



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

February 1, 2011

Memorandum

To: Marion Bundens, DNR Qualified Professional
Loiederman Soltesz Associates, Inc.

From: Steve Findley, Environmental Planner Coordinator, Area 2
M-NCPPC, Montgomery County, MD

RE: Forest conservation exemption request #42011103E
9800 Medical Center Drive

It appears that the proposed development qualifies for a Forest Conservation Exemption under the provisions of the law.

Two separate exemptions appear to be applicable to the project –

The original approval for development of the site allocated a maximum of 313,650 square feet of development, of which 281,379 square feet have been constructed. The proposed new development will exhaust the remaining 32,271 square feet allowed under the previous approval. This development qualified for an exemption under Section 22A-5 of the Forest Conservation Law as cited below:

Section 22A-5. Exemptions. The requirements of Article II do not apply to:

(k) any lot covered by a preliminary plan of subdivision or site plan that did not receive a sediment control permit before July 1, 1991, and for which the preliminary plan of subdivision or site plan:

- (2) was approved or extended between July 1, 1984 and July 1, 1991, and
- (3) the construction will not result in the cutting, clearing, or grading of:
 - (B) any forest on property located in a special protection area which must submit a water quality plan.

The new development proposal is for a total of an additional 230,929 square feet of research and development space. The exemption cited above covers 32,271 square feet, leaving an additional 198,658 square feet of new development not covered under exemption 22A-5(k). This additional development would appear to qualify for an exemption under Section 22A-5(t) as cited below:

Section 22A-5. Exemptions. The requirements of Article II do not apply to:

(t) a modification to existing developed property if:

- (1) no more than 5000 square feet of forest will be cleared;
- (2) the modification does not affect any forest in a stream buffer or located on property in a special protection area which must submit a water quality plan; and
- (3) the modification does not require approval of a new subdivision plan.

Since there is no forest on the site, clauses (1) and (2) of Section 22A-5(t) apply; since this plan does not involve a new subdivision of property, clause (3) of Section 22A-5(t) applies.

Before the exemptions are granted, changes need to be made to the application and accompanying Existing Conditions Plan as follows:

1. The exemption application must be modified to include both exemptions being requested, and the applicable square feet of development to which each exemption applies.
2. We concur that the drainage channels on the Existing Conditions Plan are ephemeral rather than intermittent streams, and therefore do not require a stream buffer. However, the east-west running drainage channel appears to be a wetland, based on hydrology (standing water observed), vegetation (including the presence of cattails (*Typhus spp.*) and rushes (*Juncus spp.*), and soil indicators (gleyed soils present). These conditions were photographically documented on a field visit conducted 01/20/2011 by Park and Planning Environmental staff. SPA regulations exempt man-made ditches from expanded wetland buffer provisions; therefore the standard 25-foot regulatory wetland buffer should be applied. Please show this wetland and buffer on the Existing Conditions Plan.

Please do not hesitate to contact me if you have any questions or concerns. Thank you very much.

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