



June 20, 2012

Mr. Mark Pfefferle
 Acting Chief
 Regulatory Coordination & Development Applications Management
 M-NCPPC
 8787 Georgia Avenue
 Silver Spring, MD20910

RE: Forest Conservation Variance Request
 Mallory Square
 Final Forest Conservation Plan
 VIKA #M1667A

Dear Mr. Pfefferle:

On behalf of our client, Woodfield/Meridian Shady Grove, LLC/BNA Washington, Inc. we are submitting this request for a variance from the requirements of the Forest Conservation Law for the State of Maryland. This request is made under the variance provisions of the Montgomery County Forest Conservation Ordinance to comply with Natural Resources, Title 5, §5-1607(2) of the Maryland Code, which requires the Applicant to file a request for a variance to disturb and/or remove trees that are 30" DBH or greater or trees that are 75% the diameter of the county champion for that species if a project did not receive Preliminary Forest Conservation Plan (FCP) Approval prior to October 1, 2009.

Mallory Square is classified in the CR Zone located within the Great Seneca Science Corridor Sector Plan and has received approvals for Sketch Plan #320120010 on February 2, 2012 and Natural Resources Inventory (NRI) #420111560 on April 25, 2012. This variance request is submitted in conjunction with the Final FCP and concurrent Preliminary Plan and Site Plan submissions for the project.

The pending Preliminary and Site Plans include a mixed use development for the site. The trees which are the subject of the variance request are located within the proposed limits of disturbance and will be significantly impacted by the proposed development activity. The trees are located within the north central portion of the site, and adjacent to the northern property line along Research Boulevard.

Table 1 below lists the trees as they are identified on the Forest Conservation Plan and provides their respective measurements.

Table 1

Variance Tree #	Species	Diameter /DBH (inches)	Condition	Disposition	CRZ Area (sf)	CRZ Impacts (sf)	CRZ Impacts (%)
4v	<i>Quercus palustris</i>	32	Good	Remove	7,238	6,363	88%
10v	<i>Acer rubrum</i>	31	Good	Remove	6,793	6,793	100%
13v	<i>Pinus strobus</i>	30.5	Good	Remove	6,576	6,576	100%

VIKA Maryland, LLC

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Tree # 4v

32" Pin Oak (*Quercus palustris*): located on subject property near the northern border along Research Boulevard. Condition: Good; Proposed CRZ Impacts: Severe at 88% - due to impacts from the proposed construction of Building A, and bio-filtration facility.

Disposition: Tree is to be removed.

Tree # 10v

31" Red Maple (*Acer rubrum*): located in the central portion of the site, to the west of proposed Master Plan Roadway B-9. Condition: Good; Proposed CRZ Impacts: Severe at 100% - due to the proposed construction of Building A, and Master Plan Roadway B-9.

Disposition: Tree is to be removed.

Tree # 13v

30.5" Eastern White Pine (*Pinus strobus*): located in the northern central portion of subject property, to the east of proposed Master Plan Roadway B-9. Condition: Good; Proposed CRZ Impacts: Severe at 100% - due to the proposed construction of a bio-filtration facility, and Building B.

Disposition: Tree is to be removed.

In accordance with the provisions of Natural Resources Code §5-1611 and Chapter 22A-21 of the Montgomery County Forest Conservation Law, an applicant may request a variance from the Forest Conservation Law if the enforcement would result in unwarranted hardship. The variance request must provide the following mandatory requirements:

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
3. Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
4. Provide any other information appropriate to support the request.

We submit the following rationale in support of our request for a Forest Conservation variance:

1. The requested variance is necessary for implementation of the proposed Mallory Square development. The accompanying concurrent submission of the Preliminary and Site Plan are constant in character with the previously approved Sketch Plan #320120010. The development of the proposed plans in accordance with the Sketch Plan will require the removal of trees 4v, 10v, and 13v since the entire site will require extensive clearing and grading to accommodate the construction of a mixed-use development, Master Plan Roadway B-9, streetscape improvements, stormwater management facilities, and associated public use space.

The conditions related to this request are neither unique nor special to this project and instead are unavoidable consequences of the development process.

2. The requested variance is based on plans being developed through the County planning process, and adheres to the requirements of the Great Seneca Science Corridor Sector Plan, Approved Sketch Plan, and



the County Zoning Ordinance. As the Final Forest Conservation Plan shows, there are 0.45 acres of existing forest on this urban site. Afforestation requirements for the site total 2.47 acres which will be met by a combination of on-site landscaping and off-site reforestation. If the variance is not granted, the landowner will not be able to implement the development plans approved by the County. On balance, given the projects compliance with the development standards of the zone, retaining the three specimen trees would unfairly restrict the landowners rights to develop.

3. The concept stormwater management plan for the Mallory Square project has been submitted to Montgomery County Department of Permitting Services for approval. It has been designed in accordance with the latest revisions to the Maryland Stormwater Management Design Manual Chapter 5 (latest revision dated March 2009) and the consequential addendum, the Environmental Site Design (ESD) Process & Computations Addendum issued July 2010. The site has an existing SWM pond which will be removed and the proposed development will provide ESD for the entire project through micro-bioretenion facilities with enhanced filters, micro bio-swales, planter box micro-bioretenion facilities, and porous pavement. The project will not have green roof because of the wood frame construction.

The remaining individual trees proposed for removal are neither located within an existing forest nor are they located within a water resource (i.e. stream or wetland) or an associated buffer. Therefore we believe the removal of the three specimen trees will not affect water quality standards or cause measurable degradation in water quality.

Thank you for your consideration of this variance request. We believe that the supporting information justifies the variance and that staff will recommend approval to the Planning Board for this request to remove three specimen trees. If you have any questions or need more information, please do not hesitate to contact us so that we may discuss this matter further.

Sincerely,
VIKA, Inc.

Cindy Todd, RLA
Director of Planning

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