



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

August 16, 2021

Thomas R. Bundy, III
Aurora Garcia Bundy
11401 Hunt Crossing Ct
Ellicott City, MD 21042

RE: WP-22-006 Bundy Properties

Dear Sir/Madam:

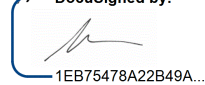
This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

On August 12, 2021 and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Recreation and Parks and Administrator of the Office of Community Sustainability considered and **approved** your request for a variance with respect to **Section 16.1201(v)** and **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to use the 1.59-acre Limit of Disturbance as the Net Tract Area and to remove one specimen tree (45" DBH red oak). Please see the attached Final Decision Action Report for more information.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval and date on all related plats and building or grading permits. This alternative compliance approval will remain valid for one year from the date of this letter or as long as a grading plan is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely, DocuSigned by:



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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/eb

cc: Research [Section 16.1205(a)(3) - 1 tree req/ 1 tree app]
DED
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR
Peter L. Podolak, PE



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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-22-006 Bundy Properties**
Request for a variance to Sections 16.1201(v) and 16.1205(a)(3) of the Subdivision and Land Development Regulations.

Applicant: Peter L. Podolak, PE
147 East Main Street
Westminster, MD 21157

Pursuant to Section 16.1216, the Director of the Department of Planning 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 **Sections 16.1201(v) and 16.1205(a)(3)** of the Forest Conservation Regulations. The purpose is to use the 1.59-acre Limit of Disturbance as the Net Tract Area and to remove one specimen tree (45" DBH red oak). The Directors deliberated the application in a meeting on August 12, 2021.

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

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

The request to restrict application of the forest conservation regulations to the Limit of Disturbance (LOD) associated with the driveway construction is appropriate given the nature of the project. The project involves construction of a shared driveway to provide access to three existing parcels. The applicant does not know how each parcel will ultimately be developed by the future owner and does not want to restrict the future use. Forest conservation obligations for the remainder of each parcel will be addressed prior to issuance of grading and building permits for the future house construction. The applicant is proposing to record a 2.8-acre forest conservation retention easement on the southern parcel to satisfy the forest conservation obligation for the shared driveway construction. The retention area is located on the largest of the three parcels and includes 18 specimen trees and a perennial stream and buffer.

A total of 45 specimen trees are scattered across the site and a perennial stream is located on the southern parcel. The proposed construction of the shared driveway will impact a 45" DBH red oak tree (Specimen Tree 'A'). The

tree is in very poor condition and the majority of the crown is dead. The tree represents a hazard and should be removed. Shifting the driveway to avoid this tree would result in additional forest clearing.

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

Strict enforcement of the regulations would require the owner to address forest conservation requirements for the entire 18.63-acre property prior to construction of the driveway. This would potentially restrict future development of houses on the three parcels if large areas are placed within forest conservation easements, since the location of the future houses is unclear at this time. Restricting the forest conservation requirements to the limit of disturbance will allow the future owners more flexibility to design the forest retention areas on each parcel in coordination with the house construction. Specimen trees which are in poor condition are commonly approved for removal, since they are safety hazards for the nearby residents.

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

The driveway alignment has been designed to follow the northern property boundary, which minimizes forest fragmentation and grading since the forest limits do not extend offsite and this area has less slope than the rest of the site. The proposed construction will not be located near the environmental features and sediment controls will be provided during construction to minimize runoff during storm events. Micro-bioretenment facilities have been incorporated into the project to provide quantity and quality management of stormwater draining from the driveway. The proposed forest retention easement will enhance the stream buffer and will provide future protection of the stream valley in the southern portion of the site.

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

Approval of the request will not grant the applicant a special privilege since the project has been designed to comply with the forest conservation requirements for the proposed driveway construction. Any future development of the parcels will require forest conservation to be addressed for the remainder of the site. The 45" red oak tree is in very poor condition and is a hazard to the owner and future residents.

5. Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant.

The variance request is not based on conditions or circumstances which are the result of actions by the applicant. Restricting forest conservation requirements to the limit of disturbance is appropriate since it is unclear how each future owner will develop the parcels. Forest conservation requirements for the remainder of the site will be addressed with future plans for house construction. The specimen tree is in very poor condition and is a safety hazard for the owner and any future residents.

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.

There is no evidence that the conditions arose from a condition relating to land or building use, either permitted or nonconforming on a neighboring property.

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

The applicant provided a Forest Stand Delineation, Forest Conservation Plan and specimen tree assessment with the Alternative Compliance application.

