



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

May 1, 2020

NVR Inc.

Attn: Jim Duszynski

11700 Plaza America Drive, Suite 500

Reston VA 20169

RE: **WP-20-039 Wellington Farms (P-20-006)**

Dear Mr. Duszynski:

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 April 23, 2020 and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Department of Recreation and Parks and Administrator of the Office of Community Sustainability considered and **approved** your request for a variance with respect to **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove six specimen trees. Please see the attached Final Decision Action Report for more information.

Approval of this alternative compliance is subject to the following conditions:

1. The removal of the six (6) specimen trees shall be replaced at a mitigation rate of 2:1 for on-site Parcel C and off-site Open Space Lot 169 (Emerson) per Section 16.1216(D) of the County Code. Therefore, a total of 12 native trees with a DBH of at least three inches (8 trees for Parcel C and 4 trees for Open Space Lot 169 in Emerson) must be planted as part of the subdivision's mitigation plan for specimen tree removal.
2. The 12 native trees must be depicted on the Wellington Farms forest conservation plan and landscape plan, with notes and tree details included on both plans for this tree mitigation requirement. The 12 native trees shall be bonded as part of the Wellington Farms landscaping requirements. The applicant must receive approval of a final subdivision plan and grading permit prior to removing the specimen trees.
3. Only those specimen trees requested for removal in this petition are permitted for removal: specimen trees 49, 51, 56, 57, 90 and 91. No other specimen trees are to be removed from Parcel C and Open Space Lot 169 (Emerson).
4. The Department of Recreation and Parks must provide the developer written permission to remove specimen trees 90 and 91 from Open Space Lot 169 within 30 days of this alternative compliance approval. A copy of that permission letter must be submitted to DPZ.
5. Compliance with any conditions imposed by the Office of Community Sustainability and the Department of Recreation and Parks, including: 1) adding the Green Infrastructure Network to the preliminary plan (P-20-006) and subsequent plans and 2) the removal of specimen trees 90 and 91 (located off-site at Emerson's Open Space Lot 169) may be removed after the abandonment of a portion of the off-site forest conservation easement in Open Space Lot 169 is recorded by a plat of revision.

6. Include this alternative compliance petition decision as a general note on the preliminary plan, the final plan and site development plan(s). This note shall include the alternative compliance petition file number, the regulatory section, the decision date and the conditions of approval.

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

If you have any questions, please contact Derrick Jones at (410) 313-3429 or email at djones@howardcountymd.gov.

Sincerely,



Anthony Cataldo, AICP, Chief
Division of Land Development

Attachment: Final Decision Action Report

cc: Research
DED
OCS, Joshua Feldmark
DRP, Raul Delerme
DLD, Julia Sauer
DPZ Files: WP-20-039, P-20-006
MD Dept of Natural Resources
Benchmark Engineering



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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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-20-039 Wellington Farms

Applicant: NVR Inc.
11700 Plaza America Drive, Suite 500
Reston VA 20169

Pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability considered and **APPROVED** the applicants request for a variance with respect to **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove to remove six specimen trees for the purpose of improving the subdivision design layout (refining the internal road network to better facilitate the flow of traffic, enhance the pedestrian pathways and sidewalks, and provide a denser green space buffer to reduce impacts to adjoining residential communities) and for connecting to an off-site sewer line through the adjacent Emerson subdivision. The Directors deliberated the application in a meeting on April 23, 2020.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unwarranted hardship. This determination is made with consideration of the variance application and the seven (7) items the applicant was required to address, pursuant to Section 16.1216(c)(1)-(7):

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

DPZ approved the Sketch Plan subject to the developer satisfying five requirements on the preliminary plan. One of the requirements was to revise the site layout to establish a hierarchy of internal roads that better facilitates traffic flow through the subdivision and provides future road connections to adjacent properties pursuant to Section 16.119 of the Subdivision and Land Development Regulations. The applicant did comply with this request and designed Road K as a collector road to provide a north-south connection between two adjacent off-site parcels. The increased width of a collector road expanded the limit of disturbance and requires removal of specimen trees 56 and 57.

Second, the site's topography affects the location for where sewer lines can be constructed. Most of Parcel C cannot be serviced via the existing sewer at Leishear Road and Graeloch Road or at Derby Road and Gorman Road because the elevation is too high. The only sewer low enough in elevation to service Parcel C is the existing sewer manhole on adjacent Open Space Lot 169. For this reason, the proposed sewer line connection requires

the removal of specimen trees 49, 51, 90 and 91.

2. Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas

The granting of this variance shall provide an efficient road network that will help improve traffic flow within the subdivision and shall provide future road connections to adjacent properties. Connecting to a feasible sewer location is necessary for a subdivision development.

