Seneca Valley High School, Preliminary Forest Conservation Plan, MR2016010

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Richard Weaver, Acting Chief, Richard.Weaver@montgomeryplanning.org

Description
- 19401 Crystal Rock Drive, Germantown
- 29.32 acres, R-200 zone
- 2009 Germantown Employment Area Sector Plan
- Applicant: Montgomery County Public Schools
- Submitted: November 5, 2015

Item 7 – Part A Forest Conservation Plan: Modernization of Seneca Valley High School located at 19401 Crystal Rock Drive, Germantown; 29.32 acres; R-200 Zone; Germantown Employment Area Sector Plan (2009);

Staff Recommendation: Approval with Conditions

- The review of this Mandatory Referral is in two parts:
  Part A - Preliminary Forest Conservation Plan MR2016023, and
  Part B - Mandatory Referral MR2016023, discussed in a separate staff report.
- The project proposes no forest removal, no impacts to a Stream Valley Buffer (SVB), and no impacts to a 100-Year-Floodplain.
- The forest conservation requirement will be met through onsite landscaping credit and an offsite forest conservation mitigation bank.
Recommendation: Approval of the Preliminary Forest Conservation Plan subject to the following conditions:

1. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan No. MR2016010:
   a. A Final Forest Conservation Plan must be approved by M-NCPPC Staff prior to the issuance of the Sediment and Erosion Control Permit and address the following conditions:
      i. The Final Forest Conservation plan must be consistent with the approved Preliminary Forest Conservation Plan.
      ii. The Final Forest Conservation Plan must include a worksheet that includes all areas of offsite limits of disturbance in the net tract area.
      iii. The Final Forest Conservation Plan must identify the final location of the trees planted as mitigation for the tree variance.
   b. Mitigation for the removal of ten (10) trees subject to the variance provision must be provided in the form of planting native canopy trees totaling 79 caliper inches, with a minimum size of three (3) caliper inches. The trees must be planted in final locations to be shown on the Final Forest Conservation Plan, outside of any rights-of-way, or utility easements, including stormwater management easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC forest conservation inspector.
   c. The Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved forest bank for the total afforestation/reforestation requirement prior to any clearing, grading or demolition on the project site.
   d. The Final Sediment Control Plan must depict the limits of disturbance (LOD) identical to the LOD on the approved Final Forest Conservation Plan.
   e. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the approved Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
SITE DESCRIPTION

The Seneca Valley High School site is bounded by Crystal Rock Drive, Middlebrook Road, Wisteria Drive, and Great Seneca Highway, and consists of 29.32 acres, Parcel 085 at 19401 Crystal Rock Drive ("Site") and zoned R-200. The Site slopes steeply from a high point at Crystal Rock Drive and Middlebrook Road to a low point at Middlebrook Road and Great Seneca Highway; the elevation on this frontage drops by about 60 feet. To a lesser extent, the Site also has a cross slope from the high point, near the center of the Site, down toward Wisteria Drive and Great Seneca Highway, dropping about 30 feet.

The neighboring properties include a mix of uses. To the north, across Middlebrook Road, is Olde Seneca Woods, a townhouse community. To the east, across Great Seneca Highway, there are two wooded open space properties and a local shopping center which includes restaurants patronized by Seneca Valley students. To the south, across Wisteria Drive, is Rolling Hills, a low-rise apartment complex. To the west and northwest, there is a post office, a daycare center, and an office building. At four stories, the office building is the tallest building in the vicinity.

The Site is within the boundaries of the 2009 Germantown Employment Area Sector Plan and is part of the Sector Plan’s Gateway District.

Figure 1: Aerial Photograph of Site
PROJECT DESCRIPTION

The project will completely rebuild and expand the capacity of Seneca Valley High School. Based on the condition of the existing school building and the cost to bring the school into compliance with code requirements, the most cost effective solution is to construct a replacement facility adjacent to the existing school while continuing to utilize the existing school. The capacity of the new school will increase from 1,374 students to 2,423 students with a core capacity for 2,400 students. The increased capacity provides the opportunity to address projected overutilization of nearby Clarksburg and Northwest high schools through student reassignments in the future.

The flexible building design for the school will accommodate current and future high school programs and delivery models. A philosophy of adaptable classrooms will facilitate various presentation formats and learning activities. Multipurpose and flexible spaces will be designed that can be used by both staff and students to collaborate on projects. Furniture that is easily reconfigurable will be provided to maximize the flexibility in the school.

The replacement building will predominantly occupy the center and southwest portion of the Site. Once the existing school building is demolished, new athletic fields will be terraced along Middlebrook Road and Great Seneca Highway. Staff, student, and visitor parking along with a student drop-off loop will be accessed from Crystal Rock Drive and will provide convenient, Americans with Disabilities Act compliant access to the main entrance to the building. Two additional parking areas, each with access from Wisteria Drive, are proposed along the southwest side of the school.

