



*Howard County Department of Planning And Zoning*

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Marsha S. McLaughlin, Director

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December 18, 2014

Rene Eppi and Annetta Van Haagen  
13000 Brighton Dam Road  
Clarksville MD 21029

**RE: WP-15-071 Brighton Estates, Lots 1-3**

Dear Mr. Eppi and Ms. Van Haagen:

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 the following sections of the Subdivision and Land Development Regulations:

**Section 16.120(b)(4)(i)** of the Amended Fifth Edition - Residential lots shall be designed to be usable in terms of regular, generally rectangular lot shape. The applicant is seeking to combine [reconfigure] two irregular shaped parcels into three lots.

**Section 16.120(b)(4)(iii)b.** of the Amended Fifth Edition - Residential lots shall be designed to be usable in terms of not being encumbered by environmentally sensitive features for a lot or buildable preservation parcel of 10 acres or greater in size for floodplains, wetlands, streams, their buffers and forest conservation easements. The applicant is requesting to subdivide the property into 3 lots with environmentally sensitive features on the three proposed lots.

**Section 16.120(b)(6)(ii)(a)** of the Amended Fifth Edition - The length of the pipestem shall not exceed 1,500 feet for non-cluster subdivision lots in the RC and RR zoning districts. The applicant is requesting to subdivide the subject parcels by utilizing a pipestem design that has a pipestem length of approximately 1,980 feet in length.

**Section 16.120(b)(6)(vi)** of the Amended Fifth Edition - Driveways for pipestem lots shall be located at least 10 feet from the project boundary to provide space for the required perimeter landscaping.

**Section 16.120(c)(2)(ii)** of the Amended Fifth Edition - Lots or preservation parcels which share access shall have sufficient frontage collectively to meet the driveway easement requirements in the Design Manual. The applicant is requesting to utilize an existing driveway within an existing 20-foot wide pipestem to support the proposed subdivision using three equally divided pipestems for the 3 lots.

**Approval is subject** to the following nine (9) conditions:

- 1) An environmental setback on the final plat shall be provided as a 35' setback from all environmental features and buffers on the forthcoming final plat.
- 2) No grading, removal of vegetative cover and trees, paving and new structures are permitted within the 100 year floodplain, 25-foot wetland buffer and 100 foot streambank buffer, except for the existing use-in-common driveway.
- 3) The submission and approval of an Environmental Concept Plan (ECP) and a Final Subdivision Plat (Final).
- 4) Each of the newly created pipestem lots must equally share public road frontage (collectively) at Brighton Dam Road.
- 5) A use-in-common driveway easement and maintenance agreement for proposed Lots 1, 2 and 3 must be prepared and recorded with the forthcoming plat.
- 6) The use-in-common driveway entrance onto Brighton Dam Road, a major collector road, shall comply with the Design Manual minimum sight distance requirements as approved by the Development Engineering Division.
- 7) Lots 1 thru 3 shall be designed as a minimum lot size of 3 acres excluding the pipestem areas in accordance with Section 16.120(b)(6)(iii) of the Subdivision and Land Development Regulations and Section 103.0.L of the Zoning Regulations.
- 8) Waiver approval is conditioned on approval of the required perc testing, well and septic requirements of the Health Department.
- 9) Include this waiver decision as a general note on the final plat. This note shall include the waiver file number, the sections waived, decision date and the conditions of approval.

### **Justification for Recommendation**

#### *Section 16.120(b)(4)(i) - Usable Design*

The petitioner has demonstrated in their justification that the subdivision of existing Parcels 308 and 402 would yield an irregular lot shape, due to the fact that the two subject parcels are currently irregular in shape. Both parcels currently have a "trapezoid-like" shape and this mainly contributes to the reason for why the proposed lots will not be regular or rectangular in shape. The petitioner shall encounter an extraordinary hardship should they be required to create regular, rectangular shape lots because such subdivision would require the reconfiguration of the existing property lines to conform to a rectangular lot design. The petitioner has provided a detail plan exhibit that depicts how the proposed subdivision lot design shall look.

The only other alternative proposal is to provide a lot design that proposes regular, rectangular lots. Because the two subject parcels are irregular in shape, the alternative (to design regular shaped lots) would be difficult and could impact the property lines of those surrounding properties that abut these two parcels.

By granting this waiver, it will not have any detrimental impacts to the public interests, will not alter the essential character of the area and will not impair the use or development of the surrounding properties, because the project boundary (for this proposed subdivision) will not be altered in any way.

Based upon all of the above justifications, approval of this waiver request will not nullify the intent of the Regulations to provide a usable lot design in terms of regular, rectangular lot shape. The 3 lots shall each meet the minimum lot size for this zoning district (RR-DEO) and will be able to adequately accommodate the two proposed dwelling units and the existing house to remain.

