



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING  
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

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FAX 410-313-3467  
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September 18, 2012

Mr. Doug Cann  
Columbia Gateway COP, LLC  
4750 Owings Mills Boulevard  
Owings Mills, MD 21117

Dear Mr. Cann:

RE: WP-13-032, Benson East, Parcel F,  
(Gateway Overlook, SDP-13-002)

The Director of the Department of Planning and Zoning considered your request for a waiver from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request to waive **Section 16.116(b) – Steep Slopes** - which prohibits grading, removal of vegetative cover and trees, new structures and paving on slopes that average 25% or greater over 10 vertical feet; **Section 16.120(c)(1)** - which requires all commercial, industrial or apartment lots to have a minimum frontage of 60 feet on a public road. **Section 16.134(a) (1) – Sidewalks** – which requires sidewalks on both sides of all streets.

Approval is subject to the following conditions:

1. Compliance with all Subdivision Review Committee comments for SDP-13-002.
2. Compliance with the attached comments from the Transportation Planning Section dated September 13, 2012.
3. On all future subdivision plans and site development plans, provide a brief description of waiver petition, WP-13-032, as a general note to include requests, sections of the regulations, action and date.
4. The private road system within this development shall be designed, approved and constructed in accordance with the Design Manual requirements per Department of Public Works, Development Engineering Division and the Department of Fire and Rescue Services.
5. No grading, removal of vegetative cover or trees, paving and new structures shall be permitted within the 25' wetlands buffer and the 75' stream buffer.
6. The LOD must be pulled away from the wetlands and streambank buffers to provide a minimum of 10 feet of area outside of the buffers for required sediment and erosion control measures per Section 16.116(b) (1) (ii) of the Regulations.
7. Advisory: Contact Costco to coordinate 1 or 2 pedestrian access pathway connections to Costco if they are agreeable.

Our decision was made based on the following:

Extraordinary hardship or practical difficulties which may result from strict compliance with the Regulations.

The waiver petition requires that the applicant demonstrate that extraordinary hardships or practical difficulties may result from strict compliance with the regulations or that the regulations may be served to a greater extent by an alternative proposal. The applicant has demonstrated that through the waiver petition exhibit and documentation that access to the site via a private road is adequate given the difference in the elevation between the proposed development and the public road, that providing sidewalks along one side of the street would be adequate for pedestrian access to tie into the existing pedestrian network and the disturbances to the steep slopes was necessary in order to develop the site.

Section 16.120(c) (1) Frontage – while the proposed development has public road frontage, no access to this road frontage is proposed. Access to the development is through the established private road network that serves Gateway Overlook. Requiring a connection to the public road network at the road frontage is not practical due to the difference in elevation between the proposed development and the adjacent public roads. The development sits 20-30' above the adjacent roads and the road frontage of the development is comprised of steep slopes that were created during the mass grading of this site.

Section 16.134(a) (1) Sidewalks – The proposed development provides a sidewalk network along the north side of the proposed access road. This sidewalk will serve as the primary pedestrian connection to the overall pedestrian network. No development is proposed south of the access road and no connections with the adjacent big box retail is planned or desired. Requiring a sidewalk along the south side of the access road would result in an additional expense (both maintenance and construction) and hardship for this project that would provide no benefit to this project or any adjacent property owners.

Section 16.116(b) Steep Slopes – Disturbance to the steep slopes is required based on the earthwork required to develop the site, to construct the proposed parking areas, and to connect to the existing utilities. The majority of the steep slopes disturbances are associated with fill areas of the northeastern portion of the property. These fill areas are being utilized in order to minimize the removal of soil material from the site, and the expense and traffic that would be associated with this activity. The expense of removing this material from the site would result in a hardship to the developer. This project proposes to disturb 55,278 square feet of steep slopes.

**The Intent of the Regulations will be Served to a Greater Extent Through the Implementation of the Alternative Proposal -**

Section 16.120(c) (1) Frontage – Providing access as shown on the SDP and the waiver exhibit maintains the existing traffic network and provides for a safe and efficient flow of traffic through the Gateway Overlook development. This access also limits the number of entrances onto the adjacent public roads, and continues to direct traffic to controlled intersections at the entrances at Gateway Overlook.

Sections 16.134(a) (1) Sidewalks – The sidewalks provided with the proposed development are sufficient to provide the pedestrian connections and circulation needed for this development. Because there is no development on the south side of the primary access road, a sidewalk along the south side of this road would serve no purpose.

Section 16.116(b) Steep Slopes – The steep slopes that are a part of this project are man-made as noted above, and were created during the mass grading of this project. These are not natural occurring steep slopes in an undeveloped condition, which the regulations were designed to protect. The slopes to be disturbed will be stabilized in accordance with County and Soil Conservation District requirements. Upon completion of the construction, the steep slopes will be planted with trees and shrubs, improving the appearance of these slopes.

**Not Detrimental to the Public Interest** - Approval of the waiver request will not alter the essential character of the neighborhood and will not substantially impair the appropriate use or development of the surrounding properties.

Section 16.120(c) (1) - Frontage – As noted above, the proposed access is designed to fit within the traffic flow for the Gateway Overlook complex and allow for a safe and efficient flow of traffic. Waiving the requirement for access on a public road and allowing the proposed access will not be detrimental to public interests as the safe flow of traffic is maintained.

Section 16.134(a) (1) - Sidewalks – Adequate access for pedestrians is provided with one sidewalk on the north side of the proposed access road. Waiving the requirement for sidewalks on both sides of the road will not be detrimental to public interests as there would be no purpose for a sidewalk on the south side of this access road.

Section 16.116(b) - Steep Slopes – Because the steep slopes on this project were created during the mass grading process, and are not naturally occurring, and because these slopes will be stabilized at the completion of construction, permitting disturbance to these slopes will not be detrimental to the public interests.

**Will Not Nullify the Intent or Purpose of the Regulations** - Approval of this waiver request will not nullify the intent or purpose of the regulations.

Section 16.120(c) (1) – Frontage - The intent of the regulations is to provide for the safe and efficient flow of traffic to apartment projects. The access proposed with this plan provides for the safe and efficient flow of traffic in the context of the traffic pattern planned for Gateway Overlook.

Section 16.134(a) (1) – Sidewalks - The intent of the regulations is to provide adequate pedestrian access. The sidewalk system proposed with this plan meets that need.

Section 16.116(b) – Steep Slopes - The intent of the regulations is to protect naturally occurring, existing steep slopes. The steep slopes that are part of this project did not exist prior to the mass grading of this site in 2005. These slopes will be stabilized and landscaped at the completion of construction.

Indicate this waiver 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 requested waiver will remain valid for one year from the date of this letter or as long as this subdivision/site development plan remains in active processing.

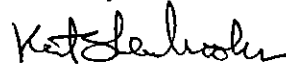
Mr. Cann

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If you have any questions, please contact Brenda Luber at (410) 313-2350 or email at [BLuber@howardcountymd.gov](mailto:BLuber@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Chief  
Division of Land Development

KS/BL

cc: Research  
DED  
Real Estate Services  
PHR&A