



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

February 18, 2016

Michael Pfau
Trinity Homes Mary Land, LLC
3675 Park Avenue, #301
Ellicott City, MD 21043

RE: Pine Grove Lots 1-4 & Open Space Lot 5
WP-16-083 (F-16-002)

Dear Mr. Pfau:

The Division of Land Development has determined that the following four(4) requested waivers **ARE NOT REQUIRED** for the following reasons:

- **Section 16.116.(a) – Protection of Wetlands** – Determined to be “Essential Disturbance”. In order to provide suitable outfall from the environmental site design features, the storm drain will discharge (end of rip rap) as close as 15' from the edge of the wetland. This disturbance is required to adequately accommodate the storm water treatment practices which are essential for reasonable development of this property.
- **Section 16.120.(b).(4) Lots should be Regular, Generally Rectangular in Shape** – The configuration of the pipestem of Lot 2 was adjusted under the Version 2 revised submission of the final plan. The non-pipestem area of the lot (the buildable area) is rectangular and regular in shape.
- **Section 16.121.(e) Open Space Access and Frontage** – The subdivision plan proposes a 24' use-in-common driveway easement which will provide access for pipestem Lots 2-4 and for the HOA owned Open Space Lot 5. Additionally, a 6' wide fee simple pipestem will provide frontage for Open Space Lot 5. The fee simple strip expands to 10' in width beyond the use-in-common access easement. The proposed design conforms with the minimum access and frontage requirements of Section 16.121.(e) of the Subdivision Regulations.
- **Section 16.135.(a) Provide Street Lighting** – Two street lights have been identified as existing within close proximity to this site. One is located on a utility pole which exists along the proposed Lot 1 road frontage. The second street light is located 130' east of the property and is also located on a utility pole. These two lights fulfill the street light requirement and therefore additional street lights are not required.

WAIVER ACTION:

The Director of the Department of Planning and Zoning considered and acted on four(4) of the eight(8) requested waivers 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).(a) Provide Required Road Frontage Improvements**; and, **Section 16.136 Provide Street Trees**; and, as of the date of this letter, the Planning Director **DENIED** your request to waive **Section 16.134.(c).(1) Provide Sidewalks** and **Section 16.120.(c).(2).(ii) Lot Layout – Shared Driveway Easement**.

APPROVAL to waive Section 16.132.(a).(2).(i).(a) Provide Required Road Frontage Improvements; and, Section 16.136 Provide Street Trees is subject to the following conditions:

1. Compliance with any Subdivision Review Committee (SRC) comments based on the review and approval of the associated final subdivision plan (F-16-002).
2. Compliance with the attached comments from the Development Engineering Division dated February 4, 2016. Specifically:
 - a. DED Comment #4 which requires the developer to pay a fee-in-lieu for the construction of the frontage improvements. A completed cost estimate must be submitted and approved by DPZ and DPW regarding the final costs. The estimate should include all frontage improvements, mobilization, MOT, sediment control, utility relocation, grading, etc. The final plans and plat will not be signed until the associated fee has been paid.
 - b. DED Comment #5 which requires that the cost of sidewalk construction to be included in the fee-in-lieu estimate.
 - c. DED Comment #7 which requires the developer to install three(3) required street trees within the site (outside of the power lines) between the house and the right-of-way.
3. The applicant shall redesign Lot 1 to reduce the lot size and adjust the eastern lot line to exclude the 24' wide private use-in-common driveway easement and the private 18' wide use-in-common driveway pavement from within Lot 1. The applicant shall also exclude the driveway pavement for Lot 2 from within Lot 1.

Our **APPROVAL** decision to waive **Section 16.132.(a).(2).(i).(a) Provide Required Road Frontage Improvements; and, Section 16.136 Provide Street Trees** was based on the following reasons:

- Extraordinary hardships or practical difficulties which may result from strict compliance with the Regulations and The intent of the Regulations will be served to a greater extent through the implementation of the alternative proposal: Section 16.132.(a).(2).(i).(a) - Provide Required Road Frontage Improvements – In conjunction with major subdivision (and resubdivision) the property owner is required to construct road improvements on one side of the roadway up to one half of the full designated pavement width (14'). There has been no road widening in the vicinity of the subject property and there is no development potential in the immediate area. This section of the regulations permits the contribution of a fee-in-lieu of constructing the actual improvement for these situations. Since there has been no other road widening, it would be in the best interest of Howard County and the Public to have the developer contribute to potential future improvements.

Section 16.136 - Section 16.136 Provide Street Trees requires street trees to be provided by the developer. Considering that the development has approximately 118' of public road frontage and that there are no existing street trees; the project would be required to provide 3 street trees (1 tree : 40 linear feet). Considering that there are overhead utility lines and poles within the ultimate right-of-way, the three street trees will be provided within the property and in accordance with the BGE tree criteria for overhead wire locations.

