



August 19, 2021

Steve Findley
Area 2 Division
Montgomery County Planning Department
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

**Re: Forest Conservation Tree Variance Request
Rock Spring Centre
Phase III Final Forest Conservation Plan #820090030
Preliminary Forest Conservation Plan #11998092C
VIKA # VM5805-6**

Dear Mr. Findley,

On behalf of the property owner and applicant, Floyd E. Davis Company and Rock Spring Properties LLC, we are submitting this Tree Variance Request in compliance with Natural Resources, Title 5, Section 5-1607 of the Maryland Code, which 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 update is accompanying the submission of the Final Forest Conservation Plan Amendment with Preliminary Plan Amendment 11998092C. The prior Site Plan #820090030 approved on the site had a Tree Variance Request included which is included for your reference.

The 53.40-acre Property is located in Bethesda, Montgomery County, Maryland along Old Georgetown Road and Rock Spring Drive. It is currently developed with a low-rise, multi-unit apartment project which was approved and built by Avalon Bay and contains 386 apartment units (Site Plan No. 82000034A). Two high-rise residential buildings have received Site Plan approval (Site Plan No. 820030368 and Site Plan No. 82004017B).

It is generally bounded by the I-270 spur to the north, Old Georgetown Road to the east, Rock Spring Drive to the south, and Rockledge Drive to the west. This Preliminary Plan Amendment and Site Plan Amendment are reconfiguring the remaining approved mixed-use residential development. The Applicant is submitting this request to the approved Preliminary and Site Plans for the removal of eighteen (18) specimen trees (collectively, the "Subject Trees").

Table 1 on the following page lists the Subject Trees as they are identified on the Preliminary Forest Conservation and Final Forest Conservation Plans and provides their respective proposed impacts.



Table : 1 Specimen Tree List

TREE NO.	BOTANICAL NAME	COMMON NAME	D.B.H. (in.)*	COND.	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %	DISPOSITION
ON-SITE TREES (TAGGED)								
73	Gymnocladus dioicus	Kentucky Coffeetree	42	Fair	12,469	12,469	100.00	REMOVE
212	Quercus alba	White Oak	57	Fair	22,966	22,966	100.00	REMOVE
213	Acer rubrum	Red Maple	41	Fair	11,882	11,882	100.00	REMOVE
302	Acer saccharinum	Silver Maple	50	Very Poor	17,671	17,671	100.00	REMOVE
303	Fraxinus pennsylvanica	Green Ash	36	Poor	9,161	9,161	100.00	REMOVE
304	Prunus serotina	Black Cherry	35	Good	8,659	8,659	100.00	REMOVE
309**	Norway Spruce	Picea abies	34	Fair	8,171	8,171	100.00	REMOVE
312**	Juglans nigra	Black Walnut	42	Good-Fair	12,469	12,469	100.00	REMOVE
316**	Acer saccharinum	Silver Maple	43	Fair	13,070	13,070	100.00	REMOVE
320	Quercus alba	White Oak	42	Good	12,469	12,469	100.00	REMOVE
322	Quercus alba	White Oak	37	Fair-Good	9,677	2,630	27.18	SAVE
327	Carya glabra	Pignut Hickory	33	Good	7,698	7,698	100.00	REMOVE
328	Nyssa sylvatica	Black Gum	36	Fair	9,161	9,161	100.00	REMOVE
329	Liriodendron tulipifera	Tulip Poplar	32	Good	7,238	7,238	100.00	REMOVE
346	Quercus alba	White Oak	30	Good	6,362	6,362	100.00	REMOVE
355	Liriodendron tulipifera	Tulip Poplar	31	Poor	6,793	763	11.23	SAVE
360**	Liriodendron tulipifera	Tulip Poplar	54	Fair	20,612	1,214	16.98	SAVE
362	Quercus alba	White Oak	32	Good	7,238	1,789	24.72	SAVE
989	Quercus rubra	No. Red Oak	38	Fair	10,207	10,207	100.00	REMOVE
990	Quercus rubra	No. Red Oak	43	Poor	13,070	13,070	100.00	REMOVE
991	Quercus rubra	No. Red Oak	33	Fair	7,698	7,698	100.00	REMOVE

