



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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Marsha S. McLaughlin, Director

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April 23, 2010

MD & VA Milk Pro. Coop. Assoc.
8321 Leishear Road
Laurel, MD. 20723
ATTN: Dave Lutz

RE: WP-10-108 (MD. & VA. Milk Producers
Cooperative Association, Inc.)

Dear Mr. Lutz:

The Director of the Department of Planning and Zoning considered your request for a waiver from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request to waive Sections:

- **Section 16.155(a)(1)(ii) Applicability** which requires a Site Development Plan for any establishment of a use or change of use unless the Department of Planning and Zoning determines that the establishment or change in use will cause less than 5,000 square feet of site disturbance, that no significant alteration to access, parking, circulation, drainage, landscaping, structures, or other site features is required, and that the proposed use does not qualify as redevelopment that requires stormwater management in accordance with the Design Manual.
- **Section 16.115(c)(2)** which prohibits clearing, excavating, filling, altering drainage, or impervious paving on land located in a floodplain unless required or authorized by the Department of Planning and Zoning upon the advice of DILP, DPW, DRP, HSCD or MDE.
- **Section 16.116(a)**, which prohibits grading, removal of vegetative cover and trees, paving and new structures within 25 feet of a wetland in any zoning district or within 50 feet of a perennial streambank in nonresidential zoning districts.
- **Section 16.124(a)(2)**, which requires landscaping to be provided in accordance with the Subdivision Regulations, the Zoning Regulations, the Howard County Forest Conservation Manual and the Howard County Landscape Manual.
- **Section 16.1202(a)**, which requires forest conservation requirements to be met prior to development of any parcel of land 40,000 square feet in size or greater and prior to approval of a grading permit.

Approval is subject to the following conditions:

1. The amount of disturbance in the wetland buffer, the stream buffer and within the 100-year floodplain is limited to the following:
 - 10,600 square feet within the 25-foot wetland buffer as shown on the grading plan waiver exhibit dated 2/16/10.
 - 19,200 square feet within the stream buffer as shown on the grading plan waiver exhibit dated 2/16/10.

- 7,250 square feet within the 100-year floodplain as shown on the grading plan waiver exhibit dated 2/16/10.

2. A fee-in-lieu of \$15,976.00 (based on a 3.26 acre Net Tract Area) shall be paid to address forest conservation requirements.

3. Per the Health Department, discharge to the County manhole is **not** permitted.

Our decision was made based on the following:

Extraordinary hardships or practical difficulties:

If the waiver request were not approved the applicant would need to submit a site development plan and address landscaping and forest conservation. Requiring a site development plan to close existing ponds would require an undue amount of time for preparation, processing and review and would serve no real purpose except to show the filled ponds and the proposed new (smooth) grades. See also the justification submitted KCE dated February 16, 2010 and March 17, 2010.

Detrimental to the Public Interest:

Granting waivers to the above-referenced sections would not be detrimental to the public because the ponds are no longer needed, and therefore they would be removed and the area would be vegetatively re-stabilized. No other improvements are proposed and the existing gravel driveway will be used as the access road for the construction equipment. The ponds were originally constructed by excavating the soil and using this soil to construct the embankments. The applicant intends to use this same embankment material to backfill the ponds and create smooth grades-thus returning the site to its original condition. The applicant would apply for grading permit for the necessary grading activity. See also the justification submitted KCE dated February 16, 2010 and March 17, 2010.

Nullifies the Intent or Purpose of the Regulations:

The waiver petition exhibit and supplemental information submitted along with the waiver application represent a suitable substitute for a site development involving closure of the 3 polishing ponds. No new development is proposed nor permitted beyond the grading activity necessary for the closure of the ponds and the return of the stream buffer to its natural state. No additional traffic would be generated and no additional use or activity is being proposed. The proposal does not require an APFO Roads Test or Traffic Study. All required MDE permits would be required for disturbance within the stream, wetlands, their associated buffers and the floodplain area and disturbance of these features will be the minimum necessary. No forest clearing or removal of any specimen trees will occur. See also the justification submitted KCE dated February 16, 2010 and March 17, 2010.

Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date on all related plats, and site development plans, and building permits. This requested waiver will remain valid for one year from the date of this letter or as long as the project remains in active processing.

If you have any questions, please contact Tanya Krista-Maenhardt, AICP at (410) 313-2350 or email at tmaenhardt@howardcountymd.gov.

Sincerely,

T. Krista-Maenhardt for
KS
Kent Sheubrooks, Acting Chief
Division of Land Development

TKM/Waivers 2010/MD & VA Milk Producers approval WP-10-108

Enclosure-DED

Enclosure-Fee-in-Lieu form

cc: Research
DED
HEALTH
T. Butler
KCE Engineering, Inc.-M. Gupta