



Howard County Department Of Planning And Zoning  
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Marsha S. McLaughlin, Director

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May 28, 2013

Trinity Homes at Cypress Springs  
3675 Park Avenue  
Ellicott City, MD 21043  
ATT: Michael Pfau

RE: WP-13-167/Cypress Springs, Phase 3  
Lots 37 to 47 (F-13-037 and SDP-13-042)

Dear Mr. Pfau:

The Director of the Department of Planning and Zoning considered your request for waiver(s) from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request for waivers to Section 16.120(b)(5)(i) indicating a noise study may be required and that the subdivision or site development plan shall ensure that lot layout does not allow the noise level in the rear yards to exceed the standards set in the Design Manual and that where necessary, noise mitigation shall be provided; Section 16.120(b)(5)(ii) requiring that noise mitigation consisting of a wall or fence shall be located on open space or if open space is not being created the noise wall and fence may be located on residential lots with cross easements for maintenance recorded with the final plat; and Section 16.144(q) requiring the submission of the final plat originals within 180 days of plat approval (F-13-037). **Approval is subject to the following conditions:**

1. Approval is given for waiver of Section 16.120(b)(5)(i) so as to allow the 65 dBA noise line to be located along the southwestern portion of Lot 47 without noise mitigation. A note shall be added to the final plat, F-13-037 indicating that Lot 47 shall not be further subdivided at any time in the future without meeting required noise mitigation as applicable. In addition, the proposed house located on Lot 47 shall be constructed as shown on SDP-13-042 and cannot be relocated within the 65dBA unmitigated noise line.
2. Approval is given for waiver of Section 16.120(b)(5)(ii) so as to allow the placement of a noise wall/fence along the eastern side and southern rear property lines of Lot 46 as shown on SDP-13-042 rather than on open space and to allow the recordation of F-13-037 without the showing of a noise wall/fence maintenance easement on Lot 46.
3. The noise wall/fence located on Lot 46 shall be of a height and constructed to acceptable Development Engineering Division methods as indicated in the Design Manual. A Red-Line Revisions to the approved road construction drawings for F-10-028/Cypress Springs shall be required prior to recordation of F-13-037 to add notes and construction details for the noise wall/fence on Lot 46.
4. A 180 day extension of time from June 2, 2013, by which to submit the final plat originals for signature processing and recordation for F-13-037 is granted. The new deadline to submit the plat originals is on or before **November 29, 2013.**

Justification for Approval:

1. Extraordinary hardships or practical difficulties will result from strict compliance with the Regulations. Development of the Cypress Springs subdivision has been years in processing. The preliminary sketch plan, SP-05-06, was reviewed by the Planning Board under PB 374 and signed on October 13, 2005. The original subdivision plan had proposed to retain the historic house on Lot 47. The lot was created at a size to accommodate and preserve the historic significance and environmental features around the existing house. Because the house was shown as existing and to remain, noise mitigation was not required. Subsequently, the house was destroyed by fire and now a new home is currently proposed on the lot under SDP-13-042. In accordance with Section 5.2.F. of the Design Manual Volume III, Roads and Bridges, the 65 dBA line may come up to the side of structures. Additionally, the 65 dBA line may be located in the backyard of a lot with area greater than 10,000 sq.ft. Per SDP-13-042, Lot 47 will be 38,549 sq.ft. in size and the location of the 65dBA line is located mostly along the southwestern portion of the lot, to the side of the proposed house. Therefore, the rear yard of Lot 47 will not be affected negatively by the location of the 65 dBA line on the lot. The developer shall be required to add a note to the final plan, F-13-037 indicating that Lot 47 shall not be further subdivided at any time in the future without meeting required noise mitigation as applicable.

