



June 25, 2019

Anne Wright  
Walker and Wright  
118A West Main Street  
Mountain City, TN 37683

RE: WP-19-075, CSX Railroad (Tax Map 48, Parcel 5,  
Unit 2, Dorsey Run Park – Turf Property LLC) –  
APPROVAL OF RECONSIDERATION REQUEST

Dear Ms. Wright:

The Director of the Department of Planning and Zoning considered your request for a reconsideration of WP-19-075 an alternative compliance from the Howard County Subdivision and Land Development Regulations in order to extend a deadline in the conditions of approval to provide a copy of a deed to the Department of Planning and Zoning.

As of the date of this letter, the Planning Director **approved** your request for a reconsideration of the alternative compliance of following sections:

- **Section 16.119(b)(1)**, Requirement that subdivision in industrial area include a public right of way for continuous access to a County or State street or highway;
- **Section 16.120(c)(1)**, Requirement that industrial lots have a minimum frontage of 60 feet on an approved public road which provides access to the property; and,
- **Section 16.147**, Requirement for final subdivision plan and final plat.

Approval is subject to the following conditions:

1. Approval of this request is to allow transfer of a 0.148-acre portion of Parcel No. 5, Unit 2 to CSX for additional railroad right-of-way. No other lots or parcels are being legally endorsed. No additional lots are to be created and no new development, construction or improvements are permitted under this request.
2. An adjointer deed must be executed between Turf Property, LLC and CSX Transportation to merge the 0.148-acre parcel into the CSX right-of-way or other adjacent parcel owned by CSX. The adjointer deed shall be recorded in the Howard County Land Recorded office. The deed shall reference the alternative compliance petition file number, WP-19-075.
3. Provide the County with a copy of the deed showing the 0.148-acre parcel has been deeded to CSX to become part of their right-of-way within 30 days after the recordation of the deed, and within 180-days of the April 1, 2019 approval of this alternative compliance petition (**on or before September 28, 2019**).

Our decision was made based on the following:

**Extraordinary Hardships or Practical Difficulties:**

Section 16.119(b)(1): There is no need for a right of way from the proposed subdivision since the parent parcel will still have access to the public road and the secondary parcel would be deeded to CSX Transportation, Inc. to be used for their ROW to expand the railbed. Public access to the property is not desirable due to the hazards which could arise from public access to the rail line.

Section 16.120(c)(1): CSX Transportation owns the railroad right-of-way adjoining the subject parcel, and the corporation accesses the railbed for use and maintenance through its corridor. There is no useful purpose for the 0.3-acre strip to have 60 feet of frontage on a public road if it will become part of the railroad right-of-way.

Section 16.147: CSX is seeking to widen their right-of-way to accommodate a second track to expand MARC services. As a linear right-of-way adjoining several parcels along the corridor, it is impractical to require plats for small fractions of new parcels along the right-of-way, which have no public road frontage.

RECONSIDERATION FOR ADDITIONAL TIME: Due to the additional processing needed to sell property that is part of a defunct condominium regime, CSX is encountering practical difficulties in securing the property. The Counsel for the Seller has had to reinstate the condo corporation, make the required tax filings, have a new Board appointment, and hold meetings for the approval of an amendment to the Condominium Declarations. This amendment was recently approved and an amended declaration filed.

**Alternative Proposal:**

Section 16.119(b)(1): Providing access to a public road would be an unusual requirement if the subject parcel is to be used to widen the railbed as the railway will operate as a right-of-way separate from the public road. Workers and trains access the railbed from designated station and rail yard locations.

Section 16.120(c)(1): Similarly, providing 60 feet of public road frontage for the railbed would provide no useful purpose.

Section 16.147: Allowing small parcels to be merged with the CSX right-of-way makes the most practical sense since the land is to be used to expand the railbed.

RECONSIDERATION: The sale of the property could not occur without the additional processing.

**Not Detrimental to the Public Interest:**

Sections 16.119(b)(1) and 16.120: Workers and trains with freight and passengers access the railbed from designated station and rail yard locations. There is no detriment to limiting public access. In fact, limiting access to the railbed can be a safety priority to limit conflict between trains and pedestrians, bikers, and vehicles.

Section 16.147: This land is solely intended to be used to expand the railbed and be part of the right-of-way. Therefore, it is not detrimental to the public interest to use an alternative process to widen the right-of-way.

RECONSIDERATION: The extension of time to obtain an executed deed is detrimental to the public interest. The additional time will allow the acquisition of property for a new MARC rail line to be completed.

**Will not nullify the intent or purpose of the regulations:**

Sections 16.119(b)(1) and 16.120(c)(1): The division of the parcel and lack of public road access or frontage does not impact the usefulness of this parcel considering that it will be used for a railroad bed, and does not affect any forest conservation area, residential area, historic district, school or park, or any other environmental features that may be regulated through the Subdivision and Land Development Regulations.

Section 16.147: The intent and purpose of the regulations is to ensure that creation of individual parcels is well documented for future transfer between owners and that the parcels meet lot standards. However, this parcel is solely intended to become railroad right-of-way and therefore lot standards would not apply, and the transfer of land for anything other than railroad right-of-way is not anticipated.

RECONSIDERATION: The extension of time has no impact on the intent or purpose of the regulations.

Indicate this alternative compliance 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 alternative compliance approval will remain valid for the time period specified above in the approval condition 90 days from April 1, 2019 in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Jill Manion at (410) 313-2350 or email at [jmanion@howardcountymd.gov](mailto:jmanion@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Chief  
Division of Land Development

KS/JAM

cc: Research  
DED  
Real Estate Services