

**800 Banneker Lane - 11/24/2014 Environmental Comments**  
**Review and Discussion**

(12/16/14)

Jan,

Please see my response to your response in blue letters. For clarity I have applied strikethrough to the portions of the discussion which have been resolved or concluded.

(12/16/14)

James,

My response to your response is in green letters.

(12/11/14)

Jan,

Please see my responses in bold red letters.

(12/11/14)

James,

Please see my responses below in bold letters.

Jan,

~~I called your office to speak with you regarding the comments you posted today but you were unavailable. As such, I am writing this email to discuss my concerns about your comments. The comments you posted today are starkly different than those you posted on 11/20/14 and there are several topics which require discussion.~~

~~**The comments posted on 11/20/14 were incomplete and deleted.**~~

On 8/19/14 I emailed you a plan which illustrated the existing trees impacted by this project and specifically the rain garden. This information was also submitted on 8/19/14 along with the complete package for the first review phase. After reviewing the submitted information you provided the requirements noted below.

*"(9/8/2014 3:00 PM JVZ) Please show all trees (species, size, location, health) 1" and greater within the limit of disturbance (LOD) and within 15' of the LOD (even if trees are on an adjacent property) on a plan. Please show which trees will be removed and what will be replanted as per City code 17.09 table 70. Replacement trees will need to be native and 2" in diameter. If trees will remain then please show how they will be preserved during the construction process as per City code section 17.09.30/40/50 and the attached tree protection document. Replacement trees: please include the species, size and location. All tree protection fencing will need to be chain link fencing with round metal posts at least every 10'. Please adjust the tree protection detail on sheet 5 accordingly. Pre-con meeting required. Please contact Jan van Zutphen at 410-263-7946."*

~~You requested additional information beyond what is currently required by the City code, such as asking for all trees 1" and greater instead of the 5" and greater per code be shown. I asked for clarification on the 1" tree requirement and you replied in a 9/19/14 email that "Within the LOD you do not need to identify trees 1" and greater". I confirmed that this meant within the LOD we do not need to identify any trees but within 15 feet outside the LOD we do need to identify all trees 1" and greater. Even though we did not need to identify any trees within the LOD or beyond 15 feet outside of the LOD we took the extra time and effort to survey them in the interest of trying to work positively with the City. Therefore, not only the information you requested but additional information was included in the revised drawings submitted on 10/30/14 and all of your comments were addressed. The tree survey information, trees removed, replanted trees, tree preservation information, and tree protection detail revision were all completed per your requirements.~~

**~~The City code does require (in table 17.09.070) that all trees 1" and greater within the LOD and within 15' of the LOD are shown on the plans and mitigated for when removed. During a site visit I noticed that a lot of small sweetgum, locust and other trees had started to grow within the cleared area. Technically all those trees need to be shown on the plan. However, I thought that would not be fair and hence I did not require it.~~**

~~The requirement of showing or not showing 1" and greater trees was discussed not to review whether it was within the City's purview to request that they be shown but rather to illustrate that we included the information additionally although not required to do so (by the code or you at the time) and that we had satisfied all of your comment requirements with the 10/29/14 submittal. However, if the code is to be referenced it should be noted that the intent of Section 17.09.070 is "to ensure that landscaping proposed in association with development will reflect the density and species of those trees removed for development" specifically "the number of trees to be replaced" which are contained in Table 17.09.070. Section 17.09.030.B.1 defines which trees must be shown on the plan unless additional information is requested by DNEP. This topic is closed as the trees are shown on the plan as you requested.~~

After reviewing the 10/30/14 revised drawings you provided the requirements noted below.

*"(11/24/2014 12:02 PM JVZ) Please move the bio-retention area to an area that will not impact the existing trees. Keep the area outside of the wetland buffer. Any tree within the LOD and 15' outside of the LOD will need to be surveyed and shown on the plan. I recommend showing any additional trees that are impacted by the proposed development even if outside the 15' area. Please include the driplines of all trees. Sigma will need to certify the locations of all trees Prior to the next revision submittal a site visit will be required with the owner or his representative, a Maryland Licensed Tree Care Expert, and the City's Environmentalist to review all tree preservation measures and the health of all trees shown on the plan. Root pruning, fertilization, etc will need to be done by a Maryland Licensed Tree Care Expert. Please select a Maryland Licensed Tree Care Expert who is familiar with tree preservation measures. All tree protection fencing will need to be chain link fencing with round metal posts at least every 10'. Please adjust the tree protection detail on sheet 5 accordingly. Please show the calculations for the required mitigation for any tree that will be removed. In the Resource Conservation Area the replacement requirement is calculated based on the existing tree canopy square footage. Please provide the canopy square footage of the existing trees to be removed and provide mitigation according to the following criteria: Canopy tree, 2" diameter: 200 square footage Understory tree, 2" diameter: 100 square footage In selecting replacement trees please use a mixture of native species that are existing in the adjacent forest."*

