



Howard County Department Of Planning And Zoning  
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

[www.howardcountymd.gov](http://www.howardcountymd.gov)  
FAX 410-313-3467  
TDD 410-313-2323

September 16, 2013

Patapsco Associates  
12116 Arbie Road  
Silver Spring, MD 20904  
ATT: Simon Rosenberg

RE: WP-13-165/Estates at Patapsco Park  
(SP-13-0012)

Dear Mr. Rosenberg:

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 waivers to Section 16.1205(a)(7) prohibiting the removal of specimen trees with a diameter of 30" or greater; Section 16.116 prohibiting clearing, removal of vegetative cover and trees, paving and new structures in wetlands, streams, their buffers and steep slopes and Section 16.115 prohibiting clearing, filling, altering drainage or impervious paving in the 100 Year Floodplain. Any proposed construction of structures located within a floodplain shall be subject to the requirements of the Howard County Building Code. **Approval** of the requested waivers, subject to the following conditions:

1. Approval is given for the removal of 35 specimen trees as identified in the waiver petition justification and exhibits.
2. Perimeter landscaping, on-site forest conservation retention and reforestation, storm water management plantings and street trees will serve to substitute as adequate mitigation for specimen tree removal.
3. Approval is given for disturbance in the streams, the 50' Stream Bank Buffers and 25' Wetland Buffers, steep slopes and the 100 Year Floodplain for construction of nine storm drain outfalls, two sewer stream crossings, one water loop stream crossing and for installation of pathways, all as identified in the waiver petition justification and exhibits. Approval is given for off-site disturbance in the 100 Year Floodplain, streams, their buffers, wetlands and their buffers and steep slopes located on the adjoining eastern property identified as Open Space Lots 2 and 129 owned by Howard County, MD, located in the Daniels Mill Overlook Subdivision for construction of a water connection to Stonehouse Drive and a sewer connection to the Daniels Mill Pump Station. All off-site disturbance will require the permission from the applicable property owners and the applicant must obtain Maryland Department of the Environment Permits as required.
4. Off-site water connection shall be through Open Space Lot 2 of the Daniels Mill Overlook Subdivision and shall not impact the existing forest located in the Forest Conservation Easement on adjoining Open Space Lot 129. Additionally, any existing perimeter, unit or other plantings previously installed to fulfill landscaping obligations for the Daniels Mill Overlook Subdivision which will be removed for the water connection through O.S. Lot 2 shall be replaced and/or relocated by the developer of the Estates at Patapsco Park.

5. Off-site sewer connection through Open Space Lot 129 of the Daniels Mill Overlook Subdivision which causes disturbance in the existing Forest Conservation Easement will require a revised Forest Conservation Plat of Easement and a revised Forest Conservation Worksheet for SP-13-012 to include the off-site limit of disturbance under the Estates at Patapsco Park Subdivision. Please update notes and details regarding Forest Conservation obligations for this development as applicable. Coordination with the Department of Recreation and Parks regarding disturbance on O.S.Lot 129, obtaining MDE Permits, recordation of new plats and payment of any fees as may be necessary for abandonment of areas within the Forest Conservation Easement to construct the sewer connection to the Daniels Mill Pump Station will be the responsibility of the developer and must be met prior to approval of the final plat for the Estates at Patapsco Park.
6. Approval is given for construction of "foot paths" in the 50' stream bank buffers, 25' wetlands buffers, 100 Year Floodplain, and steep slopes which are to be located on open space areas of the Estates at Patapsco Park Subdivision. These foot paths are utilized in calculation for fulfilling part of required recreational open space for this development. Approximately 16,800 sq.ft. of paved pathways shall be provided which will also include benches, picnic tables and exercise stations and shall connect to the Patapsco State Park and adjoining eastern open space lots which have been developed with an elementary school and athletic fields. The pathways shall be constructed of recycled and/or "green" materials that will not erode or wash away on the steep slope areas.
7. The applicant shall obtain Maryland Department of the Environment Permits as required for the on-site stream crossings and disturbance of the floodplain and shall be so noted on all applicable final plats.
8. Final plats for the off-site water and sewer easements will be required. The developer shall coordinate these Plats of Easement with the applicable adjoining property owners.
9. Any expansion of the approved disturbed area as this project moves forward through the final subdivision process may require additional waiver approval if determined to be significant by the Department of Planning and Zoning. Best management practices for all disturbance located within the environmental features and buffers shall be used to minimize the impact.
10. Compliance with all applicable comments from the Subdivision Review Committee as they relate to SP-13-012.