Directors Action: Approval of alternative compliance of Section 16.1201(v) and Section 16.1205(a)(3) is subject to the following conditions:

1. The forest conservation retention easement shall be recorded in Land Records prior to approval of the Simplified Environmental Concept Plan (SECP) for the shared driveway. The SECP shall include a Forest Conservation Plan in accordance with Section 16.1204 of the Howard County Code. The 1.59-acre Limit of Disturbance shall be used as the Net Tract Area for determining the forest conservation obligation.
2. All areas outside of the 1.59-acre Limit of Disturbance must address Forest Conservation requirements prior to application for any grading or building permits for future development on the site. The Simplified Environmental Concept Plan for the shared driveway shall identify the total disturbance on each of the three parcels, to be excluded from future Forest Conservation calculations.
3. The alternative compliance approval applies only to Specimen Tree 'A' as shown on the alternative compliance plan exhibit. The removal of any other specimen tree on the subject property is not permitted under this approval. Protective measures shall be utilized during construction to protect the specimen trees which are proposed to remain. Include details of the proposed tree protection measures on the Simplified Environmental Concept Plan and all applicable grading permits.
4. The removal of Specimen Tree 'A' will require the planting of two native shade trees on Parcel 286. The trees shall be a minimum of 3" diameter at breast height (DBH). Include all applicable planting details on the Simplified Environmental Concept Plan for the shared driveway. Surety for the two mitigation trees shall be posted with the grading permit.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delerme

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Raul Delerme, Director
Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

3241B974513F4B7...

Joshua Feldmark, Administrator
Office of Community Sustainability

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

**Howard County Department of Planning and Zoning
Division of Land Development**

ALTERNATIVE COMPLIANCE APPLICATION

[Alternative Compliance from Subdivision and Land Development Regulations]

Date Submitted/Accepted 7/15/21 DPZ File Number WP-22-006

I. Site Description

Subdivision Name/Property Identification: BUNDY PROPERTIES SGP-21-032

Location of property: PINDELL SCHOOL ROAD
(Street Address and/or Road Name)

THREE VACANT PARCELS
(Existing Use)

THREE SINGLE FAMILY RESIDENCES
(Proposed Use)

41
(Tax Map No.)

9
(Grid/Block No.)

ZBC
(Parcel No.)

5TH
(Election District)

RR-DEO
(Zoning District)

18.63 ACRES
(Total Site Area)

Provide a brief site history including reference to all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.)

NOV. 12, 2020 MR. JJ MARTNER, PLANNING SUPERVISOR, DETERMINED THAT THE THREE PARCELS THAT WERE CREATED IN 1974 ARE INDEED PARCELS OF RECORD. THE PARCEL DETERMINATION LETTER IS ATTACHED TO PEED HISTORY DOCUMENTATION.

II. Alternative Compliance Request

In accordance with Section 16.104 of the Howard County Subdivision and Land Development Regulations, the Department of Planning and Zoning, in conjunction with the Subdivision Review Committee may grant alternative compliances or modifications to the minimum requirements stipulated within the Regulations if it is determined that extraordinary hardships or practical difficulties may result from strict compliance with the regulations, or if it is determined that the regulations may be served to a greater extent by an alternative proposal.

In the area below, the petitioner shall enumerate the specific numerical section(s) from the Subdivision and Land Development Regulations for which an alternative compliance is being requested and provide a summary of the regulation. Attach a separate sheet if additional information is appropriate.

<u>Section Reference No.</u>	<u>Summary of Regulation</u>
1. <u>SECTION 16.1205(a)(3)</u>	<u>ALTERNATIVE COMPLIANCE SUMMARY:</u>
2. <u>SECTION 16.1201(V)</u>	<u>① APPLICANT SEEKS APPROVAL TO REMOVE ONE SPECIMEN TREE, WHICH IS IN VERY POOR CONDITION</u>
3. _____	<u>② APPLICANT REQUESTS NET TRACT AREA BE THE TOTAL DISTURBED AREA FOR THE INSTALLATION OF A U.T.C. DRIVEWAY FOR 3 EXISTING PARCELS.</u>
4. _____	<u>③ APPLICANT REQUESTS ON-SITE RETENTION OF FOREST ON A LOT THAT IS 9 ACRES IN SIZE TO ADDRESS REFORESTATION OBLIGATIONS.</u>
5. _____	_____

III. *Justification*

All alternative compliance requests must be fully justified by the petitioner. Incomplete or inadequate justification may result in rejection of the application at the time of submission. Justification must be specific to the subject property. The justification provided by the petitioner should include all factors which rationalize or substantiate the request in accordance with the following criteria:

- a. Summarize any extraordinary hardships or practical difficulties which may result from strict compliance with the Regulations.
- b. Verify that the intent of the Regulations will be served through the implementation of the alternative proposal.
- c. Substantiate that approval of the alternative compliance will not be detrimental to the public interests.
- d. Confirm that approval of the alternative compliance will not nullify the intent of the Regulations.