You are now asking that the rain garden be relocated even though it has been shown in this location from the beginning along with the trees impacted. The rain garden must be located where shown in order to provide the required stormwater volume treatment.

**The grading permit plans for 800 Banneker Lane submitted on 08-18-14 do not show the trees that will be removed for/impacted by the installation of the rain garden. Hence my review comments requesting that you show all the trees in question. The grading permit plans submitted on 10-29-14 do show the trees that will be removed for/impacted by the installation of the rain garden. Therefore I could only make the comment regarding relocating the rain garden with the 10-29-14 submission. I discussed the current location of the rain garden with the City's Storm Water Engineer. He mentioned that the rain garden can be located elsewhere on the property and does not need to be in the current location. Given the fact that the rain garden can be moved elsewhere on the property (enough open land available) it does not make sense from an environmental perspective to remove some and impact other healthy trees for the installation of the rain garden.**

**As part of the grading permit package for 800 Banneker Lane submitted on 8/18/14 the Engineer (Sigma) did provide to you the same document that I emailed to you on 8/19/14 which shows the trees impacted by the rain garden. I have included the email and attached plan (sans photos) again for your reference. If you refer to the upper portion of the document you will see the notes for "trees to be removed within the LOD" and "rain garden" which identify the rain garden and trees shown on the plan. I too spoke with the City's Storm Water Engineer, who is copied on this correspondence, regarding the rain garden location prior to and after the submittal. Although the City's Engineer is reviewing the design to insure the necessary treatment requirements are satisfied he is not responsible for engineering the design. Our engineer who is responsible for the design has determined that the location of the rain garden as shown provides the best design and stormwater treatment for this project.**

**The 8-18-14 grading permit plans submitted for 800 Banneker Lane did not contain the plan shown in the "Tree Plan 2014.08.14.pdf" that you just e-mailed. Hence my comment for the 08-18-14 grading permit submission regarding showing all the trees affected by the proposed development. Please make sure to show any trees disturbed (trunk and or root system) by the installation of the timber wall.**

**Based on discussions with your engineer, the City's Storm Water Engineer, and other City staff I have made the determination that the rain garden will need to be relocated. Please address this issue in your next grading permit submission.**

As mentioned previously, in addition to directly emailing you the information, the Engineer indicated that the "Tree Plan 2014.08.14.pdf" was provided to you as part of the permit submittal package. Given that you have repeated comments requesting information which is already provided or already documented it is reasonable to assume that your 8/18/14 comment was merely a reiteration of an already satisfied requirement. This is evident in the fact that the second half of the comment to which you are referring stated "...and what will be replanted" even though the trees which were to be replanted were already shown on the landscape plan on sheet 3. The "13 trees" indicated on the landscape plan directly reference the 13 replacement trees which were shown in more detail on the "Tree Plan 2014.08.14.pdf". The tree plan indicated which trees were to be removed and where the replacement trees were to be located along with the quantity.

There are no trees disturbed (trunk or root system) by the timber wall that would require tree preservation measures. This is evident by the tree and timber wall locations shown on the Landscape Plan on sheet 3. Tree numbers #56 and #57 are the closest tree to the timber wall and neither of which are impacted.

As mentioned previously, the trees impacted by the rain garden are part of the original planned clearing for the lot Development and exchanging of Conservation Easements. The Maryland COMAR and City Code 17.09.070.H (& I) allow the developer to clear up to twenty and thirty percent of any forest or woodland. Section 17.09.070.I requires that the overall acreage of the forest not be decreased which is a restatement of the Table 17.09.070 requirement to plant replacement trees on an "Area basis for area basis". The existing and additional proposed clearing for the Development of the Lot is not in excess of twenty percent of the existing forest and the trees removed for the rain garden will be replaced per the code requirement. I have provided you with copies of the information you were previously given which indicated the trees to be removed for the rain garden as well as a copy of the design plan used as a basis for the lot clearing area during the conservation easement exchanges.

