

December 18, 2015

Mr. John Trueschler
Tesseract Sites, Inc.
401 Washington Avenue, Suite 303
Towson, MD 21204

Re: Pasternak Property at 240 Timber Grove Road
Forest Conservation Variance Request
Tracking # 02-15-1915

Dear Mr. Trueschler:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on December 12, 2014. This request would allow the removal of three (3) specimen trees to develop a 3-lot residential minor subdivision. The specimen trees to be removed are a 30-inch DBH sycamore in good condition, a 36-inch DBH silver maple in fair condition, and a 32-inch DBH white pine in fair condition. Review of this variance request was suspended pending submission and approval of a revised forest conservation plan addressing EPS review comments of that plan dated December 7, 2015.

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 all beneficial use of his property. Full application of the law to the entire property would deprive the petitioner of beneficial use of his property given the number and location of the specimen trees relative to the property boundaries and its design constraints. To fully protect these trees, no subdivision could occur. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that their plight is due to unique circumstances and not the general conditions of the neighborhood. The need for the requested variance arises from the unique circumstance of the number and location of the specimen trees onsite. Therefore, the plight is associated with the subject property rather than general conditions in the neighborhood. Consequently, 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 development is consistent with its current residential use and the surrounding residential neighborhood. Therefore, we find that the proposed development will not alter the essential character of the neighborhood; thus, 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. 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 on the property 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 Article 33 of the Baltimore County Code. Allowing the removal of three specimen trees for the redevelopment of a four-acre residential lot would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed development. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the 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. The removal of the three specimen tree shall be mitigated by payment of a \$2,799.50 fee in lieu of mitigation prior to issuance of any permits or approval of an Environmental Agreement. This fee is in addition to the planting required to meet the afforestation threshold.

Mr. John Trueschler
Pasternak Property
Forest Conservation Variance
December 18, 2015
Page 3

2. A note must be added to the FCP and minor subdivision plan stating:
“A variance to the Forest Conservation Law was granted by Baltimore County EPS on December 18, 2015 to allow the removal of three specimen trees. Conditions were placed on this variance to mitigate the loss of these specimen trees.”

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 property owner 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 there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

Vincent J. Gardina
Director

c. Marian Honeczy, 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

Owner’s Printed Name