

August 20, 2024

Devin Leary  
Human and Rohde, Inc.  
512 Virginia Avenue  
Towson MD 21286

Re: Middle River Logistics Park  
Chesapeake Park Plaza  
Critical Area Administrative Variance  
Tracking Number 05-24-4142

Dear Devin Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 2 Critical Area was received on June 20, 2024. The request seeks a variance to impact 80,327 square feet of Critical Area buffer, including 8,752 square feet of permanent impact for the construction of two warehouses and the continued maintenance of existing utility lines on Blocks G and H of the Lockheed Martin Development. Part of the warehouse proposed on Block H is located outside the Chesapeake Bay Critical Area. In addition to the buildings, parking and loading areas and stormwater management devices will be installed onsite. The applicant will plant 83,180 square feet of the buffer with Maryland native trees and shrubs to mitigate for the permanent water quality impacts associated with the proposed variance. A 19,679 square-foot area adjacent to the buffer will also be planted with native trees and shrubs as mitigation. An alternatives analysis was submitted with the Critical Area buffer variance and will be addressed in a separate correspondence.

The Director of EPS may grant a variance to the Chesapeake Bay Critical Area (CBCA) regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.12.04. There are seven (7) criteria listed in COMAR 27.01.12.04 that shall be used to evaluate the variance request. All seven of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. The proposed warehouses and parking and loading areas will be constructed over existing parking areas associated with the Lockheed Martin Development. The Critical Area buffer adjacent to the proposed development includes an existing access road, gravel and asphalt areas, compacted turf, tidal waters and wetlands, and scattered forest. The project will result in a reduction in the amount of impervious onsite and an increase in the amount of trees and shrubs in the buffer. The inability to redevelop a former commercial site without impacting buffer area that has been historically disturbed while improving the functionality of the buffer onsite represents an unwarranted hardship for the property owner. Therefore, the first criterion is met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of a use of land or a structure permitted to others in accordance with the provisions of the local Critical Area program. This project will result in the redevelopment of a commercial site with minimal impacts to the Critical Area buffer. Other commercial properties in the Critical Area have been redeveloped and been allowed to impact buffer areas. Not allowing the property owner to impact the Critical Area buffer to redevelop this commercial site would deprive the property owner of rights regularly enjoyed by other property owners. Therefore, this criterion is met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting this variance will not confer upon the applicant any special privilege that would be denied to other properties or structures within the Critical Area. Other property owners with similar buffer constraints would be granted variance approval to redevelop a commercial site with minimal buffer impacts. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant. The need for this variance is not the result of any actions undertaken by the property owner. This variance request is a result of the location of the buffer generated from Cow Pens Creek and adjacent tidal wetlands and the proximity of the buffer to previously developed areas of the property. Therefore, the fourth criterion has been met.

The fifth criterion requires that the variance request does not arise from any conforming or nonconforming condition on any neighboring property. The variance did not arise from any conforming or nonconforming condition on a neighboring property.

The sixth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area. The proposed buffer impacts are within existing developed areas of the property. No tidal waters, tidal wetlands, or forest will be impacted by the proposed development. Over two acres of hard surface will be removed from the site both inside and outside the buffer. Open areas of the buffer will be planted with native trees and shrubs to enhance the functionality of the buffer. Storm water management devices will be installed as part of the proposed redevelopment where none currently exist. Sediment control devices will also be installed around the proposed development to prevent sediment from leaving the site and impacting buffer areas. As a result, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

The seventh criterion requires that the granting of the variance would be in harmony with the general spirit and intent of the Critical Area law. The proposed development and buffer impacts will be located in an area that was previously developed. The majority of the proposed buffer impacts are associated with the removal of existing impervious surface and the replacement of that surface with trees and shrubs. The amount of impervious surface onsite will

be reduced from 13.5 acres to 11.1 acres. The functionality of the buffer will be significantly enhanced with the planting of Maryland trees and shrubs in opens areas of the buffer and buffer areas which contain hard surface. The trees and shrubs to be planted will exceed the 3:1 mitigation requirement. No forest, tidal wetlands, or tidal waters will be impacted by this project and storm water management devices will be installed where none currently exist. As a result, we find that the granting of this variance would be in harmony with the general spirit and intent of the Critical Area Law.

Based upon our review, this Department finds that the above criteria have been met, or will be met through implementation of the conditions outlined below. Therefore, the requested variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the following conditions:

1. The applicant shall mitigate for the 8,752 square feet of permanent impact to the Critical Area buffer by planting 83,180 square feet of buffer with Maryland native trees and shrubs. A 19,679 square-foot area adjacent to the buffer will also be planted with native trees and shrubs as mitigation.
2. A Critical Area Management Plan (CAMP) detailing the mitigation must be submitted to Environmental Impact Review for review and approval prior to approval of the grading and sediment control plan. A preliminary CAMP must submitted and approved prior to approval of the development plan.
3. A Critical Area Easement (CAE) must be recorded in the Land Records of Baltimore County to protect the buffer and expansion areas to be planted. The CAE must be recorded in the Land Records prior to any permit approval.
4. CAE signs must be installed along the easement boundary to delineate the limits of the CAE. The CAE sign locations must be shown on the CAMP and installed prior to permit approval.
5. An Environmental Agreement and planting security to guarantee survival of the onsite planting for two years must be submitted to Environmental Impact Review prior to any permit approval
6. This note must be added to all future plans:

“A variance (Tracking Number 05-24-4142) was granted by Baltimore County Department of Environmental Protection and Sustainability from Chesapeake Bay Critical Area requirements to allow the impact of 80,327 square feet of Critical Area buffer, including 8,752 square feet of permanent buffer impact for the construction of two warehouses on Blocks G and H of the Lockheed Martin Development. Conditions were placed on this approval to reduce water quality impacts including planting trees and shrubs in open areas of the Critical Area buffer.”

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Changes in site layout may require submittal of revised plans and an amended variance request. Please be advised that Baltimore County may not issue a permit for the activity that was the subject of the variance application until the applicable 30-day appeal period has elapsed pursuant to COMAR 27.01.12.07 C.

Please sign the statement on the following page and then return the signed, original letter to this Department c/o Mr. Gris Batchelder of Environmental Impact Review. Failure to return a signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Gris Batchelder 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,

Horacio Tablada  
Director

HT/cgb

cc: Jonathan C. Coplin, Critical Area Commission  
James Damm, LMC Properties Inc.  
Matt Bishop, Kimley-Horn and Associates

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We have read and agree to implement the above requirements to bring our property into compliance with Chesapeake Bay Critical Area regulations.

_____ Signature	_____ Date	_____ Signature	_____ Date
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_____ Printed Name	_____ Date	_____ Printed Name	_____ Date
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