

March 4, 2013

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

Re: Long Shadow Property  
Forest Conservation Variance Request  
Tracking Number 03-12-1565

Dear Mr. Leary:

A request for a variance from Baltimore County's Forest Conservation Law has been received by the Department of Environmental Protection and Sustainability (DEPS). This request proposes to allow 17,000 square feet of impact to a recorded Forest Conservation Easement for the continued use of a pool house, aviary, barnyard, other outbuildings and bridal trail, all of which existed prior to the inception of the Forest Conservation Law. Use of 16,275-square feet of this Forest Conservation Easement will be discontinued. To mitigate the potential forest lost to continued use, reforestation of 17,000 square feet is proposed within unforested Forest Buffer Easement onsite. A variance to the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains is also being sought to continue other agricultural uses onsite and will be addressed in separate correspondence.

The Director of DEPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County 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 three 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 that the petitioner show that 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. Although the uses in the Forest Conservation Easement predate the easement and Forest Conservation Law, the petitioners are not being deprived of all beneficial use of, or reasonable return on their property given that there is area outside of Forest Conservation Easement available for

the various uses occurring in this easement, although these uses existed prior to the establishment of the easement. Nonetheless, 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 in the neighborhood. The Forest Conservation Easements were designed for the future subdivision and did not take into account the existing uses and structures on the farm. Continued use of the Forest Conservation Easements, as proposed, is due to unique circumstances associated with the subject property and the property owners' needs rather than general conditions in the neighborhood. Therefore, we find that this 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. Only a 17,000 square foot (0.39 acre) area of existing Forest Conservation Easement on the approximately 29-acre property is proposed for continued agricultural and residential uses, which are consistent with the character of the rural neighborhood. Consequently, 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 portion of the Forest Conservation Easement to remain disturbed is far removed from riparian resources. Furthermore, 17,000 square feet of existing Forest Buffer Easement are to be afforested as part of the mitigation for this variance. 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 which is the result of actions taken by the petitioner. The petitioner has not performed any actions resulting in conditions or circumstances to necessitate this special variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of DEPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing 17,000 square feet of impact to Forest Conservation Easement for the continued uses that predate the Forest Conservation Law with adequate mitigation is consistent with the spirit and intent of the Forest Conservation Law. Therefore, this criterion has been met.

Based upon our review, this Department finds that 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 proposed 17,000 square feet of reforestation in the Forest Buffer Easement shall be completed by June 15, 2013 or prior to sale of any additional building lots or prior to issuance of any building permits for the resubdivision, whichever comes first.
2. The limits of the undisturbed portion of the Forest Conservation Easement, as modified by this variance, shall be posted at 100-foot intervals or at any turn with "Forest Conservation-Do Not Disturb" signs along its entire length (see enclosure in the companion Forest Buffer Variance for sign details). Surveyed limits of the full, recorded environmental easements (a Forest Buffer Easement also exists onsite) shall be clearly marked in the field at 150-foot intervals with permanent at-grade markers to facilitate their identification. The appropriate signs shall be installed at the outer easement limit to facilitate proper identification of easement limits. The signs and markers must be installed by June 15, 2013, prior to the sale of any property within the 29-acre resubdivision, or issuance of any permits, whichever comes first.
3. The reforestation and protective measures shall be detailed on a revised Forest Conservation Plan (FCP) for this project. The revised FCP may be combined with the Forest Buffer Protection Plan (FBPP) required as a condition of companion Forest Buffer Variance. The final FCP/FBPP mylar must be revised and submitted to this Department for approval and imaging by May 1, 2013 or prior to sale of any additional building lots or issuance of any building permits for the resubdivision, whichever comes first.
3. The planting detailed on the FCP/FBPP shall be secured via the Environmental Agreement process at \$0.25 per square foot of planting area prior to June 1, 2013, approval of any permit or development plan, or the sale of any property within the 29-acre subdivision, whichever comes first.
4. A change in ownership or abandonment of existing use within the Forest Conservation Easement will render this variance null and void, and this Department shall enforce the full Forest Conservation Easement.
5. The following notes must be on all plans and plats for this resubdivision:
  - "A variance was granted on March 4, 2013 to Baltimore County's Forest Conservation Law to permit the continued existing use of 17,000 square feet of Forest Conservation Easement. Conditions were placed on this variance,

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including planting 17,000 square feet of Forest Buffer Easement to mitigate for any potential impacts to forest and water quality and posting of the easement.”

- “There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Sustainability.”
- “Any Forest Conservation Easement shown hereon is subject to protective covenants which are found in the Land Records of Baltimore County and which restrict disturbance and use of this area.”

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 party(-ies) responsible for meeting the terms of this variance 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 contact Mr. Michael S. Kulis at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG:msk

