



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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June 27, 2012

William M. Donahue
4925 Montgomery Road
Ellicott City, MD 21043-6748

RE: WP-12-156, Donahue Property
(ECP-12-052) Liber 534, Folio 155, Parcel 593

Dear Mr. Donahue:

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 **Section 16.1205(a)(7)** to allow removal of the three (3) trees 30" in diameter or larger. The Planning Director also **approved** your request to waive **Section 16.120 (b)(6)(v)(c)** to allow pipestem lots to be created on both sides of a frontage lot in the same subdivision. Finally, the Planning Director **approved** your request to waive **Section 16.145** to allow submission of a Final Subdivision Plan without first submitting a Sketch Plan or Preliminary Equivalent Sketch Plan.

Approval is subject to the following conditions:

1. Removal of the three (3) specimen trees will require replacement mitigation at a ratio of two (2) larger caliper trees (at least four (4) inches dbh) for each specimen tree removed. The mitigation planting can be provided as part of the required perimeter landscaping for this project. You must submit a Supplemental Plan with your Final Subdivision Plan for this property that shows how you plan to address this alternative landscape mitigation.
2. Submission of a final plan application, including a final subdivision plat and a supplemental plan.
3. The proposed driveway to serve new Lot 1 shall comply with Section 16.120(b)(vi) of the Howard County Subdivision Regulations and be located at least 10 feet from the project boundary at all points to provide adequate room for perimeter landscaping. The applicant must provide a landscaping buffer along the entire project boundary line between the driveway and the adjoining Sating Property, Parcel 351, Lot 35, with a single row of Leyland Cypress trees, or an equivalent species, at a spacing of 15 feet on center (total of 15 trees).

Our decision was made based on the following:

Extraordinary Hardships or Practical Difficulties:

Extraordinary hardship would result from the applicant retaining the specimen trees located on the property due to the location of the trees and the size of the parcel. Because of these factors, it is not possible to retain the three (3) specimen trees and still maintain reasonable development of the property. The retention of the specimen trees cannot be accomplished without severely restricting or completely eliminating the proposed subdivision and intended use of the site. Additionally, extraordinary hardships or practical difficulties would arise from not allowing pipestem lots on both sides of a frontage lot in the same subdivision because the lot layout, coupled with the requirement that the subdivision gain access from Clearwater Drive, with limited public road frontage, would severely restrict or completely eliminate the proposed subdivision and intended use of the site. Finally, extraordinary hardships or practical difficulties would also arise from requiring a Preliminary Equivalent Sketch Plan prior to submitting a Final Plan since there are no public improvements associated with this project.

Alternative Proposal

The alternative proposal would require the applicant to retain all specimen trees on the parcel. However, due to the location of the trees and the size of the parcel, the retention of the specimen trees cannot be accomplished without severely restricting or completely eliminating the proposed subdivision and intended use of the site. Therefore, this Division is okay with the applicant removing the three (3) specimen trees in this situation and will permit alternative compliance with replacement mitigation planting for the removed specimen trees. Additionally, because of the lot configuration, the applicant is not able to reconfigure lot lines to avoid pipestem lots on both sides of a frontage lot in the same subdivision. Finally, an alternative proposal would require the applicant to submit a Preliminary Equivalent Sketch Plan prior to submitting a Final Plan. However, since there are no public improvements associated with this project, requiring a Preliminary Equivalent Sketch Plan is not recommended by this Division.

Not Detrimental to the Public Interest

The waiver request will not be detrimental to the public interest since the applicant will be required to provide enhanced landscaping around the perimeter of the property. The enhanced perimeter landscaping will require the applicant to provide two (2) large caliper (at least 4" dbh) shade trees for every one (1) specimen tree removed to help mitigate the loss of the three specimen trees. Additionally, the main reason that the applicant's proposal contains pipestem lots on both sides of a frontage lot in the same subdivision is because the applicant is proposing access from Clearwater Drive which is considered a local access street. This alternative is required by Howard County, and it is a much safer alternative than obtaining access from Montgomery Road, which is a minor arterial road. Therefore, this lot configuration is in the best interest of the public and public safety. Finally, since there are no public improvements associated with this project, not requiring a Preliminary Equivalent Sketch Plan will not be detrimental to public interest in any way.

Will not nullify the intent or purpose of the regulations

Approval of this waiver request will not nullify the Intent or Purpose of the Regulation because the Subdivision Regulations allow the Department of Planning and Zoning to authorize, "planting in an alternate location," if it is deemed to have a "greater environmental benefit." This Division has determined that the required enhanced landscaping around the perimeter of the property is deemed to have a "greater environmental benefit" than retention of the specimen trees. The enhanced perimeter landscaping will require the applicant to provide two (2) large caliper (at least 4" dbh) shade trees for every one (1) specimen tree removed, and will help to mitigate the loss of the three specimen trees.

Therefore, approval of this waiver request will satisfy the Intent of the Regulations by creating an environmental benefit. Additionally, because of the current lot configuration, any alternate configuration would severely restrict or completely eliminate the proposed subdivision and intended use of the site. Therefore, allowing the proposed subdivision configuration, and not requiring a Preliminary Equivalent Sketch Plan, would promote fairness and consistency in the application of the plan processing procedures.

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 final plat and/or SDP remain in active processing.

If you have any questions, please contact J.J. Hartner at (410) 313-2350 or email at jehartner@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/TKM/JH

cc: Research
DED
Fisher, Collins, and Carter, Inc.
DPZ File #'s WP-12-156 & ECP-12-052
Marian Honecny, DNR
Joseph and Cindy Sating