



M A R Y L A N D

Office of Planning and Zoning

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Annapolis, MD 21401
410-222-7450

Philip R. Hager
Planning and Zoning Officer

February 13, 2019

Terry L. Schuman, P.E.
Bay Engineering Inc.
2661 Riva Road, Building 800
Annapolis, Maryland 21401

Re: Modification 15259AA, Specimen Trees, Forest Conservation Requirements, Steep Slopes and Buffers, Forest Conservation Threshold and Design Manual Standards
Sixty One (61) East Joyce Lane
Subdivision No. 2014-002; Project 2014-0007-02-NS

Dear Mr. Schuman:

This letter is in response to your modification request dated December 20, 2018, regarding 1) Article 17-6-303(b)(5) Specimen Trees, 2) Article 17-6-303, 304 and 307 to allow reforested areas and Forest Conservation Easements to be placed on areas that are less than 35' wide, 3) Article 17-6-403 Steep Slopes of 25% or greater and steep slope buffers, 4) Article 17-6-306 Forest Conservation Threshold and 5) DPW Design Manual Standards.

Development/Property Description

The subject application is to subdivide Parcels 137, 138, 139, 140 and 141 into 28 cluster single family lots located off of East Joyce Lane. The property consists of 6.93 acres, is zoned R5 and will be served with public water and sewer. Parcel 139 and 140 are currently developed with single family homes and both homes will be removed prior to completion of the subdivision. Access will be gained via two points along East Joyce Lane. A pre-submission community meeting was held July 18, 2018 and evidence has been provided that the community has been notified of the proposed development and the subject modifications. The plans for this community have been in process and under review in various forms. Over the course of this project, five public meetings have been held and numerous meetings with the surrounding community have also been held including meetings with County staff. Additional properties have been included in the overall assemblage to allow for a more cohesive "Master Plan" for the area. The current plan is the result of a fresh look at the entire design process set forth by the community and the County.

Two modifications were requested to Article 17-6-303(3) and 17-6-304(a), to allow a payment to the Forest Conservation Fund in lieu of providing the remaining afforestation and reforestation requirements. Payment to the Forest Conservation Fund is permitted by Code; therefore, modification requests are not necessary. As per Article 17-6-304(a), please note that the methods for reforestation must be provided as per the sequence indicated in this section of the Code. The developer must demonstrate what efforts have been made to undertake the methods in the preferred sequence, prior to allowing a payment in lieu of providing the afforestation and reforestation requirements.

1) Specimen Trees

The first modification request is to allow the removal of 6 of the 16 specimen trees on site. The majority of these trees will be protected within forest conservation easements and will remain after development. The developer is proposing to remove tree #6 (36" yellow poplar in fair condition), #7 (36" yellow poplar in fair condition), #833 (32" red maple in fair condition), #834 (32" black cherry in poor condition), #835 (47" red maple in fair condition) and #843 (30" red maple in fair condition). The specimen trees to be removed are scattered throughout the Parcels. The developer has made efforts to conserve existing smaller trees and the majority of the specimen trees on the site. The developer has worked with the Office of Planning and Zoning, as well as many neighbors of the community, to develop a plan that attempts to honor the community desires, street and safety concerns and neighboring buffers through a unique site plan that strives to protect as many specimen trees as possible. The majority of the specimen trees being saved is situated along the frontage of the East Joyce Lane and will be preserved in a park like setting fronting the proposed community.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties or unnecessary hardship would result from the strict application of this provision and has been demonstrated as follows: The developer has worked with the Office of Planning and Zoning, as well as the community over the past five years to create a "single family" community that adheres to the desired design goals. These goals include, single family dwellings fronting units along East Joyce Lane, creating a "park like" setting along the corner of East Joyce Lane and Hardy Road. In order to achieve the proposed, collective design, the removal of the specimen trees is required as they are located in the most suitable area on the site for the development which would constitute the hardship. Many higher quality trees that do not yet meet the standard of "specimen tree" are being preserved through this design.
2. Environmental impacts have been minimized by clustering the lots and preserving existing forested areas and steep slopes at the rear of the site. Prior to site design, a site analysis was performed for the subject properties. The analysis included specimen trees, other worthy trees, steep slopes, stream and stream buffers, soils, view sheds, vehicular and pedestrian safety and connectivity concerns for the development of this subdivision. Cluster development allows for the preservation of the noted environmental features as well as other preservation methods to be implemented in order to ensure the preservation

