



Dec. 7, 2016

Marco Fuster
Planner coordinator
Planning Area 1
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

**Re: Forest Conservation Tree Variance Request
Westwood Shopping Center
Preliminary Forest Conservation Plan 120170170
VIKA # VM1450E**

Dear Mr. Fuster:

On behalf of our client, Equity One, we are submitting this Tree Variance Request to comply with Natural Resources, Title 5, Section 5-1607 of the Maryland Code that requires the Applicant to file for a variance to remove or impact any tree greater than 30" in diameter-at-breast-height (dbh); any tree with a dbh equal to or greater than 75% of the current state champion; trees that are part of a historic site or associated with a historic structure; any tree designated as the county champion tree; and any tree, shrub, or plant identified on the rare, threatened or endangered list of the U.S. Fish and Wildlife Service of the Maryland Department of Natural Resources, if a project did not receive Preliminary Forest Conservation Plan Approval prior to October 1, 2009.

This Tree Variance Request is accompanying the submission of Preliminary Forest Conservation Plan 120170170. NRI 420161340 was approved 08/23/2016.

The 25.45-acre Property is located in Bethesda, Montgomery County, Maryland along both sides of Westbard Avenue, including the northeast quadrant of the intersection of Westard Avenue and Ridgefield Road. It is currently developed with commercial and residential uses and surface parking facilities. It is generally bounded by Maryland Route 190 (River Road) and various commercial properties to the north, drive aisles and parking for the Kenwood Place residential buildings to the south and east, and additional commercial properties to the northeast. The proposed project will consist of mixed-use development with retail, restaurants, townhouses, and multi-unit residential buildings as envisioned by the Westbard Sector Plan, which resulted in the rezoning of the Property. This request proposes allowing impact to eight (8) specimen trees to be preserved and removal of eight (8) specimen trees.

Table 1 on the following page lists the Variance specimen trees as they are identified on the Preliminary Forest Conservation Plan and provides their respective proposed impacts.

Table 1

VIKA Maryland, LLC

20251 Century Boulevard, Suite 400 * Germantown, Maryland 20874 * 301.916.4100 Fax 301.916.2262
Tysons, VA * Germantown, MD * Washington, DC

www.vika.com

TREE NO.	BOTANICAL NAME	COMMON NAME	D.B.H. (in.)*	CONDITION	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %	DISPOSITION
ON-SITE TREES (TAGGED)								
3	Quercus palustris	Pin Oak	31"	Good	6,793	6,793	100.00	Remove
4	Quercus palustris	Pin Oak	30"	Good	6,362	6,362	100.00	Remove
12	Quercus palustris	Pin Oak	38"	Good	10,207	10,207	100.00	Remove
13	Quercus palustris	Pin Oak	30"	Fair/Poor	6,362	6,362	100.00	Remove
14	Quercus palustris	Pin Oak	30"	Poor	6,362	6,362	100.00	Remove
37	Quercus palustris	Pin Oak	34"	Good	8,171	7,166	87.70	Remove
1008	Paulownia tomentosa	Princesstree	32"	Poor	3,217	1,389	43.18	Save
1011	Populus deltoides	Cottonwood	32"	Good	3,217	677	21.04	Save
1014	Prunus serotina	Black cherry	40"	Fair	11,310	11,310	100.00	Remove
1018	Robinia pseudoacacia	Black locust	30"	Fair	6,362	1,476	23.20	Save
1020	Populus deltoides	Cottonwood	40"	Fair	5,027	484	9.63	Save
1021	Populus deltoides	Cottonwood	30"	Fair-Poor	2,827	319	11.28	Save
10**	Platanus occidentalis	American sycamore	31"	Good	6,793	1,140	16.78	Save
22**	Quercus palustris	Pin Oak	36"	Good	9,161	392	4.28	Save
1006**	Robinia pseudoacacia	Black Locust	30"	Fair	6,362	3,522	55.36	Remove
1015**	Pinus virginiana	Virginia Pine	31"	Fair/Good	6,793	1,952	28.74	Save

* Diameter at breast height in inches

**Off-site

The Assessment below was performed by Doug Koeser, ISA at the time of the field work for the NRI as a visual, and at-grade-level inspection with no invasive, below grade, or aerial inspections performed at the time. Decay or weakness may be hidden out of sight for large trees.