PLEASE ATTACH A SEPARATE LETTER OF JUSTIFICATION TO SUPPORT THE ALTERNATIVE COMPLIANCE REQUESTS.

IV. *Pre-Submission Meeting Requirements*

- a. **Community Meeting Requirement, if applicable** - If no previous subdivision plans and/or zoning or conditional use petitions were processed, a pre-submission community meeting is required for the initial plan submittal of all new residential development and for all new non-residential development or an existing non-residential development which is proposed for a floor area expansion of more than 25%, except County Capital Projects which hold a community outreach meeting, in accordance with Sections 16.156(a) and 16.128 of the Subdivision and Land Development Regulations for alternative compliance of the site development plan requirement. The property owner/developer must provide **3 weeks** advance notice regarding the community meeting's date, time and location to all adjoining property owners identified in the records of the State Department of Assessments and Taxation and any community association that represents the geographic area of the subject property by first class mail; and sent electronically to any community association registered with the County for projects in a certain geographic area; the Howard County Council; and DPZ, which will place the meeting notice on the DPZ's website. The developer shall send a copy of the minutes and written responses to the meeting attendees and DPZ, either electronically or by first class mail.

Certification that the meeting notices were mailed to all adjoining property owners and any community association that represents the geographic area, and the principal and Parent-Teacher Association (PTA) president for each school with an attendance area that includes the subject property. Projects in Downtown Columbia must also notify each Village Board, the Columbia Association and each property owner located within the same Downtown Columbia Plan neighborhood.

Verification that the meeting notices were emailed to any citizen and community association registered online with Howard County. List of meeting attendees. Copy of the meeting minutes and written responses to the meeting attendees' questions. Verification that the meeting minutes and responses were sent within 30 days to all meeting attendees either by mail or email.

****Please contact the Division of Land Development regarding the applicability of this requirement.**

- b. **HPC Meeting Requirement, if applicable** - A pre-submission advisory meeting with the Historic Preservation Commission is required for new development located within a Historic District or if the site contains a historic structure (50 years or older) in accordance with Section 16.603A of the Howard County Code. Verify this requirement by checking the Historic Sites Inventory list and maps available at the DPZ public service desk or checking with the Resource Conservation Division. The property owner/developer must contact the DPZ, Resource Conservation Division for the HPC scheduling process and procedures. **The property owner/developer must submit a copy of the minutes from the HPC Advisory Meeting to DPZ along with the initial subdivision or site development plan application.**

- c. **MAA Meeting Requirement, if applicable** - For all proposed subdivisions or developments located within the BWI Airport Noise Zone or the Airport Zoning District (4-mile radius from the center of the

airport), the review and approval by the Maryland Aviation Administration is required prior to signature approval of final plan road and SWM construction drawings, and/or site development plans, or alternative compliance approval of SDP. Please contact the MAA at P.O. Box 8766, BWI Airport, Maryland, 21240-0766, or (410) 859-7100. A copy of the MAA approval letter must accompany the submission of the final road/SWM construction plan original drawings, and/or site development plan original, or alternative compliance application.

- d. **Design Advisory Panel (DAP), if applicable** – A pre-submission advisory meeting with the Design Advisory Panel is required for all new site development plans submitted for new development or redevelopment projects on parcels located in the U.S. Route 1 corridor that are zoned 'CE', 'CAC' or 'TOD' or that adjoin the Route 1 right-of-way and that are subject to the Route 1 Design Manual in accordance with Sections 16.1501 and 16.1504 of the Howard County Code, and for new development or redevelopment projects on parcels located within the U.S. Route 40 corridor that are zoned 'TNC' or that are subject to the Route 40 Design Manual in accordance with Section 16.1501 of the Howard County Code, and for all new SDP's for new developments or redevelopment projects located within the Downtown Columbia Revitalization area in accordance with Section 125.0 of the Zoning Regulations. Additionally, a DAP meeting is required for the 'R-H-ED', 'R-APT', 'BRX', 'CEF' and 'CR' zoning districts in accordance with the 10/6/13 Comprehensive Zoning Regulations. The property owner/developer must contact the DPZ, Division of Comprehensive and Community Planning to verify this requirement and for information concerning the DAP meeting scheduling process and procedures. The property owner/developer must submit a copy of the DAP project design recommendation to DPZ along with the development plan application submission, if applicable.