- and health of the trees to remain, which will ensure the purpose and intent of Article 17 will be served.
3. The modification request is not detrimental to the public health, safety, or welfare or injurious to other properties. A licensed tree expert will supervise the removal of any specimen trees to insure the protection of adjacent neighboring properties and existing trees to be preserved. Furthermore, a number of the trees to be removed have been noted as potential hazards and thus should be removed to protect the public health, safety, and welfare.
 4. This modification request does not have the effect of nullifying the intent and purpose of Article 17, the General Development Plan, or Article 18 of the Anne Arundel County Code. The property is zoned R5, is infill development served by public water and sewer and is in conformance with the GDP. The intent and purpose of Article 18 is being met through the implementation of the standards within the Code. A “tool” allowed within the Code is the issuance of modifications to certain standards providing a more thoughtful and better design.
 5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

2) Forest Conservation Plan

The next requests are to permit reforestation areas, under a protective forest conservation easement, which are less than 10,000 square feet in area and less than 35 feet wide. The applicant has stated that the proposed planted areas will provide a small buffer between the subdivision and the adjacent residential developed properties, as well as a buffer to a portion of East Joyce Lane. The purpose of reforestation, however, is to create future forests and not necessarily to provide a buffer to adjacent residential communities. The required width of 35 feet is to ensure adequate area to allow the creation of a forest.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties and unnecessary hardship would result if the Code requirements are not met. The applicant has stated that reduced forest conservation easement areas along the frontage of East Joyce Lane are needed to allow proposed stormwater management systems to be constructed to address existing off-site erosion issues for Parcel 120 and still provide a vegetated buffer along East Joyce Lane, which is a design criterion that is important to the community. It is noted, however, that a planted buffer can still be provided without the need for the reduction in the width of the forest conservation easement. The easement is needed, however, for the protection of specimen trees in this vicinity as they are considered priority for retention. The applicant has also stated that the proposed easement area near Lots 24-25, on the western side of the site, has to be reduced to allow for the construction of a retaining wall in this area due to the increased elevation needed in order to provide sewer service in this area. The easement areas will also provide protection to the existing specimen trees proposed to remain. This situation is similar to the previous one just described where the easement is needed for the

protection of the specimen trees, but is not necessary to provide a planted buffer adjacent to Parcel 142, on areas less than 35 feet wide. This would also apply to the proposed easement on the southern side of the property as well. The smaller area, adjacent to the Arnold Overlook's easement area adds additional forested area to an existing easement which a modification to the size criteria would not be needed as the total easement area, on-site and off-site exceeds the minimum requirement of 10,000 sq. ft. The width of this easement should be no smaller than the 35 foot requirement, however, as a forest cannot be created in an area of minimal width. The easement, as proposed at its narrowest point, is only approximately 7 feet.

2. Environmental impacts are proposed to be minimized by placing the areas within steep slopes under a forest conservation easement, the clustering of the lots and preservation of existing trees and forested areas at the rear of the site. The reduced area is also consistent with the Landscape Manual requirements where the objective is that residential landscaping providing an element of privacy between neighbors.
3. The modification is not detrimental to the public health, safety, or welfare or injurious to other properties. The placement of areas within Forest Conservation Easements allows the perpetual maintenance of the forested area, steep slopes and specimen trees thereby benefitting the welfare of the community, neighbors, and the environment.
4. The modification does not have the effect of nullifying the intent and purpose of Article 17, the General Development Plan or Article 18. The request is justified based on site constraints and existing conditions. Alternate compliance is proposed that meets the spirit and intent of Article 17. The project is in conformance with the GDP. The intent and purpose of Article 18 is being met.
5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

3. Steep Slopes and Associated Buffers

The next request is to allow disturbance to steep slopes of 25% or greater and their associated buffers as shown with the exhibit provided with this request. The site currently contains 36,619.93 square feet (0.82 acres) of slopes that are 25% or greater. It was determined through a joint effort and many design iterations that the plan currently proposed best addresses the goals and objectives set forth for the property. Slope disturbance has been limited to a minimum through the use of walkout basements and a retaining wall. Storm water management devices will be put into place to control the quality, quantity and volume of water leaving each lot, thereby mitigating any impacts to the slope. The ultimate location allows for development without impacting the environmental features (specimen trees) while still preserving the stream buffers and flood plain at the rear of the property. The majority of the steep slopes will be placed within a conservation easement. The plan was revised in December 2018 and has reduced the lot count to 28 single family units, minimized steep slope impacts by 80% (from 23,003 sq. ft. to approximately 4,633 sq. ft.) and provided for the preservation of additional open space along the frontage of East Joyce Lane.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties and unnecessary hardship will result from the strict application of Article 17. The intent of the steep slope impact is to allow gravity sewer service throughout the subdivision, specifically in the area of proposed road "C". The proposed dwellings are shown with minimum setbacks and the roadway width has been reduced, which will allow for the retention of specimen trees to remain along the frontage of East Joyce Lane.
2. Environmental impact have been minimized by providing small road widths, a retaining wall, and reduced grading along the rear of the units by providing walk-out basements, where possible. Specimen trees were ultimately preserved along the north and south side of the site by placing proposed Road "C" as shown on the exhibit provided with this modification.
3. The modification will not be detrimental to the public health, safety, or welfare or injurious to other properties. The granting of this modification allows for the constructability of public sewer as well as enabling the other design goals to be met, which will provide public sewer to be extended to serve the community.
4. The modification will not have the effect of nullifying the intent and purpose of the Code. Site constraints and existing conditions require that minimal steep slope and buffer disturbance will be required to achieve the design goals for this development and for the surrounding community. The project is in conformance with the General Development Plan. The development, as well as the installation of public water and sewer helps to meet the goals of the GDP.
5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

