

October 5, 2022

M-NCPPC

Mid-County Planning Team
Montgomery County Planning Department
2425 Reedie Dr 14th Floor
Wheaton, MD 20902

**RE: Travilah Rd., #####
Variance Request for Specimen Tree Removal/Impact**

Introduction

The project associated with this variance request is the Applicant's redevelopment of the property located on 13741 & 13751 Travilah Road in Rockville, MD (the "Property"), which consists of approximately 11.09 acres of dilapidated commercial buildings and structures, operated as a contractor's yard for a hydro-seeding company on the east side. The site is located along Travilah Road, just east of its intersection with Dufief Mill Road. The project proposes redevelopment of the Property with 60 senior housing townhouses complemented by recreation areas, landscaped open space, and improved stormwater management. The stream valley buffer of the site will include a Forest Conservation area.

As part of the proposed Project, Applicant seeks a variance for impacts to the Critical Root Zone ("CRZ") or removal of 18 specimen trees on the Property. This variance request complies with M-NCPPC and Maryland state law, which require Applicant to file for a variance from these laws to remove or impact any specimen tree (tree 30" or greater in Diameter at Breast Height [DBH] or tree with a DBH equal to or greater than 75% of the current State Champion of its species as designated by MDNR); trees that are part of an historic site or associated with an historic structure; any tree designated by the State or County as a national, State, or County champion tree; or any tree, shrub or plant identified on the Rare, Threatened, or Endangered (RTE) species list provided by the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.

The following table lists the 18 specimen trees for which Applicant seeks a variance to remove or impact the CRZs:

**Exhibit 23
OZAH Case No: CU 23-10**



TREE NO.	BOTANICAL NAME	COMMON NAME	D.B.H. (in.)*	CONDITION	RECOMMENDATIONS
14	Platanus occidentalis	American sycamore	30.1	Good	REMOVE: 100% CRZ IMPACT
15	Platanus occidentalis	American sycamore	33	Good	REMOVE: 100% CRZ IMPACT
18	Quercus phellos	Willow oak	33.5	Fair	REMOVE: 100% CRZ IMPACT
25	Acer rubrum	Red maple	34	Poor	REMOVE: 100% CRZ IMPACT
28	Pinus strobus	Eastern white pine	30.5	Good	REMOVE: 100% CRZ IMPACT
29	Acer rubrum	Red maple	35.5	Poor	REMOVE: 100% CRZ IMPACT
33	Castanea sativa	European chestnut	32.5	Poor	REMOVE: 100% CRZ IMPACT
37	Acer rubrum	Red maple	35.5	Poor	REMOVE: 100% CRZ IMPACT
42	Platanus occidentalis	American sycamore	34	Good	REMOVE: 100% CRZ IMPACT
44	Acer rubrum	Red maple	30.5	Fair	REMOVE: 100% CRZ IMPACT
46	Acer rubrum	Red maple	33	Fair	REMOVE: 100% CRZ IMPACT
50	Acer saccharinum	Silver maple	37	Fair	REMOVE: 100% CRZ IMPACT
57	Acer rubrum	Red maple	30	Good	REMOVE: 100% CRZ IMPACT
64	Prunus sp.	Cherry sp.	30	Poor	REMOVE: 100% CRZ IMPACT
65	Acer rubrum	Red maple	40	Fair	REMOVE: 100% CRZ IMPACT
66	Acer rubrum	Red maple	36.5	Fair	REMOVE: 100% CRZ IMPACT
74	Acer rubrum	Red maple	30	Fair	REMOVE: 100% CRZ IMPACT
75	Acer rubrum	Red maple	30	Fair	REMOVE: 100% CRZ IMPACT

Justification of Variance

Section 22A-21 of the County Ordinance authorizes the County to approve variances to the Forest Conservation Law allowing disturbances to certain trees, including specimen trees. An applicant seeking a variance must present a request in writing and the applicable approving authority must make certain findings and descriptions prior to approval. Applicant's variance request satisfies the required findings as follows:

