

October 6, 2014

Mr. Andrew E. Streagle, RLA  
A. Morton Thomas & Associates, Inc.  
800 King Farm Boulevard, 4<sup>th</sup> Floor  
Rockville, MD 20580

Re: Special Forces Shop Expansion at 9831 Van Buren Lane  
Forest Conservation Variance  
(Tracking # 03-14-1841)

Dear Mr. Streagle:

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 September 5, 2014. This request would allow the removal of three specimen trees on the 98-acre, predominantly park-use property in order to construct a maintenance shop, parking and associated utilities. The trees to be removed are a 50-inch white oak, a 44.5-inch white oak, and a 36-inch red maple.

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 expand existing maintenance shop uses on the County property. Full application of the law would not result in unwarranted hardship to the applicant, as the project could easily be built without removing any of these trees. Consequently, 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 proposed improvements are due to unique circumstances associated with the location of the trees relative to the proposed development 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 removal of the large specimen trees will alter the character of the subject property by removing canopy trees and a visual connection among certain existing buildings on the property. Therefore, we find that the scope of the project will alter the essential character of the neighborhood, thus this criterion has also not 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 trees are not within a Forest Buffer area, and their replacement by impervious surface and resultant pollutant loading increase will be managed using current Environmental Site Design water quality management practices. 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. Similar variances to allow removal of specimen trees in good condition for the County's capital improvement projects have been deemed consistent with the spirit and intent of the Forest Conservation Law. Therefore, this criterion has been met.

Based on our review, this Department finds that 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. The removal of the three specimen trees shall be mitigated by payment to EPS of a \$5,101.00 fee in lieu of planting. This fee shall be paid prior to issuance of any grading permit.
2. A note shall be on all plans for this project stating: A variance was granted on October 6, 2014 to allow removal of three specimen trees. Conditions were placed on this approval to mitigate the loss of tree canopy, habitat, and water quality.
3. A final forest conservation plan mylar reflecting the conditions of this variance shall be submitted to EPS and approved prior to grading permit issuance.
4. This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law.

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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.

Please have the party responsible for meeting the variance conditions 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 there are any questions regarding this correspondence, please contact Ms. Patricia Farr at (410) 887-3980.

Sincerely,

Vincent J. Gardina  
Director

- c. Bill Sherd, Property Management
- Dan Schindler, Property Management
- Marian Honeczy, Maryland Department of Natural Resources

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

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Director Property Management's Signature

Date

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Printed Name