



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

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September 17, 2012

Mr. and Mrs. Renfro
13765 Frederick Road
West Friendship, MD 21794

Dear Mr. and Mrs. Renfro:

RE: WP-12-174, Renfro Property, Lots 1-5
(ECP-12-051), Reconsideration

The Director of the Department of Planning and Zoning reconsidered 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 16.120(b)(4)(iii)(b)** which prohibits floodplain, wetland, streams, their buffers and forest conservation easements on lots or parcels less than 10 acres in size. The applicant has redesigned the plan by preserving .74 acres of existing forest.

Approval is subject to the following conditions:

1. Forest Conservation signs must be posted along the entire perimeter of the forest conservation easement with no more than 50' of spacing between each sign.
2. The waiver petition number and its conditions of approval must be added to the plat.
3. No grading, removal of vegetative cover and trees, paving and new structures are permitted within the wetlands, forest conservation easement and required buffers with the exception of the disturbance needed for the widening of the driveway. If the existing driveway requires widening based on a review of the final subdivision plan, be advised that an MDE wetlands permit may be necessary.
4. Distributing educational material to each lot purchaser explaining the restrictions on encroachment into the Forest Conservation Easement, wetland and their buffers.
5. Submission of a Final Subdivision plat is required.
6. Compliance with the previous DED comments.

Our decision was made based on the following:

JUSTIFICATION FOR RECOMMENDATION:

Extraordinary Hardship or Practical Difficulty - The proposed lots will be more than 3 acres in size and will contain the required 35' environmental setback from the edge of the Forest Conservation Easement. The applicant has demonstrated that the easement should be adequately protected and that the owners should have reasonable use of their remaining yard. If the applicant were not permitted to create an easement by retaining the existing trees, they would be required to export their obligation or pay a fee-in-lieu which given the current economic times, the subdividing of the property would not be cost effective.

If the petitioner is not permitted to create a planted forest conservation easement, they would be forced to provide an off-site location or pay a fee-in-lieu for the forest conservation obligation thus, creating a financial hardship. The Forest Conservation Easement will be protected by the recordation of the easement and a 35' setback will be provided along the edge of the environmental buffer or Forest Conservation Easement. In addition, the retaining existing vegetation and planting of the wetlands will provide an added layer of protection for this environmental feature and screen the house from the public road.

The waiver request for wetland disturbance is needed because this is the only access to the property (through the wetland area) and DPZ considers this encroachment as essential to be development of the site. However, if the driveway is widened, a MDE permit will be required.

The filing of a preliminary equivalent sketch plan will not provide additional information that the final plan has provided. A public road is not being created nor is a public road required to serve this subdivision. The lots will be served by a shared use-in-common driveway.

Not Detrimental to the Public Interest - Approval of the waiver request will not alter the essential character of the neighborhood and will not substantially impair the appropriate use or development of the surrounding residential properties. Granting the waiver will not impair the appropriate residential uses on the lots or development or protection of surrounding properties. Allowing a Forest Conservation Easement to be created will provide the parcels surrounding the proposed development with permanent privacy.

The disturbance to the wetlands for the existing driveway is required since this is only the only location to access the site. DPZ has considered this encroachment into the wetland area to be an essential impact since this is the only way to access the property.

The information provided with the final plan is more than adequate to serve as the preliminary equivalent sketch plan especially since no public roads or infrastructure is being created.

The proposed redesign is a better plan that protects and preserves a 0.74 forest retention area by the shifting of the use-in-common driveway.

Will Not Nullify the Intent or Purpose of the Regulations - Approval of this waiver request will not nullify the intent or purpose of the regulations since the environmental features would be protected and a 35' buffer will be provided from the edge of the environmental features. Allowing for the creation of a Forest Conservation Easement will provide a permanent protection of this environmental area.

The final plan provides the information that would be required on a preliminary equivalent sketch plan (a public road is not proposed) thus serving the intent of the regulations.

The only access to the site is through the wetland area. The site contains an existing driveway which the developer does not propose to widen. Since the only access to the site is through the wetlands area, DPZ considers this encroachment to be a necessary disturbance. However, if it is determined by DED that the driveway must be widened, approval from MDE is required.

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 remains in active processing.

If you have any questions, please contact Brenda Luber at (410) 313-2350 or email at BLuber@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/BL

cc: Research
DED
Real Estate Services
Fisher, Collins and Carter
Land Design and Development

