



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

August 20, 2015

Regina Smutz
799 Driver Road
Marriottsville, Maryland 21104

RE: WP-15-149, Piney Run Overlook
Reconsideration Request

Dear Ms. Smutz:

The Director of the Department of Planning and Zoning has 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 reconsideration request to waive **Section 16.120(b)(4)(iii)(b)** of the Subdivision and Land Development Regulations, which indicates that floodplains, wetlands, streams, their buffers and forest conservation easements may be located on a lot or buildable preservation parcel of 10 acres or greater in size if the building envelope is no closer than 35 feet from these environmental features.

Approval is subject to the following conditions:

1. The forest conservation easement area shall be expanded to include the wetlands, streams, and their buffers. Required forest conservation easement plantings shall be a minimum of 1" caliper trees. No banks or credit shall be taken for additional plantings or additional easement area.
2. The building envelope on all three lots shall be no closer than 35 feet from the environmental features provided that a deck may project ten feet beyond the building envelope.
3. A wooden split rail open fence shall be erected along the boundary of the forest conservation easement to prohibit encroachments within the easement. The fence shall be maintained by the individual property owners.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty

In order to subdivide the property and adhere to this Regulation the environmental features must be contained within a non-buildable preservation parcel allowed under the cluster subdivision requirements. Given the gross acreage of the site, the cluster provision allows two buildable lots as a matter of right; therefore to receive the three lot yield the owner must purchase a development right per the Density Exchange Option (DEO). Although the DEO option allows an achieved density of four lots the site only passed soil percolation tests for three lots. The location of the septic reserve fields, wells and stormwater management devices for each usable lot design exceed the maximum lot size of 60,000 square feet for cluster lots. The owner would incur a financial hardship to purchase one development right and a difficulty would result in designing buildable lots that meet the cluster lot size requirement while providing the best usable design.

Alternative Proposal & Not Detrimental to the Public Interest

The intent of the Regulation is served to a greater extent through the implementation of this proposal because the entirety of the environmental features are protected in perpetuity within a permanent forest conservation

easement, the larger lots allow space for the houses to sit on the flatter ridgeline and incorporate the area of perc-able soil, wells and stormwater management for the best usable lot design, and the three-acre lot design is consistent with the character of Driver Road. For these reasons, approval of this waiver petition is not detrimental to the public interest.

Will Not Nullify the Intent or Purpose of the Regulations

The intent of this Regulation is to provide usable residential lots that are not encumbered by environmentally sensitive features in order to provide usable yards and the protection of the said features. The overall location of the houses and yards will not be impacted whether this subdivision is processed as a cluster subdivision or a non-cluster subdivision. The cluster subdivision will only afford a smaller lot size with the environmental features placed in a non-buildable preservation parcel. In order to satisfy the intent of this Regulation the environmental features within the non-cluster lots will be placed within a perpetual forest conservation easement and a split rail fence will be constructed along the easement boundary to prohibit encroachments.

Please 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 subdivision plan remains in active processing.

If you have any questions, please contact Julia Boone at (410) 313-2350 or email at jboone@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/jb

cc: Research
DED
DRP – Paul Walsky
MBA, Inc.