



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

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May 15, 2013

Dorsey Family Homes, Inc.
10717-B Birmingham Way
Woodstock, Maryland 21163
ATT: Rob Dorsey

RE: WP-13-168/Melchior Property
(F-13-074/F-13-075)

Dear Mr. Dorsey:

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 16.116 (a)(3) requiring wetlands, streams and their buffers be located on an open space lot or a preservation parcel (F-13-074/Lots 1 and 2) and Section 16.1205(a)(7) requiring specimen trees 30" or greater in diameter be retained (F-13-074/Lots 1 and 2 and F-13-075/Lots 3 to 6) for removal of six specimen trees. Approval is subject to the following conditions:

1. Enclosed comments from the Development Engineering Division. All existing structures, junk vehicles debris, pedestrian bridge and the gravel driveway to Henryton Road shall be removed from the stream buffers and proposed forest conservation easement areas as applicable. The stream bank buffers shall be restored back to a natural state.
2. All permits from the Maryland Department of the Environment shall be required as applicable for construction of the shared driveway.
3. A 35' Building Restriction Line shall be provided from the 100' Stream Bank Buffer located within Lots 1 and 2 if more restrictive than the required 30' side or 60' rear Building Restriction Lines.
4. Approval is given for the removal of six specimen trees identified as: 2 from the use-in-common access easement for the shared driveway/30" Tulip Poplars; 4 from proposed future Lot 5/30.5", 31" and 32.5" Tulip Poplars; and 1 from Lot 2/46" Black Cherry. Proposed placement of existing forest into a Forest Conservation Easement and perimeter landscaping will serve to mitigate specimen tree removal.
5. No grading, removal of vegetative cover and trees, paving or new structures are permitted within the stream and buffers, except for the approval under WP-06-132, WP-13-049 and WP-13-050.

JUSTIFICATION FOR RECOMMENDATION:

1. Extraordinary hardships or practical difficulties will result from strict compliance with the Regulations. The developer intends to subdivide the property into two building lots and one buildable bulk parcel and then resubdivide the buildable bulk parcel into Lots 3 to 6 and create a non-buildable preservation parcel under F-13-075. The non-buildable preservation parcel will contain a forest conservation retention easement, stream, wetlands and their buffers and areas of steep slopes. A waiver was previously approved (WP-06-132) to allow construction of a new driveway within the wetlands and stream buffers located along the western portion of the property. The owner was also granted permission from DPZ to retain the existing house while a new house was being constructed on Lot 1. A small portion of the 75' stream bank buffer and 25' wetland buffer was also approved to be located on Lot 1 (3.13 acres) under WP-08-039 (F-07-214). This subdivision has been years in processing by several different developers during which time all conditions by Ms. Melchior to redesign the lot layout in order to save the existing house and provide access to pet cemeteries, sheds, the spring house and significant other sentimental outbuildings caused processing delays. The property has been sold and the new owner/developer has redesigned the lot layout. However, the stream bank buffer has increased from 75' to 100' from a Class III stream which now necessitates a waiver request for both Lots 1 and 2. A portion of the 100' Stream Bank Buffer will be located on Lot 1 along the eastern (rear) property line, as well as, a portion on Lot 2 along the southern property line. The property lines cannot be shifted to place all environmental features onto the buildable bulk parcel without reducing the lot sizes below the required three acre minimum. In addition, proposed development will require the removal of six of 14 specimen trees; 2 from the use-in-common access easement for the shared driveway (30" Tulip Poplars); 4 from proposed future Lot 5 (30.5", 31" and 32.5" Tulip Poplars) and one from Lot 2 (46" Black Cherry). Due to siting requirements of the access driveway, placement of utilities and storm water management regulations, flexibility of grading is limited and the developer is unable to save these trees. The better solution is to allow a small portion of the 100' Stream Bank Buffer on Lots 1 and 2 and to allow removal of the specimen trees so that this subdivision can move forward.

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 developer will be providing a large area of on-site protection from the portions of stream bank buffer located on Lots 1 and 2 by the orientation of the proposed setbacks. The area of the stream bank buffer shall be within the required 75' front building restriction line on Lot 2 and the 60' rear building restriction line on Lot 1. Both setbacks provide for well over 35' from the Stream Bank Buffers which would normally be shown as a 35' Environmental Building Restriction Line. The respective building restriction lines will adequately serve to preserve the Class III Stream to be located on future Non-Buildable Preservation Parcel A under F-13-075. The retention of specimen trees is a goal of the Forest Conservation Act. However, tree removal may be necessary when practical difficulty arises due to site specific limitations. In this case due to the topography of the site, environmental features and the unusual shape of the parcel, as well as, limited public road frontage, lot layout and placement of utilities and easements on proposed lots is restrictive. The developer has attempted to preserve all specimen trees, but is unable to save six trees as previously indicated. Proposed placement of existing forest into a forest conservation easement and perimeter landscaping will serve to mitigate specimen tree removal.

3. Approval of the waiver request(s) will not adversely affect the interests of the public. Non-Buildable Preservation Parcel A shall be created under the resubdivision (F-13-075) which will contain the areas of streams, a majority of the stream bank buffers, wetlands, wetlands buffer, floodplain and existing forest. This parcel will serve to buffer proposed development from surrounding lots and provide further screening by consisting of a forest

conservation retention easement. The developer shall obtain all Maryland Department of the Environment permits as applicable for construction of the shared driveway. In addition, the developer shall remove all junk vehicles, existing structures, gravel driveway to Henryton Road and pedestrian bridge and other debris located within the 100' stream buffer and/or proposed forest conservation retention easements and restore the stream bank buffer back to a natural setting.

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.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development



cc: Research/DED/RES
Mildenberg, Boender & Assoc.
Marion Honecny/MDNR
Forest Conservation Coordinator
F-13-074/F-13-075