1. **Tree # 3: 31" Pin Oak (*Quercus palustris*):** Tree 3 is a street tree located along Westbard Avenue.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction of Westbard Avenue and the proposed 110' R.O.W.
 - **Disposition:** Tree #3 is specified to be removed.

2. **Tree # 4: 30" Pin Oak (*Quercus palustris*):** Tree 4 is a street tree located along Westbard Avenue.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction of Westbard Avenue and the proposed 110' R.O.W.
 - **Disposition:** Tree 4 is specified to be removed.

3. **Tree # 12: 38" Pin Oak (*Quercus palustris*):** Tree 12 is a street tree located along Westbard Avenue near Ridgefield Road.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction of Westbard Avenue and the proposed 110' R.O.W. and the new Ridgefield Road intersection.
 - **Disposition:** Tree 4 is specified to be removed.

4. **Tree # 13: 30" Pin Oak (*Quercus palustris*):** Tree 13 is a street tree located along Westbard Avenue.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction of Westbard Avenue and the proposed 110' R.O.W. and "Street A" which is adjacent to proposed Building 3.
 - **Disposition:** Tree 13 is specified to be removed.

5. **Tree # 14: 30" Pin Oak (*Quercus palustris*):** Tree 14 is a street tree located along Westbard Avenue.
 - **Field Condition:** Poor
 - **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction of Westbard Avenue and the proposed 110' R.O.W.
 - **Disposition:** Tree 14 is specified to be removed.

6. **Tree # 37: 34" Pin Oak (*Quercus palustris*):** Tree 37 is a street tree located along Westbard Avenue near 5101 Ridgefield Road.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** Extensive at 87.70% as the tree lies almost entirely within the project limits of disturbance for the construction of the new alignment of Ridgefield Road adjacent to the new townhouses at the corner of Ridgefield Road and Westbard Drive.
 - **Disposition:** Tree 37 is specified to be removed.



7. **Tree # 1008: 32" Princesstree (Paulownia tomentosa):** Tree 1008 is located in the on-site forest area behind proposed building 7 near the existing parking lot and dog park.
 - **Field Condition:** Poor
 - **Proposed CRZ Impact:** Extensive at 43.18% as the tree lies along the project limits of disturbance for the removal of the parking lot. It is located on the steep edge of the embankment.
 - **Disposition:** Tree 1008 is specified to be saved.

8. **Tree # 1011: 32" Populus deltoides (Cottonwood):** Tree 1011 is located behind the HOC Building within the forested area.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** 21.04% as the tree lies on the steep embankment behind the HOC building near the project limits of disturbance. The parking lot at the top of the embankment will be replaced which will cause some damage to the critical root zone, but the majority of the roots are on the compression side of the tree (below) versus the tension side (above).
 - **Disposition:** Tree 1011 is specified to be saved.

9. **Tree # 1014: 40" Black Cherry (Prunus serotina):** Tree 1014 is a street tree located along the existing Ridgefield Road near River Road.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction of the townhouses.
 - **Disposition:** Tree 1014 is specified to be removed.

10. **Tree # 1018: 30" Black Locust (Robinia pseudoacacia):** Tree 1018 is located between River Road and Westbard Ave. near one of the Springhouse parking lots.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** 23.20%. The tree lies near the project limits of disturbance adjacent to the parking lot which is being removed south of River Road.
 - **Disposition:** Tree 1018 is specified to be saved.

