



Howard County Department Of Planning And Zoning  
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Marsha S. McLaughlin, Director

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June 27, 2013

Kaiser Orchard, LLC  
8198 Main Street  
Ellicott City, MD 21043  
ATT: Randolph Hoenes

RE: WP-13-146/Towns at Patuxent Orchard  
(SDP-13-054)

Dear Mr. Hoenes:

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

As of the date of this letter, the Planning Director **Approved** your request for waiver to Section 16.1205(a)(7) which requires the retention of specimen trees having a diameter of 30" or more so as to remove 4 specimen trees from the site, subject to the following condition:

1. Approval is given for removal of four specimen trees as shown and identified on the waiver petition exhibit. However, approval is subject to redesign of the 12 proposed micro bio-retention storm water management facilities on this site which are too numerous and irregular in shape. These facilities are situated within recreational open space areas which impede a continuous pathway system along the perimeters and compromises the aesthetics and quality use by residents. The developer is required to provide a certified plan by a Landscape Architect under the site development plan (SDP-13-054) which will ensure that recreational areas, storm water management and landscaping are designed to optimize and enhance the usability and appearance of recreational open space areas. The developer shall utilize creative design methods for storm water management facilities to be incorporated into augmentation of recreational open space areas and which provides an aesthetic quality to the project from streetscapes, as well as, from proposed units. The recreational open space area must be accessible and usable for the community residents in accordance with Section 16.121(a)(4) of the Subdivision Regulations.

Justification for Approval:

1. Extraordinary hardships or practical difficulties will result from strict compliance with the Regulations. This site shall be developed with 71 single family attached condo units. The property is square in shape, contains existing forest and has topography that gently slopes downward from the south to the north. A small area of 75' Stream Bank Buffer from an off-site perennial stream is located across the northwest corner. Grading is proposed on the entire site to better contour the land for accommodation of a private road, storm water management, storm drainage, required parking and open space areas. The proposed limit of disturbance will require the removal of four specimen trees. Three specimen trees located along the northern property line identified as 31", 36" and 48" Silver Maples shall be removed for the construction of a grouping of townhouse units and to install two bio-retention facilities. The developer has indicated that the bio-retention facilities can not be shifted in any direction or reduced in size to save the 36" Silver Maple in this area since the facilities are located between and behind townhouse groupings and are the minimum size to accommodate storm drainage. The other two specimen trees along this portion of the site shall be removed for construction of townhomes identified on the waiver exhibit as Units 38 to 45. The layout of the private road and required setbacks prohibits the shifting of the units to save the other two northern specimen trees.

In addition to removal of the silver maple specimen trees, one western 39" Red Maple will also be removed due to proposed grading necessary at the southwest corner to provide an earth dike clean water diversion swale which will divert storm water runoff to two bio-retention facilities. The developer has indicated that these bio-retention facilities can not be shifted due to unit design and site design.

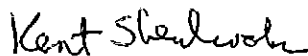
Approval will be granted to remove 4 specimen trees as requested. Approval is conditioned upon redesign of storm water management facilities which are too numerous and irregularly shaped. The developer shall be required to provide a certified plan by a Landscape Architect under the site development plan (SDP-13-054) which will ensure that perimeter open space, storm water management and landscaping are designed to optimize and enhance the usability of proposed recreational and community open space. The developer shall utilize creative design methods for storm water management facilities to be incorporated into augmentation of recreational open space areas and which provide an aesthetic quality to the project from streetscapes, as well as, from proposed units.

2. The intent of the Regulations will still be served to a greater extent through implementation of an alternative proposal and approval of the waiver request(s) will not nullify the intent of the Regulations. The retention of all specimen trees is a goal of the Forest Conservation Act. However, practical difficulties exists on this site for retention of four specimen trees due to the limited buildable area after road layout, design of storm water management facilities and location of public and private utility easements. The developer has made all efforts to save specimen trees where possible, however, in consideration of grading required for proper lot drainage and road design criteria, as well as restrictive utility placement, no specimen trees can be saved. Specimen tree removal will be mitigated by proposed perimeter landscaping, off-site forest conservation easements and unit and street tree plantings. The developer shall be required to fulfill 2.9 acres of required plantings off-site to fulfill forest conservation obligations. In addition the developer shall be required to provide a Landscape Plan prepared by a Landscape Architect under the site development plan (SDP-13-054) which presents a redesign of storm water management facilities to enhance recreational open space and landscaped areas.

3. Approval of the waiver request(s) will not be detrimental to the interests of the public. The owner is not circumventing the intent of the regulations, but is attempting to develop the property by presenting adequate and safe lot access and design criteria. However, in attempting to meet certain code requirements for drainage, construction of public water and sewer connections, storm water management and adequate open space areas, removal of 4 specimen trees is necessary. The waiver request will not be detrimental to the interests of the public but will allow the developer to continue to meet all requirements and goals of the Subdivision and Land Development Regulations, as well as, the Design Manual through an alternative proposal.

Indicate this waiver petition file number, request, section of the regulations, action taken, date and conditions of approval on all related future plats, site development plans and and/or building permits. The requested waivers will remain valid for one year from the date of this letter or as long as the associated development plans remain in process. Should you have any questions regarding this matter, please contact Brenda Barth at (410) 313-2350 or email: [bbarth@howardcountymd.gov](mailto:bbarth@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Chief  
Division of Land Development



:btb

cc: Research/DED/FC Coordinator  
Marion Honeczy/MDNR  
Benchmark Engineering