V. **Plan Exhibit**

A. **Number of Copies Required**

The alternative compliance application must be accompanied by copies of a detailed plot plan, subdivision plat or site development plan (**15 sets of the completed alternative compliance application and plan exhibit if the subject property adjoins a County road; 19 sets for properties adjoining a State road**).

In instances where the alternative compliance request concerns an approval extension or if an associated plan is in active processing, only 2 sets of plans are required along with 15 or 19 copies of the application form. **Plans must be folded to a size no larger than 7-1/2" x 12". The pre-packaging of plans and supplemental reports by SRC agency will be permitted by DPZ provided that each package contains a cover letter which itemizes all plans, reports and documents included in the package.**

Please be advised that all plan application submissions are ACCEPTED BY APPOINTMENT ONLY. All plan submission appointments must be scheduled with the Division of Land Development at (410) 313-2350.

Plan applications are available on the DPZ website at <https://howardcountymd.gov/Departments/Planning-and-Zoning/Land-Development>.

B. **Plan Requirement Checklist**

The detailed alternative compliance exhibit, plot plan, subdivision plan or site development plan must indicate the following required information relevant to the alternative compliance request to ensure acceptance of the alternative compliance application for processing.

Legend:	<input checked="" type="checkbox"/> Information Provided	<input checked="" type="checkbox"/> Information Not Provided, Justification Attached
	<input type="checkbox"/> NA Not Applicable	

1. Vicinity map scale 1" = 2,000' indicating and identifying the total boundary of the property, exact site location, vicinity roads and north arrow.
2. Bearings and distances of property boundary lines for the entire tract and size of tract area.
3. North arrow and scale of plan.
4. Location, extent, boundary lines and area of any proposed lots.
5. Any existing or proposed building(s), structures, points of access, driveways, topography, natural

features and other objects and/or uses on the subject and adjacent properties which may be relevant to the petition; i.e. historic structures, cemeteries or environmentally sensitive areas.

- 6. Delineation of building setback lines.
- 7. Delineation of all existing public road and/or proposed street systems.
- 8. Identification and location of all easements.
- 9. Approximate delineation of floodplain, streams, wetland and forested areas, if applicable, and/or provide a professional certification that environmental features do not exist on the property.
- 10. Road profile to evaluate sight distance, if the application includes a request for direct access to a major collector or more restrictive roadway classification.
- 11. Any additional information to allow proper evaluation (e.g. for alternative compliance to wetland buffers an alternative analysis and mitigation proposal are needed; for alternative compliance to SDP requirements where there is no subdivision of land, an APFO Roads Test evaluation may be needed, for alternative compliance of final plat or SDP, a copy of property deeds to confirm legal creation or status of property is needed).
- 12. Photographs, perspective sketches or cross-sections as necessary to adequately portray the alternative compliance request.
- 13. The exhibit plans should be highlighted to accurately illustrate the requested alternative compliance(s) to allow proper evaluation (i.e. proposed grading, tree clearing or other disturbances within environmentally sensitive areas or buffers).
- 14. Submit 2 sets of photographs for all existing on-site structures.
- 15. Identify the location of any existing wells and/or private septic systems.

16. **Route 1 Manual**
Compliance with the Route 1 Manual is required for new development and some alterations or enlargements located in the CE, TOD and CAC zoning districts and for other zoning districts located within the Route 1 corridor. All plan submissions, beginning with the initial subdivision or site development plan, shall show all applicable streetscape, site and building designs responding to the Route 1 Manual's requirements and recommendations. All plan submissions shall provide a written summary of how the proposed design achieves the objectives of the Route 1 Manual. Also, building design and schematic architectural elevation details must be included with the initial subdivision or site development plan submission.

17. **Route 40 Design Manual**
Compliance with the Route 40 Design Manual is required for new development and redevelopment projects located in the Traditional Neighborhood Center (TNC) zoning districts and on parcels located within the Route 40 Corridor as defined in the Route 40 Design Manual. All plan submissions within the Route 40 corridor, beginning with the initial subdivision or site development plan, shall show all applicable streetscape, site and building designs responding to the Route 40 Design Manual's requirements and recommendations. All plan submissions within the Route 40 corridor shall provide a written summary of how the proposed design achieves the objectives of the Route 40 Design Manual. Also, building design and schematic architectural elevation details must be included with the initial subdivision or site development plan submission.

18. **Property Deeds** – Information to confirm the legal creation or status of the property to be improved. (Copy of deeds from Howard County Land Records Office or record plat name and recording reference number). **A complete chronological deed history is required for all deeded residential properties. Provide 2 copies of the recorded deeds for the subject property tracing its history back to 1960.**

19. Please complete the following:

A pre-submission meeting was held with DPZ on _____ with
[date], if applicable.