*Section 16.120(b)(4)(iii)b. - Not Encumbered by Environmentally Sensitive Features*

Both of the subject parcels (in their present composition) are less than 10 acres in area and each contain environmental features (stream, stream buffer, wetland, wetland buffer, and/or floodplain). There will be no 'new land' included within this subdivision proposal and, therefore, strict compliance with the Regulations would create an extraordinary hardship for the petitioner as there will be no additional land (beyond the lots that are to be created) for open space and/or a preservation parcel to locate these environmental features. The petitioner shall establish a 35-foot environmental setback from the stream and wetland buffers, while at the same time complying with those setbacks required for the proposed and existing structures.

The only other alternative proposal is to cluster the lots and to have the environmental features placed in a preservation parcel, but creating approximately 1-acre lots would not be practical due to the location of where successful perc tests were found. The petitioner has proposed to preserve the most sensitive environmental areas by instituting the required 35-foot environmental setback from the required 100-foot stream buffer.

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 use properties. The existing and proposed use (single-family homes) is in accordance with the zoning and surrounding area. Proper provisions (buffers and setbacks) shall be made to protect the natural resources that exist on the land.

Based upon all of the above justifications, approval of this waiver request will not nullify the intent of the Regulations which requires that environmental features be on lots greater than 10 acres in size. A 100-year floodplain area, stream, and a 25-foot buffer from off-site wetlands exist on the property and shall be undisturbed by the proposed development and protected by a 35-foot environmental setback from the required 100-foot stream buffer.

*Section 16.120(b)(6)(ii)a. - The Length of Pipestem*

Existing Parcel 308 includes a pipestem that is approximately 1,980 feet in length that terminates at Brighton Dam Road with 20 feet of public road frontage. Adjoining Parcel 432 is 'landlocked' and, therefore, this creates a practical difficulty to subdivide these parcels with pipestems less than 1,500 feet in length.

The only other alternative proposal is to resubdivide the adjoining parcels to establish the necessary land area to accommodate a public road to provide access for the proposed three new lots and, perhaps, the adjoining properties. The petitioner has stated that, “the creation of a common driveway and fee-simple access to all parcels/lots meets the intent of the Regulations; it’s not possible to create shorter pipestems when the existing one is already longer than 1,500 feet”.

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 use properties. The existing 16-foot wide paved driveway will remain in the same location and although one additional lot will be added to this driveway, it will not require driveway widening and fee-simple public road frontage shall be provided for all three lots.

Based upon all of the above justifications, approval of this waiver request will not nullify the intent of the Regulations, since the same access will be utilized for all of the lots in the configuration that it exists today.

*Section 16.120(b)(6)(vi) – Driveway Setback from Project Boundary*

The petitioner proposes to utilize an existing 16-foot wide paved driveway to provide access for the three proposed lots. This existing driveway is located less than 10 feet from the property boundary and, therefore, would be impractical to comply with this driveway setback Regulation.

As stated above, the only other alternative proposal is to resubdivide with the adjoining off-site parcels to establish the necessary land area to provide the adequate space to meet the 10-foot driveway setback. The driveway already exists and has existed for years and the Regulations would not be greater served by providing an alternative proposal.

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 use properties. The existing 16-foot wide paved driveway will remain in the same location and although one additional lot will be added to this driveway, it will not require driveway widening and fee-simple public road frontage shall be provided for all three lots.

Based upon all of the above justifications, approval of this waiver request will not nullify the intent of the Regulations, since the driveway width and location shall remain as is.

*Section 16.120(c)(2)(ii) – Lots Which Share Access Shall Have Sufficient Frontage*

The existing driveway is located within a fee simple 20-foot wide ‘pipestem’ that provides public road frontage for Parcel 308. Adjacent Parcel 432 is a landlocked parcel that has no public road frontage. Upon subdivision, both parcels will be subdivided into new buildable lots with its own strip of fee simple road frontage that totals 20 feet. It would not be possible for this subdivision to provide 24-feet of public road frontage, because the existing 16-foot driveway will be located within the 20 foot wide pipestem area.

As stated above, the only other alternative proposal is to resubdivide with the adjoining off-site parcels to establish the necessary land area to provide 24 feet of public road frontage. The driveway already exists and has existed for years and the Regulations would not be greater served by providing an alternative proposal.

By granting this waiver, it will not have any detrimental impacts to the public interests, will not alter the essential character of the area and will not impair the use or development of the surrounding properties, because the project boundary (for this proposed subdivision) will not be altered in any way.

Based upon all of the above justifications, approval of this waiver request will not nullify the intent of the Regulations, since the driveway width and location shall remain as is. The petitioner shall provide fee simple road frontage for all three of the proposed lots.

**This requested waiver will remain valid for one year from the date of this letter** (on or before December 18, 2015) or as long as a subdivision plan remains in active processing.

If you have any questions, please contact Derrick Jones at (410) 313-2350.

Sincerely,



Kent Sheubrooks, Chief  
Division of Land Development

KS/dj  
cc: Research  
DED  
F.C.C.