

September 16, 2024

Christopher Kriegner  
Ramboll  
Executive Plaza III, Suite 304  
11350 McCormick Road  
Hunt Valley, MD 21031

Re: Redhouse Run Sanitary Sewer Rehabilitation  
Forest Conservation Variance  
Tracking #06-23-4003

Dear Christopher Kriegner:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on July 3, 2024. If granted, the variance would allow the removal of one (1) specimen tree in order to allow the proposed rehabilitation of the existing Redhouse Run Sanitary Sewer. Specifically, proposed rehabilitation activities include sewer lining, internal and external point repairs, pipe and manhole protection, and replacement of these structures where necessary. This project is mandated by a 2005 Federal Consent Decree. The specimen tree to be impacted is a 40-inch diameter-at-breast-height (DBH) silver maple in good condition. There are 116 other specimen trees within or adjacent to the project's limit of disturbance (LOD) that will not be impacted by the proposed project.

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 perform rehabilitation of a sanitary sewer serving the Overlea and Rosedale communities of Baltimore County. The sewer rehabilitation is 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 & Transportation 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 the specimen tree in relation to the sewer rehabilitation project's LOD 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 interceptor passes through medium- to high-density residential neighborhoods with minimal forest cover, as well as commercial and industrial areas. Granting the variance to allow the removal of one specimen tree will not alter the essential character of the neighborhoods served by the sewer. Therefore, we find 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 as much as possible. Additionally, the proposed rehabilitation will result in a better functioning sewer with fewer 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 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 one specimen tree would be removed to complete this project, 116 others will be protected during the rehabilitation with tree protection devices. Moreover, the sewer rehabilitation has been designed to minimize impacts to forest and water quality inasmuch as possible, and disturbed areas will be replanted where possible. Additionally, all permanently impacted forest within the forest buffer will be mitigated at a 2:1 ratio. 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 not required for the specimen tree to be removed due to its location within forest to be mitigated.

2. The following note on all subsequent plans for this project:

“A variance (tracking #06-23-4003) was granted by Baltimore County Department of Environmental Protection and Sustainability to remove one (1) specimen tree in order to complete required sanitary sewer interceptor improvements. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met.”

3. 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.

This variance is approved by the Director of the Department of Environmental Protection and Sustainability on \_\_\_\_\_. Any further changes to the project’s LOD 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 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 Libby Errickson at (410) 887-3980.

Sincerely yours,

Horacio Tablada  
Director

HT/lbe

- c. Jeannette Applauso, Baltimore County Department of Public Works & Transportation  
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.

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DPWT Representative's Signature

Date

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Printed Name