December 17, 2018

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

Re: JEL Landscaping & Ground Maintenance
10220 Liberty Road
Forest Conservation Variance
Tracking #04-18-2857

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on November 19, 2018, along with a simplified forest stand delineation and a preliminary forest conservation plan and worksheet. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.5-acre limit of disturbance (LOD) rather than the entire 1.9-acre property to construct a 9,413-square foot storage building in the place of the existing single family dwelling. No forest, specimen trees, streams, wetlands, or associated buffers exist onsite. Using the LOD as the net tract area on the forest conservation worksheet would require the applicant to provide 0.1 acre of reforestation instead of 0.3 acre required under full compliance. The simplified forest stand delineation and preliminary forest conservation plan and worksheet will be addressed in separate correspondence.

The Director of the Department of Environmental Protection and Sustainability (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 to 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 all beneficial use of his property. The property currently contains a single family dwelling and driveway. As such, the petitioner is already realizing beneficial use of the property without the proposed development. Furthermore, stating in the application that providing

forest conservation for the 1.9 acre property when only 0.5 acres is being disturbed does not deprive the petitioner of all beneficial use of his property, given that the development would be allowed to proceed without site plan changes. Consequently, 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 conditions of the neighborhood. The petitioner claims that his plight is the cost of full compliance with the law, which is unrelated to general conditions in the neighborhood or unique circumstances. Therefore, we find that the second criterion has not 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 petitioner claims that his plight is the cost of full compliance with the law, which is unrelated to the essential character in the neighborhood. As noted above, the development would be allowed to proceed without site plan changes if the variance is disapproved. Thus, there is no hardship related to this criterion, and the criterion has not 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 project will not impact any streams, wetlands, floodplains, steep slopes, or forest. As a result, granting the variance will not adversely affect water quality; thus, 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 creating a condition or circumstance necessitating this variance prior to its request. 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 the State-mandated forest conservation law. The applicant requests that afforestation requirements apply to only the 0.5 acre limit of disturbance rather than the entire 1.9 acre property, and that any future expansion would warrant compliance with the forest conservation law at that time. However, a dwelling, driveway, septic reserve area already occupy the remainder of the property. Furthermore, according to the plan submitted with the application, the new commercial use will utilize the existing driveway and connect to the existing septic tank. Thus, no justification has been given to apply the forest conservation law to the entire site rather than just the limit of disturbance, and we

do not find granting of the requested variance to be consistent with the spirit and intent of the forest conservation law.

Based on our review, this Department finds that the required variance criteria have not been met. Therefore, the requested variance is hereby denied, in accordance with Section 33-6-116 of the Baltimore County Code.

If you do not concur with the above decision, you may file an appeal with the Baltimore County Board of Appeals within thirty (30) calendar days of the date of this letter. The appeal must be in writing and state concisely why you believe the decision was improper. Address the appeal to the Baltimore County Board of Appeals and send it to the address below, accompanied by a $225.00 check made payable to Baltimore County Government to cover the appeal fee.

Ms. Patricia M. Farr
Environmental Impact Review
Baltimore County Department of
Environmental Protection and Sustainability
111 W. Chesapeake Avenue, Room 319
Towson, Maryland 21204

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

DVL/lbe

c. Mr. Jason Ludwig, Little Roundtop Development LLC
Mr. Dick Matz, Colbert Matz Rosenfelt

The petitioner claims that his plight is the cost of full compliance with the law, which is unrelated to general conditions in the neighborhood or unique circumstances.