



# 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

December 17, 2015

Mildenberg, Boender & Associates, Inc.  
7350-B Grace Drive  
Columbia, MD 21044

RE: Robert's Crossing Lots 1-15 & OS Lot 16, SFD  
WP-16-066

Dear Sir / Madam:

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)** to allow the removal of the three(3) specimen trees located on this site. Approval is subject to the following conditions:

1. The developer / builder shall plant a total of six(6) 2 ½-inch caliper shade trees (or equivalent) as replacement mitigation for the removal of the three(3) specimen trees which exist on this site. If the site design allows, these mitigation trees should be planted along the perimeter of this project in order to provide enhanced screening for the existing adjacent developed properties. Review for compliance with this mitigation requirement will be conducted at the time of review of the perimeter landscape design associated with the subdivision and development of this site.
2. Financial surety and payment of an inspection fee for the installation of these mitigation trees will be included in the perimeter landscape estimate at the final plan stage.
3. On all subsequent plans and plats, add a General Note which provides a description of this waiver petition, WP-16-066, which includes the request, section of the Regulations, action taken, date and conditions of approval.

Justification for our decision was made based on the following:

- Extraordinary hardship or practical difficulties which may result from strict compliance with the Regulations – The proposed subdivision design for this SFD development will require the removal of the three(3) specimen trees located on this property. While it is understood that retention of specimen trees is a goal of the Forest Conservation Act, a practical difficulty exists which precludes the reasonable retention of these resources. The difficulty arises due to the location of the trees and the lack of flexibility available in the site layout due to other constraining regulations and overall project size. These constraints are such that avoidance is not possible while maintaining the development potential of the property. The three(3) specimen trees cannot be saved without losing buildable lots, thus creating a hardship on the developer.

The retention of the specimen trees was given priority consideration, but is not possible due to the existing terrain. The buildable lot areas have been reduced in order to retain as much forest as possible within Open Space Lot 16 which has been designed to contain the wetland area, steep slopes and its location provides a buffer between the proposed homes and the adjacent active railroad tracks.

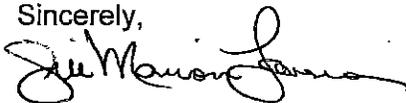
- The intent of the Regulations will be served to a greater extent through the implementation of the alternative proposal – The intent of the Forest Conservation Act is to direct development to protect priority forest while allowing reasonable development of a property. This project meets this intent by proposing development on a non-forested site so that, as much as possible, limited forest resources will be impacted. Mitigation for the removal of these specimen trees will consist of six(6) 2 ½-inch caliper trees around the perimeter of this development adjacent to existing homes. The placement of these trees will be incorporated into the site design.
- Approval of the waiver will not be detrimental to the public interests – The approval of the waiver will not have any detrimental impact to the public interest. Removal of these trees will not have an impact to water quality or habitat value function. Two of the specimen trees are isolated and are not part of the F1 forest stand.
- Approval of the waiver will not nullify the intent or purpose of the Regulations – The approval of the waiver will not nullify the intent of the Regulations because the Regulations allow for the removal of specimen trees with County approval. The intent of the Regulations, as it relates to retaining specimen trees, is that these trees should be retained unless their retention is not practical within the context of the development of the site. Given the limitations of the site and the location of the trees, the request for removal of the trees is practical for the development of this site and meets the intent of the waiver process component 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 plan remains in active processing.

This requested waiver will remain valid for as long as this subdivision plan remains in active processing.

If you have any questions, please contact Ms. Pat Britt-Fendlay at 410-313-3371 or via e-mail at [pfendlay@howardcountymd.gov](mailto:pfendlay@howardcountymd.gov).

Sincerely,

  
 Kent Sheubrooks, Chief  
 Division of Land Development

KS/JMF/MPB 

cc: Research  
 Development Engineering Division  
 Forest Conservation Coordinator  
 DPZ File #ECP-15-081  
 Marion Honeczy – Maryland DNR