



## PROJECT MEMORANDUM

TO: Maryland National Capital Parks and Planning Commission  
Montgomery County Planning Department  
Environmental Planning Division  
8787 Georgia Avenue  
Silver Spring, MD 20910

FROM: Amanda Wagoner  
KCI Technologies, Inc.  
Natural Resources Management

DATE: February 13, 2020

SUBJECT: Black Rock Road Proposed Cell Tower  
Variance Request  
KCI Job Number: 01170290803

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KCI Technologies, Inc. (KCI) is assisting NB + C in permitting a proposed tower at the Black Rock Road location in Germantown, Montgomery County, Maryland.

KCI, on behalf of NB + C, has prepared a Forest Conservation Plan (FCP) for the project that illustrates the proposed project, and includes the proposed minor impact to the Critical Root Zone (CRZ) of one specimen tree. It is not possible to avoid impacts to this CRZ due to their proximity to the tower location and proposed stormwater management.

Section 22A-12(b) (3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The Law requires there be no impact to trees that: measure 30 inches or greater, diameter at breast height (DBH); are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to these trees, including removal of any priority tree, disturbance within the tree's CRZ, or pruning requires a variance. An Applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

**Variance Request**

This requested variance is for impact to one specimen tree that is considered high priority for retention by the County Forest Conservation Law.

<b>Specimen Tree ID</b>	<b>Species</b>	<b>Size</b>	<b>CRZ Disturbance</b>	<b>Recommendation</b>	<b>Related Activity</b>
SP-33	Northern Red Oak	63-in	1%	Save, Root Prune	Access

*Unwarranted Hardship*

As per Section 22A-21, a variance may only be considered if the Planning Board finds that not granting a variance would result in an unwarranted hardship.

This variance request is to allow disturbance for construction of the tower. Given the construction activities necessary for the tower and stormwater management improvements and their proximity to the Variance trees, it is not possible to avoid impact to the critical root zone of the tree. The proposed tower location does not require the removal of any specimen trees. The impacts to the critical root zone of this tree is very minimal. The existing Potomac Electric Power Company (PEPCO) towers, existing trees, and the sloping topography will help minimize the visual impacts of the proposed tower. Access will be from Roger Drive, through the PEPCO easement and then entering the property at 17410 Black Rock Drive, minimizing impacts to the current landowner. The proposed tower location minimally disrupts existing agricultural operations. The Stormwater management facility will not violate any State water quality standards and the construction of the tower will be managed under an approved Erosion and Sediment Control Plan.

On behalf of NB + C, KCI requests consideration of the following:

*1. The Variance will not confer on the applicant a special privilege that would be denied to other applicants.*

Given the scope of the construction activity necessary for the tower, combined with the location of the trees and root zones, disturbance to this specimen tree is unavoidable and required to implement the proposed plans. The proposed tower location does not require the removal of any specimen tree. The impact to the critical root zone of this tree is very minimal. The applicant is not anticipating a special privilege.

*2. The Variance is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is based upon the requirements for access and construction of the proposed tower. The location of the variance trees limit the Applicant’s ability to avoid protected trees. The proposed tower location does not require the removal of any specimen trees. The

impact to the critical root zone of the tree is very minimal. The existing PEPCO towers, topography and existing trees will help screen the visual impacts of the proposed tower. Access will be off Roger Drive, through the PEPCO easement and then into 17410 Black Rock Drive, minimizing impacts to the current landowner. The proposed tower location minimally disrupts existing agricultural operations.

*3. The Variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is based upon the Subject Property, location and distribution of the protected trees, and the prior approvals and conditions, and is not related to a condition of the land or building use on a neighboring property.

*4. The Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The stormwater management facility is designed following the requirements of the Storm Water Management and Water Quality Plans. The construction of the tower will be managed under an approved Erosion and Sediment Control Plan.

*5. The Variance includes stream buffer disturbance that is unavoidable due to the inclusion of highly erodible soils with the stream buffer width.*

The stream buffer includes steep slopes and highly erodible soils. Stream buffers at a minimum are 100 feet from the stream. The width varies based upon the stream use classification, how steep the slopes are, and if the soils are highly erodible. The subject property includes a Use I-P stream resulting in the following minimum stream buffer widths by the slope range:

- 0 to 15 percent slopes – minimum buffer distance – 100 feet
- 15 to 25 percent slopes – minimum buffer distance – 125 feet
- 25 percent and greater slopes – minimum buffer distance – 150 feet

The stream buffer widths may be greater if floodplains, wetlands, or steep slopes extend beyond the minimum buffer line.