

Timothy Hess
Whitman, Requardt, & Associates LLP
801 South Caroline Street
Baltimore, MD 21231

Re: Long Quarter Force Main
Forest Conservation Variance
Tracking #03-24-4161

Dear Timothy Hess:

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 (DEPS) on July 18, 2024. If granted, this variance would authorize removal of five of 27 specimen trees to facilitate construction of new and replacement sewer lines between Long Quarter Pumping Station and Providence Road. The five specimen trees proposed for removal are all in forested areas along and within the limits of disturbance (LOD). The trees to be impacted include ST-52, a 33-inch diameter-at-breast-height (DBH) pin oak in poor condition, ST-56, a 32.1-inch DBH American sycamore in good condition, ST-57 a 35.6-inch DBH American sycamore in good condition, ST-58 a 31-inch DBH tulip poplar in poor condition, and ST-59, a 32.4-inch DBH American sycamore in fair condition. There are also 22 additional specimen trees that will have impacts to their critical root zones (CRZ) but will be protected during construction of the new and replacement sewer line and will not be removed.

The Director of DEPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County 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 of the three criteria under Subsection 33-6-116 (d) must be met, and all three 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 construct new and replacement sewer lines serving the Timonium area of Baltimore County adjacent to Loch Raven Reservoir. The sewer lines are required by federal consent decree and could create a threat to public health and safety if not completed. Given that the requested specimen

tree removal is necessary for the completion of these improvements to allow the sewer to function effectively, full application of the law would deprive Baltimore County Department of Public Works of all beneficial use of the sewer right-of-way (i.e. property). Therefore, we find that this criterion has 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. The petitioner's plight is due to the location of specimen trees in relation to the proposed sewer lines rather than the general conditions of the neighborhood. Therefore, 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 sewer lines pass through a medium-density neighborhood already mostly cleared of forest. The removal of five specimen trees within the proposed sewer LOD will not alter the essential character of the neighborhood served by the lines. Therefore, we find that granting this variance will not alter the essential character of the 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. All disturbed riparian buffer areas will be restored to previous condition inasmuch as possible. Additionally, the proposed new sewer lines will result in a better functioning sewer with fewer backups and overflows, ultimately improving water quality by reducing sewage pollution of County waterways. 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 DEPS 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 five specimen trees would be removed to complete this project, twenty-two others will be protected during the project with tree protection devices. Additionally, all impacted forest will be mitigated at a 2:1 ratio due to the project's location within the forest buffer. 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 all required variance 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. Mitigation is required for three of the specimen trees; ST-56, 57, 59. The three specimen trees shall be mitigated by payment of a \$3,249.95 fee in lieu, which is based on 25% of the critical root zone of each tree. ST-52 & 58 are in poor condition so no mitigation is required. This fee-in-lieu shall be remitted to DEPS prior to approval of any permit for this project.
2. The specimen trees to remain shall be protected during construction using standard techniques such as temporary fencing and root pruning as necessary. These protective measures shall be detailed on the final Forest Conservation Plan for this project.
3. The following note must be included on all subsequent plans for this development project:

“A variance (tracking #03-24-4161) was granted from Baltimore County’s Forest Conservation Law to allow removal of five specimen trees. Conditions were placed on this variance to ensure the spirit and intent of this law were met including payment of a fee in lieu of mitigation.”
4. A final forest conservation plan reflecting the terms of this variance must be submitted to DEPS and approved prior to approval of the grading and sediment control plan or any permit for this project.

Please 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 the renovation permit for this property.

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.

Mr. Timothy Hess
Long Quarter Force Main
Forest Conservation Variance
Page 4

If you have any questions regarding this correspondence, please call Ms. Jannifer Anderson at (410) 887-3980.

Sincerely yours,

Horacio Tablada
Director

HT/jda

- c. David Bayer, Baltimore County Department of Public Works
Daniel Coy, Maryland DNR

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

Property Owner's Signature Date

Printed Name

Property Owner's Signature Date

Printed Name