



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

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June 30, 2010

John Byrd
Howard County Department of Recreation and Parks
7120 Oakland Mills Road
Columbia, Maryland 21046

Re: Red Hill Way Stream Restoration
Waiver Petition WP-10-162

Dear Mr. Byrd:

The Director of the Department of Planning and Zoning considered your request for a waiver of the Howard County Subdivision and Land Development Regulations. As of the date of this letter, the Planning Director approved your request to waive Subsections 16.155(a)(1)(ii), 16.1201(n), and 16.1205(a)(7) of the Howard County Code. Waiver approval grants relief from the requirement to submit a site development plan for the project referenced, allows the use of the project limit-of-disturbance as the net tract area for computation of forest conservation obligations, and allows the removal of a specimen tree as part of the project scope. Waiver approval is subject to the following conditions:

1. Petitioner shall obtain authorization from the Maryland Department of the Environment and U.S. Army Corps of Engineers for activities in regulated areas associated with the project.
2. Petitioner shall obtain a Letter of Permission from the owner(s) of Brookview Estates, Lot 11 for activities proposed on that property prior to grading permit application. The petitioner shall notify same of the project starting date at least 30 days prior to anticipated start of work.
3. Petitioner shall submit to the Department of Planning and Zoning a copy of the memorandum authorizing the Department of Finance, Bureau of Accounting, to transfer \$1,306.80 to the Forest Conservation Fund – Section 16.1211, Account #019-005-4206.
4. Petitioner shall submit a completed Forest Conservation Data Summary to the DPZ, Division of Land Development, Attn: Dave Boellner.

Our decision to approve the waiver was made based on the following:

Extraordinary Hardship or Practical Difficulty

The petitioner demonstrated that extraordinary hardship would be incurred if required to prepare a site development plan for activities very limited in scope. The petition exhibit includes a plan depicting

relevant information. Based on this information, strict adherence to the site development plan requirement is unnecessary.

The petitioner would incur extraordinary hardship if required to compute forest conservation obligations based on net tract area as defined by policy. The project limit-of-disturbance is small and a majority of this is floodplain. Use of the remaining undisturbed portions the lots on which the project will take place to determine forest conservation obligations is unnecessary since they are in no way affected by the project.

The petitioner has demonstrated that preservation of a specimen tree found adjacent to the eroding stream will result in extraordinary hardship, either in the design of a substandard plan (which may again result in stream instability, which could result in loss of the tree that the plan was meant to preserve), or a no-build option in which would continue to threaten the structural integrity of the on-site sanitary sewer and the tree.

Not Detrimental to the Public Interest

The petitioner has demonstrated that a standard site development plan and the attendant review process required through the Subdivision Review Committee would provide little or no public benefit. The site is an isolated stream reach in need of stabilization, a majority of which is located on Howard County property. Approval of this waiver based on the petition submitted, in conjunction with adherence to the conditions enclosed, will not be detrimental to the public interest.

Implementation of an Alternative Proposal

The petitioner has demonstrated that approval of this waiver is a reasonable alternative to processing a site development plan. The waiver petition site plan exhibit provides all relevant information and details to proceed with grading permit processing and project construction.

The petitioner has presented with the waiver petition a satisfactory alternative to strict adherence to the requirements and policy regarding the forest conservation regulations.

Does Not Nullify the Intent or Purpose of the Regulations

The waiver, if approved, will not nullify the intent and purpose of the Howard County Subdivision and Land Development Regulations as stated in Section 16.101. The intent and purpose of the regulations include assisting orderly, efficient, and integrated development of land, providing development in areas free from danger of erosion and stream siltation and preserving streams. Approval of this waiver request will not nullify the intent or purpose of the regulations, but will fulfill the intent to assist efficient development in an area free from danger of erosion and stream siltation, including stream preservation.

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Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date on all related correspondence and grading permit applications. This waiver will remain valid for one year from the date of this letter or as long as the grading permit remains in active processing.

Should you have any questions please contact David Boellner at 410-313-3956 or by e-mail at dboellner@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Acting Chief
DPZ, Division of Land Development

KS/DBB:dbb

CC: DPZ, Research
DPZ, DED
Mark Richmond - DPW, Stormwater Management Division