



# 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

July 30, 2020

Nicholas Lally  
14830 Old Frederick Road  
Woodbine, MD 21797

RE: WP-20-101 McCann Estates East

Dear Mr. Lally:

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 July 30, 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 two specimen trees. Please see the attached Final Decision Action Report for more information.

On July 27, 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(b)(4)(iii)(b)** of the Subdivision and Land Development Regulations to allow Lots 1-3 of the McCann Estates subdivision to contain wetlands, streams, floodplain and/or forest conservation easements.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.120(b)(4)(iii)(b) 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 existing historic house, the limited area for sewage disposal, the access location onto the public road and the extensive environmental features. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas since the applicant is proposing to retain the existing historic house. Given the location of the house and the physical site constraints, there is limited remaining area available to subdivide the property into buildable lots.*

**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 the terminus of McCann Farm Road and the locations of the sewage disposal areas are restricted due to the results of soil percolation testing by the Health Department. The property also contains a historic house which*

*will be retained on Lot 2. 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 retain environmental features on lots and to remove specimen trees. The subject property contains extensive environmental features and the locations of the approved sewage disposal areas, public road access and existing historic house further restrict the developable area.*
- 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.*

**Director's Action:** Approval of alternative compliance of Section 16.120(b)(4)(iii)(b) is subject to the following conditions:

1. An Environmental Setback shall be established on the final plat as 35' from any stream buffer, wetland buffer, steep slope, floodplain or forest conservation easement on the proposed lots.
2. A minimum of 100' shall be provided between the proposed forest conservation easements and any dwelling on the lots.
3. A minimum of 10' shall be provided between the proposed forest conservation easements and any well areas or sewage disposal areas.
4. The existing pond outfall structure and spring house structure will not be permitted within a forest conservation easement.
5. The existing overhead electric utility line must be removed from the proposed forest conservation easement areas prior to recordation of the plat.
6. No grading, removal of vegetative cover or trees, paving or new structures will be permitted within the limits of 100-year floodplain, steep slopes, wetlands, streams or their required buffers in accordance with Sections 16.115 and 16.116 of the Subdivision and Land Development Regulations.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval, and date on all related plats 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 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](mailto:ebuschman@howardcountymd.gov).

Sincerely,

DocuSigned by:

*Anthony Cataldo*

Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/eb

cc: Research  
DED  
DLD - Julia Sauer  
Real Estate Services  
Marian Honeczy- DNR  
Mildenberg, Boender & Assoc, Inc.



# 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-20-101 McCann Estates East**  
*Request for a variance to Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.*

**Applicant:** Nicholas Lally  
14830 Old Frederick Road  
Woodbine, MD 21797

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 two specimen trees. The Directors deliberated the application in a meeting on July 30, 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 13 specimen trees. A historic house exists on the property, which is proposed to remain on Lot 2. The well and septic areas have been predetermined based on percolation testing and public road access is limited to the terminus of McCann Farm Road. These conditions cause an unwarranted hardship because they limit the potential building envelopes for construction of homes. Two of the 13 specimen trees are proposed to be removed to accommodate single-family 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 historic house, environmental features and approved well and septic areas. Given the low-density zoning, the property is only eligible to create four or fewer buildable lots. Requiring the preservation of all 13 specimen trees would restrict the property even further and potentially further limit the number of buildable lots. The proposed subdivision has been designed to maintain the character of the existing historic house by placing it on the largest lot with comfortable setbacks from the other homes. The majority of the forest onsite will be preserved and placed within public forest conservation easements.

**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 two specimen trees is essential for the construction of the houses due to the limited availability of buildable area on the property. The design of the proposed subdivision will preserve the majority of the existing forest onsite within public forest conservation easements and the owner is proposing to utilize tree protection fencing and other measures to protect the remaining specimen trees during construction.

**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 location of the existing historic house, environmental features, public road access 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.**

The condition did not arise from a condition relating to land or building use on a neighboring property.

