



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

March 22, 2024

Mr. Michael Phau
Trinity Homes Mary Land, LLC
3675 Park Ave.
Ellicott City, MD. 21043

RE: WP-24-073 Maple Grove
Alternative Compliance Request Denied

Dear Mr. Phau:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

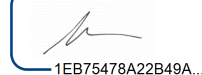
On March 14, 2024 and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Recreation and Parks and Administrator of the Office of Community Sustainability considered and **denied** your request for a variance with respect to **Section 16.1209(b)(5)** of the Subdivision and Land Development Regulations to provide a non-credited 0.18-acre on-site easement and meet 100% of the 0.5-acre obligation off-site. Please see the attached Final Decision Action Report for more information.

Indicate this alternative compliance petition file number, request, section of the regulations, action, and date on all related plats, and site development plans, and building permits.

If you have any questions, please contact Donna Despres at (410) 313-3429 or email at ddepres@howardcountymd.gov.

Sincerely,

DocuSigned by:



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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/DD

Attachment: Final Decision Action Report

cc: Research
DLD - Julia Sauer
Real Estate Services
DNR – fca.dnr@maryland.gov
Vogel Engineering + Timmons Group



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3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

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ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

DEPARTMENT OF PLANNING AND ZONING
DEPARTMENT OF RECREATION AND PARKS
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-24-073 Maple Grove (P-23-002)**
Request for a variance to Section 16.1209(b)(5) of the Howard County Code.

Applicant: Michael Phau
c/o Tim Keane
Trinity Homes Mary Land, LLC
3675 Park Ave., Ste 301
Ellicott City, MD 21042

Pursuant to Section 16.1216, the Director of the Department of Planning Zoning, Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability considered and **denied** the applicants request for a variance with respect to **Section 16.1209(b)(5)** of the Forest Conservation Regulations to provide a non-credited 0.18-acre on-site easement and meet 100% of the 0.5-acre obligation off-site. The Directors deliberated the application in a meeting on March 14, 2024.

Each Department hereby determines that strict enforcement of Section 16.1209(b)(5) would not result in an unwarranted hardship. The following factors were considered in making this determination:

Section 16.1216(c) of the Subdivision Regulations states:

“Consideration of a variance requested under this section shall include a determination as to whether an applicant has demonstrated to the satisfaction of each Department that enforcement of this subtitle would result in unwarranted hardship. Increased cost or inconvenience of meeting the requirements of the regulations does not constitute an unwarranted hardship to the applicant. The applicant shall:

- 1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*
- 2. Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas;*
- 3. Verify that the granting of a variance will not adversely affect water quality;*
- 4. Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants;*
- 5. Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;*
- 6. Verify that the condition did not arise from a condition relating to land or building use, either permitted or nonconforming on a neighboring property; and*
- 7. Provide any other information appropriate to support the request.”*

The Directors reviewed the justification and exhibit supplied by the applicant prior to the meeting and met to deliberate the merits of the applicant's justification and plan exhibit in the context of Section 16.1216(c) of the Subdivision and Land Development Regulations. During deliberation, the Directors found the following:

