



# 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

September 23, 2020

Mr. Mark Levy  
Clarksville NL LLC  
c/o H&H Rock Companies  
6800 Deerpath Road, Suite 100  
Elkridge, MD 21075

RE: WP-20-016, Clarksville Crossing, Phase 2  
**Revised Letter**

Dear Mr. Levy:

The purpose of this letter is to inform you that the Final Decision Action Report approved on September 17, 2020, by the Director of the Department of Planning and Zoning, Director of the Recreation and Parks and Administrator of the Office of Community Sustainability erroneously listed specimen tree #36 as one of the 13 approved specimen trees to be removed instead of specimen tree #35. Please consider this letter a correction to the Final Decision Action Report approving the removal of specimen tree #35 and requiring the retention of specimen tree #36.

We apologize for any inconvenience or confusion this error has created. If you have any questions, please contact Brenda Luber at (410) 313-2350 or email at [BLuber@howardcountymd.gov](mailto:BLuber@howardcountymd.gov).

Sincerely,

Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/bl

cc: Research  
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# 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

September 21, 2020

Mr. Mark Levy  
Clarksville NL LLC  
c/o H&H Rock Companies  
6800 Deerpath Road, Suite 100  
Elkridge, MD 21075

Dear Mr. Levy:

RE: WP-20-016, Clarksville Crossing, Phase 2

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 September 17, 2020, 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 13 of the 104 specimen trees identified on-site. Please see the attached Final Decision Action Report for more information.

On September 15, 2020, and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and **approved** your request for alternative compliance with respect to **Section 16.120(c)(2)** of the Subdivision and Land Development Regulations to allow Lots 7-12 of the Clarksville Crossing subdivision to share an access easement instead of providing public road frontage.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of **Section 16.120(c)(2)** would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the four (4) items you were required to address, pursuant to Section 16.104(a)(1):

**1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas.**

The subject property is restricted due to the location of the environmental features which bisect the property thus preventing 6 of the lots from obtaining access through Phase I onto Clarksville Pike. Given these existing physical site constraints, there is limited means of access to the rear portion of the parcel. In order to avoid impact to the existing environmental features, the applicant is proposing to provide access to these 6 lots via an access easement located on an adjacent lot which fronts onto Prestwick Drive. Adjacent Lot 19 must maintain a minimum lot size which does not allow removal of enough land area to provide fee simple pipestems for the Clarksville Crossing lots. Although this is a technical modification to the regulations, the appearance of the access drive through the easement to these homes

will appear as if the pipestems conformed to the regulations and met Prestwick Drive directly. Strict conformance with the requirements will deprive the applicant of development rights commonly enjoyed by others in similar areas whom use use-in-common driveways from ROW to access the development parcels and would have significant impact on the existing environmental features which bisect the site.

**2. Uniqueness of the property or topographical conditions would result in practical difficulty; other than economic, or unreasonable hardship from strict adherence to the regulations.**

The property contains a perennial stream, floodplain, wetlands and steep slopes. Public road access is limited to Clarksville Pike, however, environmental features bisect the parcel and it is not desirable to construct a public road across the unnamed tributary for access to the remaining developable area. Instead the petitioner proposes a private driveway through adjoining Lot 19 for ingress/egress to Prestwick Drive. Adjacent Lot 19 must maintain a minimum lot size which does not allow removal of enough land area to provide fee simple pipestems for the Clarksville Crossing lots. These conditions limit the developable area of the property and strict adherence to the regulations would create a practical difficulty for the owner to develop the site with single-family homes. The owner intends to fulfill the forest conservation requirements onsite by retaining existing forest and planting trees within public forest conservation easements.

**3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants.**

Approval of this alternative compliance request will not confer to the applicant a special privilege that would be denied to other applicants. When the development of a site is restricted due to unique site conditions, alternative compliance requests have been approved to protect environmental features from impacts such as public roads or vehicular access easements. The use of the shared driveway will allow the lots to obtain vehicular access without traversing or impacting the environmental features bisecting this parcel. Furthermore, if the property had fee simple frontage on Prestwick Drive, the use of a shared driveway would be permitted by right and encouraged by the County because the cost, time and resources of maintaining a public road by the County is not practical for development of six or fewer lots on properties that do not have further subdivision potential.

