



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

May 30, 2019

Rajdeep Gill
8111 Chapel Manor Lane
Ellicott City, Maryland 21043

RE: WP-19-095, AJ Gills Property

Dear Mr. Gill:

The Director of the Department of Planning and Zoning considered your request for an alternative compliance from the Howard County Subdivision and Land Development Regulations. As of the date of this letter, the Planning Director **approved** your request for an alternative compliance of the following Sections:

Section 16.116(a)(1) – Protection of wetlands: Grading, removal of vegetative cover and trees, paving and new structures shall not be permitted within 25-feet of a wetland in any zoning district.

Section 16.120(b)(4)(iii) – Lot Layout: *Usable design.* Residential lots shall be designed to be usable in terms of not being encumbered by environmentally sensitive features.

Section 16.1205(a)(7) – Forest retention priorities: State champion trees, trees 75 percent of the diameter of State champion trees, and trees 30 inches in diameter or larger.

Approval is subject to the following conditions:

1. Submission of a final plat application for review by the SRC Agencies.
2. Providing the required roadway widening dedication along Johns Hopkins Road with the final plan.
3. Alternative compliance approval is limited to the removal of Specimen Trees #1, #3, #5, and #6 as depicted on the exhibit. Any proposal to remove any other specimen tree will require a new alternative compliance request.
4. A minimum of eight, native 2.5"-3" caliper, shade trees shall be provided as mitigation for the removal of the four specimen trees from the property. Landscape surety, in the amount of \$300.00 per tree, shall be provided with the applicant's grading permit.
5. The applicant shall obtain all required authorizations and permits from the Maryland Department of Environment and the U.S. Army Corp of Engineers for any disturbances within the wetlands and their buffers and any wetland mitigation required. Reference any applicable MDE or USACOE permits or tracking numbers on the associated plans and building or grading permits.
6. No grading, removal of vegetative cover and trees, paving or new structures will be permitted within the limits of the 100-year floodplain, wetlands, streams or their required buffers, except for the driveway installation, in accordance with Section 16.116 of the Subdivision and Land Development Regulations.

Our decision was made based on the following:

Extraordinary Hardships or Practical Difficulties:

Section 16.116(a)(1): The majority of the frontage of the property along Johns Hopkins Road is encumbered by environmental features. This creates an extraordinary hardship and a practical difficulty when trying to access

the developable portion of the property. Complete avoidance of the wetland buffer is not possible while maintaining the reasonable development potential of the property. The location of the shared use-in-common driveway was chosen because it would cause the least amount of encroachment into the wetland buffer, while still providing adequate access to the developable area of the site.

Section 16.120(b)(4)(iii): The extraordinary hardship or practical difficulty associated with creating usable lot design that separates the environmental features from the buildable lots less than 10 acres would be that the environmental features encompass 2.4 acres of the 7.8 acre parcel. Locating all the environmental features onto separate non-buildable parcel would create a remaining parcel of only 5.4 acres in size. This remainder parcel size is not large enough to be divided into two 3 acre lots, the minimum lot size for a lot in the Rural Residential zoning District. These features currently exist on a parcel that is less than 10 acres and there is no change in size for these areas. The future transfers of these lots will include a disclosure that these environmental features are existing on the lots. The environmental features shall appear on the final plat of the property and on all supplemental and construction plans. The majority of the wetland, stream and their buffer areas are included in the proposed forest conservation easement. The limits of this proposed easement will be shown on the development plans and the recorded plat.

Section 16.1205(a)(7): Of the six existing specimen trees, four are proposed to be removed. The practical difficulty arises due to access to the buildable portion of the parcel. The location of the trees, the property line setbacks for a driveway and the wetland system limit the feasible access to the area of proposed development. The four trees that are to be removed are all within the area of the proposed driveway. The location of the driveway was chosen to make the least impact to the environmental features found onsite.

Alternative Proposal:

Section 16.116(a)(1): Not allowing the encroachment into the wetland buffer would eliminate the development potential of this property. The frontage along Johns Hopkins Road has wetlands, a stream and their associated buffers. The only way to access the developable area of the property is through disturbance of the wetland buffer.

Section 16.120(b)(4)(iii): Alternatively, requiring the environmental features to be placed into a separate non-buildable parcel would leave the developer with only 5.4 usable acres and eliminate the subdivision potential of the lot. The environmental features would remain on a lot of less than 10 acres, as the property is only 7.8 acres in size.

Section 16.1205(a)(7): If the specimen trees were required to remain onsite the location of the proposed driveway would need to be moved. The majority of the property's frontage along Johns Hopkins Road is encumbered by environmental features. The current location of the proposed driveway causes the least amount of disturbance.

Not Detrimental to the Public Interest:

Section 16.116(a)(1): The encroachment into the wetland buffer will not be detrimental to the public interest as the parcel will allow the delineation of the environmental features. The front 325 feet of the parcel will still be wooded and will appear just as it does today for the foreseeable future. The developer is not proposing any clearing into the wetlands, stream, or stream buffer, only the 891 square feet of disturbance into the wetland buffer for the purpose of access.

Section 16.120(b)(4)(iii): Approval of this alternative compliance will not be detrimental to the public interest as the development of the parcel will incorporate all necessary measures to protect the environmental features. The existing parcel is currently less than ten acres in size. The environmental features will be placed within a forest conservation easement, which will serve as a perpetual buffer to the adjacent residential properties to the north and west.

Section 16.1205(a)(7): The specimen trees which are proposed to be removed are internal to the property and do not currently have individual exposure that creates an aesthetic value. As such, their removal will not be notable to the public given approximately 3 acres of the forest on the property will remain, including the 325 feet of forest buffer along Johns Hopkins Road. During the Pre-Submission Community Meeting the adjoining property owner, Rolling Hills Baptist Church, voiced concern that some of the larger trees on the site pose a danger to the structures on their property and that their insurance company would like these trees to be removed. The trees that are causing a concern for the adjoining property owners are within the area of the proposed driveway, where the specimen trees, which are proposed to be removed, are located.

Will Not Nullify the Intent or Purpose of the Regulations:

Section 16.116(a)(1): The only disturbance will be to a small portion of an area encumbered by a wetland buffer. The remaining areas of environmental features will be delineated onsite and recorded through the plat recordation process. These areas will be further maintained within a forest conservation easement and a 35-foot environmental buffer. Allowing the encroachment into the wetland buffer will provide a safe driveway location that is in conformance with the current subdivision regulations.

Section 16.120(b)(4)(iii): Allowing the environmental features within the proposed lots will not nullify the intent or purpose of the regulations as the developer will still be required to comply with all other Howard County subdivision regulations. The developer will have to complete a final subdivision plan for the proposed development. This will be required to be reviewed and approved by all SRC agencies before the plan can move forward.

Section 16.1205(a)(7): Two of the original six specimen trees will remain on the property. The four trees which are proposed to be removed will be replaced with a minimum of eight, native 2.5"-3" caliper shade trees. Given the limitations of the site and the location of the specimen trees, the retention of these trees is impracticable within the context of the development of the site.

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 one year from the date of this letter or as long as a subdivision or site development plan is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Kathryn Bolton at (410) 313-2350 or email at kbolton@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/ktb

cc: Research
DED
Real Estate Services
Benchmark

