



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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April 9, 2013

John P. McDaniel
13032 Highland Road
Highland, MD. 20777

RE: WP-13-140 (McDaniel Property)
Related to SP-13-005

Dear Mr. McDaniel:

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 Section 16.1304** which states that when a property owner proposes to develop a property through submission of a subdivision sketch plan, preliminary equivalent sketch plan or a site development plan on which is located a cemetery which is shown on the inventory map, the property owner shall accommodate the cemetery with the development by placing the cemetery in a non-buildable lot with a cemetery designation and provide public access to the cemetery. The new cemetery boundaries and accommodation plan would then be reviewed by the Planning Board at a public meeting.

Approval is subject to the following conditions:

1. The cemetery plot area should be clearly shown and labeled on the associated Preliminary Equivalent Sketch Plan (SP-13-005), the Forest Stand Delineation and Forest Conservation Plan and all subsequent plat and road construction/supplemental plans submitted to the County for review and approval.
2. A private access easement shall be provided to the cemetery area to accommodate future access to the area for any descendants of those buried in the cemetery. This access easement shall be prepared and recorded along with the applicable subdivision plat for the McDaniel Property.

The Planning Director's decision was made based on the following:

Extraordinary hardships or practical difficulties:

The waiver petition requires that the applicant demonstrate that extraordinary hardships or practical difficulties may result from strict compliance with the regulations or that the regulations may be served to a greater extent by an alternative proposal. The applicant contends that a hardship would result if the waiver was not approved because the proposed layout of the project maintains the historic nature of Parcel 117 which contains a historic house. The proposed subdivision avoids construction of any additional public access or creation of an additional non-buildable lot for the cemetery which would be inconsistent with the MHT easement.

Detrimental to the Public Interest:

The proposal would not be detrimental to the public interest, would not alter the essential character of the neighborhood and would not substantially impair the appropriate use or development of surrounding properties. Per the applicant's justification, "the existing small burial area is well defined by a stone wall

and is located adjacent to the formal garden adjoining the historic house. The area is integral to the historic character of the property. Creating a public access is not appropriate as this burial plot was never a public cemetery." The MHT easement will provide adequate protection to the cemetery.

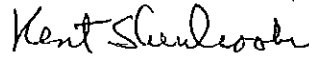
Nullifies the Intent or Purpose of the Regulations:

The approval of this waiver would not nullify the intent or Purpose of the Regulations because this proposal "better serves the purpose of the regulations by enhancing the design of the subdivision. Per Amy Skinner, Easement Administrator of the Maryland Historic Trust, "a historic preservation deed of easement provides assurance to the owner that their property's intrinsic values will be preserved with all successive ownerships. Furthermore, the Terms of the Easement states that the "Grantor shall not cause, permit or suffer any construction which would alter or change the appearance of the land in the Property". Therefore, creating a unique lot for the cemetery and/or providing public access to the cemetery could and would be conceived as contrary to the terms of the MHT easement.

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 Tanya Krista-Maenhardt, AICP at (410) 313-2350 or email at tmaenhardt@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/TKM/waivers 2013/McDaniel Property WP-13-140 approval 4-9-13

cc: Research
DED
DCCP-S. Stoney
SP-13-005 file
Vogel Engineering
J. Rutter