The trees to be removed are not only consistent with the previously agreed upon plan but also with the clearing for Development requirements of the City code. Given the design's previous approval, the accordance with the City code requirements, and the project design requirements I do not feel that the rain garden must be relocated. If you feel that the City code provides the requirement for the rain garden to be relocated even though it meets all the City code requirements and in light of the aforementioned mitigating circumstances then please provide a direct quote and reference to the Section and Subparagraph of that specific code so that a formal Waiver or Modification may be requested per Section 17.09.130.

This property has a long history starting all the way back when the farm was annexed into the City by the first developer Crab Cove. The second developer, Basheer & Edgemoore, spent a long time working with the City to begin building on the lot before deciding it better to sell it to a private individual. My parents purchased the lot from B&E and have been working since that time to build their home. Part of that involved the exchanging of conservation areas in order to adjust the cleared area for the home. The conservation area exchange is now completed. One of the main elements of that change was the removal of the trees for the rain garden area as shown on the drawings. Therefore what you are now asking in regard to preserving the trees to be removed at the rain garden is not only contrary to the prior approvals but also not feasible given the stormwater treatment requirements.

**I have done the Environmental Review for both the 08-18-14 and the 10-29-14 grading permit applications for 800 Banneker Lane based on the information that was provided by the applicant. If you have additional relevant information please submit that with the next application for this grading permit for City staff review.**

**The City's P&Z and Environmental Departments were involved in the process of the conservation easement exchanges. As such, the information you are requesting is your office's records. I do not know what specifically I can provide to satisfy your request. However, I have included a site plan that was used during that process. The site plan shows fill in what is now the rain garden location. The design was modified to use that location for the rain garden in lieu of for fill as required by the final site topography. In both cases the trees are to be removed. If you require additional information please consult Mr. Biba or Mr. Smith who are copied on this correspondence.**



Tel: 301-262-7242 "

~~You are now requiring that a site meeting with me, a Licensed Tree Care Expert and you be completed prior to the next submittal. This is not reasonable as no contractors will be selected or awarded contracts until all City permits have been issued.~~

Tree preservation measures, such as root pruning and tree fertilization, are to be performed by a State of Maryland Licensed Tree Care Expert. I have concerns that the proposed tree preservation measures as shown on the plans are inadequate. By meeting on-site with a State of Maryland Licensed Tree Care Expert/ Maryland Licensed Landscape Architect all required tree preservation measures can be agreed upon. All agreed upon tree preservation measures will need to be shown on the plans. Such an on-site meeting will speed up the review process and is regularly used during the review of permits. Please select a State of Maryland Licensed Tree Care Expert who regularly performs the various tree preservation measures and/or a Maryland Licensed Landscape Architect who knows how to prepare a tree preservation plan.

The tree preservation measures shown on the plan are in accord and consonance with City Code 17.09.030.B.4 and 17.09.040/050. The measures shown not only visually describe the locations of the fencing, root pruning, and fertilization but also include the written guideline requirements verbatim from the City Code. All impacted trees are shown to be either removed or have root pruning and fertilization by a State of Maryland Licensed Tree Care Expert in accordance with the requirements. As previously mentioned no contractors will be selected or awarded contracts for this project until all City permits have been issued. As such, requesting that a contractor be retained at this time is not reasonable. A requirement similar to what you wrote in your now deleted 11/20/14 comments would resolve the concerns. You wrote "All tree preservation measures will need to be inspected prior to construction starting. Please add this to the sequence of construction." The plans clearly indicate the requirements and as such an approval with conditions (comments) would seem to be the reasonable. The condition/comments might read "tree preservation measures to be reviewed on site prior to construction for final agreement and subsequently inspected after implementation prior to construction starting. Please add this to the sequence of construction."

As stated previously, the tree preservation measures as shown on the 10-29-14 submission are insufficient. Once the rain garden has been relocated much less trees will be impacted by the proposed development. Based on the next grading permit submittal I will decide if the tree preservation measures can be reviewed during the pre-con meeting. If so, a State of Maryland Licensed Tree Care Expert will have to be present at the pre-con meeting.

