

November 14, 2024

Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Jacksonville Park Senior Center Expansion
Forest Conservation Variance
Tracking #03-24-4191

Dear Henry Leskinen:

A request for a variance from Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on September 27, 2024. The request proposes the removal of two (2) specimen trees from an existing senior center and public park property in order to allow for the construction of an additional senior center building and associated parking and a stormwater management facility. The two specimen trees to be removed include a 31-inch diameter-at-breast-height (dbh) Norway maple in poor condition and a 40-inch dbh silver maple in fair condition. Nine additional specimen trees in the vicinity of the project's limit-of-disturbance (LOD) will not be impacted by the development.

The Director of the Department of Environmental Protection and Sustainability (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 to show that 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 is seeking to add an additional building and associated parking areas and stormwater management to an existing senior center at a public County park. Since the senior center and public park already exist and have been in use for several years, the applicant is already realizing beneficial use of the property without the requested variance. As such, full application of the law would not deprive the applicant 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 the petitioner to show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Rather than general conditions in the neighborhood, the petitioner's plight is due to the distribution of specimen trees on the park property in the vicinity of the existing senior center and proposed new building and infrastructure. Locating the new building on the other side of the existing senior center in order to avoid specimen trees would not be possible as it would encroach on the park's athletic fields, which are necessary to adequately serve the needs of other parts of local community. Consequently, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires the petitioner to show that the special variance, as requested, will not alter the essential character of the neighborhood. The surrounding neighborhood consists of medium- and low-density residential lots, forested areas, and an elementary school. Given that the property's use as a senior center and public park will not change, we find that granting this variance will not alter the essential character of this neighborhood and 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. Granting the variance will not impact any streams, wetlands, floodplains or associated buffers. Therefore, this Department finds that the proposed 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 resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires the Director of EPS to find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although two specimen trees would be impacted for this project, nine other specimen trees in the vicinity of the LOD will be retained, and additional specimen trees also exist elsewhere on the property. Additionally, 9.2 acres of forest will be retained as a Forest Conservation Area, exceeding the breakeven point by 1.6 acres. In light of these findings, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

Based on our review, this Department finds that the requested variance meets all required criteria. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. Mitigation is not required for the Norway maple due to its poor condition, exotic species status, and location within forest. Mitigation is not required for the silver maple due to its location within forest.
2. The following note must be on all subsequent plans for this development project:

“A variance (tracking #03-24-4191) was granted by Baltimore County Department of Environmental Protection and Sustainability to allow impact to two (2) specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met.”
3. The existing Forest Conservation Plan for this property (FC-09-063) must be revised to reflect the proposed project and this variance decision.
4. This variance approval does not exempt future development activities at this site, including further specimen tree removal, from compliance with Baltimore County’s Forest Conservation Law.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page 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 you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

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.

Sincerely yours,

Horacio Tablada
Director

HT/lbe

- c. Louisa Rettew, Baltimore County Property Management
Emily Magness, Site Resources, Inc.
Daniel Coy, Maryland Department of Natural Resources

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

Baltimore County Property Management Representative's Signature

Date

Printed Name