

June 14, 2024

Henry Leskinen
Eco-Science Professionals
P.O. Box 5006
Baltimore, MD 21057

Re: Executive Plaza
Forest Conservation Variance
Tracking # 03-24-4112

Dear Henry Leskinen:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (DEPS) on May 29, 2024. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 10.6 acres encompassed by the proposed subdivision for a future residential development and 3.2-acre area of disturbance outside the subdivision for a total 13.8-acre net tract area rather than the entire 22.4-acre property to be subdivided. The 22.4-acre property is predominantly impervious, devoid of forest, and no specimen trees would be impacted by the redevelopment. Full compliance would require 3.4 acres of afforestation as opposed to the 2.1 acres required if the 13.8-acre subdivision and parking access outside the subdivision are used.

The Director of DEPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to build a 300-unit apartment complex with an associated parking garage. The site is currently developed with asphalt parking lots and multiple office buildings that have existed prior to the effective date of the Forest Conservation Law. The improvements will occur on portions of the site that are currently parking lots. Full application of the law would not preclude the redevelopment, since the site is already developed as a business park and associated parking lots. Therefore, denying this variance would not deprive the petitioner of all beneficial use of the property; thus, this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. Rather than general conditions in the neighborhood, the petitioner's plight is due to unique circumstances associated with the amount of afforestation required under full compliance as opposed to that required for the proposed apartment project. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The existing parcel is currently utilized as a business park. The proposed subdivided area and parking access outside the subdivision encompasses an area that is utilized as parking lots with pervious, landscaped parking lot islands. Additionally, no forest or specimen trees would be cleared. The business park has been present in the community since at least 1971, and new, similar-density housing developments are present in the neighborhood. Therefore, we find that the requested variance will not alter the essential character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that there are no wetlands, streams or floodplains on or near the site. Moreover, current storm water quality management regulations will be met in constructing the addition and driveway improvements. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions or created circumstances necessitating this variance request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of DEPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Although subdivision is proposed, its intent is to redevelop a predominantly impervious executive park, and it will not increase the impervious footprint of the development. Given that redevelopment is encouraged to minimize sprawl, DEPS has determined that reducing the afforestation obligation to facilitate redevelopment of this property as an apartment complex would be consistent with the spirit and intent of the Forest Conservation Law. Furthermore, no impacts to forest or water quality would result from the proposed redevelopment. Therefore, this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. Based on considering the project's 13.8-acre LOD as the net tract area, 2.1-acres of afforestation are required. This afforestation shall be addressed at a DEPS-approved forest planting bank or by paying a \$50,311.8 fee-in-lieu of afforestation, should no bank be available. The enclosed bank letter shall serve as the instrument of agreement with the bank operator. The executed bank letter documenting the purchase or a \$50,311.8 check made payable to Baltimore County must be submitted to DEPS prior to our approval of any grading or building permit.
2. A forest conservation plan reflecting the terms of this variance must be submitted to DEPS and approved prior to approval of any grading/sediment control plan or permit, whichever comes first.
3. This variance applies solely to the subject redevelopment project and does not exempt any future development activity at this property from full compliance with Baltimore County's Forest Conservation Law.
4. A note must be added to all subsequent plans stating: A variance to the Forest Conservation Law (tracking # 03-24-4112) was granted by Baltimore County DEPS to base the afforestation requirement on the project's 13.8-acre limit of disturbance rather than the entire 22.4-acre property. Conditions were placed on this approval to ensure the spirit and intent of the Forest Conservation Law were met.

Please have the property owner sign the statement below and return a signed copy of this letter to this Department. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

This variance is approved by the Director of the Department of Environmental Protection and Sustainability on _____. Any changes to site layout may require submittal of revised plans and a new variance request.

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If you have any questions regarding this correspondence, please call Jannifer Anderson at (410) 887-3980.

Sincerely yours,

Horacio Tablada
Director

HT/jda

Enclosure

c. Paul Guilio, Hill Management Services, Inc.

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Property Owner' Signature

Date

Printed Name