The noise wall/fence was previously shown and approved under SP-05-06 for placement on Lot 46, but construction notes and details were not added to the approved road construction drawings for F-10-028. Subsequently, the noise wall/fence is now being shown on Lot 46 under the site development plan for SDP-13-042. At this stage, the wall/fence cannot be relocated off the lot or shifted eastward onto an open space lot as required under Section 16.120(b)(5)(ii) since a 20' public sewer and utility easement is situated along this property line. To shift the easement to allow construction of the wall/fence onto the adjoining open space lot (O.S.Lot 17) would cause extraordinary hardship to the developer by requiring the recordation of a new plat to show relocation of the easement. This would require permission from Howard County since the adjoining Open Space Lot 17 is dedicated to the Department of Recreation and Parks. The better solution is to allow the noise wall/fence on Lot 46 and without benefit of recordation of a maintenance easement. Since Lot 46 is the only lot affected by the noise wall/fence, maintenance of the wall/fence can be conducted solely by the property owner without encroachment onto adjoining lots. The noise wall/fence located on Lot 46 shall be of a height and constructed to acceptable Development Engineering Division methods as indicated in the Design Manual. Red line revisions shall be made to the road construction drawings for F-10-028 to add construction notes and details for the noise wall/fence as applicable.

The applicant has requested an extension of time of 180 days from the June 2, 2013, deadline by which to submit the final plat originals for F-13-037. The extension of time is necessary due to the requirement by the Department of Planning and Zoning to process the waiver requests to Section 16.120(b)(5)(i) and Section 16.120(b)(5)(ii) relative to the 65 dBA noise line. In anticipating all outcomes in the decision of this waiver petition application, the developer has requested the extension of time to allow for ample time if necessary for redesign of the subject lots and/or relocation of easements which could result in delay of the final plat originals after the June 2, 2013, deadline. To deny the extension of time, would result in the voiding of both the final plan, F-13-037 and the site development plan, SDP13-042, causing considerable hardship to the developer. All County and state agencies have reviewed the subdivision plan and the developer has received an Approval Letter for F-13-037. The better solution is to grant 180 day extension allowing the developer to proceed with the subdivision process.

2. The intent of the Regulations will still be served to a greater extent through implementation of an alternative proposal and approval of the waiver request(s) will not nullify the intent of the Regulations.

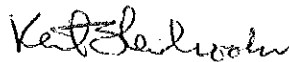
The location of the 65 dBA noise line on lot 47 and construction of the noise wall/fence on Lot 46, as well as, requiring no maintenance easement will not invalidate the intent of the Regulations which are established to ensure a useable rear yard for residents and to allow for maintenance of the wall/fence without adverse affect to surrounding property owners. The area between the rear of the homes on each lot and the noise lines will be well over 30' which allows for sufficient recreational use areas. The noise contour located on Lot 47 is mostly situated along the side portion of the lot, having no adverse affect to the rear yard usage. Additionally, the noise wall/fence on Lot 46 will serve to mitigate noise levels and because the wall/fence is located entirely on Lot 46, a maintenance easement will not be required.

Approving an extension of time by which to submit the final plat originals will permit this subdivision to proceed to recordation. Red-line revisions to the approved road construction drawings for F-10-028 to add construction notes and details for the noise wall/fence on Lot 46 will be required prior to recordation of F-13-037.

3. Approval of the waiver request(s) will not be detrimental to the interests of the public. The owner is not circumventing the intent of the regulations, but is attempting to develop the property by presenting adequate and safe lot layout and design criteria. Allowing the noise wall/fence on Lot 46 and noise contour on Lot 47 will have no adverse affect to surrounding properties since both lots are adjacent to open space areas. Additionally, the extension of time by which to submit the plat originals will not be detrimental to the interests of the public but will allow the developer to continue to meet all requirements and goals of the Subdivision and Land Development Regulations, as well as, the Design Manual.

Indicate this waiver petition file number, request, section of the regulations, action taken, date and conditions of approval on all related future plats, site development plans and and/or building permits. The requested waivers will remain valid as long as the associated development plans remain in process. Should you have any questions regarding this matter, please contact Brenda Barth at (410) 313-2350 or email: [bbarth@howardcountymd.gov](mailto:bbarth@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Chief  
Division of Land Development



:btb

cc: Research/DED/RES  
Robert Vogel Engineering, Inc.  
F-13-067  
SDP-13-042

