

February 23, 2024

James Whitacre, P.E.  
Managing Partner  
Advanced Civil Design, Inc.  
781 Science Boulevard, Suite 100  
Gahanna, OH 43230

RE: Stormwater Drainage Manual (SWDM) Type III Variance Request – Scioto Darby Preserve Commercial Development

Mr. Whitacre:

This letter is in response to the subject variance request to the SWDM Sections 1.3.2 *Permanent Protection of the Stream Corridor* and 1.3.3 *Prohibited Uses in the Stream Corridor Protection Zone*. More specifically, SWDM Section 1.3.2 provides for permanent protection of the Stream Corridor Protection Zone (SCPZ), and Section 1.3.3 lists specific activities and facilities prohibited within the SCPZ, which include filling, excavation and other changes in topography within the SCPZ. A variance is requested to allow construction of an access drive to provide access to the proposed development, which would require impacting of an existing jurisdictional wetland contiguous with the existing stream's SCPZ, thus being part of it. The proposed drive would be parallel to the stream, requiring removal of the existing wetland.

The request was initially submitted to the City on August 13, 2021. As part of the Variance review process, the subject Variance request was posted on the City website on September 2, 2021 to solicit public comments. The Variance Review Committee reviewed the subject Variance Request on September 8, 2021, and sent comments to the applicant on September 13, 2021.

A revised variance application was submitted to the Variance Review Committee on December 18, 2023. The Variance request was posted on the City website on December 27, 2023 to solicit public comments. Public comments from FLOW were received on January 7, 2024. The Variance Review Committee reviewed the subject Variance Request on January 10, 2024.

The submitted Variance Request was found by the Variance Review Committee to be in compliance with the SWDM Stream Protection Type III Variance application requirements.

Three alternatives were considered within the application for the requested Section 1.3 variance - Full Compliance, Minimal Impact and the Preferred Alternative.

- Full Compliance Alternative – Access to the development site would be constructed from Scioto Darby Executive Court across the existing stream. 8,157 sf of the existing SCPZ, and 52 lf of the stream would be directly impacted. Such crossing and its associated SCPZ impact would be permitted



under the SWDM Section 1.3.4, but would require mitigation in the form of reforestation/revegetation. The cost of such crossing would also financially impact the project to a degree of making it unviable.

- Minimal Impact Alternative – Access would be provided from the adjacent property drive to the east. A portion of the existing wetland/SCPZ within the footprint of the proposed drive would be impacted, with a total impacted SCPZ of 6,177 sf. The remaining wetland/SCPZ would also be negatively affected due to a lack of hydraulic connection to the stream corridor.
- Preferred Alternative – Access would be provided from the adjacent property drive to the east, similarly to the Minimal Impact Alternative. The existing wetland would be removed, with the total SCPZ impact of 14,031 sf. The Applicant will provide the OEPA/ACOE Section 404/401 permit mitigation in the form of an in-lieu fee to a wetland bank. Additionally, to comply with the SWDM Type III variance mitigation requirements, the applicant proposes to provide a constructed wetland with the total surface area of 14,348 sf. The proposed constructed wetland will address the stormwater management needs of the development. It is also proposed to be used as a SWDM-required mitigation site for the existing wetland/SCPZ removal impact. A conservation easement is proposed to protect the mitigation area in perpetuity.

Upon reviewing and discussing the application submitted by the applicant, the Variance Review Committee agreed with the applicant that the Preferred Alternative with the proposed SCPZ mitigation plan represents the owner's team's good faith effort to comply with the SWDM stream protection requirements to the maximum practical extent. The Committee further agreed with the applicant's argument that the Full Compliance Alternative would result in a larger overall impact to the existing SCPZ than the Preferred Alternative. While the total extent of the proposed SCPZ impact under the Minimal Impact and the Preferred Alternative would be similar, the Preferred Alternative provides an enhanced water quality feature – a constructed wetland.

In light of the above, the subject Variance Request (Type III SWDM Section 1.3), Preferred Alternative is conditionally approved contingent upon the following stipulations:

- A conservation easement covering the footprint of the proposed constructed wetland must be provided to the City. The easement must allow post-construction Stormwater Control Practice (SCP) maintenance as required by the construction plans and the SCP Maintenance Agreement.
- A separate conservation easement based on the City standard conservation easement template will be required for the remaining SCPZ along the stream.
- A separate conservation easement will be required along the stream within the adjacent parcel 560-162439, 3170 Scioto Darby Executive Court due to the proposed work within that parcel.
- A City SCP and SCP access easements must be provided per the SWDM Section 4. Separate easements will be required for parcels owned by different entities.
- Additional native species trees will need to be added to the mitigation plan to address bare spots within the existing SCPZ.

- Storm CC-Plan and Stormwater Management Report must be submitted and approved by the City of Columbus. The plans shall include an SCPZ mitigation plan as conceptually described in the variance application.

No approval contained herein relieves or absolves the applicant of any provisions of applicable state or federal laws. Please contact PR/SRM Section Manager Greg Fedner, P.E. at 614-645-8072 with any questions.

Sincerely,



Robert S. Priestas, P.E., Administrator  
Division of Sewerage and Drainage

pc: Variance Review Committee  
File

