



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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September 13, 2011

Mr. & Mrs. Robert Wertz  
5293 Kerger Road  
Ellicott City, MD 21043

RE: WP-11-167, Wertz Property,  
Lots 1 & 2 (F-11-070)

Dear Mr. & Mrs. Wertz:

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 the following sections: 1.) Section 16.116(a)(2)(ii) - grading, removal of vegetative cover and trees, paving and new structures shall not be permitted within 75 feet of a perennial stream bank in residential zoning districts to allow for two driveway connections and associated grading for proposed Lots 1 and 2 onto an existing use-in-common driveway; 2.) Section 16.120(b)(4)(iii)(b)- residential lots less than 10 acres shall not be encumbered by environmental sensitive features: floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention; 3.) Section 16.120(c)(2)(i) all SFD lots shall have minimum frontage of 20 feet on approved public streets.

Approval is subject to the following conditions:

The Division of Land Development has determined that the waiver request for Section 16.120(b)(4)(iii)b of the Subdivision and Land Development Regulations is not required per Section 16.120(b)(4)(iii)c which permits R-20 infill subdivisions that are restricted in using optional lot sizes under Section 16.121(a) of this Subtitle, to allow steep slopes, floodplains, wetlands, streams and wetlands and stream buffers may be located on lots, provided that the building envelop is no closer than 35 feet from the environmental features.

The Division of Land Development recommends APPROVAL for waiver of Section 16.116(a)(2)(ii), and 16.120(c)(2)(i), subject to the following conditions:

1. Compliance with all comments generated with the review of the ECP -11-006 and subdivision plat, F-11-070.
2. Compliance with the attached Development Engineering Division Comments.
3. The building envelope must maintain a minimum 35' setback from the edge of the existing 75' stream bank buffer as depicted on the waiver plan exhibit.

4. No grading, removal of vegetative cover and trees, paving and new structures are permitted within the stream and 75' stream buffer except for the required driveway improvements and associated grading as depicted on the waiver petition plan exhibit.
5. Access to the Wertz Property, Lots 1 & 2 will be through Marlo Austin Way and Harvey Lane as shown on the waiver plan exhibit and F-11-070.
6. The applicant shall revise the location for the existing private access easement to be consistent with the use in common driveway.

Our decision was made based on the following:

*Extraordinary Hardships or Practical Difficulties:*

The extraordinary hardship or practical difficulty involved with this waiver request is based on the existing unique physical constraints inherent with the subject property and the existing environmental features on-site. Additionally, neither access point from Kerger Road or Marlo Austin Way having sufficient frontage to meet the 24' wide driveway easement requirements for SFD lots. Therefore, based on the unique physical conditions inherent with the subject property, the applicant does experience extraordinary hardship and practical difficulty in complying with the regulations for designing the subdivision lot layout to exclude the environmental features and buffers from within the subject lots and for providing the minimum public road frontage requirement.

*Alternative Proposal:*

There are no other viable design alternatives available to the developer based on the existing site constraints. The processing of this waiver petition should be viewed as a reasonable alternative to serve the intent of the Regulations by retaining the character of this residential neighborhood. The proposed lot design establishes a 35' environmental setback from the environmental features and buffers on Lots 1 & 2 which is more restrictive than the zoning regulated building restriction lines and an existing easement has already been established across various lots in the Hermann Property Subdivision and, the Dennis Preserve Subdivision for access onto Marlo Austin Way and Harvey Lane.

*Not Detrimental to the Public Interest:*

Approval of this waiver request will not be detrimental to the public interest because disturbance to the impacted area will be minimized as much as possible and it will not have any detrimental impacts to the public interests, will not alter the essential character of this residential neighborhood and will not impair the use or development of the surrounding properties. The subject property will meet all other requirements and will not impact the stream or stream buffers except for the essential public water and sewer line connections and upgrade of the existing shared driveway.

*Will not nullify the intent or purpose of the regulations:*

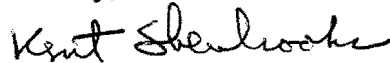
The waiver, if approved will not nullify the intent and purpose of the Howard County Subdivision and Land Development Regulations as the waiver plan will ensure that the proposed house construction will not disturb the environmental features and buffer areas, except for the water line connection on the north side of the property and the driveway connections. Additionally, the site plan design limits the impact on the adjacent community and is considered reasonable development of the subject property. Therefore, approval of this waiver request will not nullify

the Intent or Purpose of the Regulations which is to ensure that all development proposals follow uniform procedures and standards.

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 this subdivision plan remains in active processing.

If you have any questions, please contact Jennifer Wellen at (410) 313-2350 or email at [jwellen@howardcountymd.gov](mailto:jwellen@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Chief  
Division of Land Development



cc: Research  
DED  
FCC