



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

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August 2, 2010

Mr. Jerry Frankenfield  
St. Paul's Lutheran Church of Fulton, MD  
11795 Route 216  
Fulton, MD 20759

Dear Mr. Frankenfield:

RE: WP-11-002, St. Paul's Lutheran Church of  
Fulton, MD (F-10-095)

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 16.1202 - Applicability; Exemptions and Declaration of Intent and Section 16.120(b)(4)(iii)b. – Lot Design** – which prohibits Forest Conservation Easements on lots less than 10 acres in size. The applicant is requesting that the Forest Conservation net tract area be based on the limit of disturbance (.17 acres) instead of the total size of Parcel 178 (3.3263 acres) and that a Forest Conservation Easement be permitted on lots of 3 acres in size.

Approval is subject to the following conditions:

1. The limit of disturbance for this project is restricted to the area shown on the Waiver Petition Plan.
2. Further improvements on Parcel 178 must satisfy the Forest Conservation requirements applicable at that time.

Our decision was made based on the following:

**Extraordinary Hardship or Practical Difficulty** - See the enclosed justification statement from the applicant. If the waiver petition is not granted, the applicant will be required to address forest conservation on approximately 3.3263 acres. Of the 3.3263 acres, the applicant has asked to address Forest Conservation requirements on the area which is the limit of disturbance (0.17 acres). Addressing Forest Conservation on the 3.3263 acres, instead of the limit of disturbance (.17 acres) would be unfair to the applicant since the existing improvements were constructed prior to the adoption of the Howard County Forest Conservation Manual.

The applicant has requested permission to allow a Forest Conservation Easement on lots which are three areas in size. Lots 1 and 2 contain large mature forests. If the petitioner is not able to place the existing forest into an easement, he would be forced to provide an off-site location or pay a fee-in-lieu for the forest conservation obligation. The forest conservation easement will be protected by the recordation of the easement and a 35' setback will be provided along the edge of the Forest Conservation Easement. The lots are large enough to provide the home, well, septic driveway, rain garden and expansion (deck, pool, etc.) and still allow for a forest retention easement. In addition, the Forest Conservation Easements located on the 3-acre residential lots would be contiguous to the Forest Conservation Easement on the Buildable Bulk Parcel which is part of the approved Conditional Use.

**Not Detrimental to the Public Interest** - See the enclosed justification statement from the applicant. 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. Allowing the net tract area to be based on the limit of disturbance will not be detrimental to the public because the forest conservation obligation will be satisfied based on the limit of disturbance. Any future improvements to Parcel 178 will be required to address the Forest Conservation requirements at that time.

Granting the waiver will not impair the appropriate residential uses on the lots or development or protection of surrounding properties. Placing the mature forest in a Forest Conservation Easement will lessen the impact on the surrounding properties because the trees will be placed under a protective easement.

**Will Not Nullify the Intent or Purpose of the Regulations** - See the enclosed justification statement from the applicant. Approval of this waiver request will not nullify the intent or purpose of the regulations since the unimproved area will be subjected to the Forest Conservation requirements when this area is developed. Approval of this waiver request will satisfy the intent of the Regulations. The forest conservation obligation will be satisfied by the creation of Forest Conservation Easements on the residential lots and Non-Buildable Bulk Parcel A.

See the enclosed justification statement from the applicant. Approval of this waiver request will not nullify the intent or purpose of the regulations since a Forest Conservation Easement will be recorded and protected in perpetuity. In addition, a 35' buffer will be required along the edge of the easement. Also, the lots are large enough to accommodate the proposed improvements, future improvements and retention of the existing forest.

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 this subdivision remains in active processing.

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

Sincerely,



Kent Sheubrooks, Acting Chief  
Division of Land Development

KS/BL

Enclosure

cc: Research  
DED  
GLW  
F-10-095