



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

November 2, 2015

Virgil and Idoline Lough
8336 Sunset Drive
Ellicott City, Maryland 21043

RE: WP-16-045, Sunset Plains
Lots 8 and 9, F-15-024

Dear Mr. Lough:

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 **Section 16.132(a)(2)(i), 16.134(a), 16.136, and 16.1205(a)(7)**. **Section 16.132(a)(2)(i)** states the developer shall construct or provide for the construction of roads fronting or within a proposed subdivision, including required connections to adjacent properties unless the adjacent properties are precluded from development by law or agreements. **Section 16.134(a)** states that at the County's sole option, a developer may be required to construct a sidewalk along the property frontage and to extend the sidewalk construction up to 250 feet beyond the proposed development to the nearest public sidewalk and/or pathway or pay the cost of such construction. **Section 16.136** states that the developer shall provide street trees and landscaping in accordance with Section 16.124 and the Landscape Manual. **Section 16.1205(a)(7)** requires that State champion trees, trees 75% of the diameter of state champion trees, and trees 30" in diameter or larger are considered priority for on-site retention and protection in the County.

Approval is subject to the following conditions:

1. Comply with all SRC agency comments on the submitted Final Plans (F-15-024) and Environmental Concept Plans (ECP-15-015).
2. Provide two (2) replacement trees of 2 ½" to 3" caliper on site in place of the removed tree as mitigation. The mitigated plantings are to be placed on the property to enhance the landscape screening.
3. Compliance with the attached DED Comments dated October 13, 2015 requiring the payment of a fee in lieu for the sidewalks and road improvements along the property frontage.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty - The applicant would experience extraordinary hardships and practical difficulties with the development of the property due to the lack of nearby infrastructure and the fact that the existing specimen tree impairs the necessary sight distance. There is only a small section of fillet curb located at the intersection of MD Route 104 and Sunset Drive. There is no curb or sidewalk located in close proximity to the property so creating improvements along the property frontage would not provide a connection to any existing infrastructure. The specimen tree adjacent to the roadway impairs sight distance and is in close proximity to Sunset Drive and existing power lines. The tree is currently in poor condition and any disturbance

to the critical root zone of the tree would likely cause a decline in the health of the tree. The proposed driveway would likely cause harm to the tree and would therefore pose a hazard to Sunset Drive as well as the existing power lines. It is not reasonable to attempt to save a tree with failing health that causes a current hazard to power lines as well as traffic passing on Sunset Drive.

Implementation of an Alternative Proposal – Implementing the regulations listed above in this case, the sidewalk, curb installation, road widening, and street tree installation would create an island effect with no connections to existing improvements. This would be detrimental to pedestrian travel as it would create an area unconnected to other infrastructure and leave the pedestrians traveling on the side of the roadway off the property. Alternatively a fee-in-lieu of the improvements was approved by DED. The intent of the Forest Retention Priorities is that large good quality native trees be a priority and retained on site, but reserve leeway for them to be removed if necessary. The site has been arranged in such a way as to preserve as many of the native trees as possible. Alternative to the proposed plans for removing the tree in poor health is that it would continue to impair sight distance and pose a hazard to the overhead wires and traffic.

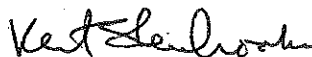
Not Detrimental to the Public Interest - Approval of this waiver request would not be detrimental to the public interest as adding a small section of sidewalk would be unsafe for pedestrians since it would not connect to existing improvements and only one (1) of the three (3) specimen trees are proposed to be removed. It would be in the public's best interest not to create a potentially unsafe condition as no curbing and no sidewalk have been developed on Sunset Drive. It would not be detrimental to remove a potentially hazardous tree that could pose a safety threat to the public and also allow for better vehicular visibility.

Will Not Nullify the Intent or Purpose of the Regulations - Approval of the waiver request would not nullify the intent of the regulations. There are no existing improvements along Sunset Drive for the proposed road and sidewalk improvements to tie into. Also the removal of the referenced specimen tree on this site is particular to the development of the property which is limited by existing site conditions, so it should not be seen as a nullification of the intent of the regulations. Since a fee-in-lieu has been requested in place of providing the improvements and two replacement trees are to be provided, the intent of the regulations will be met.

Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date on all related plats, and site development plans, and building permits. This requested waiver will remain valid for one year from the date of this letter or as long as the subdivision plan remains in active processing.

If you have any questions, please contact Nick Haines at (410) 313-4333 or email at nhaines@howardcountymd.gov.

Sincerely,


Kent Sheubrooks, Chief
Division of Land Development

KS/NH
Attachment: DED
cc: Research
DED
Real Estate Services
FCC
F-15-024