



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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Marsha S. McLaughlin, Director

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April 12, 2010

Highland Lake Community Association
c/o Katherine Bair
P.O. Box 142
Highland, MD 20777

RE: WP-10-124, Highland Lake, consideration of a waiver to Section 16.115(c)(2), Section 16.116(a)(1), Section 16.116(a)(2)(i), and Section 16.116(a)(2)(ii) of the Subdivision Regulations

Dear Ms. Bair:

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 the following sections of the Subdivision Regulations:

Section 16.115(c)(2): No clearing, excavating, filling, altering drainage, or impervious paving, may occur on land located in a floodplain unless required or authorized by the Department of Planning and Zoning upon the advice of the Department of Inspections, Licenses and Permits, the Department of Public Works, the Department of Recreation and Parks, the Soil Conservation District, or the Maryland Department of the Environment. Any proposed construction of a structure located within a floodplain shall be subject to the requirements of the Howard County Building Code.

Section 16.116(a)(1): 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 16.116(a)(2)(i): Grading, removal of vegetative cover and trees, paving and new structures shall not be permitted within 50 feet of an intermittent streambank.

Section 16.116(a)(2)(ii): Grading, removal of vegetative cover and trees, paving and new structures shall not be permitted within 75 feet of a perennial streambank for use I streams as classified by the Maryland Department of the Environment in residential zoning districts and residential and open space land uses in the NT, PGCC, and MXD Districts.

Approval is subject to the following conditions:

1. The path itself must be no more than eight feet wide and will be constructed of wood mulch placed directly on the ground. The mulch must be spread by hand on the ground with no grading or filling, and with minimum disturbance.
2. The drainage channels must be crossed by pedestrian traffic only using the proposed Trex garden/foot bridges.
3. Any disturbed areas must be returned to the existing grade, re-seeded, and stabilized, as appropriate.
4. The disturbances proposed must not include clearing, excavation, filling, or altering drainage. The path and the footbridges may not have any perceptible impact on the flood plain elevation. No improvements may be constructed within actual wetlands or streams, and all improvements must be limited to the wetlands buffer and beyond the stream banks.
5. Removal of individual trees and/or forest is not permitted.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty - The justification letter submitted by the applicant dated March 18, 2010. Due to the location of the pond, the streams leading into the pond, and all of the environmental features associated with these bodies of water, it would be a practical difficulty to ask the Homeowner's Association to avoid all environmental features and their buffers when installing a footpath around the pond.

Alternative Proposal - The justification letter submitted by the applicant dated March 18, 2010. The only alternative for not granting the requested waiver would be to require the applicant to avoid all environmental features and their buffers around the pond when installing the footpath. Due to the existing pond location, the streams leading into the pond, and all of the environmental features associated with these bodies of water, the alternative requiring the applicant to avoid all environmental features and their buffers around the pond when installing the footpath amenity for the community is not feasible.

Not Detrimental to the Public Interest - The justification letter submitted by the applicant dated March 18, 2010. Approval of this waiver will not be detrimental to the public interest since open space areas are intended for the use and enjoyment of the public, in this instance, for the residents of the Highland Lake community. The community association, which owns the parcels encompassing the flood plain, maintains the area in an appropriate manner that protects the flood plain and sensitive areas. The installation of the path and footbridges will help restrict general activity in the flood plain and sensitive area by focusing pedestrian use to the path instead of randomly throughout the open space area. The disturbances proposed include no clearing, excavation, filling, or altering drainage. Neither the path nor the footbridges will have any perceptible impact on the flood plain elevation. No improvements are proposed within actual wetlands or streams, but would be limited to the wetlands buffer and beyond the stream banks.

Will not Nullify the Intent or Purpose of the Regulations - The justification letter submitted by the applicant dated March 18, 2010. The approval of this requested waiver would not nullify the intent or purpose of the regulations since open space areas are intended for the use and enjoyment of the public, in this instance, for the residents of the Highland Lake community, as a passive open space use. The community association, which owns the parcels encompassing the flood plain, maintains the area in an appropriate manner that protects the flood plain and sensitive areas. Approval will allow the owners to install a path and footbridges, which will help restrict general activity in the flood plain and sensitive area by focusing pedestrian use to the path instead of randomly throughout the open space area. The disturbances proposed include no clearing, excavation, filling, or altering drainage. Neither the path nor the footbridges will have any perceptible impact on the flood plain elevation. No improvements are proposed within actual wetlands or streams, but would be limited to the wetlands buffer and beyond the stream banks.

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.

If you have any questions, please contact J.J. Hartner at (410) 313-2350 or email at jehartner@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Acting Chief
Division of Land Development

KS/TKM/JH

cc: Research
DED
CLSI
File# WP-10-124