

March 27, 2013

Lynn Knaggs
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 210910

Re: Glenmont MetroCenter
Tree Variance Request and Justification
MNCPPC # 1-20130080
Prior Zoning Case G-862 and G-863
RCI # 1141-A

Dear Ms. Knaggs,

Please accept this letter and the accompanying exhibits as a formal written request for a variance from section 22A-12(b)(3) of the Montgomery County Code. The referenced section concerns the requirement to not disturb *any tree with a diameter, measured at 4.5 feet above the ground, of (i) 30 inches or more; or (ii) 75% or more of the diameter, measured at 4.5 feet above ground, of the current State champion tree of that species.* Since the implementation of the approved Development Plan for the Glenmont Metro Center project ("project") requires the disturbance to trees 30" or greater, a variance is necessary under Section 22A-21.

As background, the project is the subject of Development Plan and rezoning application that was approved by the Montgomery County Council, sitting as the District Council, on July 17, 2012 as Resolution 17-502. Prior to the County Council's approval of the Development Plan, the Zoning Hearing Examiner held multiple hearings on the Application and formally recommended approval by issuing her report dated June 15, 2012 (and revised on June 21 and June 28, 2012), the Planning Board reviewed and approved the Development Plan on February 23, 2012. As part of the Planning Board's review, Planning Staff reviewed and recommended approval of the Preliminary Forest Conservation that was associated with the Development Plan, pursuant to a staff memorandum dated May 30, 2007.

The approved Development Plan calls for a maximum of 1,550 dwelling units and 90,000 sf of retail. Presently, the site is a developed garden apartment complex. The proposed redevelopment of this site includes measures to improve watershed quality through the removal of untreated impervious surfaces and the provision of a comprehensively designed and integrated stormwater management system that relies exclusively on Environmental Site Design practices. These practices are distributed and decentralized throughout the proposed community and, in so doing, will minimize the accumulation of runoff by treating precipitation as close as possible to the point where it falls. In addition, the restoration of the stream buffer will occur through the removal of buildings and infrastructure and the afforestation of the area to create a contiguous and expanded riparian forest.

The implementation of the approved Development Plan and the environmental improvements mentioned above requires a variance under Section 22A-21 for the disturbance to trees with a diameter at breast height of 30" or more. Fifty seven (57) trees are proposed to be disturbed, most of which are proposed to be removed. Ten (10) of these trees are proposed to be disturbed, though the disturbance is not substantial enough to necessitate the removal of the tree. The requirements for the granting of a variance are provided below, followed by the applicant's presentation of how those requirements are met.

- (1) *Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The property is the subject of an approved Development Plan which sets forth the density and general layout of the redevelopment of the property. The property

contains many trees that are 30" or greater, most of which are located within the footprint of the area of the property indicated to be redeveloped pursuant to the Development Plan. The densities and resultant community design, layout patterns and infrastructure requirements will cause disturbance to most of these trees.

Additionally, given the size of most of these trees coupled with their close proximity to existing buildings and infrastructure, disturbance to the trees is necessary not only for the ongoing maintenance and operations of the property in its current use (which may not be subject to Forest Conservation Law requirements) but also for the demolition of the buildings and infrastructure and preparation of the site for redevelopment, which is subject to Forest Conservation Law requirements.

- (2) *Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;*

Given the number and distribution of 30" and greater trees on this property, failing to grant a variance will preclude the landowner the right to implement the County-Council approved Development Plan. It also would prohibit the Applicant's ability to provide the County with a smart growth, transit-oriented community on the property that is literally surrounded by the Glenmont Metro Station and related Metro facilities.

- (3) *Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance, and*

The redevelopment of this property and the implementation of the Development Plan is subject to Chapter 19 of the Montgomery County Code, which controls Sediment Control and Stormwater Management consistent with State water quality standards.

Since this property was previously developed prior to modern stormwater management practices and standards, the redevelopment of the property will result in an improvement in water quality.

- (4) *Provide any other information appropriate to support the request.*

The Development Plan was originally reviewed under Chapter 22A by Planning Staff and a recommendation of approval was provided. The May 30, 2007 staff report acknowledges the immediate loss of tree and forest canopy through the implementation of this project. The staff recommendation of approval is based upon 1.39 acres of onsite afforestation. As part of the Preliminary Plan and Forest Conservation Plan, this project is providing approximately 1.8 acres on-site plus a street tree and landscaping program consisting of native trees.

In addition to meeting the criteria of subsection (a), the granting of this variance:

- (1) *Will not confer on the applicant a special privilege that would be denied to other applicants,*

Granting the variance will not confer a special privilege on the applicant as the critical root zones of the numerous trees are distributed throughout the property and would be disturbed by the maintenance and the removal of the buildings independent of the proposed redevelopment. Given the intensity and inherent nature of the approved Development Plan, disturbance to variance trees are to be expected.

- (2) *Will not be based on conditions or circumstances which result from the actions by the applicant,*

The requested variance is based upon the nature of the existing site, distribution of the subject trees, and the approved Development Plan, which was determined by the County Council to be in the public interest and not conditions or circumstances resulting from the actions of the applicant.

Glenmont MetroCenter
MNCPPC 120130080
Prior Zoning Case G-863 & G-863
Rodgers Consulting Project #: 1141-A
December 20, 2012
Revised: March 27, 2013

- (3) *Will not be based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property, or*

The requested variance is based upon the nature of the existing site, distribution of the subject trees, and the approved Development Plan and not on a condition relating to land or building use on a neighboring property.

- (4) *Will not violate State water quality standards or cause measurable degradation in water quality.*

The redevelopment of this property and the directly associated need for a variance will improve water quality conditions on site and downstream through the removal of unmanaged impervious surfaces and the integration of Environmental Site Design. The redevelopment is subject to Chapter 19 of the Montgomery County Code, which has been determined by the Maryland Department of the Environment to be in conformance with the State's water quality standards.

Thank you for your review and feel free to call or email with any questions or to discuss. I can be reached at (240) 912-2151 or drood@rodgers.com.

Sincerely,
Rodgers Consulting, Inc.



Dusty Rood
Vice President, Environmental Team Leader

Encl: Forest Conservation Variance Exhibit

Cc: Pete Jervey, Glenmont Layhill Associates
Steven A. Robins, Lerch, Early & Brewer
Patrick L. O'Neill, Lerch, Early & Brewer
Kim McCary, Rodgers Consulting