11. **Tree # 1020: 40" Populus deltoides (Cottonwood):** Tree 1020 is located behind the HOC Building within the forested area.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 9.63%. The tree lies on the steep embankment behind the HOC building near the project limits of disturbance. The parking lot at the top of the embankment will be replaced which will cause some damage to the critical root zone, but the majority of the roots are on the compression side of the tree (below) versus the tension side (above).
 - **Disposition:** Tree 1020 is specified to be saved.

12. **Tree # 1021: 30" Populus deltoides (Cottonwood):** Tree 1021 is located behind the HOC Building within the forested area.
 - **Field Condition:** Fair-Poor
 - **Proposed CRZ Impact:** Minimal at 11.28%. The tree lies on the steep embankment behind the HOC building near the project limits of disturbance. The parking lot at the top of the embankment will be replaced which will cause some damage to the critical root zone, but the

majority of the roots are on the compression side of the tree (below) versus the tension side (above).

- **Disposition:** Tree 1021 is specified to be saved.

13. Tree # 10: 31" Platanus occidentalis (American sycamore): Tree 10 is located in the forested area behind Talbert's Ice and Beverage Service.

- **Field Condition:** Good
- **Proposed CRZ Impact:** Minimal at 16.78% as the tree lies predominantly outside the project limits of disturbance for the construction around the existing parking lot removal.
- **Disposition:** Tree 10 is specified to be saved.

14. Tree # 22: 36" Pin Oak (Quercus palustris): Tree 22 is located along the southern side of the entry drive to Kenwood Place.

- **Field Condition:** Good
- **Proposed CRZ Impact:** Minimal at 4.28% as the tree lies predominantly outside the project limits of disturbance for the construction of Street A near proposed building 1 near the property line.
- **Disposition:** Tree 22 is specified to be saved.

15. Tree # 1006: 30" Black Locust (Robinia pseudoacacia): Tree 1006 is located in the storage yard of American Plant Nursery near HOC building parking lot.

- **Field Condition:** Fair
- **Proposed CRZ Impact:** Extensive at 55.36% as the tree lies on the project disturbance line for construction of the proposed building 6 which has a below ground parking garage.
- **Disposition:** Tree 1006 is specified to be removed.

16. Tree # 1015: 31" Virginia Pine (Pinus virginiana): Tree 1015 is located at the corner of Westbard Avenue and Ridgefield Road near unit 5504 Westbard.

- **Field Condition:** Fair/Good
- **Proposed CRZ Impact:** 28.74% as the limits of disturbance for the construction will be approximately 15' away from the tree at the corner of Westbard and Ridgefield Road.
- **Disposition:** Tree 1015 is specified to be saved.

Justification Narrative for Tree Disturbance

We submit the following rationale in support of the request for a Forest Conservation Tree Variance:

The 25.45 acre property is located between River Road and Westbard Circle near Ridgefield Road in Bethesda, Montgomery County, Maryland. The proposed project will consist of mixed-use development with retail, restaurants, townhouses, and multi-unit residential buildings. The property was rezoned through sectional map amendment H-116 to the CRT zone.





The site is currently developed with a retail shopping center, senior care facility, commercial buildings, a residential building operated by the Housing Opportunities Commission, and two gas stations, along with associated parking, pedestrian access, and other pedestrian amenities. The proposed Preliminary Plan will allow for mixed-use redevelopment which will provide housing (including 15% moderately priced dwelling units) as well as additional jobs as envisioned by the recently approved and adopted Westbard Sector Plan.

For approval, the Variance Request 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. **Provide any other information appropriate to support the request.**

We submit the following rationale in support of the request for a Forest Conservation Tree Variance:

1. The requested tree variance is necessary for implementation of this mixed-use redevelopment project and several key Sector Plan recommendations. There is an approved NRI for the site and redevelopment is proceeding through the development approval process with the submission of the Preliminary Plan. The plan proposes minimal development in the forested areas and will, in fact, increase pervious areas and tree canopy and improve water quality. Most of the Sector Plan recommendations, including the realignment of Westbard Avenue and creation of several open spaces for the community cannot be accomplished without wholesale redevelopment and impacts to the various specimen trees. Unlike many sites, this Property is peculiar because of the Sector Plan demands and the existing state of the property: largely paved, single use parcels with low-rise, aging buildings.

