



Howard County Department Of Planning And Zoning

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Marsha S. McLaughlin, Director

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December 23, 2011

Howard County Department of Public Works
3430 Court House Drive
Ellicott City, MD 21043
Attention: Mr. James Irvin, Director

3330 Rogers Avenue, LLC
5300 Dorsey Hall Drive, Suite 102
Ellicott City, MD 21042
Attention: Mr. Donald Reuwer

RE: WP-12-087, Ellicott Mills Overlook, Parcels A-J, a resubdivision, first revised submission of 12/20/11 (S-12-001)

Dear Mr. Irvin and Mr. Reuwer:

The Director of the Department of Planning and Zoning considered your requests for waivers from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved your** requests to waive Subdivision Sections:

1. 16.116(a)(2)(ii), to reduce the required 75' stream buffers referenced from a perennial stream in residential land use areas in a MXD zoning district to 50' stream buffers, and;
2. 16.116(a)(2)(iv), to be permitted to grade and remove vegetative cover and trees, within a 50' stream buffer referenced from a perennial stream in a non-residential land use area in a MXD zoning district, and;
3. 16.116(b)(1), to be permitted to grade, remove vegetative cover and trees, construct new structures and pave on land with existing 25% or greater steep slopes, and;
4. 16.120(c)(4), to not be required to provide any of the required minimum "single family attached" lot frontage of 15 feet on an approved public road and, to be permitted to have the "single family attached" lots front on a private road exceeding a length of 200 feet measured from the edge of a public road right-of-way, and;
5. 16.1205(a)(7), to be granted permission to remove seven (7) existing specimen trees 30 inches in diameter or larger (7 tulip poplar: 4-31", 1-35", 1-40", 1-43").

The approval of this waiver petition is subject to compliance with the following conditions of approval:

1. A homeowners' association shall be created for the single family attached (SFA) development area of the site in accordance with Subdivision Section 16.121(c).

2. The private roads shall be designed and constructed in accordance with the requirements of the DED, DPW and DFRS.
3. The private roads shall be maintained by the HOA and the owner(s) of Parcel D (commercial use site).
4. A resubdivision plat to create the fee simple SFA lots shall be submitted, approved and recorded.
5. The Petitioner shall provide for stream restoration and clean-up of all debris, trash, tires and bulk materials found within the stream buffers on this site. A stream restoration plan which describes which steps will be undertaken to improve water quality, natural hydrology and wildlife habitat shall be submitted as a part of the final plan and/or site development plan for the development of this site.
6. This waiver petition approval of Subdivision Section 16.116(a)(2)(iv) pertains only to the disturbance within the 50' stream buffer necessary for the construction of the proposed retaining wall along the west side of Parcel D shown on the WP-12-087 exhibit/plan submitted on 12/20/11, and this area of disturbance shall be kept to the minimum necessary for the construction of the retaining wall.
7. This waiver petition approval of Subdivision Section 16.116(b)(1) pertains only to the areas of proposed disturbance and development indicated on the areas of 25% or greater steep slope shown on the WP-12-087 exhibit/plan submitted on 12/20/11.
8. The approval of Comprehensive Sketch Plan, S-12-001, by the Howard County Planning Board.
9. Add a detailed note to the General Notes on sheets 1 of S-12-001 and to the notes on sheet 1 of future plan and plat submissions for this project that indicates this waiver petition file number, the sections of the Regulations, requests, action, conditions of approval, and the approval date.

Advisory comment: See the attached DED comments dated 12/22/11.

Justification for Recommendation:

1. This waiver petition request, if approved as cited above, will not nullify the intent and purpose of the Regulations, because:
 - A. The private roads will comply with all Howard County design and construction requirements, will be maintained by a HOA and the owner(s) of Parcel D (commercial use site), will provide the residents with greater control over the roads in their community.
 - B. The 7 existing trees 30 inches in diameter or larger that are to be removed are not rare, threatened, endangered species, adjacent to a scenic road, State champion


trees, or associated with a historic site.

2. When the location and design requirements for the required, proposed public road, the irregular shape and topography of the site, the multiple onsite environmental areas, the proposed mixed use site design requirements, Design Advisory Panel recommendations, and other applicable regulations are taken into consideration, extraordinary hardships and practical difficulties would result from strict compliance with the Regulations cited above.
3. The subject site is greatly encumbered with unique physical conditions including wetlands, several stream systems, wetland and stream buffers, a floodplain, 25% or greater steep slope areas, and the construction of a public road required by DPW that will extend Ellicott Center Drive from Ridge Road across the site to Rogers Ave. All of these conditions contribute to practical difficulties and extraordinary hardships in complying completely with the Regulations in order to develop this site. The petitioner's plan has been designed to preserve or maximize existing trees and to limit disturbances to environmental buffers with the use of retaining walls, narrow private roads versus public roads, and through the clustering of SFA units and multi story apartment buildings to reduce the limit of disturbance to the best possible extent.
4. This project has already received approval from the Zoning Board under ZB Case 1093M and from the Design Advisory Panel for the site design, and will require approval from the Howard County Planning Board for the sketch plan, S-12-001.
5. The project is designed to provide 37% of open space from the gross site area to preserve and protect environmental features and buffers to the best extent possible. The open space areas containing the environmental features and buffers will be dedicated to the Howard County Department of Recreation and Parks.

The approval of this waiver petition will remain valid for as long as this project remains in active plan/plat processing.

If you have any questions, please contact Michael Antol at (410) 313-2350 or email at mantol@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

~~MA~~
KS/MA/WP12087.appr.ltr.

Enclosures: DED

cc: Research

DED

S-12-001

Fisher, Collins and Carter, Inc.

DEPARTMENT OF PLANNING AND ZONING
DEVELOPMENT ENGINEERING DIVISION

December 22, 2011

TO: Kent Sheubrooks, Chief
Division of Land Development

FROM: Charles F. Dammers, Chief
Development Engineering Division
Project Engineer: Chad Edmondson



RE: DP&Z File #: WP-12-087 (Associated Plan F-12-014)

DP&Z File Name: Ellicott Mills Overlook

After review of the submitted information requesting a waiver of the Subdivision and Land Development Regulations, 16.116(a)(2)(i), 16.116(b), 16.120(c)(4) and 16.1205(a)(7) which prohibits grading within stream buffers, grading within steep slopes, requires minimum frontage on a public road, and on site forest retention priority of 30" trees. This Division has no objection to these requests, subject to the following:

It is noted that the exhibits reviewed to evaluate these requests are dated November 10, and December 19, 2011. Both exhibits show locations of grading and tree clearing that do not match the planned improvements (e.g. the woods line is shown over the retail parking area). Retaining walls and parking areas are shown within 3' of the 50' buffer on Parcel C. Wooded clearing is shown within 43' of the stream embankment at the rear of units 17-19.

Neither exhibit shows an LOD which allows for an evaluation as to where the proposed limit of clearing and grading will be permitted too.

Therefore, this reviewer recommends that the waiver not permit any disturbance within 50' of the stream buffer and that an actual LOD be established to define the location of the limits of disturbance. Also, at the next submission of any plan, reasonable construction buffers be shown between the limits of clearing, grading, paving, wall construction and the environmental buffers. The minor inconsistencies identified above on the exhibit dated December 19, 2011 should be corrected.