4. Clearing below the Conservation Threshold

The site contains 2.10 acres of existing forest and 1.44 acres of forest will be cleared. The forest conservation threshold is 1.39 acres and the breakeven point is 1.53 acres. The total area of forest to remain is 0.66 acres.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties or unnecessary hardships would result from strict application of Article 17. Practical difficulties presented themselves by addressing the neighboring communities desire to switch to a single family community from a townhouse community. Clearing below the established threshold allows for this change and helps to meet other design goals. In order to provide for public sewer and water, clearing within certain areas was needed. A large area containing environmental features has been designated as part of the active recreation area which will allow the residents of the proposed subdivision to have a park like setting and the subdivision a better streetscape from East Joyce Lane.

2. Environmental impacts have been minimized by providing a unique road design to best fit within the property, allowing for the preservation of specimen trees and existing forested areas as well as providing the required amount of open space and recreation areas for the community.
3. The modification is not detrimental to the public health, safety, or welfare or injurious to other properties. The site plan, mutually designed with input from many stakeholders, actually lead to a designed community which preserves lands, open spaces, eliminates septic systems and storm water management design actually will provide for a better health, safety, welfare of its residents and the neighboring community.
4. The modification does not have the effect of nullifying the intent and purpose of Article 17-6-306. The request is justified based on site constraints and existing conditions. Alternative compliance is proposed that meet the spirit and intent of Article 17. Site design and the implementation of storm water management techniques support the intent of the Code. This project is in conformance with the General Development Plan and supported by Zoning to accommodate and encourage this type of development. The tools within the Code, including the granting of modifications, are in conformance with the GDP.
5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

5. Design Manual

- A. Water and Sewer Design page VII-9 to allow a grinder pump.
- B. Road Design Manual page III-C-1 to reduce the minimum centerline road radius..
- C. Road Design Manual page III-34 (Section II.H.1) to allow driveways within 50' of a curb fillet.
- D. Road Design Manual page VI-6 to allow a private road with reduced right-of-way, reduced pavement width, and elimination of the planting strip between curb and sidewalk to the typical road section.

A. Water and Sewer Design page VII-9 to allow a grinder pump

All 28 single family dwellings will be serviced with gravity sewer except a private grinder pump is proposed for adjoining Parcel 364. Parcel 364 is situated at the southern end of the site and obtains access through the proposed subdivision. Access will be situated on or about the same location of the owners existing driveway (which was another goal of the community site plan and a strong desire of the property owner). A use-in-common easement and driveway is provided to serve Parcel 364. Since Parcel 364 sits lower than the proposed sanitary sewer and have no viable way of providing gravity sewer to serve Parcel 364. A private grinder pump is requested in order to provide Parcel 364 with public sewer service. A sewer connection will be brought to the edge of the proposed right-of-way thus allowing for the removal of an active septic system currently located within the floodplain and stream buffer. The decision to allow a future grinder pump connection for Parcel 364 is consistent with the Sewer Study (by Bay Engineering, Inc.,

dated July 31, 2018) and review comments from Inspection and Permits dated 1/17/19 and DPW Utility Planning dated 8/21/18.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties or unnecessary hardship will result from strict application of Article 17. In order to provide gravity sewer to the site the minimum top grade needs to be at an elevation 98. The existing dwelling on Parcel 364 is at an elevation of 90, lower than the future sewer service. In order to service Parcel 364, a grinder pump will be required. Parcel 364 is not sub-dividable and will not have the ability to connect to public sewer without the use of a grinder pump.
2. Environmental impacts have been minimized by providing a unique site plan that best fits with the constraints of the property. The proposed grinder pump allows Parcel 364 to be connected to public sewer, thereby taking the existing septic system off line, which is a benefit to the environment and adjacent waterway.
3. The modification will not be detrimental to the public health, safety, or welfare or injurious to other properties, and will actually benefit the public health by allowing the removal of an old septic system, currently located with a stream buffer and flood plain and providing the Parcel with a connection to public sewer.
4. The modification will not have the effect of nullifying the intent and purpose of Article 17-2-103. The request is justified based on site constraints and existing conditions. Alternative compliance is proposed that meets the spirit and intent of Article 17. This project is in conformance with the GDP and furthers the goal by removing old septic systems and extending public services to areas designated within the GDP.
5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