[DPZ, Director, DLD Division Chief or other SRC representatives]

VI. **Fees**

The Alternative Compliance application fee shall be in accordance with the adopted fee schedule. All checks shall be made payable to the *Director of Finance*. **The petition will not be accepted for processing until the fee has been paid. Incomplete, incorrect or missing information may result in the rejection of the application and could cause additional time to be required to revise the application for resubmittal and re-review.** For more information or questions, contact DPZ at (410) 313-2350.

VII. **Owner's/Petitioner's Certification**

I/WE the undersigned fee simple owner(s) hereby make application to the Howard County Department of Planning and Zoning to provide an alternative compliance request of the minimum requirements of the Howard County Subdivision and Land Development Regulations. The undersigned hereby certifies the information supplied herewith is correct and complete, confirms that the regulations and policies as referred to in the attached are understood, and authorizes periodic on-site inspections by the Howard County Subdivision Review Committee agencies. ***If the applicant is the owner's agent, written documentation from owner granting that authority is required at the time of the submission.**

Owner's authorization attached *

_____	_____	<u>Peter L. Podolak</u>	<u>JULY 1, 2021</u>
(Signature of Property Owner) (Fee Simple Owner Only)	(Date)	(Signature of Petition Preparer) *	(Date)
_____		<u>PETER L. PODOLAK, PE</u>	
(Name of Property Owner)		(Name of Petition Preparer, Surveyor/Engineering/Architect or Agent/Developer)	
_____		<u>147 EAST MAIN STREET</u>	
(Address)		Address)	
_____		<u>WESTMINSTER, MD. 21157</u>	
(City, State, Zip Code)		(City, State, Zip Code)	
E-Mail _____		E-Mail <u>PETE@LAPODOLAK.COM</u>	
_____		<u>(410) 848-2229</u>	<u>(410) 848-2258</u>
(Telephone)	(Fax)	(Telephone)	(Fax)
Contact Person: _____		Contact Person: <u>PETE PODOLAK</u>	

**Howard County Department of Planning and Zoning
Division of Land Development**

**INITIAL SUBMISSION
ALTERNATIVE COMPLIANCE WORKSHEET
(For DPZ Use Only)**

Project Name _____ **DPZ File No.** _____
DPZ Plan Reviewer _____ **Submission Date** _____
Plan Consultant Representative PETE PODOLAK **Time** _____

- I. Application Requirements** *Indicate Yes, No or N/A*
- a. Application is complete YES
 - b. Required number of plans and applications are provided YES
 - Plans (15 sets on County Road or
 - Applications (19 sets on State Road)
 - c. Supplemental information is provided YES
 - d. Certification of pre-submission community meeting and summary of community comments with dated responses to all meeting attendees within 60 days is provided and three-week notice given to DPZ and County Council, if applicable N/A
 - e. Certification of pre-submission HPC advisory meeting for new projects in Historic District or listed in Historic Sites Inventory, if applicable N/A
 - f. Photographs of existing structures (for Historic Preservation Review) N/A
 - g. MAA Approval Letter (if applicable) N/A
 - h. Written summary of Route 1 Manual/Route 40 Design Manual compliance (if applic) N/A
 - i. DAP project design recommendation for Route 1/Route 40 projects N/A

- II. Fee Computation** Fee
- Number of alternative compliance sections requested _____
 - * Base Fee for first two alternative compliance sections (**\$450**) INC.
 - Fee for each additional alternative compliance section (___ additional alternative compliances x **\$50** each) _____
-
 * (Maximum fee of **\$350** for Agricultural Preservation parcels)

TOTAL

\$ 450⁰⁰

III. Certification

Cash Receipt No. _____ Amount _____
SAP Acct 1000000000-3000-3000000000-PWPW000000000000-432530

Check issued by _____

Alternative Compliance application is accepted for processing.

Scheduled SRC meeting date.

Alternative Compliance application is rejected.

Reason: _____

Resubmission is accepted. Date _____ Staff initials _____

Comments/Notes _____

From: Thomas Bundy <Thomas.Bundy@lawrencebundy.com>

Sent: Wednesday, June 23, 2021

To: Peter Podolak <pete@lapodolak.com>

Subject: Re: Pindell School Road

On Wed, Jun 23, 2021 at 12:44 PM Thomas Bundy <Thomas.Bundy@lawrencebundy.com> wrote:

Pete you are authorized to sign on my behalf. This email shall represent sufficient authorization.



Thomas Bundy / Partner / 240-786-4998

LAWRENCE & BUNDY LLC

