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MC DPS – Water Resources Section, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

6. The Planning Board has accepted the recommendations of the MC DPS Fire Code Enforcement Section in its letter dated January 9, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MC DPS – Fire Code Enforcement Section, provided the amendments do not conflict with other conditions of Preliminary Plan approval.
7. The certified Preliminary Plan must contain the following note:

“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permits. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”

8. The Subject Property is within the Winston Churchill High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the single-family detached unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, and any amendments to this chapter.

9. The Applicant must make a Transportation Policy Area Review (“TPAR”) Mitigation Payment for Transit, equal to 25 percent of the applicable transportation impact tax to the MCDPS. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, and any amendments to this Chapter.

10. The Applicant must satisfy MCDPS requirements to ensure the construction of a five (5) foot wide sidewalk along the property frontage unless construction is waived by MCDPS prior to the recordation of the plat(s).

11. Record plat must show all necessary easements.

12. The Adequate Public Facility (“APF”) review for the preliminary plan will remain valid for thirty-six (36) months from the date of mailing of the Planning Board resolution.
SECTION 2 – SITE LOCATION AND DESCRIPTION

Site Location
The subject property is located at 9927 Carmelita Drive, Potomac, MD consisting of Part of Lot 1, Block 10 on Plat No. 7041, Tax Map GP 122 (Figure 1 and Attachment 1) and an adjacent Parcel 203 for a total of 1.49 acres (“Subject Property” or “Property”). The Property is zoned R-200 and located in the 2002 Potomac Subregion Master Plan.

Site Vicinity
The Property is located at the edge of the McAuley Park residential development that was platted and built in the early to mid-1960s. This existing residential development abuts the RE-2 zone to the west and...
the M-NCPPC’s Cabin John Stream Valley Unit No. 5 (“SVU 5”) to the east. The Site is located on the interior of the development and is adjacent to SVU 5. The Site is accessed off Carmelita Drive, which connects to Bradley Boulevard, to the south, River Road to the southwest or Democracy Boulevard to the northwest via other residential streets. There is no direct access to Democracy Boulevard from the Site due to the termination of Carmelita Drive at the M-NCPPC Park property boundary just prior to Democracy Boulevard.

![Figure 2 – Vicinity Zoning](image)

**Site Description**

The Property currently has a single family residential structure located on Part of Lot 1, Block 10 at 9927 Carmelita Drive. The adjacent parcel, Parcel 203, is currently undeveloped. There are no existing forests or other environmental sensitive features on the Property. The Property has a gentle slope from front to rear of the property ranging from approximately six percent toward the front and up to about 14 percent toward the rear. There are no steep slopes or erodible soils on the property. The Property abuts the SVU 5 and both are located in the Cabin John Creek watershed which is classified by the State of Maryland as Use Class I-P waters. There is a perennial stream on the adjacent M-NCPPC property, which is located over 350-feet away from the rear property line. There are no Stream Valley Buffers (SVB) located on the Property.
SECTION 3 – APPLICATION AND PROPOSAL

Current Application
Preliminary Plan 120160250
The Property is currently being reviewed as a Preliminary Plan, No. 120160250 (“Preliminary Plan” or “Application”). The Property was originally recorded by plat on 14 May, 1963. This Application proposes to resubdivide Part of Lot 1 and the adjacent Parcel 203 into two lots for single-family detached houses (Figure 4 and Attachment 2). The proposed Lot 1 will be approximately 33,269 square feet and the proposed Lot 2 will be approximately 31,745 square feet. The existing residence on Lot 1 is to remain along with the current dual access driveway. Lot 2 will have a new home and driveway constructed.
Figure 4 – Preliminary Plan

SECTION 4 – ANALYSIS AND FINDINGS

Master Plan

The Property is located in the 2002 Potomac Subregion Master Plan which recognizes the largely developed nature of this area and recommends “infill development of the remaining vacant properties with residential development essentially similar to what is now there...” (p 41). The specific land use recommendations for this part of the Master Plan focus on properties that were undeveloped at the time the plan was prepared and on the planning area’s commercial centers.

