

May 24, 2017

Steve Findley
 Planner Coordinator, Area 2 Planning Division
 Montgomery County Planning Department
 8787 Georgia Avenue
 Silver Spring, MD 20910

Re: Shady Grove Adventist Hospital Power Upgrade
 Final Forest Conservation Plan - Variance Request
 Soltesz Project #3648-00-00

Dear Mr. Findley,

On behalf of Eneractive Solutions, Soltesz, Inc. is requesting a variance for the removal of one (1) trees 30 inches or greater in DBH, as required under Section 22A-21 of Montgomery County's Forest Conservation Law and 2010 revisions to the State Forest Conservation Law enacted by State Bill 666, where it notes the variance pertains to "Trees having a diameter measured at 4.5 feet above the ground of 30 inches diameter or 75% of the diameter of the current state champion tree of that species as designated by the department". The removal or impact of these trees is for the Shady Grove Adventist Hospital Critical Power Upgrade & combined Heat and Power Project (Tax Map FR53, Parcel N003) in Rockville, Montgomery County, Maryland.

Project Information

The subject property (Shady Grove Adventist Hospital) consists of one parcel total approximately 38.49 acres located in Rockville, Maryland, on Medical Center Drive, approximately 0 feet from the intersection of Broschart Road. The property is zoned LSC (Life Science Center) Zone (LSC-1.5 H-150 T). The total disturbed area for the utility upgrade is 0.65 acres, with 0.31 acres on the hospital site and 0.34 acres offsite. The property has an approved Preliminary Forest Conservation Plan (#120110160). The submitted Natural Resources Inventory for the offsite property shows one (1) specimen tree and five (5) significant trees.

The trees identified in this variance request for removal are shown on the Final Forest Conservation Plan. The trees to be removed are located within the limits of disturbance or the LOD impacts to their critical root zone are too large to expect tree survival.

Trees for Removal

Listed below are the trees identified for impact on the Final Forest Conservation Plan:

CODE	Existing /Significan/Specimen Tree	DBH	CRZ	CRZ IMPACT	% of Impact	Proposed Status	Specimen
Specimen Trees on subject property:							
101	Pin Oak – Quercus palustris	32"	7238	7238	100%	REMOVE	Yes

Specimen Trees on adjacent property:							
002	Red Maple – Acer rubrum	28"	5542	990	18%	REMAIN	No

The trunk of Tree 101 is located in the proposed Limit of Disturbance area for the proposed emergency generator installation. The placement of the emergency generators allows room for the future CHP generators as well as allow the existing generators in function while the proposed ones are installed. The spacing between the generators must be maintained to allow for future repair/replacement of the generator engines. The technical and procedural requirements for the generator installation makes the preservation of this tree unachievable.

Application Requirements

Per Montgomery County's Forest Conservation Law Section 22A-21(b) of the *Application Requirements* states that the applicant must:

- (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) Provided any other information appropriate to support the request.

Pursuant to: Item "(1) describe the special conditions peculiar to the property which would cause the unwarranted hardship; and" Item "(2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas":

The proposed development is for hospital's Central Utility Plant upgrading with additional utility connection between the existing Central Utility facility and the main hospital building. The hospital site is fully developed with no forest on site. Most of the proposed work will occur in an existing utility easement on site. The proposed utility will not cut down any trees in forest. It will not increase the developed area and the existing development is retained. The placement of the proposed emergency generators is closely related to the locations of existing and future generators, which are critical components for hospital operation.

The unwarranted hardship to the property owner is that without the Central Utility Plant upgrade, the hospital can't provide up to date critical services to the community. Considering the configuration of the property, the design constraints and the location of the specimen tree to be removed, it would cause unwarranted hardship to the applicant if the variance were to be denied.

Pursuant to "(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" Item "(4) Provided any other information appropriate to support the request."

The trees proposed for removal are not directly connected to any streams, or part of a riparian buffer system. The total disturbed area is small enough not to violate the state water quality standards, nor will it cause a measurable degradation in water quality. The installation of the generators and related utility connection works are separated into two phases, each will be less than 20,000 square feet, thus qualify as small land disturbance for Montgomery

County Department of Permitting Services (DPS). DPS approved the Sediment Control Plan for the project on April 6, 2017.

Minimum criteria for Variance

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) *Will confer on the applicant a special privilege that would be denied to other applicants;*
- (2) *Is based on conditions or circumstances which are the result of actions by the applicant;*
- (3) *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or*
- (4) *Will violate State water quality standards or cause measurable degradation in water quality*

Pursuant to "(1) *Will confer on the applicant a special privilege that would be denied to other applicants.*" The use of this site for utility work for the hospital is an existing use and will operate in a manner consistent with that of surrounding properties in the area and in Montgomery County. As such, this is not a special privilege to be conferred on the applicant.

Pursuant to "(2) *Is based on conditions or circumstances which are the result of actions by the applicant; and (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*" Due to the existing site constraints, the proposed development that is in accordance with Master Plan designation is not possible to be built without removing the specimen trees. Furthermore, the surrounding land uses on neighboring properties do not have any inherent characteristics that have created this particular need for a variance.

Pursuant to "(4) *Will violate State water quality standards or cause measurable degradation in water quality*" the applicant cites the reasoning in the previous response to requirement 22A-21 (b)(3), and restates its belief that granting this variance request will not violate State water quality standards or cause measurable degradation in State water quality standards.

For these reasons listed above, we believe it is appropriate to grant this request for a variance. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,
SOLTESZ, INC.



Amy Zott, RLA, ASLA
Technical Director

cc: