



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

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July 9, 2010

Mr. Walter Lynch
MI Developments (Maryland) Inc.
455 Magna Drive
Aurora Ontario Canada L4G7A9

Dear Mr. Lynch:

RE: WP-10-171, Laurel Park Station (S-10-004)

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 16.121(e)(1) – Open Space Access and Frontage** which states if a public road is being created or an existing public road is available that permits and is viable for direct access, open space lots or areas shall have a minimum of 40 feet of frontage on a public road for access by pedestrians and maintenance vehicles; **Section 16.116(a)(2)(i) – Wetlands and Streams** - Grading, removal of vegetative cover and trees, paving and new structures shall not be permitted within 50 feet of an intermittent streambank; **Section 16.120(b)(4)(iii)(d) – Lot Design** - For condominium units and rental apartments, protected environmental features shall be located in open space with units no closer than 15 feet from the protected features; and **Section 16.1205(a)(7) and (10)** – which outlines the forest retention priorities when adhering to the Forest Conservation Act, including areas of floodplain, stream buffers, wetlands and buffers, steep slopes, trees of 30" in diameter or larger, and many other provisions. Per State Senate Bill 666, State Champion trees or trees 30" diameter or larger cannot be disturbed without a waiver. The proposed development will require the removal of 1 of the 2 specimen trees located on this property to accommodate the mixed use development site improvements.

Approval is subject to the following conditions:

1. Compliance with all Subdivision Review Committee comments for S-10-004.
2. Significant landscaping must be provided as proffered in the waiver petition application. This will be evaluated at the site development plan stage.
3. Approval of any State permits required for the environmental disturbances. The MDE tracking permit number must be shown as a general note on the final plan.
4. On the sketch plan and all future subdivision plans and site development plans, provide a brief description of waiver petition, WP-10-171, as a general note to include requests, sections of the regulations, action and date.
5. The minimum frontage for open space Parcel "D" is hereby reduced to a 30' wide public road frontage as requested.
6. The approval of Section 16.116(a) (2) (i) pertains only to the limit of disturbance within the stream buffer to correct the storm drainage problem as cited in this waiver petition and to no other stream buffer disturbances.

Our decision was made based on the following:**Extraordinary hardship or practical difficulties which may result from strict compliance with the Regulations.**

See the enclosed justification statement submitted by the applicant. The waiver petition requires that the applicant demonstrate that extraordinary hardships or practical difficulties may result from strict compliance with the regulations or that the regulations may be served to a greater extent by an alternative proposal. The applicant has demonstrated that through the waiver petition exhibit and documentation that the disturbances to the stream and stream buffers are required for the construction of Building B. Based on the environmental report, an intermittent stream is located in the north central portion of the site and travels southeasterly through the property into a 30" concrete pipe and another intermittent stream is located in the western section of the property along the northern property boundary adjacent to an isolated non-tidal wetland. The short section of the intermittent stream is of poor quality and its elimination will not adversely affect the environment. The waiver request is to construct a storm drain system to accommodate the 200'+ length of intermittent stream. Furthermore, the hydrology to this system will be significantly reduced or eliminated with the construction of a new storm drain system in the vicinity of Davis Avenue (to the north and above the mobile home park). This system is being undertaken at the request of DPW to address existing upstream drainage concerns. The disturbance to the stream buffer above the outfall will not adversely impact the stream. Currently, there is paving within 25' of the intermittent stream and within the 100-year floodplain which will be removed; thus, improving the quality of these environmental features.

Parcel D is encumbered with a Forest Conservation Easement, wetland, and their buffers. Given the parcels limited use, providing 30' feet of open space frontage instead of the required 40' is adequate frontage for access for maintenance of the open space area and pedestrian access, if needed. In addition, recreational uses are not proposed on this parcel.

The site is denuded of vegetation with the exception of the forested areas located within an existing Forest Conservation Easement or is located within a protected floodplain. The site contains two specimen trees which are in good condition. One of the two trees (34" Pin Oak) will be removed to accommodate proposed Building B. If the developer attempted to save this tree, given the location of the building, paving and grading, the likelihood of the tree's long term survival would be very unlikely.

Not Detrimental to the Public Interest - Approval of the waiver request will not alter the essential character of the neighborhood and will not substantially impair the appropriate use or development of the surrounding properties. The granting of the waiver petition for the disturbance to the intermittent stream and buffers would have a favorable impact to the adjacent properties. The stream, which is in poor quality, was created from uncontrolled storm drain discharge from the adjacent mobile home park. The construction of the new storm drain system is needed to reduce upstream drainage concerns, flooding and erosion potential. All other surrounding properties are zoned non-residential and improved with commercial developments.

The reduction of the open space frontage from 40' to 30' will not be detrimental to the public since this area is encumbered with an existing Forest Conservation Easement, wetlands and their buffers. The land has limited recreational use due to the encumbrance of these environmental features. Amenity areas will be located elsewhere on the site.

The removal of the specimen tree will not be detrimental to the public. The tree to be removed is located within the internal boundaries of the parcel and is not in public view. Significant landscaped areas will be created as part of the development's design.

Will Not Nullify the Intent or Purpose of the Regulations - Approval of this waiver request will not nullify the intent or purpose of the regulations since the small 200' length of intermittent stream and its buffer will no longer exist once the storm drainage system is constructed. The stream, in poor quality, is created from uncontrolled storm drain discharge from the adjacent mobile home park. The construction of the new storm drainage system will have an overall favorable impact to the development and the surrounding community. Therefore, the intent of the Regulations will be served through their alternative proposal (construction of the new storm drainage system). A site plan has been submitted to the Design Advisory Panel (DAP) and has received approval for its proposed site design.

The reduction in the required open space frontage to 30' is an appropriate alternative since the open space lot is encumbered with environmental features and will have limited use.

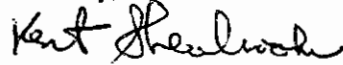
The significant landscaping proposed is an adequate alternative for the removal of the specimen tree.

Development of this "TOD" MARC Station site will improve the appearance of this existing developed property and provide an economic benefit to the Route 1 Corridor. The proposed waiver requests are considered reasonable development for this large mixed use "TOD" development.

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 or as long as the subdivision remains in active processing.

If you have any questions, please contact Brenda Luber at (410) 313-2350 or email at Bluber@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Acting Chief
Division of Land Development

KS/BL

Attachment (justification)

cc: Research
DED
Robert H. Vogel Engineering