1000**	Quercus palustris	Pin Oak	36	Fair	9,161	379	4.14	SAVE
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BOLD TEXT = SPECIMEN TREE 30" OR GREATER DBH

*DIAMETER AT BREAST HEIGHT

****PREVIOUSLY APPROVED VARIANCE TREE WITH PLAN NO. FFCP 820090030** The Assessment was performed by Douglas Koeser, RLA, ISA during a site visit in November of 2018 and March of 2019. A visual at-grade-level inspection with no invasive, below grade, or aerial inspections was performed for each tree. Decay or weakness may be hidden out of sight for large trees.

Note: One inch (1") has been added to the DBH for each tree to account for approximate growth.

1. **Tree #73: 43" Kentucky Coffeetree (*Gymnocladus dioicus*):** Tree #73 is at the eastern side of the property along Old Georgetown Road and in Fair condition. The tree is rather asymmetrical, and the canopy branching is only on the upper one-fourth quadrant of the tree. The tree is co-dominant at approximately 20 feet and forms a tight crotch.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%
 - **Disposition:** Tree #73 is specified to be removed.

2. **Tree #212: 58" White Oak (*Quercus alba*):** Tree #212 is within the forest in the middle part of the property, east of the forest conservation easement.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #212 is specified to be removed.

3. **Tree #213: 42" Red Maple (*Acer rubrum*):** Tree #213 is within the forest in the middle part of the property, east of the forest conservation easement.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #213 is specified to be removed.

4. **Tree #302: 51" Silver Maple (*Acer saccharinum*):** Tree #302 is in the southeastern part of the property.
 - **Field Condition:** Very Poor
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #302 is specified to be removed.

5. **Tree #303: 37" Green Ash (*Fraxinus pennsylvanica*):** Tree #303 is in the southeastern part of the property.
 - **Field Condition:** Fair-Poor
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #303 is specified to be removed.

6. **Tree #304: 36" Black Cherry (*Prunus serotina*):** Tree #304 is in the southeastern part of the property.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #304 is specified to be removed.

- 7. Tree #309*: 35" Norway Spruce (*Picea abies*):** Tree #309 is a previously approved variance tree (V-10) in the southeastern part of the property.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #309 is specified to be removed.

- 8. Tree #312*: 43" Black Walnut (*Juglans nigra*):** Tree #312 is a previously approved variance tree (V-11) in the southeastern portion of the property.
 - **Field Condition:** Good-Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #312 is specified to be removed.

- 9. Tree #314: 31" Horse Chestnut (*Aesculus hippocastanum*):** Tree #314 is in the southeastern portion of the property.
 - **Field Condition:** Poor
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #314 is specified to be removed.

- 10. Tree #316: 44" Silver Maple (*Acer saccharinum*):** Tree #316 is a previously approved variance tree (V-1) that was on the 2010 Variance Tree Request for FFCP #820090030 located at the southeastern portion of the property.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #316 is specified to be removed.

- 11. Tree #320: 43" White Oak (*Quercus alba*):** Tree #320 is located at the southeastern portion of the property.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #320 is specified to be removed.

- 12. Tree #322: 37" White Oak (*Quercus alba*):** Tree #322 is located at the southeastern portion of the property.
 - **Field Condition:** Good-Fair
 - **Proposed CRZ Impact:** 27.18%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #322 is specified to be saved.

- 13. Tree #327: 34" Pignut Hickory (*Carya glabra*):** Tree #327 is within the forested area in the southwestern part of the site.
 - **Field Condition:** Good
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #327 is specified to be removed.