Please include the following in the sequence of construction on sheet 1: A pre-con meeting will be required with the City's Environmentalist. Please contact Jan van Zutphen at 410-263-7946 or [jvzutphen@annapolis.com](mailto:jvzutphen@annapolis.com) After the pre-con meeting, all agreed upon and installed tree preservation measures will need to be inspected prior to any construction starting on-site, including any and all site work.

Please see my relevant response above regarding the rain garden location.

The drawings will be updated to include the statement you requested in green lettering above in the sequence of construction.

In addition, I have reviewed the root pruning shown on the Landscape Plan in regard to your comment during our telephone conversation this afternoon (12/16/14). The root pruning shown for Tree numbers #26 and #30 is not correct. These two trees will be protected at the dripline by tree protection fencing shown and therefore do not require the root pruning shown. Similarly the root pruning shown along the rain garden should only be shown at Tree number #51's dripline. Tree fertilization in this area will occur at the pruning location of Tree #51 only. The drawings will be updated accordingly. The tree protection fencing, root pruning and fertilization shown for Tree #6 is correct and shall remain as shown. These plan adjustments should satisfy your concerns regarding the tree protection fencing, root pruning, and fertilization as well as all tree protection requirements.

~~You indicated again that chain link fencing will be required even though it is not required by the tree protection document you provided as the written requirements that we must follow.~~

~~City code section 17.09.040 B. gives the Department of Neighborhood and Environmental Programs latitude as to what kind of protection devices are acceptable. Chain link fencing has typically been required for similar projects.~~

~~I understand. The purpose of my comment was to clarify if the chain link was required since you provided two conflicting requirements at the same time; the "Tree Protection Document" and your written comments.~~

~~You ask for the tree protection detail on sheet 5 to be revised to indicate chain link fence. The detail already shows 2 3/8" galvanized mesh fencing which is chain link fence. You ask for a mixture of native species that are existing in the adjacent forest to be used for replacement trees. However, when I specifically asked you what requirements if any there were on the replacement tree specie you said we could select anything from the Native Plant Guide for the Chesapeake. We decided to use all Maple and this is noted on the drawings.~~

~~Review of plans for a grading permit can only take place once an application has been submitted. Given the location of the proposed plantings the requirement to match the existing vegetation makes sense from an environmental perspective and has typically been required for similar projects.~~

~~As you did not respond to my comment that the tree protection detail shows 2 3/8" galvanized mesh fencing which is chain link, can your comment to revise that detail to show chain link be disregarded? I understand your comment to match the existing vegetation. We selected Maple for the replacement trees which will match the adjacent forest. A mixture of replacement trees is reasonable. However, it would be more practical to allow for the final selection of the exact tree mix to be determined at the time of installation based on availability. Would you accept the drawings being modified to list the total quantity of replacement trees with a note that a mixture of 2 or 3 species (species noted on plan) will be used rather than specifically identifying each? This would allow the final selection and mixture to be determined at the time of installation and would still allow you to approve the final selection prior to installation.~~

~~Some of the details in the tree protection detail on page 5 are hard to read. Please add to the detail, in clearly legible letters, the following: 3' high chain link tree protection fencing with round metal posts at least every 10'.~~

~~The landscape plan will need to show all information (species, size, location) of the proposed plantings. For species selection use the tree list on page 5 and the Native Plants for Wildlife Habitat and Conservation Landscaping manual. Ash trees are not acceptable for tree mitigation purposes. As previously mentioned, please include the mitigation calculations with your next grading permit application.~~

~~The replacement note for the detail on page 5 and the tree information requested in green lettering above will be noted on the updated plans including calculations. This topic is closed.~~

~~Please review the comments you posted today in regard to the aforementioned responses. We have satisfied all requirements you listed on 9/8/14. As such, it would seem reasonable that the only required revisions for the final submission would be the following.~~

~~All tree preservation measures will need to be inspected prior to construction and this requirement should be added to the sequence of construction. The replacement tree calculation should be computed on a per area basis per Table 19.09.070 and noted on the drawings.~~

~~Thank you for looking at these considerations and I look forward to hearing your thoughts.~~

~~Best Regards,  
James Green~~