



Howard County Department Of Planning and Zoning
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Valdis Lazdins, Director

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December 5, 2016

Charles T. Lacey, Sr.
Karlos Lacey
Charles Lacey, Jr.
c/o Vincent Lacey
1235 Wild Rose Court
Marriottsville MD 21104

RE: **WP-16-022 Lacey Property** (SP-15-013)

Dear Mr. Lacey:

The Director of the Department of Planning and Zoning considered your request for an alternative compliance from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request for an alternative compliance to the following three sections of the Subdivision and Land Development Regulations:

Section 16.116(b)(1) of the Subdivision and Land Development Regulations (Amended Fifth Edition) – Grading, removal of vegetative cover and trees, new structures, and paving shall not be permitted on land with existing steep slopes (slopes that average 25% or greater over 10 vertical feet). Approximately 0.27 acres of the 1.35 acres of steep slope area is proposed for disturbance.

Section 16.134(a)(1)(i) of the Subdivision and Land Development Regulations (Amended Fifth Edition) – In residential subdivisions and site developments, the developer shall construct sidewalks on both sides of all streets in the project and along the project frontage except that sidewalks are required on only one side of cul-de-sacs and local streets of single-family detached subdivisions. The applicant is requesting to eliminate a sidewalk along the Church Road property frontage.

Section 16.1205(a)(7) of the Subdivision and Land Development Regulations (Amended Fifth Edition) – On-site forest retention of 30" in diameter or larger specimen trees is considered a priority for on-site retention and protection in the County. The applicant is requesting to remove eight (8) specimen trees (of various species) from the subject residential subdivision. Those eight specimen trees are referenced on the alternative compliance petition exhibit as specimen tree nos.: 1, 11, 13, 20, 21, 22, 23, and 24.

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

1. Compliance with SRC comments for SP-15-013 and Planning Board approval of the proposed subdivision plan design, layout and location of lots, roads and shared driveways.
2. No additional disturbance or grading shall occur beyond the limit of disturbance (L.O.D.) of the 25% steep slopes that are detailed on the preliminary grading plan and as approved by the Planning Board, unless it can be sufficiently demonstrated to be warranted or justified by the applicant.

3. The affected steep slope areas where the building lots are planned must be sufficiently stabilized with retaining walls and/or soil stabilization devices/methods that shall lessen the erodibility of soils and runoff. The impacted steep slope areas must be revegetated or stabilized with suitable native species that will bind the surface tightly. These stabilization techniques must be clearly demonstrated on both the road construction drawings (with the final plat) and the site development plan.
4. The removal of the eight (8) specimen trees will require mitigation with the planting of 2:1 replacement trees (16 total) with a minimum 3" caliper native plant species. The replacement trees shall be bonded and shown on the landscape plan with the forthcoming final plan.
5. The remaining 35 specimen trees shall be saved and protected during construction activity. Any additional removal of specimen trees shall require the submittal of a new alternative compliance petition application.
6. Provide tree protection fencing at the trees drip line, or farther out, to prevent tree damage from excavation, soil compaction of soil over roots. These protection techniques must be demonstrated on both the road construction drawings (with the final plat) and the site development plan.
7. Compliance with the Certificate of Approval issued by the Historic Preservation Commission for development of this property.
8. The construction of the new houses facing towards Church Road shall be adequately screened using berms, enhanced landscaping and house siting to minimize impacting the natural setting along the scenic road. This condition will be evaluated further at the site development plan stage.
9. Provide a note on the SP plan, the final plat and the site development plan regarding this alternative compliance petition approval. This note shall include those subdivision regulation sections petitioned, the date of the alternative compliance approval, and the conditions of approval.

Justification for Approval

Section 16.116(b)(1) – Disturbance of 25% (or greater) Steep Slopes

The proposed disturbance to the 25% or greater steep slopes shall be limited to a relatively small area. The plan indicates that there are 1.35 acres of steep slopes that average 25% or greater over 10 vertical feet. At the rear of proposed Lots 1 and 2, the developer is proposing retaining walls that shall minimize the disturbance to these steep slopes, where stabilization practices shall be implemented to help maintain the integrity of the steep slopes and reduce soil runoff. The petitioner has stated that "the lot layout is the result of working with the community to concentrate development away from the existing older or historic homes to the east". Therefore, it is the developer's intent to locate buildable Lots 1 and 2 within an area where steep slopes exist to concentrate lots on the west side of the site and away from the existing off-site homes to the east.

The effort to concentrate a majority of the proposed lots away from the existing residences to the east has necessitated the disturbance to parts of the 25% or greater steep slopes which cannot be avoided. The petitioner has respected the community wishes by siting more homes on the west side of the subdivision to help reduce visual and noise impact to the existing neighbors to the east.

The petitioner intends to flatten a portion of the steep slope area and, as a result, the slopes will be made more gradual. A total of 11,965 square feet (0.27 acres) of the 25% of greater steep slope area will be disturbed in order to facilitate the development of this subdivision. This disturbance represents approximately 20% of the steep slopes on site.

