



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING  
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Marsha S. McLaughlin, Director

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November 19, 2014

Michael McCall  
Inner Arbor Trust  
10630 Little Patuxent Parkway  
Columbia, MD 20144

RE: WP-15-027, Merriweather Park (SDP-14-073)

Dear Mr. McCall:

The Director of the Department of Planning and Zoning considered your request for reconsideration of Condition #4 to the previously approved waiver from the Howard County Subdivision and Land Development Regulations.

On November 18, 2014, the Planning Director **approved** your request of a RECONSIDERATION to waive **Section 16.116(a)(2)(i)**, which states that grading, removal of vegetative cover and trees, paving and new structures shall not be permitted within 50' of an intermittent stream bank; and **Section 16.156(o)(1)(ii)**, which requires the applicant to apply for all building permits for nonresidential development with multiple buildings within two-years of signature approval of the plan. The reconsideration was requested to reword Condition #4.

Approval is subject to the following AMENDED conditions:

1. Encroachment into the stream buffer is allowed only as indicated on the waiver petition exhibit and SDP, which includes 1 mulch pathway and two minor encroachments (5'81sf and 9'207 sf) for seat walls at Merriground into the stream buffer. (The boardwalk encroachment in the stream buffer and the outfall encroachment behind the Chrysalis are covered under essential disturbance on the SDP pursuant to Section 16.116(c)).
2. The encroachments into the buffer are for improvements that will not require altering the existing grade or removal of vegetation. The developer is responsible for determining if MDE permission is required for this limited disturbance.
3. The developer shall apply to the Department of Inspections, Licenses and Permits for the initial building permit within one year from the date of the SDP signature approval of SDP-14-073. The one year date will be established upon signature approval of the SDP.
4. **The developer must apply for the first building permit for Construction Phase 1 of the proposed SDP within 1 year from the date of signature approval of SDP-14-073, and all building permits for Construction Phases 2-7 within 7 years from the date of signature approval of SDP-14-073. The permit deadlines will be established upon signature approval of the SDP.**
5. The developer must apply for the final building permit within 7 years from the date of SDP signature approval of SDP-14-073.
6. Submission of plan refinements/revisions for staff review and Planning Board approval is required prior to the application of building permits for the Butterfly Building (Phase 3) and Caterpillar (Phase 6). This step is recommended, but not required by this waiver petition for Phases 4, 5 and 7 (but may be required by Planning Board or by County Staff to finalize details for a phase area as part of SDP approval).
7. Add a note to the SDP that indicates that this waiver was submitted (identified by file number), states the purpose of the waiver, the date of decision and a list of all conditions of approval.
8. The waiver petition approval letter extending the building permit deadlines should be brought to the

Department of Inspections Licenses and Permits at the time each building permit application is submitted.

Our decision was made based on the following:

**Extraordinary Hardship or Practical Difficulty**

**Section 16.116(a)- Stream buffer encroachment:** The site design seeks to limit the amount of grading and vegetation removal. In doing so, all constructed features are strategically placed to take advantage of the natural contours of the land while maximizing park visitor interaction with the natural surroundings. The proposed Merriground playground is situated safely away from Little Patuxent Parkway on a natural plateau and incorporates specific trees as centerpieces in which play activities are designed around. The minor 5/81sf and 9/207 sf encroachments into the stream buffer are to allow an adequate fall zone for the play structures and seating for parents, while leaving the natural grade intact. The other encroachment, a mulch pathway, will give park visitors an opportunity to enjoy a stroll amongst the preserved trees and along the restored stream and vegetative buffer on a designated natural, unpaved path. Both encroachments seek to enhance the experience for park visitors but maintain the practice of good stewardship of the environmental features that exist within Symphony Woods.

