



Howard County Department of Planning and Zoning  
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Marsha S. McLaughlin, Director

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February 24, 2015

Matthew Pfau  
3675 Park Avenue, Suite 301  
Ellicott City, Maryland 21043

RE: WP-15-105/Cypress Springs, Phase 3  
Lots 48, 49 & O.S. Lot 50 (F-14-127)

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 waiver request to Section 16.120(b)(5)(ii) requiring that when noise mitigation is required, the noise wall or fence be located on open space lots dedicated to the Homeowners Association when open space lots are being created. The noise wall in this case will be located on Lot 49. Approval is subject to the following conditions:

1. Planning Board approval to resubdivide Lot 47 into two building lots (Lots 48 and 49) and one open space lot (O.S. Lot 50) will be required. The applicant has submitted a Planning Board application (PB Case 405) for hearing before the Planning Board on April 23, 2015.
2. Compliance with the attached comments from the Development Engineering Division dated February 18, 2015, relative to relocating the noise wall posts to outside of the existing 20' Public Sewer Easement located on Lot 49.
3. The noise wall/fence details shall be shown and constructed under the future site development plan for Lot 49.
4. The noise wall constructed on Lot 49 shall be located a minimum of 5' from the property lines so as to ensure no disturbance will occur within the proposed and/or existing Forest Conservation Easements located on Open Space Lots 50 and 17 during future maintenance and upkeep.
5. A note shall be added to the plat to indicate that maintenance of the noise wall will be the responsibility of the homeowner of Lot 49.

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 equivalent sketch plan, SP-05-006, was approved on May 11, 2006, for 43 building lots and 4 open space lots by the Planning Board under PB 374. A resubdivision plan had proposed to retain the historic structure known as the Old Grace Church Rectory, HO-449, on Lot 47 (F-13-037). This lot was created at a larger size to accommodate and preserve the historic significance of the existing structure. A 65dba line was shown bisecting the lot, but because this structure was existing and to remain, noise mitigation was not required. Subsequently, the historic house was destroyed by fire and a new home was proposed and approved on Lot 47 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 would be 38,508 sq.ft. in size and the location of the 65dba line was to be located mostly along the side of the proposed house. Therefore, the rear yard of Lot 47 would not be affected negatively by the location of the 65 dba noise line. The developer, did however, file waivers (WP-13-167) of which one request was to allow the 65 dba noise line to be located along the southwestern portion of Lot 47 without noise mitigation. The waiver request was approved on May 28, 2013, subject to a note being added to F-13-037 indicating that Lot 47 could not be further subdivided without meeting required noise mitigation and that the house located on Lot 47 would not be constructed within the 65dba unmitigated noise line.

The developer now intends to resubdivide Lot 47 into: Lot 48, consisting of 11,404 sq.ft. (minus pipestem), Lot 49, consisting of 15,956 sq.ft. (minus pipestem) and Open Space Lot 50 consisting of 11,000 sq.ft. Since this resubdivision (F-14-127) would create one additional lot beyond the originally approved 43 lots (SP-05-006), the developer was required to file waiver to the submission of a preliminary equivalent sketch plan and to be allowed to submit a final plat which was approved under WP-14-055 on 12/11/13. A Planning Board Case No. 405 for approval of F-14-127 has been scheduled before the Planning Board for 34/23/15. A density sending plat for sending of one density unit will also be required for resubdivision of this site.

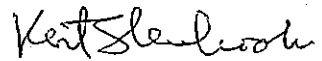
The developer is moving forward with this waiver request to allow the noise line to be located on Lot 49 along the rear and to the southern side property lines with mitigation. A noise wall will be installed along the 65dba noise line and constructed under the future site plan. The applicant is requesting the noise wall be located on the buildable lot since reforestation will take place on adjoining Open Space Lot 50. If the wall were placed on the open space which will be dedicated to Howard County Recreation & Parks the area of planting would be greatly reduced. In addition, the open space would not be accepted into the Recreation and Parks Open Space Land Program with responsibility of maintenance and upkeep of a noise wall. Denial of this waiver request would cause extraordinary hardship to the developer by requiring that the lots be reconfigured and possibly being unable to provide additional open space area.

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. Waiver to allow construction of a noise wall on Lot 49 will be the better solution than relocating the wall to the open space lot. The open space area will be dedicated to Recreation & Parks and will provide contiguous flow of open space areas owned by Howard County around the proposed lots. In addition, the open space area (O.S.Lot 50) will consist totally of reforestation and will allow for an increase of the existing Forest Mitigation Bank located on adjoining O.S. Lot 17, owned by Recreation & Parks. The wall shall be constructed a minimum of 5' from the property line on Lot 49 to allow for maintenance and to protect proposed reforestation areas of a Forest Mitigation Bank to be located on adjoining Open Space Lots 50. A note shall also be added to the plat to indicate that the homeowner of Lot 49 shall be responsible for maintenance and upkeep of the noise wall.

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 a safe and balanced lot layout. Approval of the waiver will permit the 65 dba noise contour to be located on Lot 49 rather than on an open space lot and allow for the construction of a noise wall along this contour. In doing so, a reasonable size area of open space (O.S.Lot 50) can be created which will contain reforestation easements, and will increase the area of the Forest Mitigation Bank located on adjoining Open Space Lot 17. Increasing the area of open space will be in the best interest of the immediate neighborhood by providing a contiguous corridor of Forest Conservation Easements which will serve to further buffer lots from U.S. Route 1 located to the southeast. In addition a previous waiver, WP-13-167, was approved to allow a noise wall to be located on adjoining Lot 46. That approval has not caused any detrimental effects to the public or surrounding lots.

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. This requested waiver will remain valid for as long as development plans and/or building permits are active. 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  
F-14-127