

December 7, 2022

Justin M. Muller, P.E.  
Kimley-Horn and Associates, Inc.  
7965 North High Street, Suite 200  
Columbus, OH 43235

RE: Stormwater Drainage Manual (SWDM) Type III Variance Request – Buckeye Rail Yard Redevelopment

Mr. Muller:

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 commercial business activities, filling, excavation and other changes in topography within the SCPZ. A variance is requested to allow construction of a large-scale industrial logistics warehouse space with proximate access to the interstate highway system and rail line transportation in the west Columbus area to meet local and regional distribution demands. The proposed project consists of construction of eight (8) commercial/industrial warehouse buildings totaling approximately 4.1m square feet on the previous Buckeye Rail Yard property. To facilitate proposed development of the site, the applicant, Buckeye XO, LLC, is proposing to impact 0.78 acres of jurisdictional wetland habitat, 0.23 acres of jurisdictional pond habitat, and the relocation of five (5) jurisdictional streams on the site, totaling 7,412 linear feet of stream habitat with associated 20.332 acres of the SCPZ.

The original request was submitted to the City on March 29, 2022. As part of the Variance review process, the subject Variance request was posted on the City website on April 13, 2022 to solicit public comments. Multiple public comments were received in response to the posting. The Variance Review Committee met and reviewed the subject Variance Request and public comments on April 28 and then on May 23, 2022. A site visit with the design team was conducted on May 4, 2022 to ascertain the existing site conditions, specifically streams crossing the site. As a result of the site meeting, a preliminary review of the initial application and subsequent discussions, comments have been provided to the applicant, addressing which was required to initiate a formal variance application review. An additional meeting was held with the applicant on June 1, 2022, and then the revised variance application was submitted to the City and subsequently posted on the City website for public commenting on June 14, 2022. Additional public comments have been received by the due date of the posting, and the Variance Review Committee has met on July 5 and 13, 2022. A tabulated and sorted list of public comments was provided to the applicant on July 28, 2022. An additional Variance Review Committee meeting to finalize the comments to the applicant was held on September 14, 2022, and the comments were provided to the Applicant on September 16, 2022. A meeting with the applicant was held on September 29, 2022 to discuss the comments.



The revised variance application addressing the comments was submitted to the City on October 17, 2022, and posted on the City website for public commenting the following day.

The Variance Review Committee has met on November 14, 2022 to review the revised submittal.

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 – This Alternative would include development of a small southern portion of the site, while completely avoiding any site development activities within jurisdictional waters of the United States and their associated SCPZ areas while still attempting to fulfill the overall project purpose and need. As site development would take place outside of any delineated jurisdictional stream or wetland habitat or protected corridor areas, and generally be confined to the southern portion of the site only. This Alternative was found to be unviable due to its inability to meet the proposed redevelopment’s functional and economic needs.
- Minimal Impact Alternative – This Alternative would include avoiding the majority of proposed impacts to jurisdictional waters of the United States and their associated SCPZ areas, while attempting to still fulfill the overall project purpose and need. Proposed impacts for this Alternative would include 3,117 linear feet (255.00 lf piped) of jurisdictional stream habitat, 0.78 acre of jurisdictional wetland habitat, and 0.32 acre of jurisdictional pond habitat. Impacts to 4,295 linear feet of stream habitat would be avoided. This Alternative would require an overall reduction of the square footage of the proposed warehouse space, resulting from elimination of some buildings and the size reduction for some others. This Alternative was also similarly found to be unviable due to its inability to meet the proposed redevelopment’s functional and economic needs.
- Preferred Alternative – This Alternative fulfills the overall project purpose and need by providing an economically and functionally sufficient acreage of buildable and developable land on the Site, while also including a method to minimize environmental impacts and providing suitable mitigation for the proposed impacts on-site. The Preferred Alternative has been identified as the Least Environmentally Damaging and Practicable Alternative (LEDPA) in the associated project’s USACE Section 404 permit application and Ohio EPA Section 401 water quality certification application. The Preferred Alternative will result in impacts to approximately 20.332 acres of existing SCPZ on-site associated within the five (5) streams, two (2) wetlands, and one (1) pond located on the site. Approximately 7,412 linear feet of jurisdictional intermittent and perennial stream habitat and 0.78 acre of jurisdictional forested and emergent wetland habitat on-site are proposed to be impacted. The proposed impacts for this Alternative would include filling/grading of wetland and pond habitat, and relocation/restoration of on-site stream and wetland habitat which would occur within the boundaries of the site.

As mitigation for the proposed on-site stream impacts, the existing streams are proposed to be relocated, which will yield approximately 8,283.00 linear feet of open stream channel and 1,189.00 linear feet of encapsulated (piped) stream channel, resulting in a total of 9,472.00 linear feet of relocated on-site stream channel. This results in a net gain of approximately 1,126.00 linear feet of open stream channel. The relocated stream portions will be designed using natural stream design principles and the SCPZ will be re-established along the relocated stream segments to mitigate for proposed impacts to the existing SCPZ. The newly established SCPZ will result in approximately 24.19 acres total, yielding a net gain of 3.858 acres over the existing SCPZ acreage (20.332 acres).

The SCPZ is proposed to be established over the piped/encapsulated stream portions on-site as well, maintaining the continuous SCPZ throughout the site to the greatest extent practically possible. The proposed mitigation plan exceeds the SWDM-required 1:1 mitigation ratio for on-site mitigation. The entire existing SCPZ area was surveyed for existing trees and will be reforested to meet the minimum required tree planting density of 136 trees per acre within the proposed SCPZ area per City guidance. Additional trees and woody species will be planted within the forested wetland habitat area (0.57 acre) to meet the USACE and Ohio EPA performance criteria of 400 native, live, and healthy woody plants per acre (of which at least 200 are tree species), to be present at the end of the proposed monitoring period. A conservation easement will be placed on the 24.19 acre SCPZ of the relocated streams and created wetland areas. On-site wetland creation is currently proposed to offset impacts to the 0.78 acre of jurisdictional wetland habitat by creating 0.82 of wetland habitat within the site, maintaining a 1:1 mitigation ratio. The existing 0.49 acre of jurisdictional forested wetlands and 0.29 acre of emergent wetlands currently proposed for impact will be mitigated for by the creation of the same wetland habitat types and approximate size at a new location within the site,

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 development 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 both the Full Compliance and the Minimal Impact Alternatives would impact economic and functional viability of the proposed redevelopment project to the point of making it infeasible.

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

- The applicant must fully and satisfactorily address all comments provided by the City to the applicant on September 16, 2022 during the plan preparation stage of the project.
- 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 above and in the variance application submitted to the City on October 17, 2022, and as required to address the City September 16, 2022 comments.
- The proposed new streams and their SCPZ as well as the remaining existing streams and their SCPZ will require continuous uninterrupted conservation easements to protect these areas in perpetuity.

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,

A handwritten signature in green ink, appearing to be 'RSP', with a long horizontal flourish extending to the right.

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

pc: Variance Review Committee  
File