The Preliminary Plan substantially conforms to the master plan’s recommendations for infill development in this part of Potomac by creating two lots for two single family detached homes from an existing single recorded lot and a parcel. The resulting lots will be similarly configured to those in the existing neighborhood in the R-200 zone. As discussed below, the arrangement and shape of the proposed lots meets the resubdivision criteria for ensuring that infill development maintains the neighborhood’s existing character.
Adequate Public Facilities

Roads and Transportation Facilities
Carmelita Drive, what was known as Hartman Drive, is an open-section roadway with a 70-foot right-of-way ("ROW"). It has never been classified in either the 1980 or the 2002 Potomac Subregion Master Plans. Because Carmelita Drive has not been classified in a master plan, MCDOT will treat it as a secondary residential roadway and a sidewalk is required along the frontage of these two lots even though there are no corresponding sidewalks within this neighborhood. This requirement cannot be waived by the Planning Board under Section 49-33 of the County Code. However, under Section 49-33(e)(1) MCDPS may waive this requirement to construct the sidewalk at the time of building permit release for the proposed residential structure.

The transportation Adequate Public Facilities (APF) test is satisfied under the 2012-2016 Subdivision Staging Policy ("SSP") since the application was submitted prior to January 1, 2017. The Property is located in the Potomac Policy Area which is adequate for the roadway test and inadequate under the transit test. Therefore, the Applicant must make a TPAR mitigation payment equal to 25 percent of the General District Transportation Impact Tax, pursuant to the SSP. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, and any amendments to that Chapter.

A traffic study is not required to satisfy the APF’s Local Area Transportation Review (LATR) test because the one new single-family detached unit (one existing unit, one new unit) does not generate 30 or more peak-hour trips within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

Other Public Facilities and Services
Other public facilities and services are available and adequate to serve the proposed lots. The Property has W-1 and S-1 water and sewer service categories, respectively, and will utilize public water and sewer.

The Stormwater Management Concept was reviewed by Montgomery County Department of Permitting Services, Stormwater Management Section. An approval letter with conditions was issued on March 11, 2016 (Attachment 5). By reference, those conditions have been included in Section 1 of this staff report.

The Application was reviewed by the Montgomery County Fire Marshal’s ("MCFRS") office, and an approval letter was issued on January 9, 2017 (Attachment 6).

Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the SSP Resolution in effect at that time that the application was submitted.

The Application is located in the Winston Churchill School cluster, which is identified as being in the High Inadequate category of the July 1, 2016 School Test. As conditioned, a School Facility Payment will be required in accordance with Chapter 52 of the Montgomery County Code, and any amendments to that Chapter.
Lot Dimensions

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections, including the requirements for resubdivision as discussed below. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision, considering the recommendations included in the 2002 Potomac Subregion Master Plan, and for the type of development or use contemplated. The two lots, at 33,269 sq ft and 31,745 sq ft, are slightly larger than the minimum required by the zone and appropriately dimensioned given the subdivision’s location along Carmelita Drive. The Master Plan acknowledges the ability for infill development in residential areas akin to what is proposed by this Application.

The proposed lots were reviewed for compliance with the dimensional requirements for the R-200 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and can accommodate a one family detached homes with the setbacks in that zone. A summary of this review is included in Table 1. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

<table>
<thead>
<tr>
<th>R-200</th>
<th>Required by the Zone</th>
<th>Proposed for Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>20,000 sq. ft.</td>
<td>Lot 1 = 33,269 sq. ft. (existing)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lot 2 = 31,745 sq. ft.</td>
</tr>
<tr>
<td>Minimum Lot Frontage</td>
<td>25 feet</td>
<td>Lot 1 = 125.4 feet (existing)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lot 2 = 141.3 feet</td>
</tr>
<tr>
<td>Minimum Lot Width at B.R.L.</td>
<td>100 feet</td>
<td>Lot 1 = 128.4.1 feet (existing)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lot 2 = 132.2 feet</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td>25% (Maximum)</td>
<td>Lot 1 = 11.2% (existing)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lot 2 = 5.9%</td>
</tr>
<tr>
<td>Setbacks (for all lots)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td>40 feet</td>
<td>40 feet or greater</td>
</tr>
<tr>
<td>Side, abutting Residential</td>
<td>12 feet min./ 25 feet total</td>
<td>15 feet min./ 46 feet total or greater</td>
</tr>
<tr>
<td>Rear, abutting Residential</td>
<td>30 feet</td>
<td>30 feet or greater</td>
</tr>
<tr>
<td>Building Height</td>
<td>50 feet max.</td>
<td>50 feet or lower</td>
</tr>
<tr>
<td>Site Plan Required</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Table 1: Development Review Table

