

November 20, 2015

Ms. Stacey A. McArthur  
D.S. Thaler and Associates, Inc.  
7115 Ambassador Road  
P.O. Box 47428  
Baltimore, Maryland 21244-7428

Re: Associated Way  
Forest Conservation Variance Request  
Tracking #02-15-2088

Dear Ms. McArthur:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on October 14, 2015. This request proposes to impact approximately 800 square feet of existing Forest Conservation Easement (FCE) to facilitate the future construction of a Baltimore County, Department of Public Works, preferred roundabout at the existing intersection of Associated Way, Garrison Forest Road and Walnut Avenue as an alternate to the current two-way stop control at the intersection. These impacts are being requested to allow for the modification of the County road intersection in conjunction with a proposed 56-lot residential subdivision. The roundabout design would require a slight realignment of the existing right-of-way, which in turn would impact the FCE, thus necessitating the subject variance. It should be noted that forest will not be impacted should this variance be granted, as the FCE, which was established approximately twenty years ago, is not forested. The applicant proposes to mitigate onsite or pay a fee-in-lieu of mitigation.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six criteria listed in Subsection 33-6-116 (d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three 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 that the petitioner show that 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 all beneficial use of his property. The location of the existing FCE was

placed against the road's right-of-way without allowance for widening or reconfiguration of the macadam surface. Denying this variance would limit the options available for providing safe and efficient flow of traffic in the community or would result in an increase in the limit of disturbance (LOD) and would impact two existing residential properties to the north. Therefore, we find that full application of the law would deprive the petitioner and the community of all beneficial use of the property in question; thus, this criterion has 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 in the neighborhood. Rather than the general conditions in the neighborhood, the petitioner's plight is due largely to the design and location of the existing FCE and the need to provide adequate roads in the community at large. Therefore, we find that this criterion has been met.

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 granting of this special variance to facilitate the County-preferred roundabout will not adversely affect the residential character of its neighborhood. Furthermore, forest will not be removed to accommodate this variance request. Therefore, this criteria 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. This reconfiguration will not directly impact any stream, wetland, or forested area, and mitigation will be provided for permanent impacts to the FCE. 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 which is the result of actions taken by the petitioner. The request is based solely on the fact that the FCE, which is currently maintained road shoulder, abuts the existing right-of-way. 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. The variance would not involve any forest clearing, and the mitigation for the loss of FCE to the roundabout would be consistent with the spirit and intent of the Forest Conservation Law. Moreover, existing forested FCE elsewhere onsite will be protected during and post-development. Therefore, we find that this criterion has been met by the variance request.

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

1. Permanent impacts to existing FCE shall be mitigated at a 2:1 ratio by payment of a fee-in-lieu of \$800.00, a rate of \$0.50 per square foot. This fee shall be paid to Baltimore County prior to Environmental Agreement and grading permit approvals.
2. Protective measures to minimize impacts to the remaining forested FCE shall be detailed on the final forest conservation plan to be approved by this Department prior to approval of any grading and sediment control plan. The sequence of operations on the sediment control plan shall also detail manual installation of blaze orange high visibility fence along the limit of disturbance (LOD) wherever the LOD is within 50 feet of the FCE. The protective orange fence shall also be illustrated in the plan views of both plans.
3. The limits of all Forest Conservation Easement onsite shall be permanently posted at 100-foot intervals or at any turn with "Forest Conservation-Do Not Disturb" signs, which are available from private sign contractors (see enclosures). The signs shall be installed prior to issuance of any permits for the development.
4. The following note must appear on all subsequent plans for this project:

"A variance was granted on November 20, 2015 to Baltimore County's Forest Conservation Law to allow impacts to the Forest Conservation Easement adjacent to Garrison Forest Road. Conditions were placed on this variance, including paying a fee-in-lieu into the Baltimore County Forest Conservation Fund and protecting the remaining Forest Conservation Easement."

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible of meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

Ms. Stacey A. McArthur  
Associated Way  
Forest Conservation Variance Request  
November 20, 2015  
Page 4

If you have any questions regarding this correspondence, please contact Mr. Michael S. Kulis at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG:msk

Enclosures (2)

c. Mr. Ben Gershowitz, The Associated Jewish Community Federation of Baltimore

\*\*\*\*\*

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

\_\_\_\_\_  
Property Owner's Signature Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Contract Purchaser's Signature Date

\_\_\_\_\_  
Printed Name