



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

January 23, 2020

Dorsey's Ridge, LLC
308 Magothy Road
Severna Park, MD 21146

RE: WP-20-053, Dorsey's Ridge
Alternative Compliance Request

Dear Sir or Madam:

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 alternative compliance of **Section 16.1205(a)(7)** to allow removal of three (3) additional trees 30" in diameter or larger. The Planning Director also **approved** your request for alternative compliance of **Section 16.116(a)(2)(ii)** to allow grading for the proposed stormwater management facility and the access road for maintenance of that facility.

Approval is subject to the following conditions:

1. Removal of the three (3) additional specimen trees will require replacement mitigation at a ratio of two (2) larger caliper trees (at least three (3) inches dbh) for each specimen tree removed (six (6) additional trees for this request, ten (10) trees total). The mitigation planting must be provided within one of the forest conservation easement areas, preferably along the perimeter of one of those easement areas. You must address this alternative mitigation requirement with the Final Plan for this property. The mitigation planting must be bonded with the landscaping, but may not be counted toward the landscaping obligation for this project.
2. Specimen Trees ST-6, ST-7, ST-9, ST-13, ST-14, ST-15, and ST-16 must be protected during construction. A registered arborist must inspect the trees and implement recommendations for professional pruning of roots and foliage. All pruning must be performed by a Maryland licensed tree expert. Tree protection fencing must be installed around the entire perimeter of Specimen Trees ST-6, ST-7, ST-9, ST-13, ST-14, ST-15, and ST-16 to the greatest extent possible (while not disturbing proposed forest conservation areas), to prevent root and foliage damage during construction.
3. No grading is permitted within seventy-five feet of the perennial stream bank except grading for the proposed stormwater management facility and the proposed access roadway used for maintenance of the stormwater management facility as shown on the Alternative Compliance exhibit.
4. The applicant must reduce the amount of buffer disturbance by adding a small retaining wall that will allow the disturbance to be reduced.
5. The applicant must replace the turnaround on the maintenance road for the pond with a tee to reduce the disturbance.

Our decision was made based on the following:

Extraordinary Hardships or Practical Difficulties:

Extraordinary hardship would result from the applicant retaining the specimen trees located on the property due to the location of the trees in relation to the Concept Plan approved by the Zoning Board. Because of this, it is not possible to retain the three (3) additional specimen trees and still adhere to the Concept Plan approved by the Zoning Board. The retention of the specimen trees cannot be accomplished without drastically redesigning the Concept Plan approved by the Zoning Board. Additionally, the Concept Plan approved by the Zoning Board would also need to be drastically redesigned if the applicant is not permitted to disturb environmental features and/or their buffers when grading for their stormwater management pond. Below is an excerpt from the application outlining the extraordinary hardship or practical difficulty associated with this request:

1. Moving the stormwater management pond uphill to avoid the specimen trees would destroy (the applicant's) ability to preserve the historical setting (they) are creating with the Pue Fulton House, spring house and park setting.
2. Moving the pond to the top of the hill to avoid the specimen trees would not allow (the applicant) to provide the 1000-year flood control required by the regulations. Only placing the pond at the low point of (the) site allows (the applicant) to catch the runoff and control it to reduce flooding.
3. Moving the pond to the top of the hill would not allow (the applicant) to fulfill the requirements of the CEF zoning approval because (they) would lose the park, the playground, and would have to relocate roads and forested buffers.
4. Moving the pond uphill would make the pond unsafe because it would have to be built on steep slopes that would be more likely to fail. Since there is a high steep slope, the facility is best located at the bottom of the slope to reduce the potential for the dam of the pond to slip, which would likely happen if it were placed higher on the slope. Therefore, it has been placed at the bottom of the hill.
5. Moving the pond uphill would not avoid impact to the forest because (the applicant) would still have to build the storm drain culvert and outfall apron at the foot of the hill on flat ground. The proposed development is located at the top of a slope that is mostly between 10% and 25% slopes with some 25% or greater slopes. The outfall from the facility must be located on slopes less than 10%, requiring (the applicant's) outfall to extend into the stream buffer area.
6. The subdivision plans approved through the zoning process and the Sketch Plan both anticipated the need for a 100-year facility to be located approximately in the proposed location. Since this approval, regulations were put in place requiring management of the 2016 Ellicott City storm (1000-year storm) and in order to grade in the facility two additional specimen trees are required to be removed.
7. The tree removal avoids impacts to steep slopes over 20,000 square feet, floodplain, wetlands, and streams.
8. The proposed facility has been designed to over manage by 17%. This over-management of the Ellicott City storm event will reduce impacts normally associated with these storm events, helping to provide flood control, resulting in mitigation of the disturbance of the stream buffer and removal of the two specimen trees.
9. The existing county sewer easement lies between the proposed pond and the existing stream which is proposed for access to the pond. This access has been granted by Ross Beschner Deputy Chief of the Bureau of Utilities.
10. The removal of the trees will not adversely impact water quality. The site meets the current MDE design standards for water quality by use of drywells, micro-bioreentions, bioreentions, and a stone trench, while the larger facility is controlling the Ellicott City storm event. Sediment control measures, including silt fence, super silt fence, sediment traps and a basin are being utilized during construction along with seeding and matting to provide stabilization.