FOREST CONSERVATION PLAN ANALYSIS AND FINDINGS

The Application meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

Review for Conformance to the Forest Conservation Law

The Application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) under Section 22A-4(d) as a project by “a government entity subject to a mandatory referral on a tract of land 40,000 square feet or larger…” The Site included in the Application is 29.32 acres in size, Parcel 085 on Tax Map EU341.

Environmental Guidelines

A Natural Resources Inventory and Forest Stand Delineation (NRI/FSD) #420120060 was approved by Staff on August 2, 2011. The NRI/FSD was submitted on December 11, 2013 for recertification and approved January 10, 2014 (Attachment A).

The Site area does not contain any environmental buffers, streams, and other sensitive features. The Site is within the Middle Great Seneca Creek watershed, a USE I-P designation. The Countywide Stream Protection Strategy (CSPS) rates the water quality in this watershed as in good condition.
The project proposes no forest removal, no impacts to a Stream Valley Buffer (SVB), and no impacts to a 100-Year-Floodplain.

**Forest Conservation Plan**

A Preliminary Forest Conservation Plan ("PFCP") for the Site was submitted as part of the Mandatory Referral Application (Attachment B).

The PFCP proposes no forest clearing and no forest retention. The net tract area for the Application, for purposes of Chapter 22A is 29.71 acres, which includes 0.39 acre of offsite improvements. The proposed development on the Property generates a 4.46-acre afforestation planting requirement. The afforestation planting requirement is generated because the Property contains no existing forest and, under the Institutional Development Areas land use category, the Property has a 15 percent afforestation threshold for the net tract area. The Applicant proposes to meet the planting requirement through 2.46 acres of onsite landscaping credit and 2.0 acres of Mitigation Credit in an offsite forest conservation bank.

**Forest Conservation Variance**

Section 22A-12(b)(3) of the 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 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 (Protected Trees), therefore, the Applicant has submitted a variance request for these impacts.

**Variance Request** – The Applicant submitted a variance request in a letter dated July 22, 2015, for the removal of variance trees (Attachment C). The Applicant proposes to remove ten (10) Protected Trees that are 30 inches or greater, DBH, and are considered a high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. Details of the Protected Trees to be removed are provided in Table 1 and shown graphically in Figure 2.
Unwarranted Hardship Basis – Pursuant to Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of the Property. The Applicant contends that an unwarranted hardship would be created due to existing conditions on the Property and the development requirements for the Property. The Property contains eleven trees subject to the variance provision, ten of which will be removed by this Application.

As part of the county’s overall secondary education program, this project will provide the community with an updated high school facility that can accommodate a growing number of students as well as a modernized, safe and healthy environment for young students to learn, while keeping the existing school open during the construction process.

Most of the Site could not be retained in its current condition because of the need to keep the existing school open while constructing a new school building and athletic facilities. Additionally, the existing
sloping topography of the site of the Site, a 60-foot drop in elevation from east to west and a 30-foot drop in elevation from north to south, creates unique conditions requiring retaining walls and building design that accommodates the slope. This causes additional land disturbing activities above those required for standard construction.

If a variance were not considered and MCPS was not allowed to disturb the trees the development proposal would not be possible. As such, this would cause an unwarranted hardship to the community that it serves. Staff has reviewed this Application and finds that there would be an unwarranted hardship if a variance were not considered.

Variance Findings – 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, for a variance to be granted. Staff has made the following determination based on the required findings in the review of the variance request and the preliminary forest conservation plan:

Granting of the requested variance:

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 disturbance to the Protected Trees is due to the reasonable development of the Property and the unique slope conditions. The Protected Trees are in the developable area of the Property, outside of any environmental buffers. Granting a variance to allow land disturbance within the developable portion of the site is not unique to this Applicant. 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 need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing site conditions, including the location of the Protected Trees within the developable area of the Site.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

   The need for a variance is a result of the existing conditions and the proposed design and layout of the Property, and not a result of land or building use on a neighboring property. The surrounding land uses (residences/private club) do not have any inherent characteristics or conditions that have created or contributed to this need for a variance.

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. No trees located within a stream buffer or wetland will be impacted or removed as part of this Application. The Property does not currently contain any forest; however, the
Application proposes to provide approximately 2.46 acres of landscape trees on site. These planted trees in addition to mitigation trees will replace many of the functions provided by the Protected Trees to be removed. These trees will help reduce the amount of runoff generated by this subdivision. In addition, the Montgomery County Department of Permitting Services (MCDPS) is reviewing a stormwater management concept for the proposed project. The stormwater management concept incorporates Environmental Site Design standards.

