



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

November 17, 2016

6314 Golden Star Place
Attn: Brian Goldstein
Columbia, MD 21044

RE: WP-17-014, Oak Hill Subdivision
Approval Letter

Dear Mr. Goldstein:

The Director of the Department of Planning and Zoning considered your request for an alternative compliance from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request for an alternative compliance of the following sections:

Section 16.1205 (a)(7): Forest Retention Priorities: To allow for the removal of nine (9) specimen trees 30" in diameter or greater (34" Black Oak, 39" Red Oak, 32" Mockernut Hickory, 31" Red Oak, 31" Red Oak, 32" Red Oak, 31" Black Oak, 31" Red Oak, and 31" Black Oak).

Section 16.116(a)(2)(iii): Protection of wetlands, streams, and steep slopes: States that grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within one hundred feet of a perennial stream bank for Use III and IV streams.

Approval is subject to the following conditions:

1. Removal of the nine (9) specimen trees will require replacement mitigation at a ratio of two (2) larger caliper native tree species (at least three (3) inches dbh) for each specimen tree removed (18 trees total). The mitigation planting can be provided as part of the required perimeter landscaping for this project. You must submit a Supplemental Plan with your Final Subdivision Plan for this property that shows how you plan to address this alternative forest conservation/landscape mitigation.
2. All specimen trees except Specimen Tree "S" must be protected during construction. A registered arborist must inspect the trees and implement recommendations for professional pruning of roots and foliage. All pruning must be performed by a Maryland licensed tree expert. Tree protection fencing must be installed around the entire perimeter of each specimen tree to the greatest extent possible to prevent root and foliage damage during construction. Alternative designs of the site must be conducted by the consultant in order to minimize root damage.
3. Submission of a final plan application, including a final subdivision plat and a supplemental plan.

4. The proposed driveway to serve new Lots 2 through 7 shall comply with Section 16.120(b)(6)(vi) of the Howard County Subdivision Regulations. Per Section 16.120(b)(6)(vi), "The driveways for pipestem lots shall be located at least ten feet from the project boundary to provide space for required perimeter landscaping to buffer the adjacent property. Where a ten-foot buffer is not possible due to the existing parcel's configuration, drainage, or easement constraints, or is undesirable because future subdivision of the adjoining parcel may require sharing the use-in-common driveway under subsection (c)(2)(iv) of this section, the Department of Planning and Zoning may approve a five-foot driveway buffer. In such instances, a hedge, solid fence, wall, or Type D landscape edge is required, except in the front setback from a public road, where a solid screen would block sight distance."
5. Encroachment into the stream buffer may not exceed the 0.13 acre (5,542 square foot) area as shown on the Alternative Compliance Exhibit submitted with your Alternative Compliance proposal.
6. Any disturbances within the stream buffer shall be the minimum disturbance necessary to afford relief.
7. Any disturbed area within the stream buffer shall be returned to its original condition to the greatest extent possible. This includes, but is not limited to, replanting at the same density and with similar vegetation as existed prior to the disturbance.

Our decision was made based on the following:

Extraordinary Hardships or Practical Difficulties

Extraordinary hardship would result from the applicant retaining the specimen trees located on the property due to the location of the trees and the size of the parcel. Because of these factors, it is not possible to retain the nine (9) specimen trees and still maintain reasonable development of the property. The retention of the specimen trees cannot be accomplished without severely restricting or completely eliminating the proposed subdivision and intended use of the site. Additionally, extraordinary hardships or practical difficulties would arise from not permitting any grading, removal of vegetative cover and trees, paving, and new structures within one hundred feet of a perennial stream bank since it would be impossible to develop Lot 4 without minimal disturbance to the edge of the stream buffer. The applicant's proposal will preserve 15 of 24 existing specimen trees on site.

Alternative Proposal

The alternative proposal would require the applicant to retain all specimen trees on the parcel. However, due to the location of the trees and the size of the parcel, the retention of the specimen trees cannot be accomplished without severely restricting or completely eliminating the proposed subdivision and intended use of the site. Therefore, in this situation, it is reasonable to allow the applicant to remove the nine (9) specimen trees and permit alternative compliance with replacement mitigation planting for the removed specimen trees. Additionally, an alternative proposal prohibiting grading, removal of vegetative cover and trees, paving, and new structures within the stream buffer would require the applicant to eliminate Lot 4. Also, the applicant's engineer designed the use-in-common driveway so that it avoids specimen trees and allows for an overall site design that limits the removal of specimen trees where possible. Since the disturbance is minimal, and the applicant is proposing a wall to further minimize disturbance to the stream buffer, this Division is recommending that limited encroachment into the stream buffer be allowed in this case.

Not Detrimental to the Public Interest

The alternative compliance request will not be detrimental to the public interest since the applicant will be required to provide enhanced landscaping around the perimeter of the property. The enhanced perimeter landscaping will require the applicant to provide two (2) large caliper (at least 3" dbh) shade trees for every one (1) specimen tree removed to help mitigate the loss of the nine specimen trees. Additionally, since the proposed disturbance to the stream buffer is minimal, and the applicant is proposing a retaining wall to further minimize the disturbance, limited encroachment into the stream buffer will not be detrimental to public interest in any way.

Will not nullify the intent or purpose of the regulations

Approval of this alternative compliance request will not nullify the Intent or Purpose of the Regulation because the Subdivision Regulations allow the Department of Planning and Zoning to authorize, "planting in an alternate location," if it is deemed to have a "greater environmental benefit." This Division has determined that the required enhanced landscaping around the perimeter of the property is deemed to have a "greater environmental benefit" than retention of the specimen trees. The enhanced perimeter landscaping will require the applicant to provide two (2) large caliper (at least 3" dbh) shade trees for every one (1) specimen tree removed, and will help to mitigate the loss of the nine specimen trees and provide an additional buffer to the adjoining community. Therefore, approval of this alternative compliance request will satisfy the Intent of the Regulations by creating an environmental benefit. Additionally, because of the current lot configuration, any alternate configuration would severely restrict or completely eliminate the proposed subdivision and intended use of the site. Therefore, allowing the proposed subdivision configuration, and allowing limited encroachment into the stream buffer, would promote fairness and consistency in the application of the plan processing procedures.

Indicate this alternative compliance 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 alternative compliance will remain valid for one year from the date of this letter or as long as this subdivision plan remains in active processing.

If you have any questions, please contact J.J. Hartner at (410) 313-2350 or email at jehartner@howardcountymd.gov

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/JH

cc: Research
DED
Real Estate Services
ECP-16-061, Oak Hill Subdivision
Marian Honezy, Department of Natural Resources
Brenda Luber, Forest Conservation Coordinator
Dave Woessner, Bohler Engineering
Juan Rodriguez, Bohler Engineering
Brandon Rowe, Bohler Engineering