Resubdivision Criteria: Conformance with Section 50-29(b)(2)

A. Statutory Review Criteria
In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.
B. Neighborhood Delineation
In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate resubdivision neighborhood (“Neighborhood”) for evaluating the application. In this instance, the Neighborhood selected by the applicant, and agreed to by staff, consists of 59 lots (Figure 5). The analyzed lots include only properties that are recorded by plat in the R-200 Zone, are adjacent to, or within a reasonable distance from the Subject Property. A map and tabular summary of the lot analysis based on the resubdivision criteria is included in Figure 5 as well as Attachment 7.

Figure 5 – Proposed Neighborhood for the Resubdivision
C. Comparison of the Character of Proposed Lots to Existing Neighborhood Character
In performing the analysis, the resubdivision criteria were applied to the Neighborhood. The proposed lots are of the same character with respect to the resubdivision criteria as other lots within the Neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2).

As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Street Frontage:
The proposed lots are of similar character as existing lots in the Neighborhood with respect to lot frontage. The two proposed lots have frontages of 110 feet and 157 feet for Lots 1 and 2, respectively. In the Neighborhood, the range of lot frontages is between 30 feet and 292 feet.

Alignment:
The proposed lots are in character with other lots in the Neighborhood. The alignment of the existing north and south property lines coming off of the street frontage are at somewhat less than perpendicular. This matches several other “nearly” perpendicular property lines in the Neighborhood. The proposed property line between Lots 1 and 2 will be perpendicular to the frontage. The alignment of the proposed property lines are perpendicular or close to perpendicular to the street frontage matching other property lines within the Neighborhood.

Size:
The proposed lot sizes are in character with the size of existing lots in the Neighborhood. The lot sizes proposed by this Application are 33,024 square feet and 31,985 square feet for Lots 11 and 12, respectively. The range of lot sizes in the Neighborhood is between 20,000 square feet and 73,309 square feet.

Shape:
The shape of the two proposed lots are somewhat irregular. The Neighborhood contains primarily rectangular lots with a few that are wedged or pie shaped. The irregularity is created by the break in the property line between proposed lots 1 and 2. This property line is perpendicular to the street frontage; very similar to other lot lines in the Neighborhood, however, it then takes a modest bend approximately 130-feet from the frontage and extends to the rear property line giving each home a reasonable backyard in which to recreate. The bend in the property line occurs at a point behind both the existing and proposed structures and from the street frontage the bend would not be evident. Therefore, the shape of the proposed lots are in character with the other lots in the Neighborhood.

Width: (at the BRL)
The proposed lots are similar in character with existing lots in the Neighborhood with respect to width. The width at the front building line of the two proposed lots is 136 feet and 135 feet for Lots 11 and 12, respectively. The range of lot widths within the Neighborhood is between 96 feet and 283 feet.
Area:
The proposed lots are of the same character as existing lots in the Neighborhood with respect to buildable area. The proposed lots have a buildable area of 20,023 square feet and 16,887 square feet for Lot 11 and 12, respectively. The range of buildable areas within the Neighborhood is between 6,528 square feet and 46,083 square feet.

Suitability for Residential Use:
The existing and proposed lots within the identified Neighborhood are all zoned R-200 and are suitable for residential use.

Environmental

Natural Resource Inventory/Forest Stand Delineation
The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420160460 for the Property was approved on September 30, 2015. The NRI/FSD identifies the environmental features and forest resources on the Property. The Property does not contain any forest. There are no streams, wetlands, 100-year floodplain, stream buffers, highly erodible soils, or slopes greater than 25 percent located on or immediately adjacent to the Property. There are 30 trees equal to or greater than 24” DBH that were identified on or within 100-feet of the property lines. Of those 30, only five trees which are 30” DBH or greater (specimen) exist on the property.

Forest Conservation Plan
The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by the County Forest Conservation Law (Chapter 22A of the County Code), a combined Preliminary/Final Forest Conservation Plan (FCP) for the project was submitted with the Preliminary Plan (Attachment 3). The total net tract area for forest conservation purposes is 1.49 acres, which includes 0.94 acres for Lot 1, 0.55 acres for Parcel 203 and off-site disturbance. There is no forest on the Property and the resulting afforestation requirement of 0.22 acres will be satisfied by the Applicant by making a fee-in-lieu payment.