- Approval of the Waiver Requests will not nullify the intent or purpose of the regulations – The requested waivers do not compromise the intent of the Regulations and all of the technical requirements are provided / addressed. A fee-in-lieu of road widening and improvements will be provided in the event the County undertakes a Capital Project to widen and improve Stansfield Road. The subject waivers are required due to the configuration, environmental features, and current environmental site design criteria. The granting of the requested waivers will provide the County with additional Stansfield Road right-of-way and protection of existing wetland and forested area by providing easements and creating an open space lot owned by the Homeowner's Association. Two adjacent properties will benefit by having fee simple access confirmed by deeds

(originally part of the subject property) and the establishment of open space adjacent to their properties. Lastly, the storm water design will alleviate current drainage issues.

- Approval of the Waiver Requests will not be detrimental to the public interests – Approval of the waiver requests will not alter the essential character of the neighborhood and will not substantially impair the appropriate use or development of the surrounding residential properties.

Our **DENIAL** decision to waive **Section 16.134.(c).(1) Provide Sidewalks** and **Section 16.120.(c).(2).(ii) Lot Layout – Shared Driveway Easement** was based on the following reasons:

- **Section 16.134.(c).(1) Provide Sidewalks** – The developer's justification for this request stated that they believe Section 16.134.(b).(2) specifically permit the sidewalk requirement to be eliminated based on the fact that there is not existing sidewalk in the area and there are no vicinal destinations that would justify sidewalk installation. Section 16.134.(b).(2) states that "*sidewalk improvements are not required if adjacent development has been substantially completed without sidewalks, pursuant to prior approvals, and there is no need for sidewalks to serve commercial or institutional uses, schools, parks or other public facilities or make connections to nearby streets or transit services*"; however, the developer failed to identify that this segment of Stansfield Road is an improvement location on the Howard County Pedestrian Master Plan (location 56) where sidewalk or pathway is called for. See the attached comment #5 from the Development Engineering Division dated February 4, 2016, which explains that the County will be installing sidewalk sometime in the future. The developer is required to pay a fee-in-lieu for the construction of frontage improvements and the cost of sidewalk construction is not waived and shall be included in that construction cost estimate to be reviewed and approved by the Department of Public Works and Development Engineering Division, DPZ.
- **Section 16.120.(c).(2).(ii) Lot Layout – Shared Driveway Easement** – DPZ Policy dated November 13, 2003, clarifies the intent of Section 16.120.(c).(2).(ii) for adjacent pipestem lots, which is that a shared access easement, 24 feet in width, should encumber the pipestem portion of adjacent pipestem lots and should not extend beyond their boundaries. The proposed subdivision design creates a 30' easement to incorporate the SWM bio-swale which is parallel and adjacent to the driveway. The use-in-common driveway will be located within the 30' easement approximately 11' from the eastern property line. The 11' strip is to accommodate the SWM bio-swale and the required perimeter landscaping. The paved area of the use-in-common driveway (which serves Lots 2-4) will overlap (3'±) onto Lot 1, including a portion of the 30' easement (6'±) which will also overlap onto Lot 1.

This office acknowledges that DPZ Policy dated May 5, 2014, was issued to clarify the allowance for the location of stormwater management (SWM) facility access easements within residential building lots, Section 16.120.(b).(4).(iv) requires that residential building lots shall not be encumbered by SWM access easements within the main buildable portion or body of a residential lot, but that a SWM access easement is permitted to be located solely within the use-in-common driveway access easement area of a lot's pipestem or flag strip for shared access of two more residential lots in a subdivision.

The petitioner's justification statement for granting this waiver "*Lot 1 is the largest lot by design so that it could accommodate the edge of the use-in-common driveway and easement*" fails to address the specific criteria for this Department to grant a waiver. In accordance with DPZ Policy the paved area of the 16' shared driveway is to be contained within the limits of the access easement; and, both the paved area of the driveway and the access easement should not extend beyond the boundaries of the adjacent pipestem lots. Furthermore, this office will not approve any portions of the individual driveway serving Lot 2 to be located within the limits of Lot 1.

The petitioner has failed to identify the practical difficulties or extraordinary hardships that would be incurred in order to alter the proposed lot design to adhere to the Regulations. He has failed to confirm that approval of the waiver request will not nullify the intent and purpose of the Regulations;

that the intent of the Regulations will be served to a greater extent through the implementation of an alternative proposal; and, has failed to substantiate that approval of the waiver request will not be detrimental to the public interests.

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 this subdivision plan remains in active processing.

If you have any questions, please contact Ms. Pat Britt-Fendlay at 410-313-3371 or via e-mail at pfendlay@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/JMF/MPB 

cc: Research
Development Engineering Division
Real Estate Services
Robert H. Vogel Engineering, Inc.