**4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.**

Approval of the alternative compliance request will be beneficial to the public interest since it will allow for the creation of a more uniform lot layout and will allow for the long-term protection of the environmental features and forest within public forest conservation easements. In addition, the shared driveway to be constructed on Lot 19 has been placed between the existing house and septic so that existing trees are preserved to provide a buffer for neighboring Lot 18. This shared driveway will coincide with the existing driveway onto Prestwick Drive to minimize impact to neighbors. Additionally, the use of a narrower shared driveway, instead of a public roadway, will create a smaller area of disturbance. The shared driveway is 24' wide with 16' of pavement. Whereas, a public roadway would require a 50' width and 22' of pavement, a 4' shoulder, 4' to the center of the roadside swale and then 4' to tie the swale back into the existing grade resulting in a disturbed width of 46'.

**Director's Action:** Approval of this Alternative Compliance is subject to the following conditions:


Conditions for approval of Section 16.120(c)(2):

1. A Plat of Revision for Lot 19 of the Greene Fields subdivision providing the shared access easement to serve Lots 7-12 must be recorded prior to the recordation of the final plat for Clarksville Crossing, Phase 2.
2. A use-in-common maintenance agreement for Lots 7-12 must be recorded with the Plat of Revision of Lot 19 of the Greene Fields subdivision.

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 Lubert at (410) 313-2350 or email at [BLubert@howardcountymd.gov](mailto:BLubert@howardcountymd.gov).

Sincerely,



Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/bl

- cc: Research  
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3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350  
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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-20-016, Clarksville Crossing, Phase 2**  
*Request for a variance to Section 16.1205(a)(3) of the Subdivision and Land  
Development Regulations.*

**Applicant:** **Clarksville NL LLC**  
c/o H&H Rock Companies  
6800 Deerpath Road, Suite 100  
Elkridge, MD 21075

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 13 of the 104 specimen trees identified on-site. The Directors deliberated the application in a meeting on September 17, 2020.

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 property contains environmental features consisting of streams, wetlands, floodplain, steep slopes and 104 specimen trees. Thirteen of the 104 specimen trees are proposed for removal. The well and septic areas have been predetermined based on percolation testing. In addition, the environmental features which bisect the parcel prohibit the 6 lots from obtaining access via Clarksville Pike and necessitating that all access come through adjacent lot 19. A site visit confirmed that 9 of the 13 specimen trees to be removed were determined to be in fair to poor condition. The 4 remaining trees are located within the area of the sewage disposal area or within the area of the house location. These conditions cause an unwarranted hardship because they limit the potential building envelopes for construction of homes.

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

Enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others because the property is severely restricted due to the location of the environmental features and approved well and septic areas. Requiring the preservation of all 104 specimen trees would restrict the property from recording the buildable lots. The proposed subdivision has been designed to maintain a large portion of contiguous forest including the preservation of 91 of the 104 specimen trees identified on the property. The retained forest will be placed within a record forest conservation easement to provide future protection of this area.

**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.

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

Granting of the requested variance will not confer on the applicant a special privilege that would be denied to other applicants because the removal of the thirteen specimen trees is essential for the construction of the houses due to the limited availability where passing percolation tests are available. The design of the proposed subdivision will preserve most of the existing forest onsite within public forest conservation easements. The applicant has demonstrated through several resubmissions that every effort was made to minimize the impact to the existing specimen trees on site and to reduce the total number considered for removal.

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

The buildable area on the property is limited due to the environmental features, access to the site and the availability of adequate septic areas. These conditions are not a result of actions by the applicant.

**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 arose from a condition relating to land or building use on a neighboring property. The unique condition results from the environmental features on the parcel which bisect the site and hamper the ability to develop with strict adherence to the regulations.

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

1. The alternative compliance approval applies only to Specimen Trees #3, #4, #24, #31, #34, #36, #40, #41, #57, #74, #77, #80 and #83 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 that are proposed to remain. Include details of the proposed tree protection measures on the Final subdivision plans.

2. The removal of Specimen Trees #3, #4, #24, #31, #34, #36, #40, #41, #57, #74, #77, #80 and #83 will require the planting of 26 native shade trees onsite. The trees shall be a minimum of 3" diameter at breast height and shall be shown on the landscaping and forest conservation plan sheets as part of the final subdivision plans for Phase 2. The trees will be bonded along with the required perimeter landscaping.

DocuSigned by:

*Amy Gowan*

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Amy Gowan, Director  
Department of Planning and Zoning

DocuSigned by:

*Raul Delorme*

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Raul Delorme, Director  
Department of Recreation and Parks

DocuSigned by:

*Josh Feldmark*

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Joshua Feldmark, Administrator  
Office of Community Sustainability

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