



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

May 26, 2016

Triangle Old Annapolis Associates, LLC  
453 South Polk Drive  
Sarasota, Florida 34236

Re: Dorsey Overlook  
Waiver Petition WP-16-112  
(Sketch Plan S-16-004)

Dear Sir or Madam:

The purpose of this letter is to correct the section number of the regulation protecting specimen trees [Section 16.1205(a)(7)]. This letter supersedes our letter of May 24, 2016.

The Director of the Department of Planning and Zoning considered your request for a waiver of Sections 16.116, 16.120(b)(4)(iii)(d) and 16.1205(a)(7) of the Howard County Subdivision and Land Development Regulations. Waiver approval would allow the petitioner to: 1) perform activities in stream buffers, wetland buffers and steep slopes; 2) construct proposed condominium units 17 and 18 within 15 feet of a wetland buffer; and, 3) remove nine (9) specimen trees. Since performance of activities in the stream buffers, wetland buffers and steep slopes constitute a necessary disturbance under Section 16.116(c) for development of the required community amenity area, Section 16.116 was excluded from the waiver petition and may be processed as an essential or necessary disturbance.

As of the date of this letter the Planning Director approved your request to waive Sections 16.120(b)(4)(iii)(d) and 16.1205(a)(7), subject to the following conditions:

1. The petitioner shall construct a substantial safety fence at the top of the entire length of the proposed retaining wall. A minimum of ten shrub plantings shall be installed on the south side of the fence between the Units 17 – 18 rain garden and the micro-bioretenion facility located north of Units 17 – 18.
2. The petitioner shall mitigate removal of nine specimen trees by installing no fewer than eighteen shade trees found on the approved landscape plant list. The caliper of the trees shall be no less than 3", the trees shall be identified on the landscape plan as mitigation plantings and the plantings will be included in the landscaping surety amount. We recommend that the trees be used to enhance the amenity area in the northwestern portion of the site.
3. The petitioner shall comply with SRC agency comments regarding S-16-004.
4. The limit of disturbance located within the required wetlands and stream buffers per Section 16.116(c) is limited solely to the construction necessary for the elevated boardwalk system to be provided as a required community amenity. No other environmental buffer disturbance is permitted.

Our decision was made based on the following justification submitted by Vogel Engineering, Inc.:

*"Section 16.120(b)(4)(iii)(d)*

"The proposed "stacked townhouse" product is considered a condominium unit and is therefore subject to a 15' setback to environmental features. If the same unit were constructed as a fee simple townhouse, the setback requirement would not apply. This proposed setback encroachment impacts the corner of unit (a triangle with 10' x 15' legs) and results in a 75 square-foot incursion into the setback.

"There is a proposed retaining wall located just outside the environmental buffer and the proposed stacked townhouse unit will be located above (and beyond) the retaining wall which is permitted in the 15' setback. Therefore, there is no rationale to justify why other building types and structures are permitted in the buffer while condominium units would be prohibited. The project has been modified to eliminate several units in order to reduce or eliminate the number of required waivers and variances.

*"Section 16.1205(a)(7)*

"The subject property contains ten specimen trees. Seven of these trees are Norway Maples which are not a native tree. In accordance with the Forest Stand Delineation prepared by Eco-Science Professionals, four of the Norway Maples are in poor condition. There are also two Red Maples and one Tulip Poplar which are in good condition. Nine of the ten specimen trees are proposed to be removed, including the four Norway Maples which are in poor condition. The removal of the nine specimen trees will be offset by the additional planting of eighteen shade trees (or equivalent).

"The additional plantings/vegetation may be utilized between Old MD Route 108 and the current MD Route 108 to landscape the area between the Jersey barrier and Old MD Route 108 curb line. Otherwise the plantings will be installed throughout the site at appropriate locations.

"The granting of the requested waivers will result in the protection of the environmental features, installation of an environmental boardwalk with educational kiosks, replacement of predominantly nonnative trees (poor condition) with native trees and other vegetation at a 2:1 ratio. The waiver of the 15' buffer between a condominium unit and the environmental feature does not create any impact since the retaining wall is permitted (and proposed) between the stacked townhouse unit and the wetland buffer.

"The developer/petitioner has worked with the County agencies to reduce the number of units and to adjust the layout in order to eliminate and minimize the number waivers and variances required. The property can support 112 housing units in accordance with the R-APT zoning. Based on the reduced proposal 82 units are proposed which is significantly less than the permitted number of units. The developer/petitioner has also worked extensively with the existing community to propose a housing product which is both acceptable to the community and conforms to the Regulations. The property configuration, environmental constraints, topography, etc. were not created by the developer/petitioner. The project as currently proposed results in the minimum density required to effectively consolidate and develop the property.

"Should the subject waivers be denied the project would not be financially or practically viable resulting in a hardship for both the current land owners and the developer. The opportunity to redevelop and improve the various properties would be lost which impacts the community at large."

Triangle Old Annapolis Associates, LLC

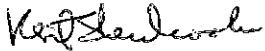
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Indicate this waiver petition file number, section of the regulations, action, conditions of approval, and date on all related plats and site development plans. Waiver approval will remain valid for one year from the date of this letter or as long as the related site development plan remains in active processing.

Should you have any questions please contact Dave Boellner by telephone at 410-313-3956 or by email at [dboellner@howardcountymd.gov](mailto:dboellner@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Chief  
Division of Land Development

KS/DBB:dbb

C: DPZ, Research  
DPZ, DED  
Marian Honecny - MD DNR  
Vogel Engineering, Inc.  
Tom Brubaker