

April 11, 2016

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

RE: Kopp Property Parcel 128
Forest Conservation Variance Request
Tracking # 02-16-2179

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on March 28, 2016. If granted, this request would allow the removal of 20 of 63 specimen trees on an 8.7-acre property to develop it as a three lot minor subdivision. The property is entirely forested with forest that is priority for retention as defined in Section 33-6-111(b). Consequently, the required forest retention investigation report (FRIR) was included with your application.

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 his property. The applicant is seeking to develop a three lot subdivision on an 8.7-acre property with 63 specimen trees. Based on the plan submitted with the application and the fact that any lot must be served by private well and septic system, it appears that one or more specimen trees would have to be removed to develop even one homesite. Consequently, the petitioner would be deprived of all beneficial use of the property if requirement from which the special variance is requested is imposed. 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 their plight is due to unique circumstances and not the general conditions of the neighborhood. The need for the variance arises from the fact that numerous specimen trees are spread throughout the site and cannot be totally avoided in developing the site. Therefore, the petitioner's plight is associated with the subject property rather than general conditions in the neighborhood, and 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. The proposed development is generally consistent with the essential character of the neighborhood given that the houses would be of similar size and architecture to the adjacent homes. Furthermore, redesign of the lots has resulted in greater screening of the future development from adjacent neighbors. Therefore, we find that granting the variance and allowing the development as proposed will not alter the essential character of the neighborhood; thus, 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 forest in the Forest Buffer Easement would remain undisturbed by the proposed development, and redesign of the subdivision layout has resulted in greater forest retention adjacent to that buffer. Therefore, we find that granting the 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 this variance prior to requesting it. The variance arises from the widespread distribution of specimen trees throughout the site. 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. Although 20 specimen trees would be removed, the revised FRIR has demonstrated that forest retention has been maximized inasmuch as possible while still allowing for development of this site. Therefore, this criterion has been met.

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Based on 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. A forest conservation plan and worksheet that reflects the terms of this variance must be submitted to EPS and approved prior to approval of any minor subdivision plan or permit.
2. A note must be added to all subsequent plans stating: A variance to the Forest Conservation Law was granted by Baltimore County DEPS on April 11, 2016 to allow the removal of twenty specimen trees.

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 representative 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.

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

Sincerely yours,

Vincent J. Gardina
Director

VJG/ges

- c. Dover Road Development LLC
Mr. Raymond Hopkins, KCI Technologies, Inc.
Ms. Marian Honecny, Maryland Dept. of Natural Resources

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

Owner's Signature Date

Printed Name