



Howard County Department of Planning and Zoning

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Marsha S. McLaughlin, Director

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May 28, 2015

Parkway Rock, LLC
6800 Deerpath Road, Suite 100
Elkridge, Maryland 21075
ATT: Mark Levy

RE: WP-15-131/Dorsey Center, Parcel R
(ECP-15-017)

Dear Mr. Levy:

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

As of the date of this letter, the Planning Director approved the waiver requests to: Section 16.116(a)(2)(i) prohibiting grading, removal of vegetative cover and trees, paving and new structures within 50' of an intermittent stream bank buffer, and Section 16.115(c)(2) prohibiting clearing, excavation, filling, altering drainage or impervious paving in a flood plain, for construction of a 65,000 sq.ft. apartment building, related parking and amenities area. APPROVAL of the requested waivers is subject to the following conditions:

1. **Maryland Department of the Environment and Army Corp. of Engineer Permit approvals are required for the disturbance of the intermittent streams, 50' intermittent stream bank buffers and filling of the 100 Year Flood Plain area on Parcel R of the Dorsey Center Subdivision. All other County and state permits are required as applicable. A note shall be added to the site development plan indicating all permit numbers, date and action taken.**
2. **Providing safe conveyance, without adversely impacting downstream properties, of the 100 Year discharge of 397.2 cfs to the existing downstream storm water management pond. 100 Year discharge of 397.2 cfs is based on the computations received at Environmental Concept Plan: $Q=CIA=0.89 \times 12.75 \times 35=397.2$.**
3. Compliance with the comments dated May 20, 2015, from the Development Engineering Division.
4. All construction on Parcel L shall be subject to requirements of the Howard County Building Code.
5. Mitigation for the approval of the waiver requests for the proposed on-site stream diversion via a storm drain bypass system will require the restoration of the section of Deep Run stream segment by the applicant as indicated in the waiver petition application justification. A site development plan shall be submitted for the off-site stream restoration project prior to final signature approval of the site development plan for Parcel R.

Justification for Approval:

1. Extraordinary hardships or practical difficulties will result from strict compliance with the Regulations. The proposed development of Parcel R is for a 65,000 sq.ft. apartment building consisting of approximately 150 to 200 units. The building will be podium style with parking underneath. The building, parking and amenities will be constructed over intermittent streams, the associated 50' stream bank buffers and 100 Year Flood Plain area. Two existing intermittent streams enter the site from the west and north via storm drain systems. These streams converge to form a Y-shape in the western portion of the site and exit as a single intermittent stream by an off-site underground storm drain system. The flood plain area follows the streams and bi-sects the parcel. The flood plain area is approximately .75 acres and terminates at the southern property boundary. This flood plain is described as not a "FEMA flood plain" per the applicant. The site is

mostly wooded and contains an existing vacant house and barn fronting onto Dorsey Road. Access to the site will be from Dorsey Road, a major collector. The building and parking will be constructed over the existing streams and result in impacts to the stream channels, buffers and associated flood plain. The stream is proposed to be diverted around the site via a storm drain bypass system and the flood plain area will be filled. Approval of the waivers will allow the site to become developable and allow the owner to move forward with a project that will provide affordable housing to County residents. Strict compliance with the requirements would render the site unbuildable causing extraordinary hardship to the applicant who has spent years in the planning stage for the parcel.

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 applicant is pursuing the development of the property in a safe and orderly manner. The on-site stream system does not provide any valuable aquatic habitat since long segments of the channels are piped up and down stream of the site. There is no opportunity for aquatic migration through the channel. The overall property is bounded by heavily developed lands that preclude normally functioning use of the riparian corridor and the streams do not provide benefit to wildlife. Based on these analysis, the piping of the stream channel and flood plain fill will have no negative resource impact but may actually help improve overall water quality. The applicant will be required to obtain permit approval from MDE and/or Army Corp. of Engineers prior to site development plan approval. In addition, the applicant has agreed to mitigate the waiver petition request by restoration of the Deep Run stream of which the on-site stream is a tributary. This section of the Deep Run has eroded stream banks and a poorly defined thalweg (stream valley floor). The restoration would help stabilize any degraded segments and improve overall water quality by reducing erosion. Improving the channel morphology would also improve habitat within the segment and; therefore, serve the intent of the regulations by alternative compliance.

3. Approval of the waiver request(s) will not be detrimental to the interests of the public. The applicant is attempting to develop a vacant site with a more suitable use for the neighborhood by providing affordable and convenient housing. The size of the 65,000 sq.ft. apartment building is the minimum which the developer believes will provide between 150 to 200 units and is an average number of dwelling units per buildings situated within the Route 1 corridor. In addition a smaller building would not meet the intent of the TOD Zoning Regulations which is to allow for the beneficial use of undeveloped parcels. Approval of the waiver requests will be in the best interests of the public by bringing the parcel into compliance with the intent of these regulations. The waiver will also be subject to compliance with Development Engineering comments. Construction on the parcel is subject to the safe conveyance and specifically not adversely affecting downstream properties of the 100 Year discharge of 397.2 cfs to the existing downstream storm water management pond. The 100 Year discharge of 397.2 cfs is based on the computations received at Environmental Concept Plan: $Q=CIA=0.89 \times 12.75 \times 35 = 397.2$.

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.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development



cc: Research/DED
Benchmark Engineering, Inc.
ECP-15-017