



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

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March 21, 2013

Mr. Wes Daub
Department of Public Works
9250 Bendix Road
Columbia, MD 21045

Dear Mr. Daub:

RE: WP-12-144, Rockburn Hill Gravity Sewer,
Reconsideration

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 16.1201(n)** – which defines “Net Tract Area” for the purpose of calculating the Forest Conservation obligation; and **Section 16.1205(a)(7) and (10)** – for the removal of specimen trees or trees 30” dbh or greater. The applicant has submitted a request for reconsideration of the previously approved waiver petition to allow for the removal of 5 additional diseased specimen trees and to increase the figure representing the net tract area from 215,784 square feet to 217,000 square feet.

Approval is subject to the following conditions:

1. The Net Tract Area used to calculate the Forest Conservation Obligation for this linear project is based on the 4.98 acres Limit of Disturbance (LOD) minus 1.58 acres of floodplain area for the construction of a new water line and new sanitary sewer line. DPW is required to Pay a Fee-in-Lieu in the amount of \$57,499.20 for the reforestation obligation of 1.76 acres (76,665.60 square feet) calculated at the rate of \$0.75 per square foot. DPW is required to make this payment through a transfer of funds prior to making application for local permits and prior to the commencement of construction for Capital Project S-6260. The SAP Account for funds transfer is 2060000000-3000-3000000000-PWPW000000000000-432521. A copy of the transfer receipt for the Forest Conservation Fee-in-lieu payment shall be submitted to Ms. Brenda Luber, DPZ, Division of Land Development for reporting purposes to the State. Also, a completed Forest Conservation Data Summary for this project shall be submitted to Ms. Brenda Luber. You may access this document on-line at: <http://countyofhowardmd.us> – Forms and Applications – Development - Forest Conservation Plat Application.
2. No disturbance is permitted beyond the limit of disturbance as shown on this revised waiver petition exhibit, WP-12-144 unless it can be sufficiently justified by DPW. All disturbed areas must be stabilized, as appropriate.
3. The applicant shall acquire any required MDE and/or U.S. Army Corps of Engineers permits for disturbance within the floodplain, wetlands, stream and their buffers, as applicable. Reference any applicable MDE or U.S. Army Corps of Engineer permits or tracking numbers on the permit application.

4. On plans and applications for all applicable permits, provide as a General Note a brief description of the waiver petition, WP-12-144 which includes the required sections of the Regulations, approval date and action taken.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty - The disturbance is required to install new water and new sewer lines needed to serve the parcels located on Rockburn Hill Road. If the applicant were required to satisfy the Forest Conservation obligation based on the gross acreage of each parcel, the Forest Conservation obligation for the total gross acreage would exceed the budget for the Capital project, thus, impacting the County's ability to provide public water and sewer services. Strict compliance of the Regulations would require additional time, effort, and cost. Only a small amount of land for each parcel is impacted by the proposed project given the length of the water and sewer lines. The additional work would include a forest stand delineation report, extensive survey field work, additional computations, mapping, reports, plans and exhibit preparation. Full compliance with the regulations and the expenditure of the design team's resources would not improve the final design and construction of the public utilities and would take away valuable funds from the implementation of the project design and construction. Performing this extra work would also lengthen the time schedule for this important utility project. The designer has examined other alternatives for the location of the public utilities; however, based on the topography, the proposed location provides the least amount of impact to the specimen trees. In fact, the contractor will make every effort to protect the specimen trees which are the subject of this waiver petition.

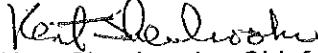
Not Detrimental to the Public Interest - The regulations are meant to assure that development occurs per County requirements and that environmental criteria are met, including the protection of existing forested areas to the extent practical, and where forest must be disturbed, reforestation of the project site per the forest conservation worksheet. The public utilities have been designed with the protection of the specimen trees and the forest conservation regulations in mind. The limit of disturbance has been minimized to only that area necessary for constructing the project. All efforts are being made to avoid specimen trees and other large trees in and around the work area and for the construction access. The removal of the specimen trees are needed to provide public utilities to the parcels. However, the contractor will make every effort to save the specimen trees.

Will Not Nullify the Intent or Purpose of the Regulations - The waiver request is not intended to exempt the project from County Regulations, but rather to more appropriately match the goals and resources of the project to the overall intent of the regulations which will not be nullified by the granting of the waiver requests. Allowing the limit of disturbance to serve as the net tract area for the purpose of calculating the Forest Conservation obligation for the installation of the public utilities meets the requirements of the regulations. If, at a later date, the property owners improve their property, Forest Conservation requirements must be satisfied for those improvements. In addition, the petitioner indicates that the developer will make every effort to save the specimen trees.

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 site development plan 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
Real Estate Services
Marian Honeczy, DNR