



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

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September 5, 2012

Mark S. Richmond
Howard County Department of Public Works
Stormwater Management Division
6751 Columbia Gateway Drive, Suite 514
Columbia, Maryland 21046

Re: Windflower Drive Stream Restoration
Waiver Petition WP-13-011

Dear Mr. Richmond:

The Director of the Department of Planning and Zoning considered your request for a waiver of Subsections 16.155(a)(1)(ii) and 16.1201(n) of the Howard County Subdivision and Land Development Regulations. Waiver approval would allow the project referenced to proceed to grading permits without an approved site development plan, and would allow the "net tract area" to be computed using the project limit-of-disturbance for purposes of determining forest conservation obligations, respectively. The petition included a request to waive Subsection 16.1210(a)(1)(i); since a fee-in-lieu payment to the Forest Conservation Fund is in fact being proposed, a waiver of this regulation is unnecessary.

As of the date of this letter, the Planning Director approved your request, subject to the following conditions:

1. Petitioner shall submit to the Department of Planning and Zoning a copy of the memorandum authorizing the Department of Finance, Bureau of Accounting, to transfer \$10,127.00 to the Forest Conservation Fund – Section 16.1211, SAP Acct #2060000000-3000-3000000000-PWPW000000000000-432521.
2. Petitioner shall submit a completed Forest Conservation Data Summary to the DPZ, Division of Land Development, Attn: Dave Boellner.

Our decision to approve the waiver was made based on the following justification:

Extraordinary hardship or practical difficulty may result from strict compliance with the regulations.

The petitioner has demonstrated that preparation and submission of a site development plan for the stream restoration project is impractical and would delay the start of a much-needed project. Preparation and submission of the site development plan for review and approval by all SRC agencies would be unnecessary and time consuming, especially considering the existing condition of the stream which continues to erode. The petition includes a plan with sufficient detail to allow for review by relevant SRC agencies.

In addition, the petitioner may incur extraordinary hardship if required to compute forest conservation obligations based on net tract area as defined by policy. The project limit-of-disturbance is relatively small and a great majority of this is floodplain. Use of the area of the undisturbed portions of the lot on which the

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project will take place to determine forest conservation obligations is unnecessary since they are in no way affected by the project.

Waiver approval will not be detrimental to the public interest.

The project will stabilize eroding streambanks and protect existing infrastructure, and waiver approval will expedite the petitioner's ability to obtain permits to begin this work. Approval of this waiver will therefore be beneficial to the public interest, protecting transportation and underground infrastructure and based on the petition submitted, in conjunction with adherence to the conditions enclosed, will not be detrimental to the public interest.

Waiver approval 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 stated in Section 16.101. The intent and purpose of the regulations include assisting orderly, efficient, and integrated development of land, providing development in areas free from danger of erosion and stream siltation and preserving streams. Approval of this waiver request will not nullify the intent or purpose of the regulations, but will fulfill the intent to assist efficient development in an area free from danger of erosion and stream siltation, including stream preservation.

The purpose of the regulations may be served to a greater extent by an alternative proposal.

The petitioner has demonstrated that approval of this waiver is a reasonable alternative to processing a site development plan. The waiver petition site plan exhibit provides all relevant information and details to proceed with grading permit processing and project construction.

Indicate this waiver petition file number, section of the regulations, conditions of approval, and date on all related grading permit applications. 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 by telephone at 410-313-3956 or by email at dboellner@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
DPZ, Division of Land Development

KS/DBB:dbb

CC: DPZ, Research
DPZ, DED
John Byrd – Howard County Department of Recreation and Parks
Marian Honecny – Maryland DNR, Forest Conservation Coordinator