

November 7, 2024

Stephen Makrinos  
Campion Hruby Landscape Architects  
111 Cathedral Street, STE 100  
Annapolis, MD 21401

Re: Castanea Lot 30  
Forest Conservation Variance  
Tracking # 02-24-4184

Dear Stephen Makrinos:

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 (DEPS) on July 29, 2024. This request would allow removal of large piles of debris at the edge of the Forest Conservation Easement (FCE), along with Oriental Bittersweet, Japanese Barberry, Japanese Stiltgrass, and Wavy Leaf Basket grass within the FCE. The project area encompasses approximately 25,000 square feet and the understory of the FCE would be replanted with native shrub and herbaceous species and is projected to take place over a period of three years.

The Director of DEPS 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 this property. The petitioner is seeking to develop one of the 40 residential estate lots. The existing debris and invasive species are not aesthetically appealing, especially considering the proximity to the rear of the proposed residence as well as the rear yard. Nonetheless, the lot could be developed as originally proposed, thus full application of the law would not deprive the petitioner of all beneficial use of the property. Therefore, 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 petitioner's plight in removing the debris and invasive species is due to unique circumstances associated with the property, which was formerly a golf course where existing forest was not managed to control invasive species, rather than 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. Granting the variance would allow the ecological improvement of the FCE located on Lot 30 by both removal of debris and invasive species as well as replanting of native shrubs and groundcover. Therefore, we find that granting the variance 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 project will be phased, no grading will occur, and no machinery will be used within the FCE, and the Castanea development will meet current SWM requirements. 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. This variance is necessitated by the location of the debris and invasive species within the FCE rather than a condition or circumstance resulting from actions by the petitioner. 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. Allowing removal of debris at the edge of the FCE and invasive species within the easement in addition to the replanting of shrub and herbaceous species would be consistent with the spirit and intent of the Forest Conservation Law given that no forest would be impacted. Therefore, we find that 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. A note must be on the plan accompanying any permit application stating:

“A special variance to the Forest Conservation Law was granted by Baltimore County Dept. of Environmental Protection & Sustainability to allow removal of large piles of debris at the edge of the Forest Conservation Easement (FCE), along with Oriental Bittersweet, Japanese Barberry, Japanese Stiltgrass, and Wavy Leaf Basket grass within the FCE. Conditions were placed on this approval to ensure the objectives of the Forest Conservation Law are met including replanting of native shrub and herbaceous species in the understory of the Forest Conservation Easement.”

2. After removal of invasive species and vines, planting of eastern hay scented fern, Sherwood purple phlox, golden ragwort, green-and-gold, white wood aster in approximately 6 clusters within the FCE will occur. All work shall be according to the invasives species management plan submitted with this variance package.

3. Pursuant to the invasive species management plan, in years two and three, five feet of invasive species removal around the clusters will be removed to allow the native species to spread across the forest floor.
4. Should additional work beyond the scope or timeframe set forth in the invasive species management plan be required, an additional Forest Conservation Variance will be required along with a revised invasives species management plan.
5. Pursuant to the revised Baltimore County Forest Conservation Manual, the eight trees proposed in the Invasive Species Management Plan to be planted within the FCE shall be at a minimum 70% canopy dominant species and 30% understory species native or naturalized in Baltimore County.

This variance is approved by the Director of the Department of Environmental Protection and Sustainability on \_\_\_\_\_. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement below and return a signed copy of this letter to this Department. 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 Thomas Krispin at (410) 887-3980.

Sincerely,

Horacio Tablada  
Director

HT/tak

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

\_\_\_\_\_  
Responsible Party's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Responsible Party's Printed Name