The Department of Planning and Zoning agrees with the applicant's analysis shown above. Strictly

enforcing the regulations in this case would create a hardship or practical difficulty for the developer since disturbance of environmental features and/or their buffers, and removal of the three (3) additional specimen trees, is being done in order to provide flood control for the Tiber Branch watershed. Additionally, the relief is necessary to develop according to the Zoning Board approved development concept plan and to provide the requisite community enhancement features, such as conservation of the historic Pue Fulton House.

Alternative Proposal

The alternative proposal would require the applicant to retain all specimen trees on the parcel. However, due to the location of the trees in relation to the Concept Plan approved by the Zoning Board, the retention of the specimen trees cannot be accomplished without drastically redesigning the Concept Plan approved by the Zoning Board. Therefore, in this situation, it is reasonable to allow the applicant to remove the three (3) additional specimen trees and permit alternative compliance with replacement mitigation planting for the removed specimen trees. Additionally, the alternative proposal would not permit any disturbance of environmental features and/or their buffers when grading. However, the proposed plan has already been approved by the Zoning Board. Also, disturbance of environmental features and/or their buffers, and removal of the three (3) additional specimen trees, is being done in order to provide flood control for the Tiber Branch watershed. Therefore, requiring these alternative proposals is not recommended by this Division. Locating the stormwater management facility higher on the slope was looked at by the Development Engineering Division and they did not support relocating the facility uphill due to potential safety impacts of building a pond above a steep slope.

Not Detrimental to the Public Interest

The alternative compliance request will not be detrimental to the public interest since the applicant will be required to provide enhanced landscaping around the perimeter of the property. The enhanced perimeter landscaping will require the applicant to provide two (2) large caliper (at least 3" dbh) shade trees for every one (1) specimen tree removed to help mitigate the loss of the two specimen trees. Additionally, one of the requirements of approving the rezoning of a property to CEF is that it be beneficial to the public, and this CEF plan was approved by the Zoning Board. Also, disturbance of the environmental features and/or their buffers, and removal of the three (3) additional specimen trees, is being done in order to provide additional flood control for the Tiber Branch watershed. Therefore, approval of this alternative compliance request will not be detrimental to the public interest.

Will not nullify the intent or purpose of the regulations

Approval of this alternative compliance request will not nullify the Intent or Purpose of the Regulation because the Subdivision Regulations allow the Department of Planning and Zoning to authorize, "planting in an alternate location," if it is deemed to have a "greater environmental benefit." This Division has determined that requiring mitigation within one of the forest conservation easement areas is deemed to have a "greater environmental benefit" than retention of the specimen trees given that removal of the three (3) additional specimen trees is being done in order to provide flood control for the Tiber Branch watershed. The enhanced perimeter landscaping will require the applicant to provide two (2) large caliper (at least 3" dbh) shade trees for every one (1) specimen tree removed, and will help to mitigate the loss of the three (3) additional specimen trees. Therefore, approval of this alternative compliance request will satisfy the Intent of the Regulations by creating an environmental benefit. Additionally, since the proposed plan has already been approved by the Zoning Board, and allowing grading complies with the current stormwater management regulations, it does not nullify the intent or purpose of the regulations.

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 JJ Hartner at (410) 313-2350 or email at jehartner@howardcountymd.gov.

Sincerely,



Tanya Krista-Maenhardt, Acting Division Chief
Division of Land Development

TM/JH

cc: Research
DED
Real Estate Services
Marian Honeczy- DNR
Fisher, Collins, and Carter, Inc.