

SOUTHERN CROSSROADS

FOREST CONSERVATION SPECIAL VARIANCE

prepared for:

**Bohler Engineering, Inc.
901 Dulaney Valley Road, Suite 801
Towson, Maryland 21204**

prepared by:

**Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, Maryland 21057
(410) 683-7840**

July 12, 2021

**BALTIMORE COUNTY
FOREST CONSERVATION REGULATIONS
SPECIAL VARIANCE APPLICATION**

Part A. Applicant Information

Applicant(s):

Mr. Mark Levy
H & H Rock Companies
6800 Deerpath Court, Suite 100
Elkridge , Maryland 21075

Property Owner(s):

Contract Purchaser(s):

Engineer/Other Representative:

Mr. Brandon Rowe
Bohler Engineering, Inc.
901 Dulaney Valley Road, Suite 801
Towson, Maryland 21204

Telephone: (410) 821-7900

Principal Contact:

Mr. John Canoles
Eco-Science Professionals, Inc
P.O. Box 5006
Glen Arm, Maryland 21057

Telephone: (410) 683-7840

Part B. Property Information

Property Address/Location: 4100 Maple Avenue, Halethorpe MD 21227

Tax Account Number(s) 2500015832, 1600007730, 2500015833

Subdivision/Property Name: pka - Good Shepherd Center

Tax Map	108	Parcel No.	861
	109		393 and 578

Acreage/Lot Size 18.45 acres

Zoning DR 5.5, BR, ML

Water: public **Sewer:** public

Part C. Special Variance Type

Indicate the specific section(s) of the Code from which you are requesting a variance :

33-6-109 (in part)

Part D. Project Description

Briefly describe the proposed project or activity.

The subject property is being proposed for redevelopment. The site has been previously been developed and includes a large principal structure and support buildings that have been used for a variety of residential and care uses. The redevelopment plan for the site has been designed in keeping with the Baltimore County Master plan zoning allocations and will include residential and commercial uses.

Though the site has existing developed uses, much of the site is forested. As determined in the approved forest Stand Delineation, 127 specimen trees are present on the site. These trees are scattered across the site and redevelopment of the site as allowed by County zoning standards cannot be accomplished while avoiding all of these trees.

This variance application is being submitted to gain approval for the proposed site plan and future development configuration that will result in the removal of a total of 89 specimen trees. Of these trees, only 41 are considered to be in good condition, the balance have been rated very poor to fair condition based on field review.

Part E. Existing Resources

Briefly describe the existing forest resources present onsite and the condition/quality of these resources.

The subject property is made up of several parcels that encompass 72 ± acre parcel of land surrounded by high density residential development, commercial and industrial properties. A Baltimore County elementary school adjoins the southwestern portion of the site. The property is located at 4100 Maple Avenue in the Arbutus section of Baltimore County, Maryland.

The subject property has an extensive use history that includes iron ore mining and institutional use. Currently the site contains a large building complex that was previously utilized as an institutional housing and educational facility. This facility includes a multi-building complex with large parking fields, recreational facilities and utilities, including a water tower. The developed facilities are located along the gentle to moderately sloping land along the top of a ridgeline.

The balance of the site is gently to steeply sloping and is dominated by forest. Much of this portion of the site was previously disturbed for iron ore mining. Very steep slopes surround excavated quarries. These slopes appear to be mostly man-made but some, along the far northern end of the site are natural slopes. Smaller excavation/exploration pits are present along the eastern edge of the site as well. Some sloped areas appear to be the result of past stockpile creation.

The forest on the property is made up of a mixed oak/tulip poplar association that includes a diverse community. The stand is generally middle aged but larger specimen trees are present across much of the site. Tulip poplar, white oak, chestnut oak, black oak and red maple are common across the site. The shrub and herbaceous layers of the stand are heavily impacted by invasive species colonization.

A total of 127 specimen trees have been identified on the subject property. Of these trees most are oak (white, red and chestnut) with some tulip poplar, elm and Norway maple also being present. Of the trees identified more than half have some level of storm damage, canopy dieback, or trunk rot or damage. The chestnut oak seem to be showing the greatest level of decline.

Wetland and stream resources are present on the property. Many of these resources appear to be the result of, or at least manipulated by, the previous quarrying operation. Wetland development in the basins of the quarry pits appear to collect discharges from the adjacent steep slopes. Overflows from the basins drain off into stream channels. Isolated basins are present along the eastern edge of the site. These appear to be exploratory pits that do not have regulatory connections to streams or other wetland resources. The soils on the site have a very high clay content which supports the retention of precipitation. Erosion along the natural streams is evidenced by the deeply incised channels and unstable banks.

The wetlands and streams on the site are within the Use I watershed of the Patapsco River (02-13-09). The western half of the site drains toward Herbert Run. The streams in the north and south east of the site drain into culvert/stormdrain systems. The daylight location of these systems is not known but is within the Patapsco River watershed.

F. Indication of Unwarranted Hardship in Accordance with Section 33-6-116 of the Code

Briefly describe how the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property.

In many cases the complete retention of specimen trees would not completely deprive the property owner of all beneficial use of the property. However, due to the other site development constraints created by the wetlands, buffers and steep slopes combined with limited access to Route 1, it is not practicably possible to redevelop this site in keeping with the Master Plan zoning allocations and County development regulations without the removal of any of the specimen trees on the property.

For example, the required improvements to the access road from Maple Avenue will result in impacts to specimen tree 82. This impact is unavoidable and strict adherence to the regulations and denial of the variance request would preclude the applicant's ability to re-develop the site.

