



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

July 11, 2017

Jason Van Kirk
5074 Dorsey Hall Drive, Suite 205
Ellicott City, MD. 21042

RE: WP-16-150 (Redd & Sipes Property)
(associated with P-17-001)

Dear Mr. Van Kirk:

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 of **Section 16.1205(a)(7) and 16.1205(a)(10)** which requires the retention of specimen trees (30" dbh or greater) that are not contained within other priority forest retention areas as outlined in Section 16.1205(a)(1-10); alternative compliance request to **Section 16.116(b)(1)(i)** which prohibits grading of steep slopes that are 20,000 square feet contiguous; an alternative compliance request to **Section 16.1304(a)(1)** which requires that cemeteries be placed in a non-buildable lot with a cemetery designation; an alternative compliance request to **Section 16.118(c)**, which states that no grading or construction shall be permitted within 30 feet of a cemetery boundary or within 10' of individual grave sites.

Approval is subject to the following conditions:

1. Approval is limited to the removal of specimen trees #1-4, 6-7, 9,11-12, 21-23 as depicted on the alternative compliance exhibit. Any proposal to remove additional specimen trees will require a new alternative compliance request or an amendment to this alternative compliance request.
2. A minimum of 24 additional, native, 3" (minimum) caliper trees shall be provided on site as part of the mitigation for the specimen tree removal. This mitigation will be addressed with the Final Plan and will be in addition to any required landscape or forest conservation plantings. The mitigation will also be shown on the associated Landscape Plan.
3. Due to their proximity to the LOD or other potential disturbances, individual tree protective devices (tree fencing) shall be placed completely around the critical root zones of Specimen Trees #5, #8, #10 and #14, PRIOR TO the commencement of any grading. This shall be outlined in the pre-construction management plan of the Final Forest Conservation Plan (FCP) and within the sequence of construction provided on the Site Development Plan.
4. Steep slope impact is limited to 4,194 square feet as depicted on the alternative compliance exhibit.

5. Final plat and Plan cannot be approved prior to written confirmation from the State's Attorney's Office that all processes and procedures for disinterment and reinterment have been approved; and no Site Development Plan can be signed until all graves have been successfully relocated.

The Planning Director's decision was made based on the following:

Justification for Approval of Alternative Compliance to Sections: 16.1205(a)(7) and 16.1205(a)(10) which require the retention of specimen trees (30" dbh or greater) that are not contained within other priority forest retention areas as outlined in Section 16.1205(a) (1-10); and **Section 16.116(b)(1)(i)** which prohibits grading of steep slopes that are 20,000 square feet contiguous in size or greater.

Extraordinary hardships or practical difficulties:

The extension of Florey Road and the need to incorporate a 100-year SWM pond, results in many of the lots being consolidated to the northern side of the property, which is also the location of many of the larger on-site trees. The developer has made the lots as small as possible and has held road grades as close to natural grades as possible, resulting in the preservation of 10 specimen trees, but also necessitates the need to remove 12 specimen trees as outlined above.

According to the applicant, "the on-site steep slopes that are 20,000 square feet or more contiguous are man-made slopes that were created when the railroad line was installed. The area of the on-site portion of these steep slopes is 4,194 square feet and is located within proposed Lots 19-21. This area is connected to a larger area of contiguous off-site steep slopes that are part of the railroad embankment. Avoidance of this 4,194-square foot (man-made) area would result in the loss of Lots 19-21. The area of the impact, closest to the railroad bed will receive significant landscaping and will also have armored drainage channels to help protect this area from future erosion."

Detrimental to the Public Interest or Nullifies the Intent or Purpose of the Regulations:

The proposal for the removal of 4,194 square feet of steep slopes would not be detrimental to the public as this is a somewhat isolated area of man-made slopes that is not adjacent to existing residents.

The applicant will be required to provide mitigation plantings for all specimen trees removed. Public interest and safety will be better served by the removal of dead or dying trees or those prone to windfall.

Alternative Compliance Action to Section 16.1304(a)(1) which requires that cemeteries be placed in a non-buildable lot with a cemetery designation and **Section 16.118(c)**, which states that no grading or construction shall be permitted within 30 feet of a cemetery boundary or within 10' of individual grave sites.

The applicant contends that "accommodating the burial grounds on site will deny the property owner reasonable use of his entire property. The specific site location and drainage area, in combination with inadequate existing storm drain culverts on site, will result in the requirement that the site provide 100-year storm attenuation. To achieve this large storm water requirement, requires that a large portion of the site be dedicated for the management facility, as well as, grading, access and outfall of the storm water facility. This, in turn, consolidates the development potential to the balance of the property where the graves are located. To require a cemetery to be set aside on a separate lot further

reduces the developable portion of the property (affecting proposed Lots 31-35 most significantly), thus denying reasonable use of the entire property.”


The challenges of site topography, cemetery setbacks (10' grading or construction setback from individual grave sites and 30' from a cemetery boundary) and small lot sizes as permitted under the R-12 Zoning district make it extremely difficult to provide and maintain a respectful buffer for the existing graves.

“The Zion Cemetery, Dorsey Emanuel United Methodist Church and members of the Reimensnider family have requested (and have been granted approval from the State's Attorney's office) to move forward with reinterment of graves to the Zion cemetery, located at 6600 Amberton Drive in Elkridge, Maryland. Subject to all relevant permits, the developer and Reimensnider family plan to accommodate the burial ground by reinterment of the enriched soil layer of each burial feature. Each of the features will be manually excavated and placed in an individual vault or sleeve for transport to the cemetery. Grave stones found at the current site will be cleaned and refurbished by a professional for use in the new locations. An additional monument will be added to address the unmarked/unknown Reimensnider family graves. Zion cemetery will oversee the ongoing maintenance of the graves at their cemetery.”

Indicate this alternative compliance 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 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 provisions of the Regulations.

If you have any questions, please contact me at (410) 313-2350 or email at ksheubrooks@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/TM/WP-16-150/Redd & Sipes WP-16-150 approval 7-11-17

cc: Research
DED
RCD
Real Estate Services
S-16-001 file and P-17-001 file