

July 7, 2016

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

RE: Crescent Pointe Apartments
Forest Conservation Variance
Tracking #04-16-2271

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 June 30, 2016. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the approximately 0.2-acre limit of disturbance for repairing two timber retaining walls rather than the entire 15.2-acre apartment complex. No impacts to streams, wetlands, forest, or specimen trees are proposed. If the variance is granted, no planting obligation would result.

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 repair the retaining walls to maintain the apartment property and is requesting a reduction of the afforestation requirement. However, full application of the law to the entire property would not deprive the applicant of beneficial use of the property, only the cost of complying with this law. 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 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 repair work would not change the longstanding use of the property which is consistent with the surrounding residential development pattern. Consequently, granting this variance will not alter the essential character of the neighborhood, and 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. No impacts to streams, wetlands, forest, or specimen trees would occur in performing the repairs. 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 in order to repair the existing structures would be consistent with the spirit and intent of the Forest Conservation Law given that the proposed development activity would occur on non-forested area, and no impacts to water quality would result from granting the variance. 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. A note must be on all plans for this project stating: A variance to Baltimore County Forest Conservation Law was granted by DEPS on July 7, 2016 to allow forest conservation requirements to be based on the 0.2-acre limit of disturbance rather than the entire 15.2-acre site.
2. A final forest conservation plan (FCP) reflecting this variance shall be submitted to EPS and approved prior to permit approval.

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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. This variance does not exempt future development activities at this site from compliance with Baltimore County's Forest Conservation Law.

Please have the person(s) responsible for meeting the conditions of the variance approval sign the statement on the following page 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

VJG/ges

c. Crescent Pointe LLLP
Mr. Stu Darling, Colbert Matz, Rosenfelt, Inc.

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