



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

Marsha S. McLaughlin, Director

www.howardcountymd.gov

FAX 410-313-3467

TDD 410-313-2323

April 8, 2011

Gregory J. Kappler
Baltimore Gas and Electric Company
1699 Leadenhall Street
Baltimore, Maryland 21230

Re: BGE Southern Reinforcement
Waiver Petition WP-11-048 (Reconsideration)

Dear Mr. Kappler:

The Director of the Department of Planning and Zoning considered your request for a reconsideration of the waiver of the Howard County Subdivision and Land Development Regulations. The request for reconsideration consisted of providing additional information to the Department of Planning and Zoning to allow the Department to modify certain conditions of waiver approval. The additional information was made available since the plans for the project referenced were revised to more accurately depict the limits-of-disturbance, resulting in a more accurate computation of the project forest conservation obligation.

As of the date of this letter, the Planning Director approved your request to waive Subsections 16.103(j), 16.147, 16.155(a)(1)(i), 16.1201(n), and 16.1205(a) as applicable to the project referenced. Approval is subject to the following conditions. Revised conditions are in **bold**:

1. The Petitioner shall, upon utility easement recordation, coordinate with the DPZ, Research Division to have additional permanent utility easement areas added to County GIS layers and Zoning Maps.
2. **The Petitioner shall provide, within one year of waiver approval, 25.99 acres of forest planting at the Maple Ridge forest mitigation bank to fulfill forest conservation obligations of the BGE Southern Reinforcement project. Petitioner shall record the Maple Ridge forest mitigation bank on Final Plat F-10-031 and shall submit the Maple Ridge forest mitigation bank Site Development Plan SDP-10-011 to DPZ for redline revision to indicate the 25.99-acre forest conservation planting area used to comply with this condition.**
3. The 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.
4. **No disturbance is permitted beyond the limit of disturbance shown on the waiver exhibit dated March 25, 2011 without prior written approval by DPZ.**
5. All disturbed areas shall be stabilized in accordance with an approved sediment and erosion control plan.

6. The petitioner shall cite this waiver petition number on all related plans, applications, and permits.
7. The petitioner shall ensure that the proposed gas line easement does not affect previously-recorded septic reserve areas or well sites.
8. The petitioner shall be responsible for maintenance of the pipeline conduit located within the utility easement within County property and rights-of-way.
9. The petitioner shall utilize approved construction methods to minimize impacts on County road rights-of-way.
10. The petitioner shall provide, at the time of grading permit application, verification of easement acquisition on all private properties.
11. The petitioner shall apply for all necessary permits with the Department of Inspections, Licenses and Permits prior to the commencement of any grading and/or construction for the project.

The Department of Planning and Zoning determined that activities in wetlands, streams, wetland buffers, stream buffers and steep slopes are necessary in accordance with Subsection 16.116(c)(1).

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty

The petitioner would incur extraordinary hardship if required to comply strictly with the applicable regulations. The nature of the project, being linear in scope, would require a number of redundant correction plats to record essentially the same easement through many (~104) properties. Submission and approval of a site development plan is also an undue hardship since no aboveground structures are proposed, no SWM is needed, and disturbed areas for the most part will be returned to pre-existing conditions. The net tract area, if computed as defined, may likely result in a forest conservation obligation exceeding 100 acres or more since some parcels through which the project traverses are very large and would have to be counted in their entirety. However, this method of defining the net tract area presents a distinct disadvantage to a linear project such as this and a waiver is justified. Similarly, a utility company would encounter a challenge in finding an alignment for a 14½-mile pipeline which does not adversely impact trees in priority locations, including specimen trees; therefore a waiver of the regulation protecting these areas is justified.

Not Detrimental to the Public Interest

Waiver approval will not be detrimental to the public interest. On the contrary, the project consists of augmentation of a gas pipeline providing heating and cooking fuel to the public, and the project was approved by the Public Service Commission. A waiver of regulations which would simply encumber the beneficial project is justified, while at the same time fulfilling the intent and purpose of the regulations (see below).

Gregory J. Kappler
April 8, 2011
Page 3 of 3

Will Not Nullify the Intent or Purpose of the Regulations

Approval of this waiver request will not nullify the intent of the regulations. The forest conservation obligation will be computed based on the relevant areas of the lots and parcels affected by the project. The methodology submitted with the waiver petition represents a suitable substitute for determining the obligation, fulfilling the intent of the regulations. Also, the recorded utility easement will be added to County GIS layers and Zoning Maps for reference.

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

Should you have any questions please contact Dave Boellner or Derrick Jones by telephone at 41-313-2350 or by e-mail at dboellner@howardcountymd.gov or at djones@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
DPZ, Division of Land Development

KS/DBB:dbb

CC: DPZ, Research
DPZ, DED
DPZ, Forest Conservation Coordinator
Annette Merson – DPZ, Zoning Administration
SCD
FSH Associates
Marian Honecny – MD DNR