**Section 16.156(o)(1)(ii) - Phasing/Building Permit Deadline:** The Site Development Plan incorporates seven construction phases/development areas. Providing the entire development proposal on one site development plan is beneficial to staff and the public to evaluate the proposed site elements and pathway network comprehensively as an integrated unit. However, due to the scope of the proposed improvements, it is not practical for the full scope of construction to occur on a single building permit. Furthermore, construction timeframes will be limited to "off-season" when the public use of the park is limited leading to further anticipated draw out of construction timelines. For this reason, extended phasing for the application of building permits is warranted. Please note that the Department of Planning and Zoning will be requiring plan refinements/revisions to be approved by Planning Board for later phases (Phases 3 and 6 as required by this waiver petition approval, and potentially for Phases 4, 5, and 7 if required by County Staff or Planning Board as part of SDP approval) to ensure that parking and other operational issues can be further evaluated prior to construction. **The request to amend Condition #4 to remove the word "annual" is justified since not every phase will require a building permit and there will not be the ability to meet an annual building permit deadline. Grading permits will be the only requirement for the construction Phases 2, 5, 7, and there are no deadlines for grading permits in the Subdivision Regulations. The developer cannot practically apply for annual permits.**

**Implementation of an Alternative Proposal**

**Section 16.116 - Stream buffer encroachment:** The minor encroachments allow the applicant to design around the natural contours, vegetation, and environmental features of the site and for park patrons to interact with the natural features of the land. It also allows for the construction of a unique playground fitting for an arts and cultural park.

**Section 16.156(o)(1)(ii) - Phasing/Building Permit Deadline:** The extended deadlines allow for a comprehensive review of the entire site by County Staff while acknowledging the unique circumstances of the project which will require off-season construction and fundraising for specific design elements by a non-profit organization, and avoids yearly waiver petitions to extend deadlines to account for limited time periods. The reservation by the Department of Planning and Zoning to review certain features by Staff and Planning Board before ultimate construction of specified elements strikes a balance to ensure that features will be built according to the most current County requirements and responding to the evolving conditions of the redeveloped Downtown. Since proposed phase numbers identify construction areas but not necessarily the chronological progression of construction, the proposed phased extension is warranted despite the expected Planning Board review of certain elements in the future. **Grading permits will be the only requirement for the construction Phases 2, 5, 7, and there are no deadlines for grading permits in the Subdivision Regulations. Requiring the first permit within one year of signature approval of the SDP and all building permits within 7 years is a much more enforceable benchmark and does not negatively impact the intent of the original condition to require all building permits within 7 years of signature approval of SDP-14-073.**

**Not Detrimental to the Public Interest**

**Section 16.116 - Stream buffer encroachment:** As part of the Site Development Plan, the applicant limits grading and vegetation removal throughout the park, both within and outside the stream and wetland buffers. The Merriground encroachments into the stream buffer (2 areas - 5/81sf and 9/207 sf) allow an adequate fall zone for

the play structures and seating for parents. The seat wall will be constructed with the natural grades of the site, minimizing disturbance. The mulch pathway uses natural materials and also follows natural contours. Furthermore, the plan proposes significant stream and woodland restoration which enhance the environmental features of the site. The minor buffer encroachments are extremely limited in nature and will not have a negative impact on the stream systems.

**Section 16.156(o)(1)(ii) - Phasing/Building Permit Deadline:** The permit deadlines have been instituted to ensure timely construction of improvements. The proposed deadline schedule is a reasonable alternative to the standard construction deadline. As a further safeguard, the redline review and future Planning Board approval of future phases will ensure that the construction of features will continue to meet current regulations.

**Will Not Nullify the Intent or Purpose of the Regulations**

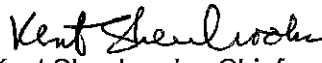
**Section 16.116 - Stream buffer encroachment:** The purpose of this section of the regulations is to limit grading and removal of vegetation in proximity of a stream or wetland. The site design accomplishes this and aims to restore the streams and vegetative buffers. The minor encroachments do not deviate from either the design intent or regulatory intent.

**Section 16.156(o)(1)(ii) - Phasing/Building Permit Deadline:** As previously noted, the deadlines are instituted to ensure timely construction and application of current County regulations. The final time line is also only two additional years from typical SFD residential construction permit deadlines, which DPZ is considering extending to all development in the County in future amendments to the Subdivision and Land Development Regulations. The alternative deadline structure coupled with the Department of Planning and Zoning's reservation of future review by County Staff and Planning Board of certain site elements ensures the intent and purpose of the regulations are upheld.

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 the time period specified in the conditions of approval or as long as this or site development plan or grading plan remains in active processing.

If you have any questions, please contact Jill Manion-Farrar at (410) 313-2350 or email at [jfarrar@howardcountymd.gov](mailto:jfarrar@howardcountymd.gov).

Sincerely,

  
Kent Sheubrooks, Chief  
Division of Land Development

KS/JMF

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