Not granting the requested variance is an unwarranted hardship because of the particular layout necessary to implement the Council-approved density under the Sector Plan, the realignment of Westbard Avenue, and the open spaces. This redevelopment density was found to be in the public interest in part because it increased housing near major employment centers, would result in improved stormwater management, and other environmental impacts could be mitigated through new plantings. Finally, there are numerous constraints, including a floodplain, stream valley buffers and existing and proposed easements, as well as life-safety design issues that had to be considered when planning the site that necessitate impacts and removals of the trees, as described herein.

2. The requested variance is based on plans being developed under the zoning and recommendations approved through the County planning process, not conditions or circumstances resulting from actions by the Applicant. There are sixteen (16) variance trees impacted or removed by the proposed mixed-use redevelopment for which the Preliminary Plan has been submitted for approval. Strict protection of all variance trees would deprive the Applicant from making any significant changes to the site due to their location and the extent of their critical root zone. Thus, the Sector Plan vision of a realigned, walkable, tree-lined Westbard Avenue could not be implemented. There are no conditions relating to land or building use, either permitted or non-conforming, on a neighboring property that have played a role in the need for this variance. A total of 0.18 acres of forest is being removed, 1.34 acres of forest is being preserved and eight (8) of the sixteen (16) impacted specimen trees are being preserved. New forest will also be planted.
3. The site's existing condition includes a retail shopping center, senior care facility, commercial buildings, a residential building operated by the Housing Opportunities Commission, and two gas stations, along with associated parking, pedestrian access and other pedestrian amenities. There are no known stormwater facilities on-site and stormwater is currently conveyed via a closed system (storm drain pipe) to the Willett Branch stream, which runs along the eastern portion of the site. The concept stormwater management plan incorporates the State's /



County's Environmental Site Design (ESD) to the maximum extent practicable (MEP), according to the latest revision to Chapter 5 of the MDE Stormwater Management Design Manual. The proposed development includes treatment via green roof and micro-bio retention (both at-grade facilities as well as planter-type). Given the lack of existing stormwater infrastructure, coupled with the reduction of imperviousness throughout the site, granting the requested variance will not adversely impact the water quality standards. In fact, water quality will be improved through the use of these ESD facilities.


4. The project is designed to balance the natural and recreational amenities of Willett Branch and new open spaces with the site's close proximity to major employment centers and transit infrastructure. The specimen tree impacts are due to redevelopment of the property in line with two key Sector Plan recommendations for the Westbard Avenue District:
 - Transform the area from surface parking lots to an "inviting, livable and walkable village with stores and apartments" and
 - Provide a "central outdoor space, new pocket parks, and a Neighborhood Green Urban Park [to] provide places for gathering, leisure and recreation".

To do so, the Project is providing a realigned and transformed Westbard Avenue per the Sector Plan's recommended section. Thus, seven of the eight removed variance trees (3, 4, 12, 13, 14, 37, and 1014) are within the existing right-of-way and must be removed to implement the new road layout and expanded cross-section to improve multi-modal connectivity.

The only removed specimen tree that is not along the realigned street is tree #1006, which is near the property line with an adjacent property and will be removed for a proposed building. The Property in this location is narrow and there is no functional layout for a building without significant impacts. Allowing this building to be built will allow the HOC building to be redeveloped and increase affordable housing in the area.

Thank you for your consideration of this Tree Variance Request. We believe that the supporting information provided with this letter justifies the variance to remove eight (8) specimen trees and allow limited impact to eight (8) specimen trees to be preserved. 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 Maryland, LLC.



Douglas Koester, RLA, ISA
Senior Landscape Architect

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