HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

December 6, 2017

Joe Encarnacao
19901 Belle Chase Drive
Laytonsville, MD 20882

RE: WP-18-048, 7440 Oakland Mills Road
       Alternative Compliance Determination

Dear Mr. Encarnacao:

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 to **Section 16.1205(a)(7)** to allow removal of the three (3) specimen trees 30" in diameter or larger, to **Section 16.145** to allow submission of a Final Subdivision Plan without first submitting a Sketch Plan or Preliminary Equivalent Sketch Plan, and to **Section 16.146** to allow submission of a Final Subdivision Plan without first submitting a Preliminary Plan.

Approval is subject to the following conditions:

1. Removal of the three (3) specimen trees will require replacement mitigation at a ratio of two (2) larger caliper trees (at least 3 ½ to 4 inches dbh) for each specimen tree removed. 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 landscape mitigation.

2. Submission of a final plan application, including a final subdivision plat and supplemental plan drawings within 4 months from the date of the alternative compliance approval letter (50 or fewer units).

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 three (3) 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 requiring a Preliminary Equivalent Sketch Plan or a Sketch Plan and a Preliminary Plan prior to submitting a Final Plan since there are no public improvements being proposed with this project.

Alternative Proposal:

An 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 two (2) specimen trees and permit alternative compliance with replacement mitigation planting for the removed specimen trees. Another alternative proposal would require the applicant to submit a Preliminary Equivalent Sketch Plan and prior to submitting a Final Plan. However, since there are no public improvements being proposed with this project, requiring a Preliminary Equivalent Sketch Plan or a Sketch Plan and a Preliminary Plan is not recommended by this Division.

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 ½ to 4 inches dbh) shade trees for every one (1) specimen tree removed to help mitigate the loss of the three specimen trees. Additionally, since there are no public improvements being proposed with this project, not requiring a Preliminary Equivalent Sketch Plan or a Sketch Plan and a Preliminary Plan 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 ½ to 4 inches dbh) shade trees for every one (1) specimen tree removed, and will help to mitigate the loss of the three specimen trees. 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 not requiring a Preliminary Equivalent Sketch Plan, 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 the time period specified in the conditions of approval.

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
FSH Associates
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Forest Conservation Coordinator