



Howard County Department Of Planning And Zoning
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Valdis Lazdins, Director

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February 26, 2018

Joseph and Lisa Ann Penkusky
4707 Beechwood Road
Ellicott City MD 21043

RE: WP-17-124 Penkusky Property (SP-17-006)

Dear Mr. and Mrs. Penkusky:

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 sections of the Subdivision and Land Development Regulations:

Section 16.116(a)(1) and (2) of the Subdivision and Land Development Regulations (Amended Fifth Edition) – Grading, removal of vegetative cover and trees, paving and new structures shall not be permitted within 25 feet of a wetland or within 50 feet of an intermittent streambank.

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).

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.

Approval is subject to the following seven (7) conditions:

1. Compliance with SRC comments for SP-17-006 and Planning Board approval of PB Case 433 for the proposed subdivision plan design, layout and location of lots, shared driveway and utilities.
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 petitioner as necessary disturbance or through the filing of an additional alternative compliance petition.
3. The affected steep slope areas must be sufficiently stabilized by 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 the site development plan.

4. The removal of the nine (9) specimen trees will require mitigation with the planting of 2:1 replacement trees (18 total) with a minimum 3" caliper native plant species. The replacement trees shall be proposed within a reasonable location on the site, bonded and shown on the landscape plan with the forthcoming final plan.
5. The remaining twelve (12) specimen trees shall be saved and protected during construction activities. 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 the site development plan.
7. Provide a note on the SP plan (SP-17-006), 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.

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

Section 16.116(a)(1) and (2) – Disturbance to stream and wetland buffers

The petitioner is requesting to disturb a portion of the site's 25-foot wetland buffer and the 50-foot stream buffer. These two environmental features are located near the front of the site, along the side of an existing driveway. There is a narrow valley along the side of the driveway where a wetland seep complex is located. The petitioner states that "the origin of the wetland complex is a spring seep and that the wetland is seasonally influenced by groundwater and the discharge from the spring and pond are intermittent in nature". On March 30, 2017, members of the Land Development (DLD) staff made a site inspection to verify these on-site environmental features. Staff determined that the location and composition of these features are in accordance with the information delineated on the grading plan and forest stand delineation provided with this petition and as provided on the SP plan.

The petitioner states that the existing 10-foot wide paved driveway that provides access to and from the existing house shall remain as part of the development. However, as a condition of subdivision, the existing driveway pavement must be widened to the required 16 feet within a 24-foot wide use-in-common easement. The petitioner states that the widening "will occur primarily on the south side to minimize impact to the stream and wetland buffers". As a result, a small portion of the both the stream and wetland buffers will be disturbed as part of this widening event.

Strict compliance with the Regulations would necessitate a much larger scope of disturbance to the environmental features, since access to and from the site would require the construction of a new driveway from Beechwood Road into the site and greater disturbance to the steep slopes, stream and wetland buffers.

The disturbance to the stream and wetland buffers shall not be detrimental to the public interest since the subdivision's existing driveway entrance and alignment shall remain as is and, furthermore, the construction to extend this driveway into the site will limit environmental disturbance to the overall site, since there will be no additional disturbance to the stream and wetland buffers other than the minor disturbance requested in this petition.

Section 16.116(b) – Disturbance to steep slopes

The site contains a total of 2.11 acres of steep slopes that average 25% or greater over 10 vertical feet. Most of the steep slope area is concentrated in the southern, northwestern and northeastern portion of the site. There's a high point in the center of the site where five of the six lots will be sited, but to access these five lots, disturbance to steep slope area in the southern area of the site is necessary.

The petitioner states that "as the driveway curves beyond the wetland seep complex, it encounters an area of steep slopes that must be crossed to reach the more developable area beyond". In addition, the petitioner justifies that these disturbances are considered essential for the site's bio-retention that will provide storm water management for the proposed driveway. As stated in the petitioner's justification, crossing the steep slope area is unavoidable because of existing topography and the necessity to reach the most developable area of the site. The effort to concentrate majority of the proposed lots away from the site's most rugged terrain necessitated the disturbance to parts of the 25% or greater steep slopes for access.

Strict compliance with the Regulations would necessitate a much larger scope of disturbance to the environmental features, since access to and from the site would require the construction of a new driveway from Beechwood Road into the site and greater disturbance to the steep slopes, stream and wetland buffers.

The remaining areas of steep slopes will be in open space lots that will be owned and maintained by Howard County Department of Recreation and Parks. The approval of this alternative compliance will not be detrimental to the public interest and will not nullify the intent of the Regulations, since disturbance to the steep slopes are limited to access and the installation of public utilities.

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 twenty-one specimen trees on the site. Of these twenty-one specimen trees, a total of nine (9) are proposed for removal. Three of the nine specimen trees have been identified to be in poor condition (rot and decay), as documented in the developer's environmental report and as verified by the DLD staff. The removal of the nine 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; majority of the trees to be removed are either in poor condition or are located where the most intense use of this development shall occur.

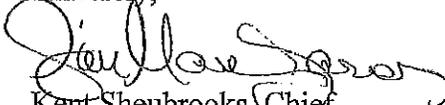
The approval of this alternative compliance petition will not nullify the intent or purpose of the Regulations since the purpose of this project is to subdivide an R-ED zoned property into residential lots.

The loss of nine specimen trees shall be mitigated by the planting of 18 trees (in addition to those trees proposed as part of the project's overall landscape plan). Furthermore, majority of this subdivision's perimeters shall consist of open space that includes the retention of existing forested areas.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval, and date of approval on SP-17-006, the final plan and the site development plan.

This requested waiver will remain valid for one year from the date of this letter or as long as this project remains in active plan review 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
DED
File: SP-17-006
Adcock and Associates
DNR – Marian Honeczy
DPZ – Brenda Luber