



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

February 13, 2023

Attn: Don Reuwer
Waverly Investors, LLC.
8318 Forrest St., Ste. 200
Ellicott City, MD 21043
Via Email: dreuwer@ldandd.com

RE: WP-23-063 Primrose School


Dear Mr. Reuwer:

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 February 2, 2023, 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 develop the property with a day care facility, which will require the removal of three specimen trees. 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, 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 Kathryn Bolton at (410) 313-2350 or email at kbolton@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/kb

cc: Research
DLD - Julia Sauer
Real Estate Services
Marian Honecny- DNR
MBA, Sam Alomer – solamer@mba-eng.com



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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-23-063 Primrose School**
Request for a variance to Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.

Applicant: **Waverly Investor, LLC.**
Don Reuwer
8318 Forrest St., Ste. 200
Ellicott City, MD 21043
Email: dreuwer@ldandd.com

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 develop the property with a day care facility, which will require the removal of three specimen trees. The Directors deliberated the application in a meeting on February 2, 2023.

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 proposed site has seven specimen trees on an irregularly shaped, triangular lot. The critical root zones (CRZ) of the specimen trees cover a large portion of the developable area, which is further constrained due to the irregular shape of the lot. The applicant is requesting to remove three of the seven specimen trees onsite. Specimen trees #4 and #6 are in poor condition and further impact to their CRZ may be detrimental to the tree's health. The entrance to the site is predetermined due to sight distance constraints and located at the southern end of the property. The driveway up to the parking area will impact the entire CRZ of specimen tree #6, as it is centrally located to the access and proposed parking. Specimen tree #8 is in good health, but the entire CRZ will be impacted by the proposed development because of the significant grading required to obtain a reasonable slope onsite. The shape of the property limits the siting of the day care facility while meeting setback requirements, parking needs, and stormwater management onsite. Requiring the trees to remain would be an unwarranted hardship, as any development of the property would be impractical given the constraints of the property shape, area of the CRZs, access location, and stormwater management requirements.

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 deprive the applicant reasonable development of the property based on the special conditions described above. The central location of the specimen trees would make reasonable development of the property difficult. Two of the specimen trees with proposed impacts to the CRZ are currently in poor condition and avoiding major impacts to CRZ of specimen tree #6 would be impractical given its location in the developable area of the site and relative to the placement of the site access point.

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 includes small filtering processes to address water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the grading permit.

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 granting of this variance will not confer on the applicant a special privilege that would be denied to other applicants. The central location of the specimen trees on an irregularly shaped lot creates a practical difficulty that precludes reasonable development of the site.

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

The conditions and circumstances for this request are not the result of actions by the applicant. The conditions are based on the naturally occurring environmental features onsite and irregular shape of the property.

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 the conditions 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 Specimen Tree Assessment prepared by a certified arborist, which includes images of all specimen trees onsite and detailed descriptions of their condition. Specimen tree #5 will also be impacted by the grading requirements of the site, but the applicant proposes to protect the tree by construction of a retaining wall. The established access from state road MD Route 104 and the limited developable area limits placement of the structure to the areas proposed in the plan. SHA has reviewed the access point and finds it is in the appropriate location on the site given site distance and adjacency to the exiting public road intersection.

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 #4, #6, and #8 only as depicted on the exhibit. Any proposal to remove any other specimen tree will require a new alternative compliance request or an amendment to this alternative compliance request.
2. A minimum of 6 (six) native, 3" DBH, shade trees shall be provided as mitigation for the removal of the 3 (three) specimen trees from the property. Landscaping surety in the amount of \$300.00 per tree shall be provided with the applicant's grading permit as part of the site development plan.

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

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Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
OCS, Joshua Feldmark
DRP, Raul Delerme
MBA, Sam Alomer – solamer@mba-eng.com



Howard County Maryland
Department of Planning and Zoning
 3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:

File No. *WP-23-063*

Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: 4959 WATERLOO RD, ELKRIDGE 21075

Subdivision Name/Property Identification: PRIMROSE SCHOOL

Location of property: ADC MAP: 17 (G-7)

Existing Use: RESIDENTIAL **Proposed Use:** CONDITIONAL USE -CHILD DAY CARE CENTER

Tax Map: 31 **Grid:** 8 **Parcel No:** 169 **Election District:** FIRST

Zoning District: R-20 **Total site area:** 2.52 ACRES

Please list all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.). If no previous plans have been submitted, please provide a brief history of the site and related information to the request:

ECP-22-055
 SDP-23-025

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 brief summary of the request.

Section Reference No.	Brief Summary of Request
16.1205(a) (3)	Allow removal of three specimen tree.

Signature of Property Owner:



Date:

Signature of Petitioner Preparer:

Date:

Name of Property Owner: WAVERLY INVESTORS

Name of Petition Preparer: Mildenberg Boender & Assoc.

Address: 8318 FORREST ST. suite 200

Address: 8318 Forrest St., suite 300

City, State, Zip: ELLICOTT CITY, MD 21043

City, State, Zip: Ellicott City, MD 21043

E-Mail: dreuwer@ldandd.com

E-Mail: salomer@mba-eng.com

Phone No.:

Phone No.: 410-997-0296

Contact Person: Don Reuwer

Contact Person: Sam Alomer

Owner's Authorization Attached