



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

June 13, 2018

Underwood Subdivision, LLC
1445 Underwood Road
Sykesville, MD 21784

RE: WP-18-114, Rizk Property,
Alternative Compliance Request

Dear Sir or Madam:

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 **Section 16.1205(a)(7)** to allow removal of the seven (7) trees 30" in diameter or larger, and **Section 16.120(b)(4)(iii)(b)** to allow floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention be permitted on lots less than 10 acres in size.

Approval is subject to the following conditions:

1. Removal of the seven (7) 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 (14 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. Specimen trees 4, 5, 8, 9, 11, and 30 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. The proposed driveway to serve new Lots 2 through 4 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."
4. There shall be no disturbance within any floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention.

5. The future houses on lots 2, 3, & 4 shall maintain a 100 foot distance from the forest conservation easements to avoid encroachments and to allow a useable yard.

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 unique shape of the existing parcel, the existing topography, the location of other existing sensitive environmental areas, and the proposed location of septic systems. Because of these factors, it is not possible to retain the seven (7) 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. The applicant's proposal will preserve 28 of 35 existing specimen trees on site.

Extraordinary hardships or practical difficulties would also arise from not allowing floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention be permitted on lots less than 10 acres in size since the applicant is taking appropriate measures to protect floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention, by providing a minimum 100 foot buffer between the proposed homes and those environmentally sensitive areas.

Alternative Proposal

The alternative proposal would require the applicant to retain all specimen trees on the parcel. However, due to the location of other existing sensitive environmental areas, and the proposed location of septic systems, 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 seven (7) specimen trees and permit alternative compliance with replacement mitigation planting for the removed specimen trees.

An alternative proposal would require the applicant create at least a 10 acre lot for the existing sensitive environmental features. However, requiring a 10 acre lot for these environmental features would severely restrict the proposed subdivision and intended use of the site. Because the applicant is proposing a significant buffer between the proposed single family detached dwellings and the existing environmental features, requiring a 10 acre lot to locate floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention on-site is not recommended by this Division.

Not Detrimental to the Public Interest

The alternative compliance request for specimen tree removal 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 seven (7) specimen trees.

The applicant's request to locate floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention on lots less than 10 acres will also not be detrimental to the public interest since the applicant is proposing a significant buffer between the proposed single family detached dwellings and the existing environmental features, and adequate protection is being provided to those environmental features.

Will not nullify the intent or purpose of the regulations

Approval of the alternative compliance request for specimen tree removal 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 seven (7) 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, the intent of the regulations is to protect environmentally sensitive features, and since the applicant is proposing a significant buffer between the proposed single family detached dwellings and the existing environmental features, adequate protection is being provided to those environmental features.

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 alternative compliance approval will remain valid for one year from the date of this letter or as long as a subdivision or site development plan is being actively processed in accordance with the processing provisions of the Regulations.

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
Fisher, Collins, and Carter, Inc., Attn: Stephanie Tuite