



Howard County Department Of Planning And Zoning
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Marsha S. McLaughlin, Director

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October 31, 2013

Boy Family, LLC
attn: Brian Boy
11807 Wollingford Court
Clarksville MD 21029

RE: WP-14-021 Patuxent Overlook

Dear Mr. Boy:

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 16.120(c)(2)(iv) of the Amended Fifth Edition - Shared use and maintenance of a single use-in-common driveway will be required only if the total development potential of the subdivision under current zoning will not exceed 6 units (in conjunction with Section 2.6B, Volume III [Roads and Bridges] of the Design Manual). The applicant is seeking to utilize a shared driveway for more than six users.

Section 16.1205(a)(7) of the Amended Fifth Edition - On-site forest retention; specimen trees are considered priority for on-site retention and protection in the county. The applicant proposes to remove three (3) specimen trees (trees having a 30" diameter at breast height).

Section 16.144 and **Section 16.145** of the Amended Fifth Edition - Requires the submission of a sketch plan and/or preliminary equivalent sketch plan. The applicant is proposing 9 single-family detached in-fee simple lots which is, by definition, a major subdivision.

Approval is subject to the following eight (8) conditions:

- 1) Subject to submission of a final subdivision plan for processing.
- 2) Replacement mitigation for the 3 specimen trees to be removed at a 1 to 1 ratio replacement with larger 3 ½" caliper native species to be planted within or near the proposed forest conservation easement area.
- 3) All of the planned residential lots shall front on and obtain access from the proposed private shared driveway within the project area. The developer shall be responsible for establishing safe vehicular access to all residential lots onto Baltimore Avenue.

- 4) A use-in-common driveway maintenance agreement must be prepared and recorded with the plat. All future lot owners will be subject to the requirements and obligations of this agreement. A note must be added to the plat and site development plan regarding this use-in-common agreement, including the recorded liber and folio reference once it has been recorded within the Land Records office.
- 5) The proposed private driveway must be constructed in accordance with the approved Design Manual requirements issued by the Development Engineering Division. Furthermore, this driveway must be designed and constructed in accordance with any additional requirements and plan review comments provided by the Development Engineering Division, the Department of Fire and Rescue Services and the Department of Public Works as part of the final plan process.
- 6) A complete title report must be submitted to the office of DPW, Real Estate Services for the preparation of public easement documents with the final plan processing.
- 7) A complete deed history that provides a chronological description of how tax Parcel 257 was created to be submitted with the final plan.
- 8) On the final plat and the site development plan, provide a brief description of this waiver petition, WP-14-021, and Design Manual Waiver as a general note that includes the waiver requests, sections of the regulations, action and date of waiver approval.

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

Section 16.120(c)(2)(iv)

The petitioner has provided justification for why a private driveway to access the proposed lots would be more practical than a public road. A private use-in-common access for the proposed lots would be more practical by reducing on-site environmental impacts and stormwater management requirements. A public road could cause the site design to extend into environmentally sensitive areas and buffers, thus impacting these areas with land grading to establish the residential lots.

The developer will submit a final plan (plat) that will feature all of the necessary requirements for County review for land subdivision. Subsequently, a site development plan will include the proposed private driveway design that shall include a 18-foot wide paved driveway with a flush curb on both sides, stormwater management, drainage systems, public water/sewer service and other related infrastructure improvements.

Approval of this waiver request will not be detrimental to the interests of the public. Safe vehicular access will be provided to the lots with the appropriate stormwater measures taken to handle run-off from the pavement. The developer will meet all other requirements and goals of the Subdivision and Land Development Regulations (except for those that included in this waiver petition), as well as, the Design Manual through an alternative proposal.

Section 16.1205(a)(7)

The subject property is oddly configured with steep sloping land present along the eastern and southern edge of the property, descending into the stream valleys. The site is forested by a mixed oak/popular dominate community. There are two streams that border the eastern and southern property boundaries and are protected by a 75-foot buffer from the streambank. Grading is limited only to the developable portion of the site that's clear of any environmentally sensitive areas. This grading activity will contour the land for accommodation of the proposed private driveway, storm water management facility, storm water drainage, and protected preserved/open space areas. The proposed limit of disturbance (L.O.D.) will require the removal of three specimen trees. These specimen trees have been identified on the waiver plan exhibit and are located along the eastern property line identified as 31" and 32" Tulip Poplars and 31" Red Oak which will be removed for the site development of proposed residential lots 4 and 5 (as identified on the plan waiver exhibit) and related micro-bioretenion facilities. The petitioner has stated that *"since more than half of the site is encumbered by environmental features the extraordinary hardships associated with the removal of the specimen trees are the location of these trees in relation of the developable portion of the site"*. In essence, the locations of these three specimen trees are inclusive of the developable portion of the site where proposed Lots 4 and 5 shall be situated.

Retaining the three specimen trees would require significantly more grading and would expand the L.O.D. Although it would be preferable if the three specimen trees could be retained and further protected by easement, the developer intends to preserve 1.2 acres of the existing 3 acres of forested areas which shall be further protected by easement. The practical difficulties for retaining the three specimen trees are due primarily to the limited buildable area after the layout of the subdivision lots, private drive, design of storm water management facilities, the location of a proposed noise wall (opposite of MD Route 216), the poor condition of the Red Oak tree (a specimen) and location of public and private utility easements. The developer has made all efforts to save these specimen trees and to include them within the design of this project, however, in consideration of grading required for proper lot drainage and driveway design criteria, as well as restrictive utility placement, no specimen trees can be saved. The removal of the specimen trees will be mitigated by the retention of on-site forest resources that will be preserved along the eastern and southern boundary of the subdivision lots.

Sections 16.144 and 16.145

The Regulations require a sketch and preliminary plan approvals for land divisions of 5 or more lots. The petitioner is proposing a subdivision of 9 lots to be accessed by a private shared driveway as an alternative to providing a public road. The design specifications of this private driveway (18-foot paved width) shall adequately serve the future residents of this development and it will be constructed at County standards for shared driveways. The submission of a sketch plan or preliminary equivalent sketch plan will not be necessary, since the driveway design will be provided with the Final Plan (supplemental plan) and the Site Development Plan. Furthermore, site layout, boundary line survey, easements and all other related subdivision information will be provided with the Final Plan.

Approval of the waiver request will not alter the essential character of the neighborhood and will not substantially impair the appropriate use or development of the surrounding residential use properties. The proposed use (single-family homes) is appropriate for the land.

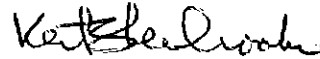
Approval of this waiver request will not nullify the intent or purpose of the regulations since the overall purpose of the project is to divide this deeded parcel into a subdivision of fee-simple lots in order to construct single-family detached residential dwellings. The proposed subdivision layout shall be provided on the Final Plan and additional site information (including existing site conditions) will be included as part of that plan submission.

Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date on all future DPZ plans that are related to this project.

This requested waiver will remain valid for one year from the date of this letter or as long as the subdivision plan remains in active processing, if the subdivision plan is submitted within the one year period from the date of this waiver petition approval.

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

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/dj

cc: Research

DED

Benchmark Engineering

DPW – Thomas Butler, P.E.

DNR – Marian Honecny

DPZ – Brenda Luber