



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

December 21, 2022

Mr. James Fraser
6576 Prestwick Drive
Highland, MD 20777

Dear Mr. Fraser:

RE: WP-23-045, Greene Field Subdivision, Lot 19


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 December 15, 2022 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** 16.1205(a)(3) of the Subdivision and Land Development Regulations to remove 2 specimen trees (Specimen Trees #1 and #2 as identified on the Alternative Compliance Exhibit). 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 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 Brenda Luber at (410) 313-2350 or email at BLuber@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/bl

cc: Research
DLD - Julia Sauer
Real Estate Services
Benchmark Engineering
Marian Honeczy- DNR



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

ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

DEPARTMENT OF PLANNING AND ZONING
DEPARTMENT OF RECREATION AND PARKS
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-23-045, Greene Field, Lot 19**
Request for a variance to Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.

Applicant: James Fraser
6576 Prestwick Drive
Highland, MD 20777

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 Section 16.1205(a)(3) of the Forest Conservation Regulations. The purpose is to remove 2 specimen trees (Specimen Tree #1 – 38.5” Tulip Poplar and Specimen Tree #2 – 31” Tulip Poplar). The Directors deliberated the application in a meeting on December 15, 2022.

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 six (6) 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 site (Lot 19 of the Greene Field subdivision) is part of an approved Preliminary Equivalent Sketch Plan (SP-20-001) for the adjacent subdivision, Clarksville Crossing. Lot 19 provides vehicular access to Lots 5-10 (F-22-035, Clarksville Crossing, Phase 2). In order to provide this access and the associated stormwater management, Lot 19 required a new perc certification plan and revised sewage disposal area (SDA). For individual lots serviced by private sewage, the Code of Maryland Regulations (COMAR) requires the lot to designate a private sewage easement area of at least 10,000 square feet to accommodate the initial disposal system and two reserve areas. On June 28, 2022, percolation tests were conducted within the existing SDA under the supervision of Health Department staff. Perc locations A, B and C passed. Perc locations D & E failed due to unsatisfactory soils resulting in a SDA of less than 10,000 square feet. Based on this testing, a revised SDA was prepared for approval by the Bureau of Environmental Health Director, which has Specimen Tree #1 (38.5” Tulip Poplar in good to fair condition) and Specimen Tree #2 (31” Tulip Poplar in good condition) within the reserved area. If the initial system fails, these trees would require removal. The applicant has considered two alternatives as possible locations for the new SDA. The first alternative area was located in the front of the house; however, this would impact a 30.5” white oak in good condition, a 33” and a 31” tulip poplar both in good condition. The second alternative was

located at the rear of the house; however, this area was eliminated due to the location of the existing well and the need to provide a minimum 100' setback between the well and SDA. In addition, both of these alternatives would require installation of a pump and pump tank resulting in a hardship to the property owner as the existing/reconfigured SDA is provided by gravity flow. Therefore, the special conditions associated with percable soils, location of specimen trees and directional flow are peculiar to this property and create an unwarranted hardship requiring relief from strict application of the regulations.

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

Based on COMAR, the property must provide a 10,000 square foot SDA to support the existing house. During the percolation testing for the revised SDA, it was determined that the existing reserved SDA would fail (identified as Perc D & E on the Alternative Compliance Exhibit) if needed for the existing house. The SDA requires the initial install and 2 reserve systems. Without the minimum SDA, the property would not be considered buildable, which is a right enjoyed by others that are not located in the Planned Service Area and do not have access to public water and sewer.

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, which include small filtering processes to address water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the grading permit as part of the Clarksville Crossing subdivision.

The initial trench system is not within the area of Specimen Trees #1 and #2, and the wooded buffer will remain until the second system is necessary. The area disturbed by the initial system will be protected with perimeter sediment controls. The owner will replace the two trees with four 3" DBH native shade trees (tulip poplars). No new impervious area is associated with this variance, it is only to allow the removal of the trees for sewage disposal if and when the reserved SDA is needed. The granting of the variance is a step towards permitting a new sewage disposal system within an area that is better suited for the disposal of the sewage which is a benefit for water quality as the existing SDA contained an unsatisfactory soil.

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 variance, if granted, does not confer a special privilege to the owners as it will allow on-site sewage disposal at a location that is contiguous with the passing percolation tests and is gravity flow from the existing house. The owner intends to continue using the sewage line out of the house currently located under the driveway. The applicant will provide four (4) native shade trees for mitigation of the two (2) specimen trees, which will be removed if the reserved SDA is needed.

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

The current owners were not involved in the 1985 percolation testing or the platting of the Greene Fields subdivision. The owners purchased the property assuming that the platted sewage disposal area was valid. It was not until the subsurface exploration was completed that the issue was revealed. The owners must provide 10,000 square feet of sewage disposal area per COMAR. The applicant would not be allowed to provide the required 10,000 square foot SDA if the specimen trees cannot be removed.

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 condition of a failed reserve arose from a condition relating to land or building use, either permitted or nonconforming on a neighboring property. The proposed subdivision on the neighboring property alerted the property owner that their existing SDA contained unacceptable soils for the 2 (two) required SDA reserves. The proximity of the specimen trees to the existing platted sewage disposal area and the recently failing percolation test results make a condition where the sewage disposal area has to be relocated while still maintaining 10,000 square feet of disposal area. In addition, because of the location of the well on adjacent Lot 18, the SDA for Lot 19 could not be relocated to the area proposed as Bio #1 (F-6) as a 100-foot distance is needed between the existing well and SDA.

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

1. The alternative compliance approval is limited to the removal of Specimen Trees #1 and #2 only as depicted on the exhibit. These trees may be removed when the reserved SDA is needed to serve the existing house. Any proposal to remove any other specimen tree will require a new alternative compliance request.
2. Add the following note to the redline (F-86-102) and plat for the Greene Field subdivision, "WP-23-045 was approved on (enter date). Specimen Trees #1 and #2 are to be retained on site until the reserved SDA is needed and their removal is required in writing by the Health Department. Mitigation for the removal of these specimen trees has already been provided on F-86-102. The subdivision will be under an approved Forest Conservation Plan (FCP) for a minimum of three years from the recordation date of the plat (F-22-035). Specimen tree protection in this note is only effective while there is an active (FCP)."
3. A minimum of 4 (four), native 3" caliper, shade trees shall be provided as mitigation for the removal of the two (2) specimen trees from the property. The road construction drawings for F-86-102 must be red-lined showing the mitigation for the specimen tree removal and the vehicular access easement to serve the adjacent subdivision. The 4 (four) mitigation trees must be planted on or before (within 6 months from approval of WP-23-045).

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

3241B974513F4B7...

Joshua Feldmark, Administrator

Office of Community Sustainability

cc: Research
OCS, Joshua Feldmark
DRP, Raul Delerme

Section Reference No.	Brief Summary of Request

Signature of Property Owner:



Date: 10/18/2022

Signature of Petitioner Preparer:

Date:

Name of Property Owner: James Fraser

Name of Petition Preparer: Benchmark Eng., Inc.

Address: 6576 Prestwick Drive

Address: 3300 North Ridge Road
Suite 140

City, State, Zip: Highland, MD 20777

City, State, Zip: 21042

E-Mail: jfraser@handrock.com

E-Mail: bei@bei-civilengineering.com

Phone No.: 410-567-1046

Phone No.: 410-465-6105

Contact Person: Jamie Fraser

Contact Person: John Carney

Owner's Authorization Attached