B. Road Design Manual page III-C-1 to reduce the minimum centerline road radius.

The allowable minimum road radius for residential single family development is 125'. The horizontal radius along proposed Road "A" has been reduced to a 100' radius along the northern portion of the road and a 90 degree bend at the southern portion of the road. These modifications are a byproduct of working with the community and the Office of Planning and Zoning to reach a defined goal. The unique street layout allows for the access to adjacent Parcel 364 to maintain its current alignment. The alignment also allows for the conservation of the open space at the corner of the property and the preservation of a number of specimen trees. The Department of Public Works has determined that vehicles will not be able to navigate the 90 degree bend in the road without crossing the centerline, which would create a significant safety hazard. Therefore, it is being recommended that the 90 degree turn be treated as an intersection, including stop signs on both approaches, to provide a safe operation based on limited sight distance.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties or unnecessary hardship will result from strict application of Article 17. The necessity of reducing the horizontal curves allows the roads and home sites to fit the constraints of the property. The reduced horizontal curve also enables a number of established goals which allows access to Parcel 364, provides public sewer to the community, conserve open space, and retain specimen trees to be achieved, most importantly preserving the access alignment to Parcel 364 and preserving environmental features.
2. Environmental impacts have been minimized by providing a unique road design to best fit the constraints of the property, such as the steep slopes and specimen trees, allowing for the preservation of 10 of the 16 specimen trees, existing forest areas and Open Space and Forest Conservation areas along the frontage of East Joyce Lane.
3. The modification request will not be detrimental to the public health, safety, or welfare or injurious to other properties. Many of the factors are actually improved through the granting of this modification and thus achieving a number of the established design goals.
4. The modification request will not have the effect of nullifying the intent and purpose of Article 17. The request is justified based on site constraints and existing conditions. Alternative compliance is proposed that meets the spirit and intent of Article 17. The granting of this modification supports the goals for the property as well as within the GDP. The intent and purpose of Article 18 are being met.
5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

C. Road Design Manual page III-34 (Section II.H.1) to allow driveways within 50' of curb fillet.

This modification is to allow deviation from the Road and Street Design and allow driveways to be located within 50 feet from the P.C. of the intersection curb radius. The proposed lots that are less than 50 feet from the P.C. of an intersection are Lots 1, 10, 13, 27 and 29. The developer has changed from a townhome development to a single-family residential cluster development. In order to cluster the lots, small lot sizes are utilized and private roads are proposed. This unique roadway design was developed in order to preserve existing site features which include specimen trees, green space along the frontage of East Joyce Lane and maintaining a similar access point to neighboring Parcel 364.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties or unnecessary hardship will result from strict application of Article 17-2-103. The general intent of the driveways located within 50 foot from the PC of the intersection radius is to preserve existing environmental features on-site and maintain a similar access location for Parcel 364. Without the granting of this modification, it is unlikely that the developer would be able to convert the community from the approved town house project to the community desired single-family community.

2. Environmental impacts have been minimized by providing a unique road design to best fit the constraints of the property, allowing for the preservation of specimen trees, existing forest areas and Open Space and Forest Conservation areas along the frontage of East Joyce Lane. The granting of this modification allows for the preservation of these environmental features.
3. The modification request will not be detrimental to the public health, safety, or welfare or injurious to other properties. Granting of this modification enables design goals to be met. These design goals bolster the health, safety, and welfare,
4. The modification request will not have the effect of nullifying the intent and purpose of Article 17. The request is justified based on site constraints and existing conditions. Alternative compliance is proposed that meets the spirit and intent of Article 17. The granting of this modification supports the goals for the property as well as within the GDP. The intent and purpose of Article 18 are being met.
5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

D. Road Design Manual page VI-6 to allow a private road with reduced right-of-way, reduced pavement width, and elimination of planting strip between curb and sidewalk to the typical road section.

