

October 6, 2017

Ms. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Variance Case #2017-0232-V; Wroxeter Estates
185 Wroxeter Drive, Arnold

Dear Ms. Rhodes:

This firm represents Uchllyn Investors, LLC (“Uchllyn” or the “Applicant”) with regard to the above-referenced development proposal, and particularly the application for variances that are scheduled to be heard by the Anne Arundel County Administrative Hearing Officer on October 12, 2017 in Variance Case No. 2017-0232-V.

The purpose of this letter is to address some of the concerns that have been raised by the County and the Critical Area Commission in the hopes that these concerns can be allayed prior to the hearing. Contemporaneously with the submission of this letter, Uchllyn is submitting the following supplemental items:

- A revised Variance and Sketch Plan prepared by Boyd & Dowgiallo, P.A. showing slight revisions to the site plan previously submitted. This site plan makes the following revisions:
 - Remapping certain expanded buffer areas to include a 50’ expanded buffer area from the top of steep slopes, consistent with the requirements of County Code Section 18-13-104(b)(1).
 - A reduction of the LOD surrounding the existing house on the “new” Lot 2, which significantly reduced the variance relief needed to reconstruct that dwelling on the existing footprint.
 - A new reforestation area, located in an open-field expanded buffer area, that will mitigate the unavoidable Lot 2 buffer disturbance on a 3:1 basis.
 - Updated tables showing slight changes to the requested variance relief attendant with the changes outlined above.
- A new “Variance Number 2 Exhibit” showing areas of non-buffer steep slope disturbance associated with the demolition and restoration of areas of the site.

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- A new “Variance Number 3 and 4 Exhibit” showing areas of expanded buffer disturbance associated with the demolition and restoration of areas of the site.
- Photos showing variance areas, and in particular encroachment of trees onto the existing home on the proposed Lot 2.
- An updated Critical Area Report prepared by Mr. Michael J. Klebasko, PWS, of Wetland Studies and Solutions, Inc. The updated Critical Area Report reflects:
 - Changes to the Expanded Buffer impacts associated with the application of County Code Section 18-13-104(b)(1))
 - Minimal forest clearing associated with the reconstruction of the existing house on the “new” Lot 2. The 1,700sf of clearing immediately around the existing house will be mitigated on a 3:1 basis in an open-site filed area within the expanded buffer.

Responses to Concerns Articulated by Anne Arundel County

Based on correspondence with Anne Arundel County Planning and Zoning Staff, we understand that there are certain concerns regarding the development proposal, and particularly the level of detail provided associated with steep slope disturbance associated with ingress and egress to the site, as well as to slope and expanded buffer disturbance associated with the renovation of the existing structure on proposed Lot 2. Each concern is addressed in turn. In addition, we would like to take the opportunity to directly address a comment by the County regarding a supposed “density variance.”

Unavoidable Slope Disturbance Associated with the New Drive Aisle

The County has expressed concern that slope disturbance for the proposed access is premature given that the layout for the project has not been approved and there may be an opportunity to minimize or eliminate the proposed disturbance.

While we agree that final layout of the project will be finalized through the subdivision process, the location of proposed shared driveway has been carefully engineered to both reduce impacts, and to coordinate unavoidable impacts with the demolition work that is being proposed directly to the north of the drive aisle.

As reflected in the Variance and Sketch Plan, the applicant proposes to construct a circular cul-de-sac just outside of the regulated 1,000-foot Critical Area. This feature (part of what is labeled as “Road A”) was placed in its proposed position in order to avoid the addition of lot coverage within the Critical Area.

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With regard to the location of the section of the ingress driveway labeled "Road B," this driveway is built on top of the existing graded driveway. It is also immediately to the south of and adjacent to an area of disturbance that is associated with the demolition and restoration of the two existing houses and multiple disturbed areas such as concrete pads, gravel parking areas, and compacted soil.

The demolition work associated with removal of structures and lot coverage to the north of the existing driveway will, in and of itself, cause temporary disturbance of almost the entire area of "Road B", including the steep slope area for which the variance is requested. It simply does not make sense to disturb this area for purposes of completing the demolition work, then to remove and re-grade the *existing* driveway (which currently traverses the same 15% steep slope area as the proposed driveway), and then cut in a *new* driveway in a currently undisturbed portion of the property. This is particularly true as the "no variance" routing of the new driveway would require a longer driveway with a relatively sharp bend, necessitating more lot coverage and obstructed sight lines and turning radii for residents and emergency vehicles.

