

May 16, 2014

Ms. Andrea Lake, R.L.A.
KCI Technologies, Inc.
936 Ridgebrook Road
Sparks, MD 21152

Re: Dumbarton Middle School
Forest Conservation Variance
Tracking # 05-14-1825

Dear Ms. Lake:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (EPS) on May 13, 2014. This request proposes to remove nine (9) specimen trees in order to make improvements to an existing middle school including additions and parking lots. However, there are 30 other specimen trees onsite that will be protected. Eight of the nine trees to be removed are native species, and all 39 are scattered across the managed landscape of the campus with many near the school building.

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 all beneficial use of the property. The applicant proposes to remove the nine trees because they are in close proximity to the school and parking lot to be expanded. Consequently, full compliance with the Law would preclude the necessary improvements to the public school. Therefore, 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 petitioner's plight due to unique circumstances associated with the quantity and location of the specimen trees on the property 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 improvements are to a school in the neighborhood that has existed for years. 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. We have determined that there are no wetlands, streams or floodplains in or near the area of the subject tree removal. Moreover, 30 other specimen trees that are in good condition will remain. 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 on the property prior to requesting 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. Removing nine specimen trees in order to improve/expand the school would be consistent with the spirit and intent of Forest Conservation Law given that no impacts to forest or water quality would result. 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 of the Baltimore County Code with the following conditions:

1. Prior to this Department's approval of the grading permit, a \$12,816 fee in lieu of mitigation for the loss of the eight native trees shall be paid to EPS along with provision of the three (3) acres of required afforestation. No mitigation is required for the nonnative Blue Atlas Cedar.
2. Prior to this Department's approval of the grading plan, a final forest conservation plan acknowledging this variance and detailing the protection of the remaining specimen trees in close proximity to the limit of disturbance must be approved by this Department.
3. Please add the following note to all plans: "A forest conservation variance was granted by Baltimore County Department of Environmental Protection & Sustainability on May 16, 2014 to remove nine specimen trees. Conditions were placed on this

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approval to ensure the project complies with the spirit and intent of the Forest Conservation Law.”

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 an amended variance request.

Please have the appropriate Board of Education representative sign the statement below 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.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

VJG/ges

- c. Mr. Stuart Seidman, Baltimore County Board of Education
Ms. Marian Honecny Maryland Dept. of Natural Resources

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

Owner's Signature

Date

Printed Name