




Howard County

Department of Planning and Zoning

Subject: *Forest Conservation Policy Update - Elimination of Forest Retention Surety & Enforcement Procedures - Effective June 15, 2011*

To: DLD Review Staff
DPW, Real Estate Services Division
Homebuilders Committee

Thru: Marsha McLaughlin, Director 

From: Kent Sheubrooks, Chief 
Division of Land Development

Date: July 20, 2011

The purpose of this memorandum is to inform you that effective June 15, 2011, the Howard County Forest Conservation Program will no longer require financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the County for establishment of forest retention easements on subdivision and site development plans approved by the Department of Planning and Zoning as required under Section 16.1209 of the Howard County Code.

The changes outlined in this policy memorandum will be formally incorporated into the Forest Conservation Regulations and Manual in a future edition. In the interim, the Forest Conservation Program change to eliminate the posting of financial security for forest retention easements for all subdivision and site development plans as explained in this policy interpretation will be enforced through this memorandum.

Applicability Provisions for Existing Approved Projects:

- For signature approved subdivision plans (road drawings) and site development plans with executed forest conservation agreements that have already posted financial security for forest retention, the surety will be returned to the appropriate entity upon submission of a written or e-mail request to the Department of Planning and Zoning (DPZ), Division of Land Development and upon a satisfactory final site inspection by the Department of Recreation and Parks (DR&P) inspection personnel indicating successful completion of the developer's obligations under the developer's agreement.
- For technically complete subdivision and site development plans where the forest conservation agreement and posting of financial security have not been executed by the developer with the Department of Public Works (DPW), Real Estate Services Division, any retention surety indicated in DPZ's technically complete letter will not be required in order to complete plan processing. However, please be advised that there are no other changes to the standard developer's agreement process requirements to establish a forest retention easement. The DPW, Real Estate Services Division will continue processing Forest Conservation Agreements prior to signature approval of plans or plats, and record the Deed of Forest Conservation Easement after a final plat is recorded at the Land Records Office.

Forest Conservation Agreement, Deed of Forest Conservation Easement and Forest Conservation Inspection Fee:

- A Forest Conservation Agreement for the establishment of a retention easement is required because it outlines the developer's responsibilities for: (i) maintaining and protecting a retention easement during construction activities including installation of the protection devices (signage and fencing), (ii) controlling invasive plant species, (iii) replacement planting if necessary as determined by a forest conservation inspection, and (iv) educating residents.
- The preparation and recording of a Deed of Forest Conservation Easement for retention areas by the DPW, Real Estate Services Division will continue as a requirement.
- The payment of a forest conservation inspection fee for forest retention easements will be based on the minimum inspection fee rate of \$400.00 in accordance with the latest adopted County Fee Schedule, and in addition to any required inspection fee associated with establishment of reforestation or afforestation easements.

Inspection and Enforcement Provisions for Forest Retention Easements:

- For any projects where the forest conservation surety has already been released or the site contains only forest retention easements where no surety was collected, the Department of Recreation and Parks (DR&P) will inspect reported violations or make routine inspections of forest retention easements based on standard procedures to make a determination whether violations are considered under the developer's obligation before release of the forest agreement by DPW, Real Estate Services Division or if the violations are caused by a third party (new home buyer or neighboring property owner).
- For any project under construction that contains both forest retention and planting (afforestation/reforestation) easements in which the forest retention surety is to be released per the above described policy, and the planting surety has not been released, any determined violations of the forest retention easement areas will require the withholding for release of the surety posted for the afforestation/reforestation planting until the developer's obligations for the forest retention easement areas have been resolved or a determination is made that the violation is caused by a third party.
- If a violation of the forest retention easement area is determined, the DR&P inspection personnel will issue an inspection report to DPZ of the retention easement violation and DPZ will mail a notification letter to the appropriate entity describing the forest easement violation along with a copy of the inspection report and a course of action to resolve the violation. Enforcement action may include civil fines, fee-in-lieu payments for forest easement abandonment, the re-recording of a forest conservation easement plat, purchase of off-site forest credits from a Forest Mitigation Bank and/or tree replacement to restore damaged forested areas. If appropriate corrective action cannot be negotiated with the developer or third party and noncompliance with the violation persists beyond a reasonable period of time, the DR&P inspection personnel may issue a civil citation pursuant to the provisions of Title 24, "Civil Penalties," of the Howard County Code. Please note that DPZ and DR&P staff will proactively assist you in resolving the forest easement violation before issuing civil citations.

For More Information Contact: DPZ at (410)-313-2350 or at www.howardcountymd.gov or visit DPZ's Public Service Desk located on the first floor of the George Howard Building, 3430 Courthouse Drive, Ellicott City, Md. 21043, Monday through Friday from 8:00 am until 5:00 pm.

KS/T:DPZ/Shared/DLD/FCpolicynoretentionsurety07-11

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