Forest Conservation Variance
Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that there be no impact to: trees that measure 30 inches or greater DBH; are part of an historic site or designated with an 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. Any impact to high priority vegetation, including disturbance to the 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. Development of the Property requires impact to trees identified as high priority for retention and protection, therefore, the Applicant has submitted a variance request for these impacts.

Variance Request
This Property contains five specimen sized trees, but only three of these will be impacted by construction. One tree is proposed to be removed and the other two will have impacts. The Applicant submitted a variance request in a letter dated April 4, 2016 (Attachment 8). The Applicant proposes
to remove one specimen tree and impact two additional specimen trees that are 30 inches or greater DBH.

<table>
<thead>
<tr>
<th>Tree Number</th>
<th>Species</th>
<th>DBH Inches</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>American Sycamore (<em>Plantus occidentalis</em>)</td>
<td>36”</td>
<td>To be impacted. Tree is in good condition. Only 3% of CRZ will be impacted.</td>
</tr>
<tr>
<td>27</td>
<td>Silver Maple (<em>Acer saccharinum</em>)</td>
<td>56”</td>
<td>To be removed. Tree is in good. However, there is evidence of numerous broken limbs and girdling roots. Over 30% of the CRZ will be impacted.</td>
</tr>
<tr>
<td>28</td>
<td>Silver Maple (<em>Acer saccharinum</em>)</td>
<td>64”</td>
<td>To be impacted. Tree is in fair condition with some included bark. Only 5% of CRZ to be impacted.</td>
</tr>
</tbody>
</table>

Table 2: Variance Trees to be impacted or removed

**Unwarranted Hardship Basis**

Per Section 22A-21(a), an applicant may request a variance from Chapter 22A if the applicant can demonstrate that enforcement of Chapter 22A would result in an unwarranted hardship. In this case, the Applicant is faced with having to remove 1 specimen tree and impact two others. All of these trees located on the site and not on an adjoining property. Tree #1 is located at the front right corner of Lot 2 while Trees #27 and #28 are located in proximity to the proposed home, but on Lot 1 (Figure 5).

Staff has determined that the impacts to these trees for the construction on Lot 2 are unavoidable. The available building area on Lot 2 is very constrained by the mandated building restriction lines (BRL) and a drainage easement located on Lot 2 along the southern property line. These restrictions limit the buildable area to approximately the 1/3 of the forward section of the lot with very little room to flex the location of the house.

The arboriculture industry standard for construction impacts to trees is to limit those impacts to no more than approximately 30 percent of the Critical Root Zone (CRZ). More than 30 percent impact to the CRZ and the overall healthy viability of the tree comes into question. Trees #1 and #28 are proposed to have approximately three to five percent of their respective CRZs impacted while Tree #27 will have approximately over 30 percent of its CRZ impacted.
Tree #1 is located at the forward corner of Lot 2 and within the drainage easement. There is a small amount of necessary site grading for drainage reasons that incurs into the CRZ of Tree #1 with only about three percent of its CRZ being impacted. Tree #27 is located toward the rear and between the existing home and the proposed home on Lot 2. Tree #27 is 15-feet away from the existing home and will be approximately 30-feet from the proposed home. Given the current condition of Tree #27 and that over 30 percent of its CRZ will be impacted it is felt that it is safer and easier to remove the tree now than to create a potential hazard tree condition in the near future. Tree #28 is further away from the construction and is estimated to have only five percent of its CRZ impacted.

As a result, not being able to request a variance to remove Tree #27 and impact Trees #1 and #28 would constitute an unwarranted hardship on this Applicant to develop this site. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.
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. M-NCPPC staff (“Staff”) has made the following determinations based upon the required findings in the review of the variance request and the Forest Conservation Plan:

**Variance Findings**

1. **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 the removal of the one tree and impact to two others is due to the location of the trees and necessary site design requirements. The Applicant proposes removal of the one tree with mitigation. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

2. **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 upon the existing site conditions and necessary design requirements of this preliminary plan application. The request is based on the fact that the building envelope for the proposed home is very constrained with almost no room to vary its location on Lot 2.

3. **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 existing conditions and not as a result of land or building use on a neighboring property.

