



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

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January 30, 2013

Bohler Engineering
901 Dulaney Valley Road, Suite 801
Towson, MD 21204
Attn: David Woessner, P.E.

RE: Higdon Property Lots 1-2 & OS Lots 21-23
10883 Scaggsville Road – Tax Map 46 / Parcel 56
WP-13-048

Dear Mr. Woessner:

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** the request to waive **Section 16.120.(b).(9).(i) to reduce the required 30' setback from an underground utility; and, a waiver to Section 16.1205.(a).(7) to allow the removal of ten(10) of the sixteen(16) specimen trees identified on this property.**

Approval is subject to the following conditions:

1. Section 16.120.(b).(9).(i):

- a. DPZ approves the reduction of the 30' required setback from the edge of the utility easement from the existing "out of service-idled" underground pipeline (Colonial Pipeline Company letter on file with this office) to 15' from the edge of the utility easement for Lots 13 and 14 only.
- b. On Lots 13 and 14 the affected side BRL's should be drawn 15' from and parallel to the edge of the utility easement.
- c. On Lots 2 and 3 the front BRL's drawn 30' from and parallel to the edge of the utility easement.
- d. The developer shall place a bold note within Lots 13 and 14 on the preliminary equivalent sketch plan (SP-13-008) and all future final plats and SDP's that describes this setback reduction from 30' to 15'.

2. Section 16.1205.(a).(7):

- a. Mitigation for the removal of the ten(10) specimen trees (A, D, E, F, G, H, L, M, N & O as identified on the Environmental Concept Plan and the Waiver Petition Exhibit as "to be removed") will consist of one(1) 2 ½" caliper trees for each one(1) removed of identical species. These ten(10) trees will be placed within close proximity to the location of the original specimen tree and will be in addition to the required perimeter landscaping (as depicted on the waiver petition exhibit). Costs to cover the installation of these trees shall be included in the Perimeter Landscaping Estimate; and, surety and inspection fees shall be posted with the DPW Developer's Agreement at the final plan stage for this development.
- b. The removal of any of the remaining six(6) specimen trees (Trees B, C, I, J, K & P) not designated for removal under this waiver petition WP-13-048, would require a separate

waiver petition approval in accordance with Section 16.1205.(a).7 of the Subdivision and Land Development Regulations.

3. On ECP-13-038, SP-13-008 and all subsequent plans and plats, provide a brief description of this waiver petition, WP-13-048, as a general note to include requests, sections of the regulations, action and date.

Our decision was made based on the following:

Justification for APPROVAL Recommendation – Section 16.120.(b).(9).(i) – Setback from Utility:

- Extraordinary hardship or practical difficulties which may result from strict compliance with the Regulations - Strict compliance with this regulation would greatly reduce the building envelope for Lots 13 & 14; thereby, making these lots potentially unsellable due to being unattractive to builders and to potential property owners. Due to the site's unique constraints such as the boundary configuration, the existing gas easement, small lot sizes and more than 90 feet of elevation difference from Scaggsville Road to the stream, this site is challenging to grade and develop. The location of the new public road cul-de-sac was dictated by balancing safety concerns such as site distance and maintaining separation from the existing roads intersecting Scaggsville Road and on site constraints such as the narrow site configuration and the existing gas main easement.
- Approval of the waiver will not be detrimental to the public interests and will not nullify the intent of the Regulations - According their letter dated January 15, 2013, the Colonial Pipeline Company(CPC) states that the petroleum pipeline in the CPC Easement Location #1011, Tract #089 is "out of service-idled". The CPC has no current plans to operate this line; and, in fact they are currently reviewing a plan to remove a significant portion of the pipeline in this easement. Their long-term plans are unknown; however, there are no plans to abandon the easement on this property. Based on the facts outlined in CPC's letter, approval of the waiver will not be detrimental to the public interests and will not nullify the intent of the Regulations to provide development and the erection of structures in areas free from danger and other hazards.

Justification for APPROVAL Recommendation – Section 16.1205.(a).(7) – Removal of Specimen Trees:

- Extraordinary hardship or practical difficulties which may result from strict compliance with the Regulations - According to the applicant, David Woessner, P.E. of Bohler Engineering, the removal of the ten(10) specimen trees is necessary to develop the Higdon Property. Due to the site's unique constraints such as the boundary configuration, the existing gas easement, small lot sizes and more than 90 feet of elevation difference from Scaggsville Road to the stream, this site is challenging to grade and develop. The location of the new public road cul-de-sac was dictated by balancing safety concerns such as site distance and maintaining separation from the existing roads intersecting Scaggsville Road and on site constraints such as the narrow site configuration and the existing gas main easement. Bohler Engineering explored the options of moving the proposed cul-de-sac to the west and to the north within the site. These options didn't result in protection of the trees. For instance, if the cul-de-sac was moved to the north, it would not be directly impacting the specimen trees by installation of the road; but, the trees would still be impacted by the development of the lots. Bohler Engineering also explored the option of extending Wispy Branch Court, but they could not make this option viable due to the grade difference between the existing road and the Higdon Property.
- Approval of the waiver will not be detrimental to the public interests and will not nullify the intent or purpose of the Regulations - The proposed design maximizes the open space (40%) while minimizing lot sizes (minimum 12,000 sq.ft.) This optional lot design creates a clustered effect

while protecting the majority of the existing forest and stream buffers. The bulk of the site development occurs within the existing or abandoned lawn area. Environmentally, it makes sense to construct the subdivision within the previously developed portion of the site while perpetually protecting the existing forest and buffers. Within the developed area and the immediate surrounds, there are sixteen (16) specimen trees. In summary, this design protects the environmentally sensitive areas of the site to include the majority of the existing forest, stream buffers and six (6) of the specimen trees. The specimen trees being removed with the exception of Tree "O" are within the existing maintained area of the site and not within the forest. Mitigation for the removal of the specimen trees will consist of one 2 ½" caliper trees for each one removed of identical species. The trees will be placed within close proximity to the location of the original specimen tree and will be in addition to the required landscaping. The replacement mitigation of ten(10) shade trees for the removal of ten(10) specimen trees will not be detrimental to public safety and will not nullify the intent of the Regulations.

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 Ms. Pat Britt-Fendlay at (410) 313-2350 or via e-mail at pfendlay@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development



KS/JMF/MPB

cc: Research
Heather Pandullo – Development Engineering Division
Real Estate Services
Forest Conservation Coordinator
Marion Honeczy – Maryland DNR
Eula Higdon
DPZ File #'s: SP-13-008 & ECP-13-038

