

April 13, 2016

Mr. James A. Ruff, P.E.  
Pennoni Associates, Inc.  
8818 Centre Park Drive  
Suite 200  
Columbia, Maryland 21045

Re: Baltimore County Police Shooting Range Backstop  
Forest Conservation Variance  
Tracking #03-16-2191

Dear Mr. Ruff:

A request for a variance from the Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on March 24, 2016. This request proposes to base the forest conservation required by Section 33-6-111 of the Law on the 0.4-acre limit of disturbance (LOD) rather than the 2.6-acre project area or the entire 200-acre, City-owned Loch Raven Reservoir parcel. The proposed activities involve replacing lead contaminated soils with clean fill and making upgrades to the current stormwater drainage and filtering system. A forest conservation worksheet based on the LOD as the net tract area was received with the request.

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 remove lead-contaminated soils and reconstruct a leachate control trench at a Baltimore County Police training facility that existed prior to the effective date of the Forest Conservation Law. Mapped information shows that full compliance with the Law would apply to an approximately 200-acre gross tract area, as both City-owned and County-operated tracts would be involved. The costs associated with delineating, surveying, and establishing retention areas would be too onerous for the small area to be disturbed for water quality and public health benefits.

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Therefore, full application of the law to the entire property would deprive the petitioner of beneficial use of his property, and we find that 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 of the neighborhood. The need for the proposed improvements is due to unique circumstances associated with the subject 2.6-acre tract rather than the general conditions in the neighborhood. Therefore, we find the second 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. Only 0.4 acres of the approximately 200-acre watershed property would be disturbed for the remediation project, which is well within the County controlled tract. Furthermore, the current use has existed for years, and is in keeping with the surrounding lands. 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. This project is being undertaken, in large part, to improve water quality by removing lead contaminated soils and upgrading the existing leachate collection system. Therefore, we find that granting of the special variance will not adversely affect water quality and 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 not taken any actions necessitating the variance prior to requesting it. 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. Basing the Forest Conservation obligation on the limit of disturbance for the subject improvements would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or specimen trees would result, and the purpose of the project is to improve water quality. Therefore, this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code. Since the LOD associated with the granted variance does not result in an afforestation requirement of 0.1 acre or greater, no forest conservation plan or fee in lieu of afforestation is required for this project.

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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. Furthermore, this variance approval does not exempt future redevelopment of this site from compliance with Baltimore County's Forest Conservation Law.

Please have the appropriate Baltimore County agency representative sign the statement below and return a signed copy of this letter 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.

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

Sincerely yours,

Vincent J. Gardina  
Director

VJG/msk

C. Mr. Bill Sherd, Baltimore County Office of Property Management

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

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County Representative's Signature

Date

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Printed Name