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

   The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being removed is not located within a stream buffer. The Application proposes mitigation for the removal of this one tree by planting five larger caliper trees on-site. The five mitigation trees will eventually provide more shade and more groundwater uptake than what the existing tree currently provide. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

**Mitigation for Trees Subject to the Variance Provision**

There is one (1) tree proposed for removal in this variance request resulting in a total of 56 inches of DBH being removed. For removal of specimen trees associated with a variance request, Staff recommends mitigation for the tree loss by replacing the total number of DBH removed with ¼ of the amount of inches replanted. This results in a total mitigation of 14 inches of replanted trees. In this case, the Applicant proposes to plant five (5) 3” caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements.
Counties 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 November 28, 2016. The County Arborist responded with a recommendation to approve the Applicant’s tree variance request on December 6, 2016 (Attachment 9).

Variance Recommendation
Staff recommends approval of the variance request.

Stormwater Management
All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled “Storm Water Management,” Sections 19-20 through 19-35.

The Preliminary Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on March 11, 2016 (Attachment 8). The Application will meet stormwater management goals for each new lot via drywells, grass swales, and bio-swales.

SECTION 5 – COMMUNITY OUTREACH
This Application was submitted and noticed in accordance with all Planning Board adopted procedures. One sign referencing the proposed modification was posted along the Subject Property frontage. A presubmission meeting was held at the Subject Property on Thursday, January 28, 2016 at 7:00 PM. Staff, to date, has not received any written correspondence pertaining to the Application.

SECTION 6 – CONCLUSION
The proposed lots meet all requirements established in the Subdivision Regulations, Forest Conservation Law and the proposed use substantially conforms to the recommendations of the master plan. The resubdivided lots are of the same character as existing lots in the Neighborhood as demonstrated by the resubdivision analysis. Access and public facilities will be adequate to serve the proposed lot, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan with the conditions provided. Therefore, approval of the Application with the conditions specified herein is recommended.

ATTACHMENTS
Attachment 1 – Plat No. 7041
Attachment 2 – Preliminary Plan
Attachment 3 – Preliminary/Final Forest Conservation Plan
Attachment 4 – MCDOT Approval Letter
Attachment 5 – MCDPS Stormwater Concept Approval Letter
Attachment 6 – MCFRS Approval Letter
Attachment 7 – Resubdivision Tables
Attachment 8 – Variance Request
Attachment 9 – County Arborist’s Response Letter
March 7, 2017

Mr. Doug Johnsen, Senior Planner
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120160250
Schoo Residence
REVISED LETTER

Dear Mr. Johnsen:

We have completed our review of the preliminary plan dated March 2, 2017. A previous plan was reviewed by the Development Review Committee at its meeting on May 31, 2016. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. The previous MCDOT letter, dated August 3, 2016 no longer is applicable and is hereby replaced with this letter. All conditions for this preliminary plan are contained in this letter.

2. We have not been able to confirm the classification of Carmelita Drive with your office. The preliminary plan drawing indicates the existing right-of-way for Carmelita Drive is seventy (70) feet wide. Carmelita Drive is delineated on the “Zoning and Transportation Plan” drawing in the 1980 Approved and Adopted Potomac Subregion Master Plan as being part of the proposed network for master planned primary road “P-21” between River Road (MD 190) and future Democracy Boulevard.

Isiah Leggett
County Executive

Al R. Roshdieh
Director

DEPARTMENT OF TRANSPORTATION

Office of the Director
101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178
FAX
www.montgomerycountymd.gov
Located one block west of the Rockville Metro Station
However, the December 25, 1987, Project Description Form for the Democracy Boulevard Extension CIP Project (no. 831595) noted Carmelita Drive would not connect with the CIP project; it noted the residential street would terminate south of the CIP project.

Carmelita Drive is not identified as a primary classification roadway in the 2002 Approved and Adopted Potomac Subregion Master Plan.

For the purposes of this preliminary plan, we recommend Carmelita Drive be considered a secondary residential street.

3. Based on the roadway classification discussion in the above condition, we do not recommend this applicant be required to construct a sidewalk across the site frontage.

4. The preliminary plan indicates a twenty-five (25) foot wide existing storm drain easement along the south side of the property. However, a thirty (30) foot wide storm drain easement was granted under the original record plat (no. 7041). Unless the applicant’s consultants can demonstrate how and when that easement width was formally reduced by five (5) feet, we believe this plan should reflect the thirty (30) foot width.

