



Howard County Department Of Planning And Zoning

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Marsha S. McLaughlin, Director

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July 30, 2013

Howard County Housing Commission
attn: Thomas Carbo, Exec. Director
6751 Columbia Gateway Drive, 3rd Fl.
Columbia MD 21046

RE: **WP-13-195 Miles Property, Lots 1 and 2**
(F-13-044)

Dear Mr. Carbo:

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 the following sections of the Subdivision and Land Development Regulations:

Section 16.119(g)(1)(i) and (ii) of the Subdivision and Land Development Regulations (Amended Fifth Edition) - The owner shall provide additional right-of-way to meet minimum requirements when the existing right-of-way is insufficient; The additional right-of-way shall be dedicated and deeded to the County or State on the recorded plat.

Section 16.120(b)(4)(iii)b. of the Subdivision and Land Development Regulations (Amended Fifth Edition) – For a lot or buildable preservation parcel of 10 acres or greater in size floodplains, wetlands, streams, their buffers, and forest conservation easements may be located on the lot or parcel if the building envelope is no closer than 35 feet from these environmental features.

Approval is subject to the following five (5) conditions:

- 1) Approval of the final plan, F-13-044, Miles Property, and subject to plan review comments for that plat.
- 2) A 15-foot setback must be provided on the final plat from the 75-foot stream buffer as presently shown.
- 3) Include a future road reservation of the small area (78 square feet/0.0018 acres) for the frontage of proposed Lot 1 to satisfy the half-section right-of-way dedication on plat F-13-044 in accordance with the attached DED comments dated July 24, 2013.
- 4) Include land dedication of the right-of-way for the frontage of proposed Lot 2 to the limits of the property for an area dedication of 5,113 square feet/0.1174 acres) on plat F-13-044 in accordance with the attached DED comments dated July 24, 2013.

- 5) Future redevelopment of proposed Lot 2 will be subject to the conditions of this waiver approval.

The decision of this waiver petition is based on the following justification:

Hardship

Sections 16.119(g)(1)(i) and (ii)

The Regulations requires that the developer who subdivides land must dedicate right-of-way to meet the minimum road width requirements. The dedication of road right-of-way is problematic and represents a hardship for the petitioner/owner of the Miles Property due to the following reasons. First, there is an existing house whose corner will be located within Fels Lane right-of-way should dedication occur. Secondly, Fels Lane consists of a prescriptive right-of-way, where the property line of an adjoining property (opposite of the Miles Property) actually lays in the existing roadway and, therefore, any right-of-way dedication must also include the adjoining property.

Section 16.120(b)(4)(iii)b.

The R-VH zoning district does not require the creation of open space lots. Parcel 203 is currently improved with a historic house and a community center building with an existing stream and wetland and an established 25-foot wetland buffer and a 75-foot stream buffer, as documented on SDP-95-045. The 75-foot stream buffer shall be respected with this subdivision and an additional 15-foot setback will be established, in accordance with Section 16.120(b)(4)(iii)d. of the Subdivision Regulations. By adhering to the Regulation that disallows environmental features on a lot or parcel that's less than 10 acres would restrict any future redevelopment on this parcel and, furthermore, since the creation of open space is not required in the R-VH zoning district, the perennial stream and wetland cannot be placed in an open space lot. The applicant is proposing to redevelop proposed Lot 2 as a housing development for Phase 2 of Burgess Mills.

Alternative proposal

There are no other alternative proposals, the subdivision will show future reservation at the frontage of Lot 1 and right-of-way dedication will be provided for the frontage of Lot 2. The developer shall respect both the 75-foot and 15-foot stream buffers that will be established on Lot 2.

Not detrimental to public interest

Approval of the waiver request will not alter the essential character of this historic community and will not substantially impair the appropriate use or development of the surrounding properties, since the subject property is properly zoned for the uses.

Not nullify the intent or purpose of the regulations

Approval of this waiver request will not nullify the intent or purpose of the regulations. Right-of-way dedication shall be provided for a portion of Fels Lane (along the frontage of proposed Lot 2) and a reservation for future widening shall be provided (along the frontage of proposed Lot 1). The stream will be protected by two buffers and proposed Lot 1 will be created at the minimum lot size that's required and usable yard/lot area shall be available for both of the lots created.

* Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date on the final plat (F-13-044) and the proposed site development plan for Lot 2. This requested waiver will remain valid for one year from the date of this letter or as long as the final plat and/or SDP remain in active processing.

If you have any questions, please contact Derrick Jones at (410) 313-2350.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/dj
Enc: DED
cc: Research
DED
Vogel Engineering
F-13-044

