



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

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September 11, 2013

Mr. George Brown
2800 Nixon's Farm Lane LLC
17500 Frederick Rd.
Mt. Airy, MD. 21771

RE: WP-14-020 (Nixon's Farm Solar)

Dear Mr. Brown:

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 16.1202(a)** which requires Forest Conservation be addressed on land 40,000 square feet in size or greater.

Approval is subject to the following conditions:

1. **Within 60 days of waiver approval (on or before November 10, 2013)**, Forest Conservation of Phase I of the project will be addressed with the submission of the Site Development Plan (SDP-14-014) for Phase II of the project which will address forest conservation requirements for both Phase I and II; **OR within 60 days of waiver approval on or before November 10, 2013** a fee-in-lieu payment of \$78,212.00 (payable to the *Director of Finance of Howard County*) must be made to address the forest conservation obligation for Phase I of development consisting of a Limit of Disturbance of 9.46 acres.
2. All remaining conditions (#2 through #9) of WP-13-018 still apply.

The Planning Director's decision was made based on the following:

Extraordinary hardships or practical difficulties:

Per the applicant's justification, "deferral of the forest conservation requirements is related to the timing of the project. Forest conservation requirements could be met through the payment of fee-in-lieu, but the deferral of these requirements until a future development avoids an additional financial burden of \$78,295.00 for the payment of fee-in-lieu on the project at this time. With the Site Development Plan already being prepared, it is anticipated that the majority, if not all, of the forest conservation requirements will be met through the preservation of existing on-site forest (which the State and County consider a priority over the payment of fee-in-lieu.)"

"The deferral of the forest conservation requirements for Phase I allowed additional time for the project team to evaluate the potential future development of the site in order to determine where best to locate additional facilities, cost feasibility of additional development and determination of the best option for the satisfaction of the forest conservation requirements."

"During the time that has elapsed since the approval of WP-13-018, the developer has processed and had approved a text amendment to the Howard County Zoning Regulations permitting commercial solar power generation facilities as a conditional use. They have also processed and had approved a Conditional Use plan to add approximately 40 acres of solar panels to the original waiver approval, have processed and had approved an Environmental Concept Plan (ECP) for Phase II and the consultant has begun the Site Development Plan submittal process in PDox for Phase II."

Detrimental to the Public Interest:

The waiver will not be detrimental to the public interest because it only allows for a temporary deferral of forest conservation requirements due to time constraints involved with the completing of the design and submission of the Site Development Plan for Phase II. The applicant's justification states that "public interests will be satisfied because forest conservation for both phases of the project will most likely be addressed via the preservation of on-site forest".

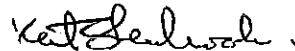
Nullifies the Intent or Purpose of the Regulations:

The Intent of the Regulations will be served to a greater extent by approving this waiver request. The solar array does not impact schools or other public facilities and does not require the modification to overall traffic circulation, drainage, other structures or on-site features nor does it require removal of existing vegetation or impacts to any existing forest resource. This waiver serves as a mechanism for temporary deferral of the forest conservation obligation to the submission of the Site Development Plan.

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.

If you have any questions, please contact Tanya Krista-Maenhardt, AICP at (410) 313-2350 or email at tmaenhardt@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

attachment

KS/tkm/waivers 2013/Nixon's Farm WP-14-020 approval 9-11-13

cc: Research
DED
ECP-13-057 file
WP-13-018 file