



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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October 29, 2013

Howard County Department of Recreation and Parks
7120 Oakland Mills Road
Columbia, MD. 21046
ATTN: John Byrd

Howard County Stormwater Management Division
6751 Columbia Gateway Dr., Suite 514
Columbia, MD. 21046
ATTN: Richard Powell

RE: WP-14-024 (Mount Hebron-Tiller Drive Stream Restoration)

Dear Mr. Byrd and Mr. Powell:

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 16.155(a)(1)(ii)** which requires a Site Development Plan for any establishment of a use or change of use unless the Department of Planning and Zoning determines that the establishment or change in use will cause less than 5,000 square feet of site disturbance, that no significant alteration to access, parking, circulation, drainage, landscaping, structures, or other site features is required, and that the proposed use does not qualify as redevelopment that requires stormwater management in accordance with the Design Manual; and to waive a **Section 16.116** to allow disturbance to a stream, associated 75' stream buffer and steep slopes (25% or greater); and to waive **Section 16.1201(n): Definitions: "Net Tract Area" and Section 16.1202(b)(1)(i): Applicability; Exemptions; Declaration of Intent** to allow the Limit of Disturbance to serve as the Net Tract Area when determining the forest conservation easement obligation.

Approval is subject to the following conditions:

1. The petitioner shall obtain authorization from the Maryland Department of the Environment and the U.S. Army Corps of Engineers for activities in regulated areas associated with the Tiller Drive Stream Restoration project. A copy of that authorization will be provided to the Department of Planning and Zoning for the waiver file.
2. The applicant shall provide written proof that \$4,573.80 has been transferred from Capital project D-1158 to the Forest Conservation Fund (**SAP Acct 2060000000-3000-3000000000-PWPW0000000000-432521**) as fee-in-lieu payment for a total of 0.14 acres of required reforestation in association with the Mount Hebron Tiller Drive Stream Restoration project.
3. Disturbance is limited to 200± linear feet of stream within the LOD as depicted on the waiver exhibit and as described in the justification prepared by Richard Powell, received on October 23, 2013.
4. Provide written verification of permitted right-of-entry from the owners of Lot 12 (William and Betty Moore) located at 9375 Tiller Drive (Tax Map 17, Parcel 688, Lot 12).

5. Submit 2 folded, paper copies (one to DLD and one to DED) of Revised Sheet 1 of "Howard County Capital Project #D-1158, Tiller Drive Stream Rehabilitation Project" to reflect the following:

- Update/correct General Note #17 on Sheet 1 to address WP-14-024. Include applicable section numbers, date of approval and list out all conditions.
- Add a General Note to Sheet 1 to read as follows: "The Howard County Department of Public Works (DPW) has satisfied the forest conservation obligation of 0.14 acres of reforestation for this plan with a fee-in-lieu payment of \$4,573.80 made to the Howard County Forest Conservation Fund".

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

Extraordinary hardships or practical difficulties:

Denial of the waiver petition would result in undue hardship because strict compliance would require additional time, effort and cost to address a large area of land that is not affected by the proposed project and would include computations, mapping and other exhibits which would not be integral to the restoration project. "This project has no proposed structures, buildings, roads, utilities, public or private facilities or easements or grade changes. This restoration, that has now been funded, is needed to address an environmental and public safety concern and the applicant hopes to address the erosion problem that is negatively impacting County Open Space and adjacent private properties. There is no viable way to address the eroding conditions within the stream without working within the stream itself. Tree removal is limited to a row of 8 Leyland Cypress planted on County open space by a previous owner. The riparian buffer is to be planted with 24 trees, 42 shrubs and 600 tublings and live stakes. An erosion and sediment control plan is included in the design plans and has been submitted to HSCD for review and approval has been obtained from MDE and USACOE. The stream repair has been designed in accordance with the requirements of 5.2.7.M of Design Manual-Volume I and commonly accepted restoration practices such as step pools, riffle grade controls, stone toes and stream bank stabilization will be used and no changes to the floodplain will occur." See also the justification provided by the consultant submitted on October 23, 2013.

Detrimental to the Public Interest:

"The parcel of ground is not being "developed" in the traditional understanding of the term, but restored to its natural condition. Specifically, where the stream is now severely incised, the stream invert will be raised to an elevation comparable to that of the pre-development condition. Where the stream banks are now nearly vertical (subject to accelerated erosion and devoid of protective vegetative cover), the banks above the new invert will be stabilized and revegetated. Clearing and grading are limited only to those areas necessary for construction access. Waiver approval would not be Detrimental to the Public Interest because it will result in the establishment of a forested riparian buffer along the stream where one currently does not exist. SWMD will also pay a fee-in-lieu to meet reforestation requirements." Public interest and safety will be improved by the restoration project and approval of the waiver will more appropriately match the goals and resources of the project to the overall intent of the regulations. "D-1158 is intended for the restoration of stream banks and channels on public property. Approval of the waiver allows the corrective actions of the Capital Project to proceed, which through the budgetary process, has already been determined to be in the public interest." See also the justification provided by the consultant submitted on October 23, 2013.

Nullifies the Intent or Purpose of the Regulations:

The Intent and Purpose of the Regulations will be upheld through the required review process. The project is being completed in order to stabilize eroding stream banks. The Intent of the Regulations is to "preserve steep slopes, wetlands and streams in their natural state and to prevent disturbance of these natural features by development activities. Currently the natural condition is being disturbed by the impacts of excessive runoff generated by the development upstream, which is primarily the athletic fields of Mt. Hebron High School. Allowing the stream to continue eroding will further impact the stream, buffer, open space and will imperil the adjacent residential property. No specimen trees will be removed. Furthermore, the very nature of the project is to protect the environment by reducing erosion and sediment transport downstream and by providing a stable stream system. "The Intent of the Regulations is to preserve and maintain the forest areas in the County. This project, in addition to meeting forest conservation requirements through the payment of fee-in-lieu, will be planting 24 trees, 42 shrubs and approximately 600 tublings and live stakes to establish a riparian buffer along the stream." See also the justification provided by the consultant submitted on October 23, 2013.

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 the grading plan 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

attachment

KS/tkm/waivers 2013/Mount Hebron Tiller Drive Restoration WP-14-024 approval 10-29-13

cc: Research
DED
FC Coordinator-B. Luber
DNR-Marion Honeczy

