



Howard County Department Of Planning And Zoning

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May 26, 2015

Gary W. Koch
2661 Riva Road, Suite 220
Annapolis MD 21401-7364

RE: **WP-15-136 Maple Lawn South (SP-15-014)**

Dear Mr. Koch:

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 two (2) sections of the Subdivision and Land Development Regulations:

Section 16.1205(a)(7) of the Amended Fifth Edition - On-site forest retention of 30" in diameter or larger specimen trees is considered priority for on-site retention and protection in the County. The applicant proposes to remove eleven (11) of the fifty-four (54) identified specimen trees of various species.

Section 16.121(e)(1) of the Amended Fifth Edition - If a public road is being created or an existing public road is available that permits and is viable for direct access, open space lots or areas shall have a minimum of 40 feet of frontage on a public road for access by pedestrians and maintenance vehicles. The applicant is requesting to reduce the public road access and frontage for three (3) of the thirteen open space lots proposed, Open Space Lots 177, 178 and 179.

Approval is subject to the following five (5) conditions:

- 1) Removal of the eleven (11) specimen trees will require mitigation with the planting of 2 to 1 replacement trees (22 total) with a minimum 3" caliper trunk. The replacement trees shall be bonded and shown on either the landscape or forest conservation plan with the final plan.
- 2) The forty-three (43) remaining specimen trees must remain undisturbed, unless a new waiver petition is filed with adequate justification.
- 3) Any specimen tree that shall remain onsite (that are within the limit of disturbance) must be protected with tree protection devices and, such devices must be depicted on forest conservation plans and the site development plan.
- 4) All proposed open space lots must provide the minimum public road frontage as shown and approved on the SP Plan (SP-15-014). Open Space Lots 177, 178 and 179 should have at least one public road frontage strip of 20 feet in width.

- 5) Provide a note on SP-15-014, the final plan and the site development plan that includes this waiver's file number, the sections to be waived, the waiver decision, the date of the decision and all conditions of approval.

The decision of this waiver petition is based on the following justification:

Section 16.1205(a)(7)

There are a total of 54 specimen trees on the site; 11 are proposed to be removed. The site contains 8.27 acres of existing forest cover, of which 0.39 acres will be cleared. There is one forest stand identified in the Forest Stand Delineation Report. Stand F-1 consists of 8.27 acres of a mature, mixed-hardwood forest dominated by yellow poplar and red maple. The stand contains 20 specimen trees and has an overall DBH range of 5-44 inches. The specimen trees within this stand shall be undisturbed and protected by a public forest conservation easement.

The 11 specimen trees that shall be removed from the property are located where site improvements are proposed. The developer has stated that "*a majority of the 11 specimen trees are in poor condition and their removal provides for the protection of the significant environmental resources.*" The 43 remaining specimen trees will be in protected open space or forest conservation areas. The hardship or practical difficulty is that due to the proposed locations of roads, stormwater management facilities, water and sewer systems and site grading activities, the eleven specimen trees cannot be saved. Should the Regulations be strictly enforced, it would create a hardship on the developer to design the lots and related site improvements and to meet the minimum site design requirements and not disturb some of the specimen trees.

The eleven specimen trees that shall be removed have been documented on the waiver's justification statement and each tree has been identified on the waiver petition exhibit.

Grading is limited only to the developable portion of the site that's clear of any environmentally sensitive areas. This grading activity shall better contour the land for accommodation of the proposed roads, storm water management, storm water drainage, and protected preserved/open space areas.

Approval of this waiver request will not nullify the intent or purpose of the regulations since the overall purpose of the project is to divide this large deeded parcel into a subdivision of fee-simple lots to construct single-family detached residential dwellings.

The proposed subdivision layout shall be provided on the Final Plan and additional site information (including existing site conditions and a forest conservation plan) will be included as part of that plan submission and will provide the tree removal mitigation of 2 to 1 replacement for the eleven trees removed.

Section 16.121(e)(1)

Section 16.121(e)(1) of the Subdivision Regulations requires that "if a public road is being created, open space lots or areas shall have a minimum of 40 feet of frontage on public road for access by pedestrians and maintenance vehicles". This development plan proposes a total of thirteen (13) open space lots. Four open space lots (Lots 181, 183, 185 and 189) complies with the 40-foot public road frontage requirement. However, there are nine (9) open space lots have either reduced open space frontage or adjoined in a contiguous fashion where access to these open space lots can be achieved by pedestrians and maintenance vehicles.

Open Space Lot 177 has three access points to public roads and the widest access is 30 feet wide. Open Space Lot 178 has two access points and the widest access is 30 feet. However, both open space lots have an additional access points that are 20 feet in width. These additional access points will provide maintenance vehicles the opportunity to reach micro-bioretenion facilities from different points of these open spaces and still provide sufficient space to enter and leave the open space lots. Open Space Lot 179's access will be limited to Howard County usage for maintenance of the proposed pump station that shall be located there. This open space lot will adjoin Open Space Lots 188 and 189 and will have a 20' wide access point for adequate space for maintenance vehicles.

Lastly, those open space lots that are adjoined will have three access points that are 40 feet in width. Open Space Lots 181, 183, 184, 185, 186, 187 and 188 are all adjoined in a contiguous fashion and can be accessed from the either of the three access points that will have 40 feet of public road frontage.

The granting of this waiver will not be detrimental to the public's interest and will not nullify the intent of the regulations. The total area of open space provided complies with Section 16.121(a) of the Subdivision Regulations and every open space lot is providing public road frontage for pedestrian and maintenance vehicle access.

Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date on SP-15-014, final and SDP plans. This requested waiver will remain valid for one year from the date of this letter or as long as the SP plan (SP-15-014) 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
Vogel Engineering
Brenda Luber
DNR - Marian Honecny
File: SP-15-014