



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

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November 14, 2011

Ellicott City Land Holding, Inc.
attn: Donald R. Reuwer, Jr.
5300 Dorsey Hall Drive, Suite 102
Ellicott City, MD 21042

RE: **WP-10-166 Matucha Property (Ilchester Oaks II), Lots 1-3 and Open Space Lot 4**
Waiver Reconsideration (F-06-078)

Dear Mr. Reuwer:

The Director of the Department of Planning and Zoning considered your request for a **Waiver Reconsideration** from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request for a *Waiver Reconsideration of Section 16.120(c)(2)(ii)* of the Amended Fifth Edition, which states that lots which share access shall have sufficient frontage collectively to meet the driveway easement requirements in the Design Manual.

NOTE: THIS IS A RECONSIDERATION REQUEST TO APPROVAL CONDITION NUMBERS 3 AND 5 OF THE PREVIOUSLY APPROVED WAIVER PETITION (WP-10-166).

Approval is **subject** to the following four (4) conditions:

- 1) The Developer must submit a revised final plat that outlays the revised driveway access design of the proposed subdivision for the Matucha Property (Ilchester Oaks II).
- 2) The following condition shall replace **condition no. 3** that was originally provided on the approved waiver petition for WP-10-166, dated July 22, 2010. *“Ellicott City Land Holding, Inc., shall execute the private/shared driveway maintenance agreement for the subject lots and submit same to the Department of Planning and Zoning for recordation among the Land Records of Howard County, along with the appropriate recording fees as part of the F-06-078 final plat recordation.”*

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- 3) The following condition shall replace **condition no. 5** that was originally provided on the approved waiver petition for WP-10-166, dated July 22, 2010. *“Ellicott City Land Holding, Inc. shall obtain a legally sufficient and executed easement instrument which will allow the widening of the private shared driveway area and shall submit same to the Department of Planning and Zoning for recordation among the Land Records of Howard County, along with the appropriate recording fees with the F-06-078 final plat recordation. In addition, Ellicott City Land Holding, Inc. must notify all affected users of the driveway of the improvement plans.”*
- 4) All of the remaining eight (8) conditions provided in the previous waiver petition approval letter dated July 22, 2010 must be complied with (condition numbers: 1, 2, 4, 6, 7, 8, 9, and 10).

The decision of this waiver petition reconsideration is based on the following justification:

Hardship:

The purpose of this waiver reconsideration is to revise approved waiver condition no. 3 and no. 5. Waiver condition no. 3 requires that *“all affected property owners must agree to the maintenance of the driveway”*. This condition of approval has created a hardship to the developer/owner due to the fact that it was an unnecessary hardship because the County’s Office of Law has determined that every user has legal right to use the driveway easement no matter how many additional lots are created and no approval from the other property owners is necessary. As an alternative proposal, the developer is proposing to make the owners of the proposed four (4) lot subdivision responsible for the private shared driveway maintenance.

Secondly, waiver condition no. 5 requires that *“a letter of agreement signed by all affected 9 property owners”*. This condition of approval has created a hardship to the developer/owner because it has been determined by the Howard County Office of Law that it is not legally necessary that all property owners agree to the driveway improvements. Because the easement exists, the rights to access and to improve the driveway are within the legal right of the owner(s).

Not detrimental to public interest:

By granting this waiver, it will not have any detrimental impacts to the public interests, will not alter the essential character of the area and will not impair the use or development of the surrounding properties, because the site is zoned for residential use, has received subdivision (final plan) approval, and Design Manual Waiver approval to allow more than 6 users on a shared driveway.

Not nullify the intent or purpose of the regulations:


The intent and purpose of the Regulations will not be nullified by the approval of this waiver. The petitioner has provided a plan exhibit that details the location of the proposed driveway and a statement that acknowledges that maintenance responsibilities will rest solely with the owners of the four lots of the new Ilchester Oaks (a.k.a. the Matucha Property) subdivision. Furthermore, enhancements to the existing driveway will improve vehicular access to and from all affected existing properties. The developer will construct a 22-foot wide paved driveway that shall comply with public road standards thus enabling two-way traffic to enter and exit the community safely.

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 approval and reconsideration will remain valid for a one year time period – November 14, 2012.

If you have any questions, please contact Derrick Jones at (410) 313-2350.

Sincerely,


Kent Sheubrooks, Chief
Division of Land Development

KS/dj
cc: Research
DED
DPW- Real Estate Services
Fisher, Collins and Carter
Michael Brewer
Danny Platt
Deborah Swint
File: F-06-078