- (1) *Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The Project proposes the construction of senior housing, meeting a need for an anticipated shortage of senior housing. It also proposes an environmental improvement to the site's current conditions, intentionally designed to minimize stream buffer impacts, reforest the stream buffer, and clear-out the existing contractor yards. Design principles incorporated into this project serve to preserve the subregion's green and residential character while creating a pedestrian-friendly environment. Forest conservation and afforestation plantings in the stream valley buffer, the incorporation of bio-retention areas in addition to required stormwater facilities, walkways through landscaped and recreational areas are all in keeping with these design principles. While afforestation is proposed



in the stream valley buffer, grading in the immediate area is required to carry out these design elements prior to afforestation planting; therefore, the removal of specimen trees cannot be reasonably avoided. Grading to current ADA standards to ensure that site elements and community facilities are accessible requires significant earthwork across the site, which impacts the 18 trees proposed for removal. Currently the site has an elevation of change of 50 feet from the northeastern corner to the lower corner.

Denial of the variance would cause unwarranted hardship in significantly reducing the area of the Property that could be redeveloped because of site work necessary to create access to the open space throughout the site. This redevelopment, in turn, will allow for significant environmental improvements, afforestation, stormwater management and protection and enhancement of the on-site stream and wetlands.

Impacts minimization and avoidance to the specimen trees are described as follows:

- Trees 14, 15, 18, 25, 28, 29, 33, 37, 42, 44, 46, 50, 57, 64, 65, 66, 74 & 75

Proposed CRZ Impact: Severe at 100%

Tree Conditions: Varies from Good to Poor conditions

Waiver Request: Approve for removal

These trees are proposed for removal due to their locations well inside the proposed Limits of Disturbance (L.O.D.). An effort to save these trees would require a significant reduction in usable building space to clear the CRZs and would not be reasonably feasible within the scope of Project's design. Removal of these trees allowing redevelopment will also allow the Applicant to implement substantial improvements of ecological conditions by planting and protecting approximately 2.59 acres within a conservation easement.

- (2) *Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;*

Denial of the variance would also deprive Applicant of rights commonly enjoyed by others in similar areas. The Project minimizes development impact by providing senior housing with a similar size and design to the nearby townhomes. The Property use is consistent with the existing character of the surrounding neighborhood, with a compatible building and residential uses incorporating a pedestrian-friendly design.

Existing development was focused on the areas of the property currently improved, which contain many of the trees subject to the variance.

Approval of the variance will allow Applicant to create a community that is consistent with the existing land uses in the area. Approval will also allow for the creation of master-planned pathways connecting the project to the adjacent communities along restored greenways for intangible yet significant community enjoyment of natural areas. All of these goals are consistent with the rights



enjoyed by nearby property owners.

- (3) *Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of the granting of the variance;*

The granting of Applicant's variance request will not result in a violation of State water quality standards, nor will a measurable degradation in water quality occur as a result. On the contrary, the Project will implement measures to improve water quality. A significant area within the Stream Valley Buffer (SVB) on the site will be placed into a Category I Forest Conservation Easement and allow for a perpetual protection of forested area buffering the offsite stream. The Project also integrates current state-of-the-art stormwater management practices, which will improve upon the Property's previous stormwater management system and enhance water quality.

- (4) *Provide any other information appropriate to support the request.*

The Project proposes preserving most of the existing forest adjacent to the stream buffer as well incorporating afforestation areas within the stream buffer, subject to a Category I Forest Conservation easement. It is envisioned that a significant number of additional plantings will occur throughout the property, including shade trees, evergreen trees, ornamental trees, and planting beds, all of which will serve to improve ecological quality. Focusing redevelopment on existing developed land, increasing Forest Conservation, landscape plantings, and greatly improved stormwater management design all combine to significantly improve water quality protection, wildlife value, carbon sequestration, and reduction in urban heat island effects.

Furthermore, the variance does not arise from a condition related to land or building use, either permitted or nonconforming, on a neighboring property.

Thank you for your consideration of Applicant's tree variance request. The supporting information provided in this letter establishes that denial of the variance would result in unnecessary hardship or practical difficulty, as well as demonstrates Applicant's extensive efforts to minimize impacts. Please contact me with any questions, or if you require additional information.

Sincerely,

VIKA Maryland, LLC

Joshua Sloan, RLA, ASLA, AICP
Director of Planning and Landscape Architecture / Vice President

