



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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January 15, 2014

Mr. Brent Myers
8220 Maple Cliffe Way
Ellicott City, MD 21043

Dear Mr. Myers:

RE: WP-14-035, Myers Property, Lots 1-5,
Buildable Preservation Parcel A and Non-
Buildable Preservation Parcels B and C

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 16.1205(a)(7)** which outlines the forest retention priorities when adhering to the Forest Conservation Act, including areas of floodplain, stream buffers, wetlands and buffers, steep slopes, trees of 30" in diameter or larger, and many other provisions. Per State Senate Bill 666, State Champion trees or trees 30" diameter or larger cannot be disturbed without a waiver. The proposed development will require the removal of 5 of the 30 specimen trees. In addition, the applicant is requesting a waiver to **Section 16.144(b)** which requires the submission of a Preliminary Equivalent Sketch Plan to begin the subdivision process. The developer has withdrawn their request to waive Section 16.120(b) (4) (iii) (7), Usable design: prohibiting Forest Conservation Easements on lots less than 10 acres in size.

Approval is subject to the following conditions:

1. Compliance with all Subdivision Review Committee comments.
2. On the subdivision plans, provide a brief description of waiver petition, WP-14-035, as a general note to include requests, sections of the regulations, action and date.
3. The remaining 25 specimen trees must be saved and protected during construction activity. Tree protection devices must be provided for the 25 specimen trees to remain.
4. The applicant shall mitigate the 5 specimen trees to be removed at a 1 to 1 ratio replacement with larger 3-1/2" caliper native species to be planted within or near the Forest Conservation Easement.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty - Denial of the waiver petition would result in the applicant's inability to create the proposed lots because of the location of the specimen trees. The applicant has provided an exhibit demonstrating that the five specimen trees to be removed are in poor condition because of their declining health due to poor, broken and rotten limbs and/or trunk, or severe leaning. Other trees require removal because of their location within the approved sewerage easement areas, or due to their close proximity to the proposed house. The applicant proposes to retain 25 specimen trees which are scattered throughout the site. The filing of a preliminary equivalent sketch plan will not provide additional information than would be provided with the final plan submission. A public road is not being created. In addition, DED approved the APFO Study which indicates that the APFO intersections are at an acceptable level of service. In addition, DED approved the noise study which demonstrates that no mitigation is required. Also, DPW has determined that no frontage improvements are required. SWM will be evaluated in detail at the Environmental Concept Plan prior to the submission of the Final Plan.

Not Detrimental to the Public Interest - 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 properties. The information to be provided with the final plan is more than adequate to serve as the preliminary equivalent sketch plan. The applicant has documented 30 specimen trees within the site. Five (5) specimen trees are labeled as "to be removed". The specimen trees to be removed are internal to the site, and should not be visible from the public road. The exhibit indicates that the 5 trees, which are in poor condition or conflict with the location of the house, well and septic easements need to be removed. DPZ will require mitigation for the 5 trees removed at a 1 to 1 replacement.

Will Not Nullify the Intent or Purpose of the Regulations - Approval of this waiver request will not nullify the intent or purpose of the regulations. The final plan provides the information that would be required on a preliminary equivalent sketch plan (a public road is not proposed) thus serving the intent of the regulations. In addition, it has been determined that the APFO intersection is at an acceptable level of service, no noise mitigation is required and no frontage improvements are required. SWM will be evaluated in detailed at the Environmental Concept Plan prior to the applicant's submission of the final plan. The applicant has demonstrated, through a detailed exhibit (see attached photographs and justification) describing the poor condition of each tree to be removed. This exhibit clearly demonstrates that 2 of 5 specimen trees need to be removed to protect the health of the forested area to remain. The removal of these trees will not nullify the intent of the regulations.

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 Brenda Lubber at (410) 313-2350 or email at BLubber@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/BL

cc: Research
DED
Real Estate Services
FCC
Marian Honecny, DNR