

July 29, 2024

Sean Martin  
Energy Renewal Partners, LLC  
4330 Gaines Ranch Loop  
Suite 110  
Austin TX 78735

Re: CP Crane Power Plant  
1021 Carroll Island Road  
Critical Area Administrative Variance  
Tracking Number 05-24-4120

Dear Sean Martin:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 2 Critical Area was received on May 8, 2024. The request seeks a variance to impact 0.24 acres of Critical Area buffer, including non-tidal wetlands for a battery energy storage system (BESS) and associated substation. The BESS will be used to store electricity during low-demand times and offer it back to the grid during high demand times. The property owner will mitigate for the impact by planting 0.72 acres of buffer onsite with Maryland native trees.

The Director of EPS may grant a variance to the Chesapeake Bay Critical Area (CBCA) regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.12.04. There are seven (7) criteria listed in COMAR 27.01.12.04 that shall be used to evaluate the variance request. All seven of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. This is a redevelopment project. A coal-fired power plant existed on the site prior to this variance request. The power plant has been demolished and the proposed BESS will be located in areas that were previously utilized for the power plant. Construction of the BESS will impact a small isolated non-tidal wetland located in an area of the site that was previously developed. This wetland is of poor quality due to impacts from the previous development and is isolated from other water resources onsite. The majority of the forest, tidal and non-tidal wetlands, and buffer areas onsite will not be impacted by the proposed development. The inability to redevelop a former commercial site without impacting an isolated non-tidal wetland of poor quality while protecting the majority of the higher quality resources onsite represents an unwarranted hardship for the property owner. Therefore, the first criterion is met.

The second criterion requires that a literal enforcement of the regulations would deprive

the applicant of a use of land or a structure permitted to others in accordance with the provisions of the local Critical Area program. This project will result in the redevelopment of a former coal-fired power plant with minimal impacts to forest and water resources onsite. There are other commercial properties in the Critical Area that have been redeveloped and been allowed to impact buffer areas. Not allowing the property owner to impact a small area of Critical Area buffer to redevelop a former commercial site would deprive the property owner of rights regularly enjoyed by other property owners. Therefore, this criterion is met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting this variance will not confer upon the applicant any special privilege that would be denied to other properties or structures within the Critical Area. Other property owners with similar buffer constraints would be granted variance approval to redevelop a commercial site with minimal buffer impacts. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant. The need for this variance is not the result of any actions undertaken by the property owner. This variance request is a result of the location of the non-tidal wetland onsite and its proximity to previously developed areas of the property. Therefore, the fourth criterion has been met.

The fifth criterion requires that the variance request does not arise from any conforming or nonconforming condition on any neighboring property. The variance did not arise from any conforming or nonconforming condition on a neighboring property.

The sixth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area. The non-tidal wetland to be impacted by the proposed development is isolated and of poor quality. The majority of the forest, tidal waters, tidal wetlands, and non-tidal wetlands onsite will not be impacted by the BESS. The Critical Area buffer will be planted with Maryland native trees at a 3:1 ratio to mitigate for the proposed buffer impacts. The planted trees and Critical Area buffer will be permanently protected with a Critical Area Easement. Sediment control devices will be installed around the proposed development to prevent sediment from leaving the site and impacting other buffer and forest areas. As a result, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

The seventh criterion requires that the granting of the variance would be in harmony with the general spirit and intent of the Critical Area law. The site includes 22.8 acres of forest and extensive buffer areas associated with tidal waters and tidal and non-tidal wetlands. The majority of these resources will not be impacted because the site will be redeveloped utilizing areas of the property that were formerly used by the power plant. The buffer area to be impacted with the redevelopment is associated with an isolated non-tidal wetland of poor quality. Mitigation will be required for the proposed impact to this wetland and its buffer and will result

in the planting of 0.72 acres of other buffer areas onsite. As a result, we find that the granting of this variance would be in harmony with the general spirit and intent of the Critical Area Law.

Based upon our review, this Department finds that the above criteria have been met, or will be met through implementation of the conditions outlined below. Therefore, the requested variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the following conditions:

1. This note must be added to all future plans:

“A variance (Tracking Number 05-24-4120) was granted by Baltimore County Department of Environmental Protection and Sustainability from Chesapeake Bay Critical Area requirements to impact 0.24 acres of Critical Area buffer for a battery energy storage system and associated substation. Mitigation for the buffer impacts will be addressed with the planting of Maryland native trees in other buffer areas onsite.”

2. The Critical Area Buffer impacts must be mitigated at a 3:1 ratio. A Critical Area Management Plan (CAMP) detailing the proposed mitigation for the buffer impacts must be submitted to EIR for review and approval prior to permit approval. The CAMP must be implemented within two years of permit approval.
3. A Critical Area Easement (CAE) must be recorded in the Land Records of Baltimore County to protect the buffer areas to be planted. The CAE must be recorded in the Land Records within one year of permit approval.
4. CAE signs must be installed along the easement boundary to delineate the limits of the CAE. The CAE sign locations must be shown on the CAMP and installed prior to permit approval.
5. An Environmental Agreement and a planting security for the variance mitigation must be submitted to our office prior to permit approval.

Changes in site layout may require submittal of revised plans and an amended variance request. Please be advised that Baltimore County may not issue a permit for the activity that was the subject of the variance application until the applicable 30-day appeal period has elapsed pursuant to COMAR 27.01.12.07 C.

Please sign the statement on the following page and then return the signed, original letter to this Department c/o Mr. Gris Batchelder of Environmental Impact Review. Failure to return a signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

