



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING  
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

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FAX 410-313-3467  
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August 19, 2010

Pizza Hut of Maryland  
attn: John Schulze  
7070 Oakland Mills Road  
Columbia, MD 21046

RE: **WP-11-010 Pizza Hut Property**

Dear Mr. Schulze:

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

As of the date of this letter, the Planning Director **approved** your request to waive the following section of the Howard County Code (Subtitle 12) and the Subdivision and Land Development Regulations:

**Section 16.1201(n)** of the Amended Fifth Edition – Net tract area means the total area to the nearest 1/10 acre, whether forested or not, of a proposed development, exclusive of any 100-year floodplain, utility transmission line easements, or preservation parcel as referenced in the zoning regulations. Net tract area is to be used in calculating any reforestation or afforestation obligations that may be created by the proposed development.

**Approval is subject** to the following two (2) conditions:

- 1) Compliance with all comments related to ECP-11-009.
- 2) As a condition to use the limit of disturbance (LOD) area instead of the Net Tract Area (NTA) for the forest conservation calculation, the Department of Planning and Zoning (DPZ) requires that a fee-in-lieu be paid to DPZ in conjunction with the processing of a site development plan for the proposed retail/office building. The fee-in-lieu amount will be calculated as part of the SDP submission.

**The decision of this waiver petition is based on the following justification:**Hardship:

See the petitioner's justification letter submitted with this request. The purpose of this waiver is to allow the petitioner to use the limit of disturbance "LOD" (0.78 acres) as the net tract area for the purpose of calculating forest conservation requirements. Extraordinary hardship would result if the petitioner is required to use the entire gross tract area (2.2 acres) for the purposes of calculating the forest conservation requirement. There are no wooded or forested areas on site and based on the Forest Conservation Worksheet calculation, the petitioner would be required to provide 0.33 acres of afforestation plantings opposed to 0.12 acres of plantings should the LOD be used as the net tract area. The difference in acreage would nearly triple the petitioner's cost to comply with the Forest Conservation program through meeting the obligation as a fee-in-lieu payment (a fee-in-lieu payment is permissible since the required acreage of plantings is less than one acre). The majority of the site was already previously disturbed under SDP-89-21 and the site is improved with the existing Pizza Hut restaurant and associated paved parking areas.

Not detrimental to public interest:

See the applicant's justification letter submitted with this request. By granting this waiver, it will not have any detrimental impacts to the public interests, will not alter the essential character of the area and will not impair the use or development of the surrounding properties. The site is zoned for general business use and is currently developed with a retail establishment (a restaurant). All surrounding uses are compatible with the proposed use – a hardware store is located immediately to the east and a retail bank is located immediately to the west. No changes are occurring to the property beyond what will be shown on the waiver exhibit. The County shall conduct a thorough review of the petitioner's accompanied Environmental Concept Plan (ECP) to evaluate the site's suitability for development and by using the LOD for the purposes of calculating the forest conservation requirement will have no adverse effect to the public interest.

Not nullify the intent or purpose of the regulations:

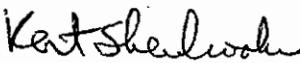
See the applicant's justification letter submitted with this request. Based upon all of the above justifications, approval of this waiver request will not nullify the intent of the Regulations, which requires the petitioner to use the net tract area for the purpose of calculating forest conservation requirements (based on the definition provided under Section 16.1201(n) of the Code). The petitioner has provided the necessary information to evaluate the site's forest conservation requirements. As part of the ECP submission, a Simplified Forest Stand Delineation and forest conservation worksheet was provided. The intent of the Regulations is still being met through forest conservation review and the petitioner's fee-in-lieu payment based on 0.12 acres of required plantings.

Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date of approval on the Environmental Concept Plan (ECP) and all subsequent plans filed for this property. Also, please reference this waiver on all future permits.

**This requested waiver will remain valid for one year from the date of this letter or as long as the related plans remains in active processing.**

If you have any questions, please contact Derrick Jones at (410) 313-2350.

Sincerely,

  
Kent Sheubrooks, Acting Chief  
Division of Land Development

KS/dj  
enc: *Justification Letter from Petitioner*  
cc: Research  
DED  
DLD - Brenda Luber  
Leon A. Podolak and Assoc.  
Eco-Science Professionals, Inc.  
ECP-11-009