

May 24, 2016

Mr. Devin Leary
Human & Rohde Inc.
512 Virginia Ave.
Towson, MD 21286

Re: Bright Meadow Apartments
Forest Conservation Variance
Tracking # 04-16-2225

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was received by this Department on April 26, 2016. This request proposes to both remove one specimen tree and base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the approximately 0.1-acre limit of disturbance for constructing a clubhouse rather than the entire 6.6-acre apartment complex. No impacts to forest are proposed. The specimen tree requested to be removed is a 31.5-inch DBH silver maple in fair condition.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the 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 (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) 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 construct a clubhouse and is requesting a reduction of the afforestation requirement as well as to remove a specimen tree. However, full application of the law to the entire property would not deprive the applicant of beneficial use of the property, as the property has already been developed as an apartment complex. Therefore, we find that 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

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conditions of the neighborhood. The petitioner's plight is due to unique circumstances associated with meeting the full afforestation requirement and avoiding the specimen tree while constructing the clubhouse rather than general conditions in the neighborhood. 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 proposed clubhouse would be an amenity to renters in the longstanding apartment complex. Consequently, granting this variance will not alter the essential character of the neighborhood. Therefore, we find 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. The clubhouse is proposed outside of the Forest Buffer and any forest. Moreover, storm water management requirements will be met in its design and construction. Therefore, we find 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 taken no prior actions necessitating this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on the limit of disturbance and allowing removal of one specimen tree in order to construct the clubhouse would be consistent with the spirit and intent of the Forest Conservation Law given that the specimen tree would be mitigated, and the proposed development activity would occur on non-forested area on the property. 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 with the following conditions:

1. Prior to issuance of any permit, an \$865.25 fee in lieu of mitigation shall be paid to Baltimore County for the 31-inch DBH silver maple to be removed.
2. A final forest conservation plan (FCP) reflecting this variance shall be submitted to EPS and approved prior to permit approval. The FCP may be combined with the required forest buffer protection plan.

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3. This variance does not exempt future development activities at this site from compliance with Baltimore County's Forest Conservation Law. Due to the net tract area being based on a limit of disturbance of a tenth of an acre, there is no afforestation required.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the person(s) responsible for meeting the conditions of the variance approval sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. 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.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

- c. Caplan-Lowergate Limited Partnership
Ms. Marian Honecзы, Maryland DNR

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

Owner's Signature

Date

Printed Name

VJG/ges