- The applicant's position provided in the justification outlines processing delays (APFO testing) and law changes that resulted in a previously approved Sketch Plan, S-18-005 being subject to meeting 100% of the Forest Conservation obligation on-site per CB-54-2022¹. Any property within the Tiber Branch watershed is subject to the law change effected by CB-54-2022. Further, all approved sketch plans in Howard County are subject to the same processing, APFO testing and potential delays in processing. No approved sketch plan is insulated from law changes per Section 16.102(h) of the Subdivision Regulations. The Directors find that meeting new regulations due to law changes is not unique to this property or development and does not constitute an unwarranted hardship within this critical watershed.
- The justification refers to "extraordinary stormwater management requirements in the Tiber Branch watershed" contributing to the projects difficulty in meeting the Forest Conservation obligation on-site. The Directors discussed that all projects in the Tiber Branch and Plum Tree Branch watersheds must provide storm water management controls to meet the storm of record as outlined in Design Manual Volume I Chapter 5. Any development in the same watershed is required to meet the same SWM requirements. This requirement is not unique to this property. The Directors find that meeting the regulations is not an unwarranted hardship.
- The applicant justification states that in order to achieve 100% of the Forest Conservation obligation on-site, two building lots would be eliminated. Removing two of the 9 proposed lots does not prevent the development of the property. The applicant did not prepare any additional plan exhibits that investigated alternative plan layouts. Per Section 16.1216(c); "Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an unwarranted hardship to the applicant." The Directors find that in this specific instance, reduced lot yield or economic hardship does not constitute unwarranted hardship per the regulations.
- The applicant justifications did not persuade the Directors that the subject property had any special conditions unique to itself which would cause unwarranted hardship.
- While the processing delays and law changes were outside the applicant's control, developers have the option to begin the subdivision process by submitting a Preliminary Equivalent Sketch Plan (SP) rather than a Sketch Plan. Had an SP been approved prior to the enactment date for CB-54-2022, the SP and subsequent plan submittals would have been permitted to continue processing under the regulations in effect at the time of SP approval per Section 16.102(h) of the Subdivision Regulations. The applicant did not anticipate a law change that would have an impact on lot yield which may or may not have led to their choice of processing path. However, the Directors find that processing decisions made by the applicant does not constitute and unwarranted hardship.
- The Directors reviewed the applicant's written justifications and plan exhibit and determine that it fails to demonstrate why compliance with the regulations would constitute an unwarranted hardship.

¹ <https://apps.howardcountymd.gov/olis/PrintSummary?legislationId=13072&legislationNumber=CB54-2022>

- The Directors discussed the potential actions and determined that denial of the request to provide Forest Conservation offsite would not be denial of development of the property. The applicant may revise the preliminary plan (P-23-002) to meet the regulations and resubmit for County review.

The meeting concluded with the Director of the Department of Planning Zoning, Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability finding that the applicant's criteria justifications have not met the unwarranted hardship threshold. After considering the alternative compliance application and the items required to be addressed pursuant to Section 16.1216(c), they find enforcement of this subtitle would **not** result in unwarranted hardship and agreed unanimously to **DENY** the request for a variance with respect to **Section 16.1209(b)(5)** of the Forest Conservation Regulations.

DocuSigned by:

Lynda Eisenberg

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Lynda Eisenberg, AICP, Director
Department of Planning and Zoning

DocuSigned by:

Nicholas Mooneyhan

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Nicholas Mooneyhan, Director
Department of Recreation and Parks

DocuSigned by:

Timothy Lattimer

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Timothy Lattimer, Administrator
Office of Community Sustainability

cc: Research
OCS
DRP



Howard County Maryland
Department of Planning and Zoning
 3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:

File No.

Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Maple Grove

Subdivision Name/Property Identification: Maple Grove P-23-002

Location of property: Upton Road

Existing Use: Vacant

Proposed Use: Residential

Tax Map: 24

Grid:

Parcel No: 41

Election District: 2nd

Zoning District: R-12

Total site area: 3.13 AC

Please list all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.). If no previous plans have been submitted, please provide a brief history of the site and related information to the request:

P-23-002

S-18-005

WP-19-033

In the area below, the petitioner shall enumerate the specific numerical section(s) from the Subdivision and Land Development Regulations for which an alternative compliance is being requested and provide a brief summary of the request. Please use the additional page if needed.

Section Reference No.	Brief Summary of Request
16.1209 (b)(5)	Provide 100% of Forest Conservation obligation on-site within the Tiber Branch Watershed.

Section Reference No.	Brief Summary of Request

Signature of Property Owner:

Michael Pfau

Date:

2/12/2024

Signature of Petitioner Preparer:

[Signature]

Date:

2/12/2024

Name of Property Owner:

TRINITY HOMES
MICHAEL PFAU

Name of Petition Preparer:

Vogel Engineering + Timmons Group

Address:

3675 Park Ave #301

Address:

3300 North Ridge Road., Suite 110

City, State, Zip:

Ellicott City, MD 21043

City, State, Zip:

Ellicott City, Maryland 21043

E-Mail:

tkeane@trinityhomes.com

E-Mail:

rob.vogel@timmons.com

Phone No.:

410 480 0023

Phone No.:

410-461-7666

Contact Person:

MIKE PFAU

Contact Person:

Robert H. Vogel



Owner's Authorization Attached