



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

Robert Mowrey
826 Frog Mortar Road
Middle River, MD. 21220

RE: WP-13-151 (Kindler Overlook II)
(associated with F-10-051)

Dear Mr. Mowrey:

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 16.144(r)(5) and Section 16.144(r)(6)** which state that except where delay is caused by government action, failure to pay fees, sign developer's agreements, provide surety and to submit a final plat original for recording shall void previous approvals and the application shall be considered withdrawn. A waiver to **Section 16.144(o), Section 16.144(p) and Section 16.144(q)** which establish deadline dates to submit final construction drawings, to submit payment of fees, to post financial obligations and to submit final subdivision plats.

Approval is subject to the following conditions:

1. The developer must submit the Final Construction Drawings in association with F-10-051 **on or before April 12, 2013.**
2. The developer must complete any applicable Developer's Agreements and pay any remaining DPW fees in association with F-10-051 within **120 days** of May 4, 2013 (**on or before September 1, 2013**).
3. The developer must submit final plat originals in association with F-10-051 for signature and Recordation within **180 days** of May 4, 2013 (**on or before October 31, 2013**).
4. Contact Carol Stirn at (410) 313-2350 to set up a submittal appointment for the Construction Drawings and final plat mylars within this allotted time period. **The applicant is responsible for any processing fee charges that may have occurred since the last submittal associated with F-10-051.**
5. **All construction on this project must be completed prior to May 4, 2017.**
6. **ADVISORY: The Department of Planning and Zoning will not entertain additional waiver requests for milestone extensions.**

The Planning Director's decision for the above referenced milestone dates was made based on the following:

Extraordinary hardships or practical difficulties:

Denial of the waiver petition would result in undue hardship because it would require the submission of a new subdivision plat. No site changes would occur with a new subdivision plat or submittal. The project

has already been subject to complete subdivision review and has an established file history. The applicant's justification states the past market conditions had not been conducive to the selling of new homes. Furthermore, this project was contingent upon recordation of the plat for the McKendree Springs (F-09-108) subdivision since this project is utilizing a forest conservation mitigation bank on that site. McKendree Springs was recently recorded on April 5, 2013.

Per the applicant's justification, "this project is also contingent on the construction of Kindler Overlook Drive from Old Columbia Road to the property. This road was to be constructed under F-07-003, which is being constructed by a different Owner/Developer. The developer of F-10-051 cannot begin construction until Kindler Overlook Drive has been constructed and dedicated to Howard County and the public water main within this right-of-way has been installed and is functional. This road and water main are currently under construction which will allow "Kindler Overlook II" to begin once dedication has occurred".

The applicant states that fortunately, the housing market has been recovering and the Developer is ready to move forward with the project.

Detrimental to the Public Interest:

The extension of deadline dates for the paying of fees, signing developer's agreements and submitting plan originals will not be detrimental to the Public Interest. The subdivision has already been approved and all requirements will be met. Per the applicant's justification, "the intent of the regulation is to provide a timetable for developers, builders and engineers in order to maintain adequate public services. The necessary allocations required for this development have already been approved and accounted for. This request, if granted, will allow for the posting of bonds and sureties associated with the Developer's Agreement and would allow the developer to submit Road Construction Plans for signature approval". See also the justification provided by the consultant submitted on April 2, 2013.

Nullifies the Intent or Purpose of the Regulations:

The intent of the regulations shall not be nullified. The Intent and Purpose of the Regulations will be upheld through the required process. See also the justification provided by the consultant submitted on April 2, 2013.

The Planning Director's Justification for the denial of the 6-month extension from the current milestone date of December 1, 2012 to submit the Final Road Construction Plans, a 2-year extension to the current milestone date of January 30, 2013 to submit any applicable Developer's Agreements and pay any remaining fees and a 2-year extension from the current milestone date of March 31, 2013 to submit final plat mylars is as follows:

1. The Department of Planning and Zoning, after review of the submitted information and DED comments, recommends DENIAL of the waiver as the stormwater management designed for this project is under the MDE 2000 Regulations and the grandfathering of the project shall expire if the following conditions are not met: (see also attached DED comments).

- If the developer's agreements and financial obligations are not met prior to September 1, 2013, all of the SWM for the road construction drawings will no longer be grandfathered and a re-design will be required.
- All proposed SWM practices shown on the road construction drawings must be constructed by May 4, 2017. If this deadline date is not reached, the grandfathering shall expire and a redesign of the SWM associated with the road construction drawings will be required.

2. It generally takes a minimum of 2-3 weeks to obtain final approval and execution of developer agreements from the date of submission to the Real Estate Services Division, DPW. It is anticipated that the Department of Planning and Zoning and Real Estate Services will be processing a very heavy backlog of plans that have been granted similar extensions which must meet the aforementioned stormwater management grandfathering deadline dates. For that reason, the developer agreements may take additional processing time.

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 the time period specified in the conditions of approval.

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

attachment

KS/tkm/waivers 2013/Kindler Overlook II WP-13-151 approved 4-9-13

cc: Research
DED
RES
F-10-051 file
Benchmark Engineering

