

July 29, 2022

Ms. Emily Trethewey  
Center for Watershed Protection  
11711 East Market Place, Suite 200  
Fulton, MD 20759

Re: Maryland State Fairgrounds Stormwater Retrofit  
Forest Conservation Variance  
Tracking #03-22-3675

Dear Ms. Trethewey:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was received by this Department on April 12, 2022. This request proposes to base the Forest Conservation Worksheet (FCW) required by Section 33-6-111 of the Forest Conservation Law on the 1.2-acre limit of disturbance (LOD) for the proposed project rather than the entire 98.6-acre property in order to install a stormwater retrofit, boardwalk crossing, and natural children's play area. Using the LOD of the proposed project as the gross tract area on the FCW would result in no afforestation requirement given that almost the entire LOD is located within the 100-year floodplain, which is deducted from gross tract area. Over 14 acres of afforestation would be required under full compliance.

The Director of 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 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 his property. The property is already functioning as the State fairground facility, so the applicant is already realizing beneficial use of the property. Moreover, denying the requested variance would not prohibit construction of the proposed project. Consequently, full application of the law to the entire property would not deprive the applicant of all beneficial use of the property. Therefore, 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

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conditions of the neighborhood. The petitioner's plight is due to the cost of full compliance with Forest Conservation Law rather than general conditions of the neighborhood, which have no bearing on this variance request. Consequently, we find that 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. The surrounding neighborhood consists of medium to high-density residential areas, some commercial and industrial areas, and the rest of the large fairground property. Given that the property's long-standing use as the State fairgrounds will not change as a result of this project, granting this special variance will not alter the essential character of this neighborhood. Therefore, 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 proposed project is a voluntary water quality project funded by a National Fish and Wildlife Foundation grant to improve water quality in the Chesapeake Bay. While the project is proposed within the 100-year floodplain, no impacts to streams or wetlands would occur, and the project's purpose is to improve water quality in the area. As such, this Department finds that the requested variance will not adversely affect water quality. Consequently, 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 prior actions creating a condition or circumstance to necessitate this variance request. 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. Using the project's LOD as the gross tract area would be consistent with the spirit and intent of the Forest Conservation Law given that no tree removal is proposed. Therefore, this criterion has been met.

Based on our review, this Department finds that the 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. The total LOD shall be limited to the 1.2 acres as shown on the plans accompanying the variance application for the proposed stormwater retrofit, boardwalk crossing, and natural play area.

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

“A variance (tracking #03-22-3675) was granted by Baltimore County Dept. of Environmental Protection & Sustainability to allow Forest Conservation Law requirements to be based on the 1.2-acre limit of disturbance rather than the entire 98.6-acre property for the installation of a stormwater retrofit, boardwalk crossing, and natural play area. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met.”

3. A Forest Conservation Plan reflecting this variance decision must be submitted for EIR review and approved prior to permit approval. Please include Forest Conservation Worksheets based on both the entire site acreage and the project’s LOD.
4. Granting this variance does not exempt future development activities on this property from full compliance with the Forest Conservation Law.

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 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.

Sincerely yours,

David V. Lykens  
Director

DVL/lbe

- c. Mr. Andy Cashman, Maryland State Fair and Agricultural Society

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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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Responsible Party's Signature

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Responsible Party's Printed Name