Mitigation for Protected Trees – All the Protected Trees subject to the variance provision and proposed to be removed are located outside of existing forest. Mitigation for the removal of these ten (10) trees is recommended at a rate that approximates the form and function of the trees removed. Therefore, Staff is recommending that replacement occur at a ratio of approximately 1-inch caliper for every 4 inches removed, using trees that are a minimum of 3 caliper inches in size. This Application proposed to remove 316 inches in DBH, resulting in a mitigation requirement of 79 caliper inches of planted, native, canopy trees with a minimum size of 3-inch caliper. While these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost by the removal of these trees.

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 request was forwarded to the County Arborist.

On December 15, 2015, the County Arborist provided a letter recommending that the requested variance be granted with mitigation (Attachment D). The PFCP was revised after the December 15, 2015 letter, however none of the impacts to Variance trees changed and a updated recommendation was not considered necessary.

Variance Recommendation – Staff recommends that the variance be granted with mitigation.

CONCLUSION
Staff recommends the Planning Board approve the Forest Conservation Plan and the Amended with conditions specified above.

ATTACHMENTS

A. Approved Natural Resource Inventory/Forest Stand Delineation
B. Preliminary forest Conservation Plan (PFCP)
C. Variance Request
D. County Arborist’s Recommendation
### Landscaping and Environmental Planning

#### Significant Species Tree Summary

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#### Forest Conservation Plan

1. **L-1.4**
2. **Attachment B**

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**Note:** The map and diagram illustrate the proposed landscaping and environmental planning for the project. Please refer to the attached documents for detailed specifications and guidelines. Contact [MOSELEYARCHITECTS.COM](http://MOSELEYARCHITECTS.COM) for further assistance.

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**NORTON LAND DESIGN**

**17830 NEW HAMPSHIRE AVENUE, SUITE 101**

**ASHTON, MD 20861**

**Phone:** 240.342.2329  
**Fax:** 240.342.2632

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**MONTGOMERY COUNTY PUBLIC SCHOOLS**

**SENECA VALLEY HIGH SCHOOL MODERNIZATION**

**19401 CRYSTAL ROCK DRIVE, GERMANTOWN, MD 20874**

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**Issue Date:**

**REVISIONS**

- **09/26/13 DD SUBMISSION**
- **01/06/17 MANDATORY REFERRAL**

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**GRAPHIC SCALE:**

- **1 inch = 10 feet**
July 22, 2015  
Revised December 7, 2015

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

Re:   Seneca Valley High School  
Request for Specimen Tree Variance  
MNCPPC NRI# 420120060

Dear Mr. Pfefferle:

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

**Project Description:**

The existing Seneca Valley High School is located at 19401 Crystal Rock Drive in Germantown, Montgomery County, Maryland. This is a 29.32-acre site that consists of one parcel (P85) owned by the Montgomery County Board of Education. The site currently hosts the existing school, associated parking, athletic fields and play areas. The site is bordered by Great Seneca Highway, Middlebrook Road, Crystal Rock Drive and Wisteria Drive. The site is adjacent to residential communities, commercial areas, a business park and a daycare center.

Proposed construction consists of a new school, improved circulation and parking, additional athletic 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 updated high school facility that can accommodate a growing number of students as well as a modernized, safe and healthy environment for young students to learn.

The area on this site that could be devoted to canopy is restricted by the area that is needed to provide athletic facilities and a school building. It is also limited because of a steep slope easement that exists on the property.

This work will require disturbance of the root zones of a total of ten (10) specimen trees. Ten (10) of the ten (10) impacted trees will be required to be removed. The removal of specimen trees #17, #18, #19, #20 and #21 are due to the proposed basketball court. The removal of specimen trees #26 and #1 are due to the grading required to install the baseball field. The removal of specimen trees #11, #12 and #14 are due to the installation of sidewalk and curb and gutter for the proposed building.

If MCPS is not allowed to impact the trees, the school will not be able to be updated due to the close proximity of specimen trees to the school parking, amenities and stormwater facilities. As such, this would cause an *unwarranted hardship* to the community that it serves.

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

**Response:** If the County were required to keep all improvements outside the root zones of the specimen trees, the building would fail to be rebuilt 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:** Tree removals have been minimized by compact 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 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:** There is presently no forest onsite and the canopy cover will be replaced to the greatest extent possible. Additional canopy planting 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 Seneca Valley High School Modernization is in conformance with the County’s General plan. As such, this is not a **special privilege** to be conferred on the applicant.

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

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

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

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

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(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,

Michael Norton

Copy to:
Mr. Jim Tokar, MCPS
Casey Anderson, Chair  
Montgomery County Planning Board  
Maryland National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

RE: Seneca Valley High School, MR 2016010, NRI/FSD application accepted on 12/11/2013

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: Josh Penn, Planner Coordinator