



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

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June 23, 2011

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

Dear Mr. Lynch:

RE: WP-11-184, Laurel Park Station (P-11-004)

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 16.115(c) (2) - Prohibitions on Use of Floodplain Land** which prohibits clearing, excavating, filling, altering drainage, or impervious paving within the floodplain. **Section 16.116(a) – Stream and Wetlands** which prohibits grading, removal of vegetative cover, trees, paving, and new structures within the wetland, stream and their buffers. **Section 16.120(c) (1)** which requires all commercial, industrial or apartment lots to have a minimum frontage of 60 feet on a public road. **Section 16.144(g) and 16.146 – Submission of Preliminary Plan** which requires the submission of the Preliminary Plan in accordance with the approved sketch plan approval.

Approval is subject to the following conditions:

1. Compliance with all Subdivision Review Committee comments for S-10-004.
2. Compliance with the amended Development Engineering Division comments dated June 22, 2011 (see attached).
3. On all future subdivision plans and site development plans, provide a brief description of waiver petition, WP-11-184, as a general note to include requests, sections of the regulations, action and date.
4. 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.
5. Compliance with all deadlines established in the phasing chart.
6. Prior to the signature of any Site Development Plan a shared parking agreement and private road maintenance agreement must be recorded in the Howard County Land Records office stating that the common private roads will be jointly maintained by the Laurel Park Homeowners Association and/or commercial owners association.
7. Approval for a waiver to Sections 16.116(a) and 16.115(c)(2) authorizes disturbances into the wetlands, wetlands buffer, stream buffer, environmental setback encroachments and 100-year floodplain disturbances as depicted on the waiver petition plan exhibit dated June 13, 2011. No additional activities within the wetlands, 25' wetlands buffer, 50' stream buffer, 15' residential environmental setback and 100-year floodplain are authorized by approval of this waiver, unless it can be demonstrated at the Site Development Plan stage to be justified.

Our decision was made based on the following:

Extraordinary hardship or practical difficulties which may result from strict compliance with the Regulations.

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 Buildings A and B. In addition, the applicant has demonstrated that disturbance to the floodplain is required in order to improve the existing south access road. 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 wetlands, 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.

Allowing the parcels to have frontage on private roads instead of fee-simple frontage on a public road will facilitate the character, functionality and streetscape aesthetics of a Transit Oriented Development. In addition, the County will not be responsible for road maintenance and trash pick-up. Since the project will be designed utilizing a private road system, a preliminary plan is not necessary since the road design will be provided with the Site Development Plan phase. Typically, public road design is provided with the Preliminary Plan.

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, wetland 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 waiver to public road frontage will not be detrimental to the public since the roads will not be maintained by the County. In addition, the private roads will allow for a better design of the TOD site.

The information provided on the Preliminary Plan will be provided with the Site Development Plan including the road design. Since the roads will be private, the submission of the preliminary plan is not necessary. The Site Development Plan will meet the requirements of the Preliminary Plan.

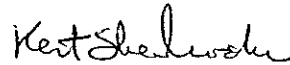
Will Not Nullify the Intent or Purpose of the Regulations - Approval of this waiver request will not nullify the intent or purpose of the regulations since the small 200' length of intermittent stream, wetland and their buffers will no longer exist once the storm drainage system is constructed. The stream, 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).

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. The elimination of the public road frontage will provide a better design for the TOD site and assist with the redevelopment goals for Route 1 Corridor.

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.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/BL

cc: Research
DED
Robert H. Vogel Engineering, Incorporated
P-11-004