5. The storm drain analysis was reviewed and is acceptable to MCDOT. No improvements are needed to the downstream public storm drain system for this plan.

6. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.

7. At certified preliminary plan, revise the plan to show a ten (10) foot wide Public Utility Easement (PUE) along the street frontage.

8. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

9. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

10. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
Mr. Douglas Johnsen
Preliminary Plan No. 120160250
March 7, 2017
Page 3

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Rebecca Torma, our Development Review Area Senior Planning Specialist or this project at (240) 777-2118 or at rebecca.torma@montgomerycountymd.gov.

Sincerely,

Gregory M. Leck, Manager
Development Review Team
Office of Transportation Policy

Sharepoint/directors office/development review/rebecca/developments/potomac/120160250 schoo residence prelimin plan revised.docx

Enclosures (2)

cc: Steve Wenthold Meridian Surveys
    Sara Schoo Owner
    Michael Norton Norton Land Design LLC
    Richard Weaver M-NCPPC Area 3
    Laura Hodgson M-NCPPC Area 3
    Preliminary Plan folder
    Preliminary Plan letters notebook

cc-e: Sam Farhadi MCDPS RWPR
      Dan Sanayi MCDOT DTEO
      Rebecca Torma MCDOT OTP
MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: McAulley Park

Preliminary Plan Number: 1-20100250

Street Name: Carmelita Drive

Master Plan Road Classification: Secondary

Posted Speed Limit: 25 mph

Street/Driveway #1 (West Entrance)

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<tr>
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<td>Left: 490</td>
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Comments:

Street/Driveway #2 (East Entrance)

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Comments:

GUIDELINES

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<th>Required Sight Distance in Each Direction*</th>
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<tr>
<td>Secondary - 30</td>
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*Source: AASHTO

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Signature: [Signature]

PLS/P.E. MD Reg. No: [PLS/P.E. MD Reg. No]

Date: 6/3/10

Montgomery County Review:

[Approved/Disapproved]

By: [Signature]

Date: 8/1/10

Form Reformatted: March, 2000
### SIGHT DISTANCE EVALUATION

**Facility/Subdivision Name:** McAuley Park  
**Preliminary Plan Number:** 1-2016-0250  
**Street Name:** Carmelita Drive  
**Master Plan Road Classification:** Secondary  
**Posted Speed Limit:** 25 mph

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**Comments:**

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### GUIDELINES

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<td>Major - 50 (55)</td>
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<td>550'</td>
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*Source: AASHTO

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### ENGINEER/SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

**Signature:**  
**Date:** 2/17/16  
**PLS/P.E. MD Reg. No.:** 10767

---

**Montgomery County Review:**

- [ ] Approved
- [ ] Disapproved:

**By:** [Signature]  
**Date:** 3/4/10

---

*Form Reformatted: March, 2000*
5. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

6. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

7. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Rebecca Torma, our Development Review Area Senior Planning Specialist or this project at (240) 777-2118 or at rebecca.torma@montgomerycountymd.gov.

Sincerely,

[Signature]

Gregory M. Leck, Manager
Development Review Team
Office of Transportation Policy

Enclosures (2)

cc: Steve Wenthold, Meridian Surveys
    Sara Schoo, Owner
    Michael Norton, Norton Land Design LLC
    Matt Folden, M-NCPPC Area 1
    Preliminary Plan folder
    Preliminary Plan letters notebook

cc-e: Sam Farhadi, MCDPS RWPR
      Dan Sanayi, MCDOT DTEO
      Rebecca Torma, MCDOT OTP
March 11, 2016

Mr. Michael Norton
Norton Land Design, LLC
5146 Dorsey Hall Road, 2nd Floor
Ellicott City, MD 21042

Re: COMBINED STORMWATER MANAGEMENT CONCEPT/SITE DEVELOPMENT STORMWATER MANAGEMENT PLAN
Request for Schoo Property
Preliminary Plan #: 120160250
SM File #: 281715
Tract Size/Zone: 1.45/R-200
Total Concept Area: .35ac
Lots/Block: 2 Lots Proposed
Parcel(s): 203
Watershed: Cabin John

Dear Mr. Norton:

Based on a review by the Department of Permitting Services Review Staff, the Combined Stormwater Management Concept/Site Development Stormwater Management Plan for the above mentioned site is acceptable. The plan proposes to meet required stormwater management goals via the use of drywells and non-structural measures.