This modification is to allow a private road with reduced right-of-way, pavement widths and elimination of the planting strip between the curb and sidewalk as required by the Design Manual (Section VI-6). The developer proposes to have private roads for this development. As per an email received from the developer, February 13, 2019, which included a revised private road section, that proposes the private roads to be 40 feet right-of-ways with 24 feet pavement sections, 4 foot wide sidewalks with a 2 foot 9 inch grass strip between the curb, gutter and sidewalk. Private roads will allow the developer to reduce impervious area on-site and allow for greater green space along the frontage of East Joyce Lane. A larger roadway would increase overall impervious area on-site and required greater environmental impact to steep slopes and specimen trees as well as reduced green space along the frontage of East Joyce Lane. The developer will provide four parking spaces per unit (2 driveway spaces and 2 garage spaces) and will provide no parking signage along the private roads in order to meet the Fire Marshal requirements. The roadway width is being utilized in conjunction with other design tools to achieve the established goals, preserve environmental features and enable for a single-family site design.

The five criteria listed in Article 17-2-108(a)(1-5) are as follows:

1. Practical difficulties or unnecessary hardship will result from strict application of Article 17. The difficulties and hardship has been demonstrated in the justification above. Allowing private roads with reduced right-of-way and pavement width will reduce impervious area, allow for preservation of environmental features such as specimen trees and provide a larger area of green space along the frontage of East Joyce Lane. The private roads are consistent with the previously approved Sketch Plan.

2. Environmental impacts have been minimized by providing a unique road design to best fit the constraints of the property, allowing for the preservation of specimen trees, existing forest areas and Open Space and Forest Conservation areas along the frontage of East Joyce Lane. The granting of this modification allows for the preservation of these environmental features.
3. The modification request will not be detrimental to the public health, safety, or welfare or injurious to other properties. The issuance of this modification allows the developer to meet the goals that actually bolster the health, safety, and welfare. This is accomplished by providing for preserved environmental features, established parkland, and vehicular/pedestrian connections.
4. The modification request will not have the effect of nullifying the intent and purpose of this Article. The request is justified based on site constraints and existing conditions. Alternative compliance is proposed that meets the spirit and intent of Article 17. The granting of this modification supports the goals for the property as well as within the GDP. The intent and purpose of Article 18 are being met.
5. The applicant has submitted written verification to the Office of Planning and Zoning that the requested modification was disclosed and discussed at a community meeting required by Article 17.

Summary/Decision

The modifications have been evaluated by staff for compliance with the five criteria listed in Article 17-2-108 as being the basis for modification denial and approvals. The requests satisfy those criteria and are in keeping with the intent and purpose of Article 17 and the GDP, with the exception of the forest conservation easement width request. Therefore, the modifications to specimen tree removal, forest conservation threshold, forest conservation areas less than 10,000 square feet and contiguous to existing forest, steep slope and buffer disturbance, and the DPW Design Manual Standards are approved with the following conditions:

1. The specimen trees may be replaced on site with native trees in a quantity equal to the value of the trees to be removed as determined by a certified member of the International Society of Arboriculture. This planting can be done in areas not under forest conservation easements and within areas that are needed to buffer adjacent residential properties and/or roadways.
2. In-lieu of reforestation on-site, mitigation banking and or a fee shall be paid to the forest conservation fund in the amount of the value of the specimen trees as determined in number 1 above. Please note that the fee-in-lieu would only be taken if it can be justified that planting or purchasing in a bank is not possible.
3. A combination of 1) and 2) that is acceptable to Anne Arundel County.
4. The 90 degree turn shall be treated as an intersection, including stop signs on both approaches to allow safe operation based on limited sight distance, as approved by Inspections and Permits and the Department of Public Works.

5. The driveways shall be located on the far side of the lot from the PC of the intersection curb radius.
6. Sufficient space must be provided within the private right-of-way and public utility easements for the installation of public improvements.
7. Parking shall be prohibited along both sides of all roads within this subdivision.
8. A note shall be added to the Plat which states that the County will not take ownership of the private roads in the future unless they are improved to the current County standards.

The modification to allow forest conservation easement areas on areas less than 35 feet wide is hereby denied.

The date of the decision, the Modification number and a brief note regarding the decision must be placed on the Final Plans, Plat and Permits. Should you have any questions regarding these decisions, please contact Karen Llanes at pzllan00@aacounty.org or by phone at 410-222-6996.

Sincerely,



Philip R. Hager
Planning and Zoning Officer

Cc: Lori Allen, OPZ Judy Motta, PC Rick Fisher, OPZ
 Karen Llanes, OPZ Mary Wilkinson, OPZ David Braun, DPW
 Holly Tompkins, OPZ Brad Bodman, I&P Marian Honecny, DNR
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