



September 18, 2025

Exhibit 18
OZAH Case No. H-160

Forest Conservation Program Manager
Maryland National Park & Planning Commission
2425 Reedie Drive
Wheaton, MD 20902

Re: F.A.E.S. Academic Community - Variance Request
Local Map Amendment
Preliminary Forest Conservation Plan

On behalf of the applicant, Foundation for Advanced Education in the Sciences, Inc. (F.A.E.S.), we are requesting a variance of Section 22A-12.(b)(3)(c) of the Montgomery County Code.

(3) The following trees, shrubs, plants, and specific areas are priority for retention and protection and must be left in an undisturbed condition unless the Planning Board or Planning Director, as appropriate, finds that the applicant qualifies for a variance under Section 22A-21:

- (C) Any tree with a diameter, measured at 4.5 feet above the ground, of:*
- (i) 30 inches or more; or*
 - (ii) 75% or more of the diameter, measured at 4.5' above ground of the current State champion tree of that species.*

This Variance request is being submitted in concurrence with Local Map Amendment which requests approval for the application to rezone the 1.85-acre site located at 9101 Old Georgetown Road in Bethesda, Maryland (the “Property”). More specifically, the Applicant seeks approval to rezone the Property from its current R-60/TDR-8.0 (Residential Detached) zoning classification to the CRTF-1.25, C-1.0, R-1.0, H-45’ (Commercial Residential Town Floating) zoning classification (the “Application”).

The Property fronts the west side of Old Georgetown Road, within the Bethesda–Chevy Chase community and is sited along a major transportation corridor that connects Bethesda to Rockville and the Capital Beltway. The property does not contain any forest onsite, however there are several specimen trees located around the perimeter of the property.

The Application is intended to allow redevelopment of the Property with 18 new dwelling units—consisting of nine townhouses and nine apartments within a single mixed-use building—and 5,000 square feet of community clubhouse/institutional space, all organized around a central neighborhood green and landscaped pedestrian promenade. The Project incorporates public and common open space, rear-loaded parking, and buffered edges to ensure a high-quality residential environment that is compatible with surrounding R-60 neighborhood. By replacing an aging special exception private club facility and extensive surface parking with a modern, pedestrian-oriented community, the Project advances the goals of the 1990 Bethesda–Chevy Chase Master Plan, the Thrive Montgomery 2050 General Plan, and other applicable County policies.

As part of rezoning of the Subject Property, the applicant is requesting a variance to affect the following trees that measures 30” or greater in diameter at breast height (dbh).

Request to remove the following trees:

<u>Tree #</u>	<u>Tree type</u>	<u>Dbh (In.)</u>	<u>Condition</u>	<u>Reason</u>
1	Tulip Poplar	61.5”	Fair	Construction of Units 1-5.
4	Tulip Poplar	30.5”	Good	Storm Drain construction.
5	Black Walnut	37.5”	Good	Storm Drain construction.
6	Sycamore	42”	Good	Construction of units 6-9.
7	Tulip Poplar	51”	Good	Construction of units 6-9.

Section 22A-21 (b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above.

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship:

By way of background, the **1990 Bethesda–Chevy Chase Master Plan** recommends maintaining residential frontage along Old Georgetown Road while encouraging improvements to pedestrian connections, open space, and a diversity of housing options. The Project’s scale and massing have been carefully designed for compatibility with adjacent, existing development while implementing the goals of the Master Plan.

In accordance with the Master Plans recommendations mentioned above, the proposed development will include 18 new dwelling units—consisting of nine townhouses and nine apartments within a single mixed-use building—and 5,000 square feet of community clubhouse/institutional space.

Removal of Tree #1 & 4-7:

- Tree #1 is in fair condition and will be removed for construction of units 1-5.
- Tree #4 & 5 are in good condition and will be removed for construction of the storm drain and access drive.
- Tree #6 & 7 will be removed for construction of units Public Road ‘A’ and the proposed adjacent townhouses.

Not being allowed to remove these trees and obtain a Specimen Tree Variance would deprive the Applicant of the reasonable and substantial use of the Property and clearly demonstrate an unwarranted hardship. The ability to provide a residential development, mixed use building, parking, and site construction is allowed within the proposed zoning and within a reasonable and substantial use of the Property. Not allowing removal of these trees would deny the Applicant the ability to meet the goals of the Master Plan. If a Variance were to be denied, the Applicant would be deprived from developing the Property for a reasonable and significant use enjoyed by virtually all others similar property owners in the community.

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas:

The five (5) impacted Specimen trees are located along the perimeter of the site, adjacent to areas where the future development is proposed and denial of the variance would keep the applicant from fulfilling the county’s call for maintaining residential character while diversifying housing opportunities.

Not granting the variance would cause undue hardship on the applicant because development would be very limited or not possible, and therefore will deny the applicant ability to fully use the property. By denial of a Variance, it will deprive the landowner the significant and reasonable use on the property as allowed in the zone, and as shown in the Master Plan. Granting of the variance will ultimately allow the property to be developed in a safe and efficient manner as other property owners in the community.

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:

The variance will not violate state water quality standards or cause measurable degradation in water quality. All proposed land development activities in Montgomery County require Conceptual Storm Water Management Plan approval and detailed technical Sediment Control and Storm Water Management Plan approvals by Montgomery County Department of Permitting Services. A Storm Water Management Concept Plan will be approved by the Montgomery County Department of Permitting Service. The approval of these plans confirms that the SWM Concept Plan meets or exceeds all Montgomery County and State of Maryland storm water management regulations and water quality standards through the use of micro-bio filters and other similar treatment features and therefore verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur. In addition to providing state-of-the-

art “Environmental Site Design” storm water management for a site that currently has virtually no storm water management and completely uncontrolled runoff, the proposed development will add significant stormwater management to the site while also reducing the existing uncontrolled overland flow on adjacent properties.

4. Provide any other information appropriate to support the request:

The variance request is not based on conditions or circumstances which result from the actions of the applicant. The applicant has taken great care to locate development in the buildable area of the site while trying to maximize usage of existing utility lines and minimize disturbance to the significant and specimen trees. The Applicant intends to implement tree preservation measures, potentially including standard tree protection fencing, signage, root pruning, vertical mulching and fertilization to further aid in mitigating disturbance and protecting the existing offsite trees. **This will be explored and identified as part of the Final Forest Conservation Plan included with the upcoming Site Plan.** The applicant recognizes the value and need for mature trees and will give special attention to any construction work that may impact the critical root zones of specimen trees as noted above.

The Applicant believes that the information set forth above is adequate to justify the requested variance to remove three (5) specimen trees on the Subject Property. Furthermore, the Applicant's request for a variance complies with the "minimum criteria" of Section 22A-21 (d) for the following reasons:

1. This Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available to any other applicant.
2. The variance request is not based on conditions or circumstances which result from the actions of the applicant. The applicant did not create the existing site conditions, including the random location of the specimen trees.
3. The variance is not based on a condition relating to the land or building use, either permitted or nonconforming on a neighboring property.
4. The impact to, or loss of the requested trees will not violate State water quality standards or cause measurable degradation in water quality.

If you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,

Kevin Foster
Kevin Foster, ASLA AICP