

HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

WAIVER PETITIONS

DIVISION OF LAND
DEVELOPMENT

NOVEMBER 18, 2015



Subdivision And Land Development Regulations

With
Adequate Public Facilities,
Forest Conservation,
Cemetery Preservation and
Scenic Roads

Howard County, Maryland

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WHAT IS A WAIVER PETITION?

- A waiver is a grant of relief from the requirements of the Howard County Subdivision and Land Development Regulations.
- In cases where strict compliance with the Regulations imposes extraordinary hardships or practical difficulties, or a determination is made that the intent of the regulations may be served to a greater extent by an alternative proposal, the property owner or applicant may petition the Department of Planning and Zoning (DPZ) for a waiver.
- Section 16.104 of the Subdivision and Land Development Regulations establishes the authority for DPZ to process and grant waivers or alternative compliance modifications to the requirements.
- All waiver requests must be fully justified by the petitioner including all factors which rationalize or substantiate the request.

WHAT CRITERIA ARE USED TO EVALUATE A WAIVER PETITION?

- **Section 16.104 of the Subdivision and Land Development Regulations identifies the 4 criteria used to evaluate waivers or alternative compliance modifications of the regulations. Justification for waiver requests should address the following specific criteria:**
- **Summarize any extraordinary hardships or practical difficulties, which may result from strict compliance with the Regulations.** The waiver application request should describe whether the property is encumbered with unique physical conditions such as unusual topography, shape or size, existing easements or structures, environmental constraints such as floodplain, streams, wetlands or forest cover or any other physical conditions inherent to the subject property.
- **Verify that the intent of the Regulations will be served to a greater extent through the implementation of an alternative proposal.** The waiver request should clarify how the proposed alternative improves site functioning, avoids or minimizes adverse impacts, provides mitigation, or enhances historic, scenic, architectural or other site features.
- **Substantiate that approval of the waiver request will not be detrimental to the public interests.** The waiver request should demonstrate that, if granted, it will not alter the essential character of the neighborhood or area where the property is located and will not substantially impair the appropriate use or development of the surrounding properties.
- **Confirm that approval of the waiver request will not nullify the intent and purpose of the Regulations.** The waiver request should show that the Waiver Petition plan exhibit and justification is a suitable substitute for the requirements and provides all information necessary to satisfy the intent or purpose of the regulations.

WHAT ARE THE APFO MILESTONE DEADLINES FOR SUBDIVISION PLAN SUBMISSIONS?

- Section 16.1106 (d) and (e) of the County Code establishes deadlines (known as milestones) for submission of subdivision plans for the next stage in the subdivision process. Milestones are a tool to provide a predictable planning environment and assure that housing unit allocations are utilized.
- These milestones are measured from the date the developer receives written authorization from the DPZ to proceed to the next plan stage (i.e. sketch to preliminary, preliminary to final).
- The timing deadlines for projects are:
 - 4 months for residential projects with 50 or fewer housing units
 - 6 months for residential projects with 51 to 100 housing units
 - 9 months for residential projects with 101 or more housing units
 - 9 months for nonresidential projects

JUSTIFICATIONS USED TO WARRANT TIME LIMIT EXTENSIONS

Waiver applicants have cited problems in plan processing delays associated with the following:

- A general decline in the economy and real estate market.
- A delay in receiving required MDE and/or U.S. Army Corps of Engineers permits to complete plan design to prepare plan drawings for the next phase.
- Difficulties in qualifying or obtaining bank financing, HUD financing or Tax Increment Financing (TIF).
- Processing and timing delays encountered with earlier project phases prohibiting the next phase from moving forward.
- Plan re-design difficulties and problems in order to achieve compliance with regulatory requirements or SRC comments such as the new MDE storm water management requirements.
- For CAC zoned projects the Zoning Regulation requirement to commence a proportionate amount of commercial construction to be in compliance with roughly 50% residential development for the project.
- Other regulatory requirements which may delay project processing such as necessary variances, conditional use zoning approval, Zoning Regulation amendments, Design Advisory Panel (DAP) meeting, Planning Board meeting, Pre-Submission Community meeting, etc.

APPLICABLE APFO MILESTONE EXTENSION REQUESTS PROCESSED BY DPZ SINCE 2010

- Since January, 2010 to present, there were a total of 1095 waiver petition cases processed by DPZ of which only 28 waiver petitions involved a waiver to Section 16.1106(d) and/or (e) for a milestone time extension of plan submissions as required under the APFO regulations. That represents only about 2% of the total waiver petition requests during that six year time period.

Here is a list of the 28 applicable waiver petition cases:

- **LAUREL PARK STATION** (Zoned TOD) – 8 Waiver Petition Requests
- **BLUE STREAM** (Zoned CAC) – 8 WP Requests
- **VILLAGE TOWNS** (Zoned RMH) – 2 WP Requests
- **SAVAGE TOWNE CENTRE** (Zoned TOD) – 2 WP Requests
- **GTW WAVERLY WOODS** (Zoned PSC) – 2 WP Requests
- **LOCUST CHAPEL** (Zoned R-20) – 2 WP Requests
- **MORRIS PLACE** (Zoned CAC) – 1 WP Request
- **DOWNTOWN COLUMBIA-WARFIELD** (Zoned New Town) – 1 WP Request
- **RIVERDALE** (Zoned RSA-8/POR) – 1 WP Request
- **OXFORD SQUARE** (Zoned TOD) - 1 WP Request

CONDITIONS OF APPROVAL AND ADVISORY COMMENTS

- DPZ will clearly identify conditions of approval and advisory comments in the Waiver Petition decision. The conditions of approval will be directly related to the regulations that are the subject to the Waiver Petition.
- Advisory comments may also be provided, but are generally limited in scope. They identify any potential problems that are evident in the Waiver Petition plan exhibit which may preclude approval of the plan as shown, or which make significant redesign necessary, or which would seriously delay the project's approval.
- Waivers granted to extend time limits for plan processing will remain valid for the time duration specified in the decision.