- 14. Tree #328: 37" Black Gum (*Nyssa sylvatica*):** Tree #328 is within the forested area in the southwestern part of the site.
 - **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.

- **Disposition:** Tree #328 is specified to be removed
- 15. Tree #329: 33" Tulip Poplar (*Liriodendron tulipifera*):** Tree #329 is within the forested area in the southwestern part of the site.
- **Field Condition:** Good
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #329 is specified to be removed
- 16. Tree #346: 30" White Oak (*Quercus alba*):** Tree #346 is within the forest at the northeastern part of the property.
- **Field Condition:** Good
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #346 is specified to be removed.
- 17. Tree #355: 31" White Oak (*Liriodendron tulipifera*):** Tree #355 is within the forest at the northeastern part of the property.
- **Field Condition:** Fair-Good
 - **Proposed CRZ Impact:** minimal at 11.99%
 - **Disposition:** Tree #355 is specified to be saved.
- 18. Tree #360: 54" Tulip Poplar (*Liriodendron tulipifera*):** Tree #360 is within the forest at the northeastern part of the property. Old tag tree #9.
- **Field Condition:** Fair
 - **Proposed CRZ Impact:** 16.98%
 - **Disposition:** Tree #360 is specified to be saved.
- 19. Tree #362: 30" White Oak (*Quercus alba*):** Tree #362 is within the forest at the northeastern part of the property.
- **Field Condition:** Fair
 - **Proposed CRZ Impact:** moderate at 24.72%
 - **Disposition:** Tree #362 is specified to be removed.
- 20. Tree #989: 39" No. Red Oak (*Quercus rubra*):** Tree #989 is within the forest in the southern part of the property.
- **Field Condition:** Fair
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #989 is specified to be removed.
- 21. Tree #990: 44" No. Red Oak (*Quercus rubra*):** Tree #990 is within the forest in the southern part of the property.
- **Field Condition:** Poor
 - **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
 - **Disposition:** Tree #990 is specified to be removed.
- 22. Tree #991: 34" No. Red Oak (*Quercus rubra*):** Tree #991 is within the forest at the southern part of the property.

- **Field Condition:** Fair
- **Proposed CRZ Impact:** 100%, as the tree is within the limits of disturbance.
- **Disposition:** Tree #991 is specified to be removed.

23. Tree #1000: 36" Pin Oak (*Quercus palustris*): Tree #1000 is off-site across Rock Spring Drive at the southern part of the property.

- **Field Condition:** Fair
- **Proposed CRZ Impact:** minimal at 4.14%
- **Disposition:** Tree #1000 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 Applicant proposes an Amendment to the approved development of the Rock Spring Centre, the 53.40 acres property located within the Rock Spring Master Plan area (“the Property” or “Rock Spring Centre”) which lies in Bethesda, Montgomery County, Maryland along Old Georgetown Road and between Rockledge Drive and Rock Spring Drive.

The Rock Spring Centre was initiated when the Property was rezoned from the Residential High-Rise zone (R-H) to the MXPDP zone. A low-rise, multi-unit apartment project was approved and built by Avalon Bay that contains 386 apartment units (Site Plan No. 82000034A). Two (2) high-rise residential buildings also have received Site Plan approval but have yet to be built (Site Plan No. 820030368 and Site Plan No. 82004017B).

The site is currently developed with a low-rise, multi-unit apartment, roads and a stormwater management facility, existing forest in a Category I Forest Conservation easement, and the original Estate house which is uninhabited. Rock Spring Centre is located in the northeast quadrant of the intersection of Rockledge Drive and Rock Spring Drive in the Rock Spring Master Plan area. The Property is bounded by the 1-270 interchange to the north, Old Georgetown Road to the east, Rock Spring Drive to the south, and Rockledge Drive to the west. Surrounding properties include several office buildings, retail center, residential communities, and Walter Johnson High School. The Property was approved under the MXPDP zone.