From the perspective of reducing impacts to the site as a whole, and specifically impacting the overall impacts to regulated steep slopes, the best, safest, and most environmentally sensitive approach will be to locate the "Road B" portion of the shared driveway as shown on the Variance and Sketch Plan.

The applicant will work with the county to reduce the size and scope of the "Road B" impacts through the subdivision process.

Unavoidable Slope and Expanded Buffer Disturbance Associated with the Reconstruction of the Home on Proposed Lot 2

In addition to the driveway routing, the County has expressed concern regarding the scope of the vegetative clearing and grading necessary in the vicinity of the proposed "Lot 2", on which there is an existing single family home. Specifically, the County has indicated that the proposed LOD surrounding the house appears to be too large given that the dwelling is slated to remain or be reconstructed within the limits of the existing foundation. The County's preference appears to be to review this request at a later date when detailed renovation or reconstruction plans can be reviewed.

The Applicant believes that the prudent approach is to review this application now, not at a later time. As a preliminary matter, the Applicant has reduced the LOD around the existing residence on the revised Variance and Sketch Plan. The expanded buffer impacts associated with Lot 2 are now 4,200 sf, inclusive of the entire footprint of the existing house

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This revised impact is unavoidable under *any* redevelopment or reconstruction scenario. The area surrounding the home is severely overgrown and contains a number of large, poorly-maintained trees immediately adjacent to the home. These trees are endangering the structural integrity of the foundation of the home, and are sited in a location will cause significant and irreparable structural damage if they were to fall. There simply is no way to renovate or reconstruct this home without the minimal buffer impacts now being shown on the Variance and Sketch Plan.

In addition, as shown on the revised Developed Conditions Critical Area Plan, the Applicant is proposing to mitigate all the unavoidable impacts in this area on a 3:1 basis by reforesting an area of expanded buffer that currently is barren field area.

No Density Variance is Being Requested – the Density Currently Exists on Account of the Nonconforming Status of the Property

The County has also indicated in recent communications that it has no objection to density variance being requested by the applicant. ***Please note, no density variance is being sought, and none is required.*** As reflected on the Current Conditions Site Plan submitted with the initial application, the portion of the main parcel (Parcel 51) located within the Critical Area is developed with a total of three single family homes, all of which predate Critical Area regulation. One of the homes is considered a conforming dwelling. The other are legal, non-conforming dwellings. In addition, the legal grandfathered buildable lot referred to as “Lot 1” of the Severn View subdivision predates Critical Area regulation by many decades. Thus, the four riparian lots being proposed in this subdivision are ***existing density*** that was legally established well before the inception of the Critical Area program. Thus, no density variance is being requested and none is required.

Responses to Concerns Articulated by the Critical Area Commission

In addition to the comments received from the County, the Applicant has reviewed comments by the Critical Area Commission (the “Commission”) relative to the variance application, and a separate set of comments relating to the sketch plan submission.

The principal concern of the Commission appears to be that it has insufficient information regarding how the proposed subdivision meets lot consolidation and reconfiguration regulations contained at COMAR 27.01.08.02F. While these concerns will be more fully addressed during subdivision review, we will briefly address each criterion.

(1) The proposed consolidation or reconfiguration will not result in a greater number of parcels, lots, or dwelling units in the Critical Area than the configuration in existence at the time of application would allow.

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As set forth above, the number of lots and dwelling units within the Critical Area is unchanged. Currently there are three dwelling units and one additional, grandfathered, buildable lot of record within the Critical Area portion of the site. The post-development condition maintains the same aggregate density, namely a total of 4 lots within the Critical Area.

(2) In the resource conservation area, the proposed development (a) Will not result in greater lot coverage than development activities within the configuration in existence at the time of application would allow; and (b) Will not result in greater impact to a steep slope than development activities within the lot configuration in existence at the time of application would allow, if that steep slope is located outside the buffer or expanded buffer.

As set forth in the revised plans submitted contemporaneously with this letter, the current development proposal will result in aggregate lot coverage within the RCA Critical area of approximately 3.1%, well below the 15% currently allowed for the site under State and County law.