**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 #2 and #8 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 #2 and #8 will require the planting of four native shade trees onsite. The trees shall be a minimum of 3" caliper and shall be shown on the landscaping and forest conservation plan sheets as part of the final subdivision plans for Parcel 27B. The trees will be bonded along with the required perimeter landscaping.

DocuSigned by:  
  
5B4D5DD9470C4B411  
Amy Gowan, Director  
Department of Planning and Zoning

DocuSigned by:  
  
88D7437082724B411  
Raul Delorme, Director  
Department of Recreation and Parks

DocuSigned by:



3241987484F01  
Joshua Feldmark, Administrator  
Office of Community Sustainability

cc: Research  
DED  
OCS, Joshua Feldmark  
DRP, Raul Delerme  
Mildenberg, Boender & Assoc, Inc.



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

(410) 313-2350

DPZ Office Use only:  
 File No.  
 Date Filed

**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:** 14830 OLD FREDERICK ROAD, WOODBINE, MD. 21797

**Subdivision Name/Property Identification:** McCANN ESTATES section 1

**Location of property:** ADC MAP: 10 A-6

**Existing Use:** RESIDENTIAL

**Proposed Use:** RESIDENTIAL

**Tax Map:** 46

**Parcel No:** 27 B

**Election District:** FOURTH

**Zoning District:** RC-DEO

**Total site area:** 10.03 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:**

WP-20-006  
 ECP-19-045  
 F-20-029

**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)         | removal of only 2 of 13 trees to accommodate the construction of the houses on proposed lots 1 and 3              |
| 16.120(b)(iii)(b)     | allow floodplains, wetlands, streams, their buffers, and forest conservation easements on lots less than 10 acres |
|                       |   |
|                       |   |
|                       |   |

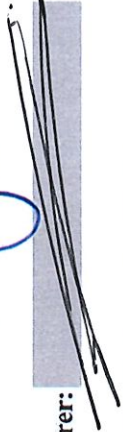
Signature of Property Owner:



Date:

3.31.2020

Signature of Petitioner Preparer:

~~~~

Date:

3.31.2020

Name of Property Owner: NICHOLAS J. LALLY

Name of Petition Preparer: Mildenberg Boender & Assoc.

Address: 14830 OLD FREDERICK ROAD

Address: 7350 B Grace drive

City, State, Zip: WOODBINE, MD 21797

City, State, Zip: Columbia, MD, 21045

E-Mail: nlally@continentalpools.com

E-Mail: salomer@mba-eng.com

Phone No.: 410-489-7744

Phone No.: 410-997-0296

Contact Person: NICHOLAS J. LALLY

Contact Person: Sam Alomer



Owner's Authorization Attached





Val Lazdlins, Director

[www.howardcountymd.gov](http://www.howardcountymd.gov)

FAX: 410-313-3467

TDD: 410-313-2323

Certification of Applicant

Advisory Comment – In accordance with Section 16.1103 of Subtitle 11, "Adequate Public Facilities Ordinance" (APFO), all residential subdivisions or site development plans (if subdivision is not required) are required to pass the tests for adequate public school facilities as a condition of approval, except those listed as exemptions under Section 16.1107.

I hereby certify that the information supplied herewith is correct and complete and authorize such periodic on-site inspections by the Department of Planning and Zoning and the Subdivision Review Committee agencies as may be necessary to review this application and any waiver petitions filed in connection herewith and to enforce the Subdivision Regulations and other applicable laws. This right-of-entry shall continue until all administrative appeals pertaining to the property have been exhausted. \*If the applicant is the owner's agent, written documentation from the property owner granting that authority is required.

MLL NICHOLAS LALLY 3-7-19  
(Signature of Property Owner/Agent)\* (Print Name of Owner/Agent) (Date)

nlally@continentalpools.com  
(Property Owner's Email Address)

14830 Old Frederick Rd woodbine, MD 21797  
(Property Owner's Address) (State and Zip Code)

301-498-2709  
(Property Owner's Fax Number)\*