

November 21, 2013

Mr. Benjamin Kulp
Site Resources, Inc.
14315 Jarrettsville Pike
P.O. Box 249
Phoenix, Maryland 21131-3388

Re: Bill Kidd's Toyota, Service Lot Demolition
Forest Conservation Variance
Tracking # 03-13-1722

Dear Mr. Kulp:

A request for a variance from the Baltimore County Code, Article 33, Title 6, Forest Conservation has been reviewed by this Department of Environmental Protection and Sustainability (EPS). This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.9-acre limit of disturbance rather than the entire 1.4-acre property. The proposed redevelopment activity includes razing the existing brick building and accessory uses and reconfiguring and expanding a portion of the existing parking lot. A vast majority of the limit of disturbance occurs on impervious surfaces.

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 make improvements to a car dealership property that existed prior to the effective date of the Forest Conservation Law to keep the facility viable. Full application of the law to the entire property would not deprive the

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petitioner of beneficial use of his property, only affect the cost of complying with the 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 conditions of the neighborhood. The proposed improvements are due to unique circumstances associated with the aging property 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 redevelopment is in keeping with the existing commercial/industrial uses of the surrounding properties. Therefore, the scope of the redevelopment project 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. We have determined that the limit of disturbance is far enough removed from the stream and floodplain that water quality will not be adversely impacted. Furthermore, a micro-bioretenion facility is proposed to treat a portion of previously untreated parking lot runoff. 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 prior to requesting 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 for proposed improvements to an existing car dealership 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.

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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 project's 0.1-acre afforestation requirement shall be met by paying a \$2,178.00 fee-in-lieu **OR** by purchasing credit at an EPS-approved forest retention bank. A bank authorization letter is enclosed for your use. Prior to issuance of any grading permits, the fee shall be paid to EPS, or the signed bank letter shall be returned to EPS indicating that retention bank credit has been purchased.
2. This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law.

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 an amended variance request.

Please have the property owner 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 Michael S. Kulis at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

VJG/msk

Enclosure

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

Property Owner's/Contract Purchaser's Signature Date

Property Owner's/Contract Purchaser's Printed Name