3. Verify that the granting of a variance will not adversely affect water quality

There is no evidence that the granting of a variance will adversely affect water quality. The development is subject to the current Environmental Site Design criteria that include a combination of water treatment practices to address water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the site development plan.

4. Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants

The removal of the specimen trees is due to site layout revisions (as requested by DPZ) to establish a clear hierarchy of internal roads for the development and to construct a sewer line to provide sewer service to the residential lots in Parcel C. Since the granting of this request allows for critical infrastructure, it will not confer a special privilege to the applicant 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.

The applicant did provide a site layout with the sketch plan that did not propose the removal of specimen trees 56 and 57. The removal of those trees is a result of a site layout revision requested by DPZ. The topography dictates the sewer design and requires the removal of specimen trees 49, 51, 90 and 91.

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.

Neither the location of the road nor the site topography, necessitating an alternative sewer connection, is created by a condition on a neighboring property. Road K is designed as a collector road to provide optimal internal circulation and an adequate connection for potential subdivision of neighboring properties.

7. Provide any other information appropriate to support the request.

The applicant provided supporting data that includes a specimen tree table, a tree assessment, photos of the specimen trees to be removed, and plan exhibits that details the original plan layout and the revised plan layout that features the location of the specimen trees to be removed.

Directors Action: Approval of this alternative compliance is subject to the following conditions:

1. The removal of the six (6) specimen trees shall be replaced at a mitigation rate of 2:1 for on-site Parcel C and off-site Open Space Lot 169 (Emerson) per Section 16.1216(D) of the County Code. Therefore, a total of 12 native trees with a DBH of at least three inches (8 trees for Parcel C and 4 trees for Open Space Lot 169 in Emerson) must be planted as part of the subdivision's mitigation plan for specimen tree removal.

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5. Compliance with any conditions imposed by the Office of Community Sustainability and the Department of Recreation and Parks, including: 1) adding the Green Infrastructure Network to the preliminary plan (P-20-006) and subsequent plans and 2) the removal of specimen trees 90 and 91 (located off-site at Emerson's Open Space Lot 169) may be removed after the abandonment of a portion of the off-site forest conservation easement in Open Space Lot 169 is recorded by a plat of revision.
6. Include this alternative compliance petition decision as a general note on the preliminary plan, the final plan and site development plan(s). This note shall include the alternative compliance petition file number, the regulatory section, the decision date and the conditions of approval.

DocuSigned by:

Amy Gowan

5B4D5DD9470C4D4... Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delerme

88D74370827248A... Raul Delerme, Director
Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

3241B97A54BF497... Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
DED
OCS, Joshua Feldmark
DRP, Raul Delerme
Derrick Jones



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive

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Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

February 13, 2020

NVR Inc.
attn: Jim Duszynski
11700 Plaza America Drive
Suite 500
Reston VA 20169

RE: WP-20-039 Wellington Farms (P-20-006)
Deferral – New Application Required

Dear Mr. Duszynski

Please be advised that Council Bill (CB) 61-2019 and CB-62-2019, effective February 5, 2020, established new review and approval criteria for alternative compliance petitions submitted for relief of the Subdivision and Land Development Regulations and Forest Conservation Regulations.

After review of your alternative compliance petition, the Department of Planning and Zoning has determined that the above referenced project does not meet the grandfathering requirements established in Section 16.102(h) of the Subdivision and Land Development Regulations and the petition must be resubmitted under the new review and approval criteria outlined in CB-61-2019 and CB-62-2019.

Please follow this link to the application and instructions for submittal: <https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Application-Forms-and-Fees> Two copies of the new application, supplemental information and exhibit/plan are required for the resubmission. No additional fees will be charged, unless additional sections are added to the petition request.

The requested new application and required supporting documentation must be submitted to this Division within **45 days** of the date of this letter (**on or before March 29, 2020**), or this Division will recommend that the Planning Director deny this alternative compliance petition.

Please contact Judy Edwards at 410-313-4351 or email juedwards@howardcountymd.gov to schedule a submission appointment. Once the requested information has been received and reviewed, this office will coordinate agency comments and will prepare a recommendation for the Planning Director's action.

If you have any questions regarding a specific comment, please contact the review agency prior to preparing the revised plans/information. Compliance with all items indicated above is required before the revised plans/information will be accepted. Please bring a copy of this letter with you to your submission appointment.

If you have any questions, please contact Derrick Jones at (410) 313-2350 or email at djones@howardcountymd.gov.

Sincerely,

Anthony Cataldo, AICP Chief
Division of Land Development

cc: Benchmark Engineering

Research Division