



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING  
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

[www.howardcountymd.gov](http://www.howardcountymd.gov)  
FAX 410-313-3467  
TDD 410-313-2323

July 15, 2011

Green – Gateway, LLC  
11795 Bragdon Wood  
Clarksville, Maryland 21029

Re: Chapel Rise  
Waiver Petition WP-11-181

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 Subsections 16.102(d), 16.120(b)(4)(i) and (ii), 16.120(b)(4)(iii)(b), 16.120(c)(2)(iii) and 16.145(a). Waiver approval is subject to the following conditions:

1. Petitioner shall investigate the use of an off-site location for planting and/or retention and use of an approved forest conservation bank to satisfy the forest conservation requirements of the proposed subdivision. Should use of an off-site location or bank prove impractical, attempts must be made to keep all on-site forest conservation easements no less than 100 feet from house sites to avoid future intrusions.
2. Petitioner shall, should on-site forest conservation be permitted by the Department, investigate forest conservation alternatives on Lot 6 of the waiver exhibit, and shall include these alternatives as part of the future environmental concept and forest conservation plans.
3. Petitioner shall, in designing the shared access driveway, attempt to create a stable open channel to convey hydrology from the small wetland area being directly affected by driveway construction to the larger wetland area adjacent to Chapel Estates Drive. Should the conveyance be found feasible, Petitioner shall include a planting plan with vegetation suitable for this area to be incorporated with the landscaping and/or forest conservation plan.
4. Petitioner shall, as part of future environmental concept and subdivision plans, address the Development Engineering Division and Department of Fire and Rescue Services comments enclosed.
5. Petitioner shall, at the final plat stage, provide the required 35' BRL from the wetland buffer, stream buffer, and forest conservation easement.
6. Petitioner shall coordinate with the Department of Planning and Zoning, Development Engineering Division to determine the need for Design Manual waivers.
7. Approval of the subdivision is subject to Health Department approval at final subdivision plan stage.

In addition to the conditions of approval listed above, we make the following advisory comment:

1. In accordance with Subsection 16.116(c)(1), the Department of Planning and Zoning has determined that the impact to wetlands, wetland buffers, and stream buffers as a result of grading incidental to construction of the shared access driveway is a necessary disturbance. The Petitioner provided sufficient information to the

Department to demonstrate that the impact is necessary for reasonable development of the property, the design minimizes disturbance, and there is no reasonable alternative.

Our decision to approve the waiver was made based on the following:

**Subsections 16.102(d) and 16.145(a): To allow the proposed subdivision to proceed directly to final plan submission.**

*Waiver Approval Will Not Nullify the Intent or Purpose of the Regulations*

Subsection 16.102(d) places emphasis on public road improvements and provision of public road frontage, and Subsection 16.145(a) emphasizes introduction of the project to the County, testing of the project for adequate public facilities, and in the case of a preliminary equivalent sketch plan (required for all major subdivisions in the RC Zoning District) provide the information required with preliminary plans. During the course of the review of this waiver petition, the Development Engineering Division and Department of Fire and Rescue Services coordinated with the Petitioner and established design guidelines for the private road which are reflected by the conditions of approval; the private road will be constructed to certain public road standards and no public road improvements are required. Further, the project has been thoroughly introduced to the County through a series of meetings and the present waiver process, testing for adequate public facilities may take place at final plan stage, and information required with preliminary plans has been or will be provided with the environmental concept plan (to be submitted shortly). The Development Engineering Division had no objection to, and the Department of Fire and Rescue Services approved a waiver of these Subsections, subject to the conditions and restrictions enclosed.

**Subsections 16.120(b)(4)(i) and (ii): To allow lots to not be a regular, rectangular shape and to allow dimensions to exceed a 3:1 lot depth to lot width ratio.**

*Extraordinary Hardship or Practical Difficulty Would Result from Strict Compliance*

Due to site configuration, access, well locations, and the locations of passing perc tests, a number of lots are of excessive depth to width ratio or irregular shape. Strict compliance with the regulation would result in excessive difficulty in engineering the site, potentially inflating the cost of the development and/or losing buildable lots in order to have the well and septic systems located within the proposed lots.

*Waiver Approval Not Detrimental to the Public Interest*

The lot exceeding the 3:1 depth-to-width guideline is Lot 4, having a depth to width ratio of roughly 3.5:1. We find this acceptable since: 1) the regulation is subjective, stating that lots shall be designed in terms of "Lot dimensions generally not exceeding a 3:1 lot depth to lot width ratio", and 2) the rear half of the lot, adjacent to existing improved properties, is designed to be non-buildable since it would be encumbered by a forest conservation easement and septic reserve area.

**Subsection 16.120(b)(4)(iii)(b): To allow environmental features and buffers and forest conservation easements on lots less than 10 acres in size.**

*Extraordinary Hardship or Practical Difficulty Would Result from Strict Compliance*

Site features include floodplains, wetlands, streams and their associated buffers; forest conservation easements are proposed. No open space lots are required since a fee-in-lieu is applicable to non-cluster subdivisions in the RC zoning district. In order to place the environmental features and forest conservation easements on buildable lots and comply strictly with the regulations, the buildable lots must be ten acres in size, reducing the number of buildable lots from nine to approximately three. This substantial reduction in yield results in an extraordinary hardship to the petitioner.

**Subsection 16.120(c)(2)(iii): To allow the frontage of Lot 6, a single pipestem lot having further subdivision potential, to be of insufficient width to meet public road right-of-way requirements.**

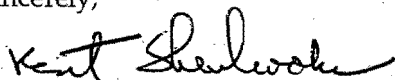
*Waiver Approval Will Not Nullify the Intent or Purpose of the Regulations*

Subsection 16.120(c)(2)(iii), like Subsection 16.102(d) above, places emphasis on the provision of public road frontage. Subsection 16.120(c)(2)(iii) however addresses the adequacy of public road frontage of lots from a design perspective, focusing on lots having further subdivision potential and causing a public road to be needed due to the increase in the number of users. Lot 6, consisting of 9.04 acres, possesses further subdivision potential. The Development Engineering Division and Department of Fire and Rescue Services established design guidelines for a private road per certain public road standards and determined that no public road improvements are required. The Development Engineering Division had no objection to, and the Department of Fire and Rescue Services approved a waiver of these Subsections, subject to the conditions and restrictions enclosed.

Indicate this waiver petition file number on all related plats and building permits. This waiver will remain valid for one year from the date of this letter or as long as this subdivision remains in active processing.

Should you have any questions please contact Dave Boellner by telephone at 410-313-3956 or by e-mail at [dboellner@howardcountymd.gov](mailto:dboellner@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Chief  
DPZ, Division of Land Development

KS/DBB:dbb

CC: DPZ, Research  
DPZ, DED  
DF&RS  
Health Department  
Sill, Adcock & Associates, LLC