

June 2, 2016

Mr. Frank Gentile, R.L.A.  
Geo Technology Associates, Inc.  
14280 Park Center Drive Suite A  
Laurel, MD 20707

Re: 2209 Sulphur Spring Road  
Forest Conservation Variance Request  
Tracking # 01-16-2227

Dear Mr. Gentile:

A request for a variance from the Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (DEPS) on May 11, 2016. This request proposes to base forest conservation requirements on the 0.3-acre limit of disturbance rather than the entire 17.3-acre property. The proposed development activity includes construction of five bridges over a channelized stream in order to provide truck access to a large commercial building that is being redeveloped. No impacts to forest or specimen trees are proposed.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to redevelop a commercial property and is requesting a reduction of any planting requirement. However, full application of the law to the entire property would not deprive the applicant of beneficial use of the property, as the property has already been developed as large commercial/industrial building. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to unique circumstances associated with meeting the full forest conservation requirement while constructing the bridges rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

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The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed bridges are necessary to repurpose the commercial property in a longstanding commercial zone. Consequently, granting this variance will not alter the essential character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The reduction of the planting requirement resulting from this variance will not adversely affect water quality. Moreover, storm water management requirements will be met in conducting the development activity. Therefore, we find that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has taken no prior actions necessitating this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing any planting obligation based on the limit of disturbance in order to construct the bridges would be consistent with the spirit and intent of the Forest Conservation Law given that the proposed development activity would occur on non-forested and predominantly impervious area on the property. Therefore, this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 with the following conditions:

1. The following note must appear on all plans submitted for this project:

“A variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from the Forest Conservation Law on June 2, 2016 to allow forest conservation requirements to be based on the proposed limit of disturbance rather than the entire site.

2. A final forest conservation plan (FCP) reflecting this variance shall be submitted to EPS and approved prior to permit approval. The FCP may be combined with the required forest buffer protection plan.
3. This variance does not exempt future development activities at this site from compliance with Baltimore County’s Forest Conservation Law. Due to the net tract area being based on a limit of disturbance of a tenth of an acre, there is no afforestation required.