The Property has access to major transportation networks and is in close proximity to other commercial/industrial users. In total, the Rock Spring Centre is approved for 1,250 multi-family dwelling units, 549,900 square feet of office uses, 210,000 square feet of retail uses, a 200-room hotel, 90,000 square feet of entertainment uses, and a 30,000 square foot community center that is no longer a requirement of the Project.

Under Section 5-1611, variances may be granted

- (a) ... where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to an Applicant.
- (b) Variance procedures adopted under this section shall:
 - (1) Be designed in a manner consistent with the spirit and intent of this subtitle; and
 - (2) Assure that the granting of a variance will not adversely affect water quality.

The variance is in conformance with Section 22A-21(d) of the Montgomery County Code because the granting of the variance (i) will not confer a special privilege on the Applicant that would be denied to

others; (ii) is not based on conditions or circumstances which result from the action of the Applicant; (iii) is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property; and (iv) will not violate State water quality standards or cause measurable degradation in water quality. Each of these is described in detail below.

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

The Property is located within the Rock Spring Master Plan area, in a very urbanized area of Montgomery County, directly across from Walter Johnson High School and adjacent to Old Georgetown Road, in Montgomery County, MD. As part of previous approvals, including a Final Forest Conservation Plan #820090030 for the entire site, there has been prior development within the project limits. This tree variance request reflects trees that have received variance approval as well as additional variance trees which fall outside of the existing Category 1 Tree Forest Conservation Easement.

The Property provides an excellent opportunity for development at a density reflective of its location adjacent. The Property was approved under the MXP zone which reflects the appropriateness of the Property for high-density mixed-use development.

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.

Because of the location and dispersal of the trees throughout the Property, and the extent of their critical root zones, the inability to remove the Subject Trees would prevent the Applicant from making any significant changes to the site or developing the Property in a manner that is consistent with the current developments. The trees are all within the limits of proposed development on the previously approved plans, were approved for removal as part of those plans, and are now included because they have reached specimen tree size. It would also deprive the Applicant of opportunities enjoyed by others with similarly situated properties in the CR Zone, in close proximity to transit. Any redevelopment of the Property, consistent with the approved CR zoning, would require similar levels of disturbance and tree loss.

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.

The variance will not violate state water quality standards or cause measurable degradation in water quality. The Subject Trees are not located within a stream buffer, wetland or special protection area.

In connection with site development described above, the Applicant is proposing improvements stormwater management per current regulations. 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 micro-bio retentions (planter-type) located on-site, underground stormwater management storage and treatment systems located on-site, and green roofs on buildings.

The current Maryland Department of the Environment (MDE) Stormwater Management regulations that Montgomery County has adopted require the use of environmental site design (ESD) techniques to treat the runoff from 1 inch of rainfall on all new developments, where stormwater management is required. Per MDE's 2000 Maryland Stormwater Design Manual, "the criteria for sizing ESD practices are based on capturing and retaining enough rainfall so that the runoff leaving the site is reduced to a level equivalent to a wooded site in good condition." Therefore, the variance will not affect water quantity standards and no measurable degradation in water quality will be experienced because effective mitigation measures are being provided.

4. Provide any other information appropriate to support the request.

The subject property is located in a highly visible and desirable location in North Bethesda and is an important opportunity to provide housing and other uses. As mentioned above, the proposed development has an approved Final Forest Conservation Plan #820090030 for the entire site. The site project is the continuation of development to the area outside of the Category 1 Tree Forest Conservation Easement located in the center of the site.

Thank you for your consideration of this Tree Variance Request. We believe that the supporting information provided with this letter clearly demonstrate that the grant of the Variance pursuant to Section 22A-21(b) of the Code is appropriate in this case. If you have any questions or need more information, please do not hesitate to contact us so that we may discuss this matter further. We appreciate your consideration of this request.

Sincerely,

VIKA Maryland, LLC

Douglas Koeser, RLA, ISA
Senior Landscape Architect - Certified Arborist



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