



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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Marsha S. McLaughlin, Director

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October 30, 2014

Ms. Camilla Carroll
3500 Manor Lane
Ellicott City, MD 21042

Dear Ms. Carroll:

RE: WP-15-038, Westmount, Lots 3-327 and
Open Space Lots 328-402 (SP-14-008)

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 16.116(c) removal of vegetative cover and trees from environmental areas; Section 16.1205(a)(7) for specimen tree removal; Section 16.121(e) which requires 40' of frontage on a public road for at least one access to an open space lot, with 20' being permissible for any additional access; and Section 16.119(e)(5) which requires public right-of-way lines on corner lots at an intersection shall be truncated by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant.

Approval is subject to the following conditions:

1. Compliance with all Subdivision Review Committee comments for SP-14-008.
2. The waiver petition number (WP-15-038) and its conditions of approval must be added to SP-14-008 and all future subdivision plats.
3. As mitigation for the requested removal of fifty seven (57) specimen trees located within this site, the developer is required to use 2" caliper plant materials for the required plantings within the proposed reforestation planting areas at a minimum planted adjacent to all residential lots throughout the subdivision. A final determination of the plant material size and total number of plants will be reviewed and finalized at the final plan. If design changes are made at the final plan stage and the reforestation planting areas are reduced or eliminated, then the developer shall plant an equivalent number of shade trees within the residential and open space lots and adjacent to priority retention areas. These fifty-seven (57) shade trees (or equivalent) will be in addition to and an enhancement of any required perimeter landscaping and shall be bonded.
4. A waiver to Section 16.116(c) is not required for the three (3) stream crossings, the public utility line extensions and for a pathway through open space which were determined essential or necessary for essential road crossings, utility line connections and pedestrian connections in accordance with Section 16.116(c) of the Regulations.
5. The reduction of the minimum open space frontage requirement is only for those Open Space Lots depicted on the submitted waiver plan exhibit which provide access to SWM facilities.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty -

The site is being developed in accordance with the Development Rights and Responsibility Agreements (DRRA) per ZB 1087M. This Agreement allows for development of 325 single-family detached homes along with 50% open space which would be designed to contain all the environmentally sensitive features and their buffers, meet the minimum recreational open space requirement, provide major SWM facilities, create a 36-acre parcel to be dedicated to the Department of Recreation and Parks and to meet the Forest Conservation requirements on-site. Because the general design of the site was approved as part of the rezoning of the parcel and the Agreement was signed, 57 of the 141 specimen trees require removal in order to achieve the agreed upon lot yield and are located within proposed road rights-of-way, utility easements or within or near proposed house sites. The majority of the specimen trees to be removed are Tulip Poplars and several other species which are in fair condition. According to the University of Florida's Institute of Food and Agricultural Sciences, tulip poplars have soft wood, making them less resilient in case of storms than trees with harder wood. Physical damage due to a storm poses a threat to nearby proposed structures and may result in damaged trees in need of removal. Tulip poplars are susceptible to destructive diseases, such as verticillium wilt. This fungal disease invades roots and may spread to other susceptible plants. Verticillium wilt often causes tree death.

Given the changes in the new ESD SWM requirements (going from large ponds to small bio-retention facilities) and the Subdivision Regulations have not been updated to accommodate recent SWM changes, practical difficulties and extraordinary hardship in meeting the minimum open space frontage occurs. The environmental buffer disturbance is limited only to the areas indicated on SP-14-008 for essential or necessary disturbances and not to any other environmental buffer disturbances. In addition, the parcel is subject to the approved DRRA which requires small residential lots. Thus, it is difficult to provide the 40' of public frontage for each open space lot, or 20' of road frontage if the lot has another means of access. Allowing a reduction in the frontage requirements for open space lots provides a better overall design of the subdivision because the bioretention facilities will not be placed on the individual residential lots.

As part of the DRRA, a conceptual design for the 325 SFD lots was approved along with 2 access points onto Route 144. This design limited the ability to provide the required full truncation for proposed Road A. If Road A was shifted to the west, some of the agreed upon lots would have to be eliminated and/or the environmental features to be protected on the site would be impacted.

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. Very few of the specimen trees to be removed will be visible from public view. The majority of the trees are located internal to the 221 acre parcel. Thirteen of the trees are reported to be in poor health, and 44 are Tulip Poplars trees (some of which have double or triple trunks) which reportedly have soft wood and are prone to damage during storms.

Allowing a reduction to the minimum road frontage for some of the open space lots will not be detrimental to the public because the frontage provided will be in keeping with the intended use of the open space lot and is the minimum width necessary for access to the SWM facilities on those lots.

The developer's engineer has demonstrated that the truncation provided for Road A will provide adequate sight distance for a driver to check for oncoming vehicles before proceeding within the travel lanes of Frederick Road.

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 since the developer will be required to plant 1" or 2" caliper native trees within the Forest Conservation Easement to accommodate for the removal of the specimen trees. Of the 57 specimen trees to be removed, 51 are Tulip Poplar trees (some trees are in poor health and/or have double or triple trunks).

The DRRA was approved for 325 SFD units under a conceptual design with 3 stream crossings which were considered essential disturbance along with the disturbances needed to connect to the public utilities and for the construction of the pathway system required by the Department of Recreation and Parks in accordance with Section 16.116(c) of the Subdivision Regulations. Based on this Zoning Board Agreement, the site was restricted to 325 SFD lots, thus limiting the ability to provide the required public road frontage for all the open space lots which contain SWM devices.

Since the site has an approved DRRA, this restricts the developer from providing the full truncation required for Road A without eliminating some of the agreed upon lots or without encroaching into the environmental resources or a neighboring property.

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 plan remains in active processing.

If you have any questions, please contact Brenda Luber at (410) 313-2350 or email at BLuber@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/BL

cc: Research
DED
Real Estate Services
GLW
LDD
Marion Honeczy, DNR
Forest Conservation Coordinator
SP-14-008