The site is highly constrained by steep slopes and forest buffers. The proposed development plan has been able to avoid substantial impacts to these resources by directing development to the more gently sloping lands outside the buffer. Unfortunately, the density of specimen trees within these otherwise developable lands is such that avoidance of specimen tree impacts would be impossible.

The granting of the special variance to allow for the removal of specimen trees is warranted because strict application of the regulation would require abandonment of a site plan that otherwise meets all of the other environmental and zoning requirements. It would also deny the applicant reasonable use of this property in consideration of the zoning present and permitted uses of the site. Given the extent of the specimen trees on the property and the percentage of specimen trees and forest to be retained with the proposed development layout, it would be unreasonable to deny this variance request base on strict application of the specimen tree protection.

Briefly describe how the plight of the petitioner is due to unique circumstances and not the general conditions of the neighborhood.

The petitioner's request is based on the unique circumstances related to the overlap of developable land vs non-developable environmental areas and with the location of the specimen trees. As with every site, the location of environmental features, access points, property size and configuration create unique circumstances. The plight of the petitioner is based on the number and extent of the specimen trees present on the site and not the general conditions of the neighborhood which would be described as high density residential development, commercial and industrial.

Briefly describe how the special variance will not alter the essential character of the neighborhood.

The granting of this special variance will not alter the essential character of the neighborhood because the surrounding neighborhoods include high density single family homes, commercial and industrial uses. The current character of the property is less in keeping with the character of the surrounding neighborhoods and community than the proposed site conditions will be. With residential development along the upper ridges lines and commercial development along the Route 1 frontage, the proposed development of the site is complementary to the existing land use patterns of the neighborhood.

Part G. Other Special Variance Criteria Listed in Section 33-6-116 of the Code

Briefly describe how the proposed project or activity will not adversely affect water quality, both during construction and over the long term.

The development plans for the project will include the use of approved sediment and erosion control techniques to insure that runoff from the construction site is appropriately limited and treated. The S/E plans will also include requirements for site stabilization in the post construction environment so that all areas will be stable and not erosive.

The project site layout has been designed to minimize impacts to water quality related resources by maintaining the majority of the contiguous wetlands and associated buffers. Only a few unavoidable specimen tree impacts will be located within contiguous wetland forest buffers and these will be addressed specifically with the required buffer impact approvals, alternative analysis or forest buffer variance. The majority of the specimen tree impacts will occur in gently to moderately sloping upland areas that are not directly associated with wetlands or buffers.

The project will retain forest in excess of the basic break-even point requirements and all buffers to be retained on the site will remain forested.

Given all the conditions define above, we feel that the removal of specimen trees will not create any adverse conditions relative to the water quality conditions on or off the site.

Briefly describe how the special variance does not arise from a condition or circumstance which is the result of actions taken by the petitioner.

The need for the Special Variance is not the result of any actions taken by the petitioner, it arises from the applicant's desire to efficiently develop the property and maximize the use of the parcel while protecting the most critical environmental resources. The proposed development plan is not a reflection of past actions or activities of the petitioner but is a process created by the County to fairly enforce the Forest Conservation Act regulations on previously developed properties. The petitioner did not perform any actions that created the boundaries of the property, the location of the overall site constraints or the location of the specimen trees.

Briefly describe how the special variance, as granted, would be consistent with the spirit and intent of the Forest Conservation Regulations.

The removal of the proposed specimen trees is consistent with spirit and intent of the regulations because the trees do not provide unique forest habitat function or value which the Forest Conservation Act regulations intended to preserve and protect. The proposed development plan will include the retention of the majority of the onsite specimen trees and forest resources in the highest priority retention areas - steep slopes and forest buffers - that are in excess of the break-even point.

Further, for the one specimen tree that will be impacted outside the forest, ST 99, the applicant will provide onsite planting to mitigate for the removal of this tree. The plantings will be accomplished using landscape grade trees in a number that will create forest credit equal to one quarter of the critical root zone.

Part H. Supplemental Information

Indicate any supplemental information included with the application.

- Forest Stand Delineation - previously submitted/approved
- Forest Conservation Worksheet -
- Forest Conservation Plan - Preliminary
- Forest Retention Investigation
- Other (explain)

Part I. Additional Information

Use this space to explain answers to any of the questions on this form in greater detail, or to provide any other information about the site or project pertinent to this special variance request. Attach additional sheets if necessary.

The proposed development plan will be implemented in multiple phases. The variance application has been prepared based on the grading impacts proposed for the current development plan and the anticipated forest/clearing impacts for future phases based on the current anticipated development program. The Preliminary Forest Conservation Plan and FCE locations have been defined based on ultimate potential site build-out. Specimen trees occurring outside the currently proposed LOD and the Forest Conservation Easements will be retained as part of this project but are likely to be impacted by future development. As such, while the possibility that not all specimen trees identified as to be removed in future phases exists, the variance request is being made based on the anticipation that most/if not all, of these trees will be requested for removal in later phases of the project. All of the trees identified as within the future phase LOD are located within the limits of the forest and the mitigation for their removal is addressed by the forest retention in excess of the break-even point.


Impacts to wetlands and forest buffers will be addressed separately through the variance or alternatives analysis process.

Part J. Signatures

All persons having legal or equitable interest in the property must sign below. Unsigned applications will be returned to the applicant as incomplete.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of this application are true and correct to the best of my/our knowledge, and that the application contains names and addresses of all persons having legal or equitable interest in the property.

Signatures:



Applicant

7/12/24

Date

Applicant

Date

Property Owner

Date

Property Owner

Date