Furthermore, the proposed development will result in a net **reduction** in impacts to steep slopes that are currently allowed for the site. Specifically, as part of the development proposal, the Applicant is proposing to remove approximately 6648 sf of lot coverage from existing steep slopes, and to restore these steep slopes to their pre-development conditions. While there will be some small additional impacts to steep slopes located outside the expanded buffer (associated with bringing the existing driveway up to code and renovating the residence on the proposed Lot 2), the overall impacts to steep slopes will be significantly reduced as a result of this development proposal.

(3) The proposed consolidation or reconfiguration will not (a) Create an additional riparian parcel or lot, waterfront lot, or any other parcel or lot deeded with water access; or (b) Intensify or increase impacts associated with riparian access.

As explained above and in the original submission, as currently developed, Parcel 51 is improved with a total of 4 legal dwelling units (three within the Critical Area) each of which is considered to be a riparian unit by virtue of being located on a full riparian piece of property. In addition, the grandfathered buildable lot of record (Lot 1 of the Severn View subdivision) is also a full-riparian building lot. Thus, the current site has a total of **five** associated riparian dwelling units or lots. The Applicant is proposing a subdivision plan that would reduce the allowable riparian impacts from five (5) dwelling units or lots to four (4).

(4) The proposed consolidation or reconfiguration will not create: (a) A parcel, lot, or portion of a parcel or lot that will serve development activities outside the Critical Area; or (b) A resource conservation area parcel or lot that will serve development activities in the intensely developed area or limited development area.

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The entirety of the this subdivision relates to the Critical Area portion of Parcel 51, and Lot 1 of Severn View, which is completely within the Critical Area. There are no proposed development activities outside the Critical Area. No part of this development will serve development activity in any LDA or IDA Critical Area overlay area.

(5) The proposed consolidation or reconfiguration identifies each habitat protection area on site, and, if the proposal impacts a habitat protection area, the proposed protective and restoration measures provide for the least possible adverse impact;

As shown on the revised plans and exhibits, there are some impacts to Expanded Buffer areas as mapped. The *vast* majority of these impacts, however, result from the removal of lot coverage from existing expanded buffer areas. Indeed, *no* new lot coverage is proposed within expanded buffer areas.

The very minor impacts associated with clearing around the home located on the proposed Lot 2 will be mitigated on a 3:1 basis by replanting in expanded buffer areas that are currently open-field habitat.

(6) The proposed consolidation or reconfiguration (a) Will not result in a greater impact to a habitat protection area than the impact that would result from development activities within the configuration in existence at the time of application; and (b) Will minimize adverse impacts to the habitat protection area.

With the exception of the work required to bring the home on the proposed Lot 2 up to code, there will be no greater impacts to habitat protection areas. Indeed, the majority of the requested variance relief is required in order to *remove* lot coverage from expanded buffer areas. With the exception to renovations to the house on proposed Lot 2, there are no impacts to HPAs whatsoever. Indeed, factoring in mitigation and compliance with buffer establishment regulations, there will be a significant net increase in forested areas within the Critical Area.

Furthermore, the development will effect a change of use and redevelopment of a site that not only has poor to non-existent stormwater management, but also a large number of dilapidated structures and the elimination of a number of horses with substandard nutrient management practices.

(7) The proposed consolidation or reconfiguration provides: (a) Stormwater management for all proposed development activities; and (b) Benefits to fish, wildlife, and plant habitat that are clearly identified; and

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The development proposal will comply with modern Environmental Site Design to the Maximum Extent Practicable ("ESD to the MEP") stormwater management practices. It will result in reduction of lot coverage and roadways within steep slope areas, and will also result in an increase of forested buffer areas on account of proposed mitigation and any buffer establishment that may be required by COMAR.

(8) The proposed consolidation or reconfiguration fully complies with the afforestation and reforestation requirements in COMAR 27.01.05 and 27.01.09, unless clearing is necessary to avoid a habitat protection area.

The proposed reconfiguration will comply with all afforestation and reforestation requirements in COMAR 27.01.05 and 27.01.09.

Conclusion

Thank you for the opportunity to supplement the variance application.

Very truly yours,

LINOWES AND BLOCHER LLP



Benjamin S. Wechsler

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