JUSTIFICATION FOR APPROVAL:

1. The subject parcels are comprised of 122.8 acres and contains forest, streams, wetlands, their buffers, floodplain and steep slopes. Approximately 55.65 acres of forest located in the western portion of this property has been placed into Forest Conservation Easement for use by the State Highway Administration who previously owned the site for right-of-way extension of MD Route 29. The northern extension of Route 29 never occurred and so the property was conveyed back to the applicant, including the area of SHA Forest Conservation Easements. A total of 146 specimen trees have been identified on the remaining 59.58 acres where development will occur within three different forest stand types and identified as Stands A, B and C. Due to the topography, location of environmental features and required open space, the buildable lot area has been reduced in size and is concentrated within the central part of the site. The centrally located high ground portion is the most suitable area for development while protecting the environmental features and promotes minimum disturbance of the property. The retention of specimen trees is a goal of the Forest Conservation Act. However, in engineering the site for construction of public road rights-of-way, utility easements, lot design and storm water management, disturbance within the floodplain area, wetlands, streams, their buffers and steep slopes will be required, as well as, removal of 35 specimen trees. Compliance with retention of these 35 specimen trees is considered an unnecessary hardship and would cause practical difficulty for reasonable development of this property.

Stand A contains mature upland deciduous forest with steep slopes and erodible soils resulting in a moderate level for forest retention. In Stand A, 87 specimen trees were identified of which 17 are to be removed. Stand B is described as an intermediate aged deciduous forest stand with some portions consisting of wetlands and waters of the US. Sections of this stand are located on steep slopes and contains stream buffers. The portions of Stand B that are not located in areas of steep slope or on erodible soils are considered a low priority for forest retention. Stand B consists of 34 specimen trees of which 18 trees will be removed. None of the trees to be removed in Stand B are located in areas of steep slopes or within the stream buffers. No specimen trees will be removed from Stand C which contains 25 specimen trees.

The specimen trees to be removed from Stands A and B and are identified in the waiver petition justification and exhibit as: ST-3 to ST-7, ST-10, ST-12, ST-13, ST-15 to ST-20, ST-22 to ST-25, ST-28 to ST-37, ST-41, ST-42 and ST-142 to ST-146. A majority of the specimen trees to be removed consist of Tulip Poplars with a diameter of between 31.5" DBH to 54" DBH. Although these trees are considered to be in "Fair" condition, Tulip Poplars that mature in interior forest environments require the stability of surrounding trees and are considered to have a poor construction tolerance. If the area around them is cleared of woodland, they may become a falling hazard because they can become top heavy. The remainder of the specimen trees to be removed consist of Red, Chestnut and Pin Oaks (see petition listing) with a diameter of between 31.5" DBH to 50" DBH.

Proposed disturbance in the floodplain, the streams, the stream and wetland buffers and steep slopes for construction of nine storm drain outfalls, two sewer stream crossings and one water loop stream crossing is also required for this project. The location of outfalls identified as Storm Drain Outfalls 1 to 9 in the waiver petition justification and exhibits have been carefully selected in order to avoid discharging runoff onto steep slopes and to maintain non-erosive discharge velocities of less than 5fps. The water line and sewer impacts are necessary to allow connection to the existing water line on the east side of the eastern tributary stream and to allow connection of sewer to the off-site Daniels Mill Pump Station. This Department herewith takes into consideration the waiver requests to the disturbance of the off-site 100 Year Floodplain, streams, wetlands and their buffers and steep slopes for construction of the sewer line (Sewer Impact #11) and for water connections (Water Impact #10), however, such disturbance would be considered essential in this case.

The developer shall also provide an extensive pathway system throughout this development located on the proposed open space lots which will provide links to the eastern open space areas of the Daniels Mill Overlook Subdivision, the elementary school and adjoining State Park land. The pathway system shall be constructed of recycled "green" materials which will sustain use on steep slopes.

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 Department of Planning and Zoning has met with the property owner, developer and engineers on several occasions to discuss the best possible design alternatives for development of this site with regard to preservation of existing forest and specimen trees, protection of the wildlife corridor and critical habitat, impact to the environmental features and supplying safe links to surrounding neighborhoods and the elementary school. The developer has reviewed all possible options and has now presented a design which maintains the integrity and uniqueness of this land which borders onto the Patapsco Valley. Approval of the waivers will allow this project to move forward while implementing an alternative design that limits grading, preserves trees and provides a significant area of open space to suitably achieve the objectives of the Subdivision and Land Development Regulations.

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 with adequate and safe design

to meet all code requirements while preserving environmental resources. The proposed lot layout, pathway system and development design will equitably serve residents and the surrounding community with continuous open space areas and links the adjoining State Park and elementary school. Open Space areas will incorporate floodplains, wetlands, streams, their buffers and a majority of specimen trees into forest conservation easements. The limit of disturbance in the floodplain is the minimum to afford relief to construct nine storm drain outfalls, water connections and sewer extensions (on/off-site). The removal of 35 Specimen Trees will be mitigated by perimeter landscaping, on-site forest conservation retention and 2 acres of reforestation, storm water management plantings and approximately 350 street trees. The developer shall be required to obtain all Maryland Department of the Environment permits for on-site/off-site disturbance in the stream and floodplain areas and to record Plats of Easement for water and sewer connections and to revise any existing Forest Conservation Easement areas as necessary.

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 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/DILP

Ben Dyer Assoc.

SP-13-0012

Forest Conservation Coordinator

Marion Honeczy/MDNR

Dave Woessner