



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

April 13, 2016

DRS & Associates
52 Winters Street
Westminster, MD 21157
Attn: Mark A. Hurt

RE: Henry J. Lilienfield Property Lot 2 (Map 45 / Parcel 42)
8532 Reservoir Road, Fulton, MD 20759
WP-16-121

Dear Mr. Hurt:

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) Forest Conservation Retention Priorities** for removal of a 51" yellow poplar-bifurcated specimen tree (ST#5 which is in fair condition) and to allow construction impact to the critical root zone of a 43" yellow popular tree (ST#4 which is in fair condition) for the construction of the septic system at this site. Approval is subject to the following conditions:

1. Approval of this waiver petition request is subject to addressing all review comments generated with the review and approval of the Simplified Environmental Concept Plan (ECP) for this site.
2. As part of the Simplified ECP approval process and prior to the submission of the building permit application for the proposed construction at this site, you are required to submit a completed and signed "Declaration of Intent – Single Residential Lot Exemption Clearing Less than 20,000 square feet of Forest". That DOI shall reference this Waiver Petition File #WP-16-121.
3. When the property owners make application for an activity regulated under Howard County Code Section 16.1202(a), or if total clearing of forest resources following the date of the DOI exceeds 20,000 square feet, the County may require the owner to meet the reforestation or afforestation requirements established in Section 16.1206 and 16.1207 of the Howard County Code and may also assess a penalty fee for forested areas cut in violation of the terms of the exemption.
4. The DOI and all of its conditions shall be expressly referenced in and attached to all deeds and other documents which create or transfer any legal or equitable interest in this property in order to provide notice to the new owner(s) that they assume all obligations to conform to the requirements of Section 16.1200 of the Subdivision Regulations should they propose any activity regulated thereunder.
5. The waiver petition approval pertains only to the limits of disturbance (LOD) as shown on the approved Simplified ECP. The LOD shall be the minimum impact necessary for the proposed site improvements and the remaining forested areas on site are to be saved as mitigation for removal of the two specimen trees.
6. Within four weeks of approval of this waiver petition request, submit to this office the following documents to be used for file retention purposes:
 - An approved copy of the Simplified Environmental Concept Plan to be used as the Waiver Petition Exhibit.
 - A revised copy of the "DOI – Single Residential Lot Exemption Clearing Less than 20,000 Square Feet of Forest". The amount of forest clearing stated in the DOI shall be consistent with the proposed forest clearing stated on the Simplified Forest Conservation Plan. Also, this waiver application file number, WP-16-121, shall be referenced on the DOI.

Justification for our decision for APPROVAL was made based on the following:

- Extraordinary hardship or practical difficulties which may result from strict compliance with the Regulations – There are five(5) specimen trees(ST) on this site. ST#5 is located within the sewage disposal area and must be removed; and, the critical root zone of ST#4 will be impacted for the construction of the sewage disposal system affecting the preservation of this specimen tree. Lot 2 was recorded as a buildable lot on August 21, 1972, before the enactment of the Forest Conservation Act. The perc certification plat for Lot 2 was revised on April 2, 2012, which approved the current sewage disposal area. Should the Regulations be strictly enforced, it would create a hardship and practical difficulty for the owner to install a septic system and to build a home.
- 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 that large good quality native trees are considered a priority to be retained, but it does give leeway for certain trees to be removed. The sewage disposal area has been located in close proximity to the proposed house in order to reduce the amount of disturbance to the entire forest and other sensitive areas such as steep slopes which minimizes forest division.
- Approval of the waiver will not be detrimental to the public interests – Only two(2) of the five(5) specimen trees at this site is to be removed and forest clearing will be kept to a minimum of less than 20,000 square feet. It has been determined that this 51" Poplar specimen tree is in fair condition; and, by its size and type, is nearing its end. Saving it would not in itself be a benefit to the overall health of the forest. As such, the approval of this waiver should not be seen as detrimental impact to the public interest.
- Approval of the waiver will not nullify the intent or purpose of the Regulations – The removal of ST#5 and impacts to ST#4 is particular to the development on this property. It should not be seen as a nullification of the intent of the Regulations because they 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 site development. Given the limitations of the site and the location of these trees within the approved septic area, it is clear that the removal and impacts to these trees would be deemed practical. Therefore, approval of the waiver 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 plans, and building permits. This requested waiver will remain valid for one year from the date of this letter, or for as long as the associated building permit and/or grading plan for this site remain in active processing.

If you have any questions, please contact Ms. Pat Britt-Fendlay at (410) 313-2350 or email at pfendlay@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development



KS/MPB/JMF

cc: Research
Phil Thompson - Development Engineering Division
Division of Public Service & Zoning Administration – Front Counter
Forest Conservation Coordinator
Marion Honeczy – Maryland DNR
Chad & Allison Ellis - owners