



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

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January 31, 2014

Dr. Gilbert Blevins
11986 Hall Shop Road
Clarksville, MD 21029

Dear Dr. Blevins:

RE: WP-13-005, Blevins Property, Lots 1-8
Second Reconsideration Request

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 16.1205(a)(7)** which outlines the forest retention priorities when adhering to the Forest Conservation Act, including areas of floodplain, stream buffers, wetlands and buffers, steep slopes, trees of 30" in diameter or larger, and many other provisions. Per State Senate Bill 666, State Champion trees or trees 30" diameter or larger cannot be disturbed without a waiver. The proposed development will require the removal of 4 of the 12 specimen trees. In addition, the Petitioner is requesting a reconsideration waiver from **Section 16.120(b)(4)(iii)b** which prohibits Forest Conservation Easements on lots less than 10 acres in size, and from **Section 16.144(m)** which requires the Petitioner to resubmit revised plans within 45-days from the requested date by the Subdivision Review Committee.

Approval is subject to the following conditions:

1. Compliance with the six (6) previous approval conditions for WP-13-005 per our letter of October 12, 2012.
2. The Final Plan, F-13-094, must be resubmitted on or before April 10, 2014.
3. If any new waiver requests are needed, a new waiver petition and required fees must be submitted for review by the SRC. No reconsiderations may be submitted for WP-13-005.
4. On all future subdivision plans and building permit plans, provide a brief description of waiver petition, WP-13-005, as a general note to include requests, sections of the regulations, action and date.
5. Waiver approval is limited to the removal of specimen trees #2, #3, #7 and #9 as depicted on the waiver exhibit received on January 6, 2014. Any proposal to remove additional specimen trees will require a new waiver request.

6. The reforestation easement must be planted with 2" caliper trees to compensate for the removal of the four (4) specimen trees.
7. All dwellings must be constructed a minimum of 100' from the edge of the Forest Conservation Easement.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty - The applicant has demonstrated that an alternative design is not possible given the fact that the location of the lots are dictated by well and septic locations, the site has minimal frontage along the existing public road (Hall Shop Road), the owner intends on preserving the majority of the specimen trees and a majority of the existing forest will be protected within a Forest Conservation Easement. In addition, if the existing forest cannot be placed within a Forest Conservation Easement, the developer will have to transfer the forest conservation obligation off-site or fulfill the obligation by the payment of a fee-in-lieu.

The applicant has demonstrated that the removal of the 4 poplars trees are required due to their close proximity to the proposed homes and/or their driveways, and their relationship to the location of the well and septic easement. Poplar trees are easily broken by strong winds and due to their close proximity to the dwelling may impose a safety concern for the property owner and their home.

The applicant is working with the adjacent property owner in trying to utilize their driveway which is contained within the prescriptive right-of-way. If the adjacent property owner does not cooperate with the applicant, the site may need to be re-designed. Allowing the applicant their requested 90-day extension is not an unreasonable request.

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 residential properties. The location of the well and septic dictates the location of the lot. The applicant has demonstrated that the specimen trees need to be removed because of the location of the house and/or its driveway. The retention of these trees will severely restrict the use of the site. The applicant will retain the 8 remaining specimen trees and retain a large portion of the forested area which will be placed within a Forest Conservation Easement.

Allowing the applicant to create Forest Conservation Easements on the residential lots will protect the forest in perpetuity. In addition, allowing the small planting easement will fill in the canopy area and provide a more contiguous forest. Allowing the Forest Conservation Easement on the lots will not be detrimental to the public.

Permitting the applicant additional time to work with the adjacent property owners to ensure that the new lots are provided adequate access onto Hall Shop Road will be detrimental to the public since the applicant's goal is to provide safe ingress and egress to the site; thus serving the needs of the community.

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 Forest Conservation Easement will be protected in perpetuity. If the easement was not created, the property would be permitted to remove trees and clear the understory. Approval of the waiver petition will protect the forested areas on the site.

By approval of a waiver petition, the Regulations allow the County to permit the removal of specimen trees on a case by case basis. The intent of the Regulations is that specimen trees should be retained unless their retention is not practical based on the limitations of the site and their locations. The applicant has demonstrated that the trees require removal in order to achieve a reasonable site design. Approval of this waiver will not nullify the intent or purpose of the Regulations,

The applicant has been in communication with the adjacent property owners and is attempting to acquire the necessary right-of-way for the required improvements to Hall Shop Road. Allowing this minor extension of time will not nullify the intent or purpose of the regulations, but will allow the developer to resolve the required site improvements.

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 the time period specified in the conditions of approval, or as long as the subdivision plans are 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
F-13-094
Sill, Adcock and Associates
Marian Honecny, DNR
Forest Conservation Coordinator