The following items will need to be addressed during the final stormwater management design plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.

2. An engineered sediment control plan must be submitted for this development.

3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.

4. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.

5. Full ESD treatment will be required for proposed lot #2.

This list may not be all-inclusive and may change based on available information at the time.
Mr. Michael Norton  
March 11, 2016  
Page 2 of 2

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 final stormwater management design 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 Thomas Weardon at 240-777-6309.

Sincerely,

Mark C. Etheridge, Manager  
Water-Resources Section  
Division of Land Development Services

MCE: TEW

cc: C. Conlon
SM File # 281715

ESD Acres: .35ac
STRUCTURAL Acres: N/A
WAIVED Acres: N/A
DATE: 09-Jan-17
TO: Shawn Benjaminson - SBenjaminson@adtekengine
ADTEK Engineers
FROM: Marie LaHaw
RE: Schoo Property
120160250

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 09-Jan-17. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.

2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.
## ATTACHMENT 7

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April 4, 2016

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

Schoo Property
Request for Specimen Tree Variance
Preliminary Plan 120160250

On behalf of Sara E. Schoo and pursuant to Section 22A-21 Variance provisions of the Montgomery County Forest Conservation Ordinance and 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 for the above-named residential construction project.

Project Description:

The Schoo Residence is 1.49 acres comprised of one lot and one parcel located at 9927 Carmelita Drive in Potomac, Montgomery County, Maryland. The site is currently developed with one residential house. The project consists of one additional proposed house and access drive. The site is surrounded by residential properties to the north, south and west, along with M-NCPPC property to the east.

The following specimen trees will be impacted:

<table>
<thead>
<tr>
<th>Tree Species #</th>
<th>Scientific Name</th>
<th>Common Name</th>
<th>D.B.H (inches)</th>
<th>Condition</th>
<th>Impact Comments</th>
<th>Percent Rootzone Impacts</th>
<th>Disposition</th>
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<tbody>
<tr>
<td>1</td>
<td>PLANTANUS OCCIDENTALIS</td>
<td>AMERICAN SYCAMORE</td>
<td>36</td>
<td>GOOD</td>
<td>VINES GROWING UP TRUNK - GRADING</td>
<td>3.5%</td>
<td>SAVE</td>
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<tr>
<td>27</td>
<td>ACER SACCARINUM</td>
<td>SILVER MAPLE</td>
<td>56</td>
<td>GOOD</td>
<td>TRIPLET, BROKEN LIMBS, GIRDLED ROOTS - UTILITY ACCESS</td>
<td>30.1%</td>
<td>REMOVE</td>
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<tr>
<td>28</td>
<td>ACER SACCARINUM</td>
<td>SILVER MAPLE</td>
<td>64</td>
<td>FAIR</td>
<td>INCLUDED BARK - POTENTIAL HAZARD</td>
<td>4.7%</td>
<td>SAVE</td>
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</table>

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: The program for the project consists of building one home. Efforts have been made to impact as few trees as possible. The house, garage and driveway have been located to minimize impacts to existing trees.
The proposed plan will impact the root zone of three (3) specimen trees. There is one specimen tree proposed for removal.

Majority of impacts arise from the construction of the new house. The second impact to specimen trees is for grading related to the installation of the proposed driveway. The third impact to specimen trees is related to proposed dry-well installation in the rear of the proposed house.

(2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

Response: If the Applicant is required to keep all improvements outside the root zones of the specimen trees, the residence could fail to be built due to the close proximity of specimen trees if the above referenced improvements must be implemented.

(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: Tree removals have been minimized by careful design of the layout ensuring the preservation of as many specimen trees as possible. 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 removing excess 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 tree slated for removal poses potential hazards for both the existing and proposed residences; it has multiple broken limbs and girdled roots.

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 construction of the residence onsite 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: The Applicant 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 MNCPPC Staff 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 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,

Michael Norton
December 6, 2016

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

RE: Schoo Residence, ePlan 120160250, NRI/FSD application accepted on 9/11/2015

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 meeting ‘conditions of approval’ pertaining to variance trees recommended by Planning staff, as well as 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: Doug Johnsen, Senior Planner