Section 16.134(a)(1)(i) – Exclusion of Sidewalks

This proposed subdivision is located in the Ellicott City Historic District and shall front along a designated scenic road (Church Road). Church Road is a local scenic road that does not have any curbing or sidewalks. The petitioner has stated that, “being located along a scenic road, public road improvements such as curbing, gutter and sidewalks have not been proposed nor are required due to the fact that the existing road width is 18 feet or greater and no drainage or safety concerns along this stretch of road exist that would require improvements.” A design for a sidewalk along the proposed internal public road to provide access to this subdivision would not connect to any existing sidewalk along Church Road. Secondly, the petitioner states that, “the construction of the sidewalk would detract from the character of the scenic road and the historic district”. The practical difficulty in providing a sidewalk would be that, first, there are no existing or planned sidewalks on Church Road and, secondly, the construction of a sidewalk would impact the scenic as well as the historic character of the area.

The approval of this alternative compliance petition will not alter the essential character of this historic community and will not substantially impair the appropriate use or development of the surrounding properties, since Church Road is a scenic road without any existing curbing, gutters and sidewalks.

The approval of this alternative compliance petition will not nullify the intent or purpose of the Regulations. Since no sidewalk exists within this area, a small portion of sidewalk would not be in keeping with the character of the area and would not connect to any other sidewalks or destinations along Church Road. Therefore, the exclusion of sidewalks is not deemed as a nullification of the Regulations as it will help preserve the historic and scenic quality of the area.

Section 16.1205(a)(7) – Removal of Specimen Trees

The petitioner has provided justification regarding the challenges encountered in designing this subdivision without damaging specimen trees that are present on the property. There are forty-three specimen trees on the site (42 specimen trees currently exists after specimen tree no. 10 fell down). Of these forty-three specimen trees, a total of eight are proposed for removal. Five of the eight specimen trees have been identified to be in poor condition, as documented on the preliminary sketch plan and in this alternative compliance petition. The removal of the eight specimen trees are considered essential, based on the condition of the trees and their location within the limits of disturbance for the proposed subdivision.

The approval of this alternative compliance petition will not alter the essential character of this community and will not substantially impair the appropriate use or development of the surrounding properties, since the majority of those trees to be removed are either in poor condition or are located where the most intense use of this development shall occur.

The approval of this alternative compliance petition will not nullify the intent or purpose of the Regulations since the purpose of this project is to subdivide an R-ED zoned property into residential lots.

The loss of eight specimen trees shall be mitigated by the planting of 16 trees (in addition to those trees proposed as part of the project’s overall landscape plan). Furthermore, a 35-foot minimum wooded buffer shall remain between the development and Church Road, per Section 16.125(b)(2) of the Regulations. The petitioner shall provide replacement trees (pin oaks) for those trees removed from this buffer along Church Road.


Planning Board Consideration

On November 17, 2016, the Howard County Planning Board approved the Preliminary Sketch Plan proposal by a vote of 3-2. The Board did not have any conditions for approval and therefore, by majority vote, approved the plan design layout and had no stated objection to this alternative compliance petition.

This alternative compliance approval will remain valid for one year from the date of this letter or as long as a subdivision or site development plan is being actively processed in accordance with the processing provision of the Regulations.

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

Files: SP-15-013, PB 418

DED (file)

SCD – Bob Robertson

DLD – Brenda Luber

Councilman Jon Weinstein

DNR – Marian Honeczy

FCC

Denise Cortis

Gary Segal

F. Todd Taylor

Elizabeth Walsh

Offit Kurman Law -William Erskine



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April 18, 2016

Charles T. Lacey, Sr.
Karlos Lacey
Charles T. Lacey, Jr.
c/o Vincent Lacey
1235 Wild Rose Court
Marriottsville MD 21104

RE: **WP-16-022 Lacey Property** (SP-15-013)

Dear Lacey Family:

Regarding the above referenced waiver petition, this Division has determined that the request to waive Section 16.125(b)(2) of the Subdivision and Land Development Regulations is no longer necessary since the applicant will not remove trees from within the 35-foot scenic road buffer (except for where the proposed road will enter into the site from Church Road) as originally requested. This Division has determined that the clearing of such trees (at the location of the proposed road) as an essential disturbance, as it will provide access to and from this proposed subdivision.

In addition, it has also been determined that the request to waive Section 16.1205(a)(7) of the County Code will require a modification, since the number of specimen trees to be removed have been reduced from 14 trees to 9 trees. Please provide this Division with a modified statement that will justify the removal of the 9 specimen trees as opposed to the 14 that was originally requested. Once received, this Division will modify its waiver petition report, accordingly, as part of its recommendation for the Director's consideration.

If you have any questions, please contact Derrick Jones at (410) 313-4330 or email at djones@howardcountymd.gov.

Sincerely,

Kent Sheubrooks, Chief
Division of Land Development

KS/dj

cc: Research
F.C.C.
Denise Cortis
F. Todd Taylor
Elizabeth Walsh