



# 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

May 6, 2021

Billy Goat Holdings, LLC  
30 Courthouse Square Unit 206  
Rockville, MD 20850

RE: WP-21-021 Nordau Subdivision Lots 63-65 &  
Open Space Lot 66, **APPROVED** the removal of 5 specimen trees  
and **DENIED** the removal of 1 specimen tree

Dear Mr. Peters:

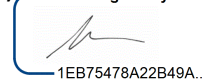
This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

On April 16, 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** the removal of 5 specimen trees and **DENIED** the removal of 1 specimen tree of the proposed 6 specimen trees included in the applicant's request for a variance with respect to **Section 16.1205(a)(3)** of the Howard County Forest Conservation Regulations. 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 Donna Despres at (410) 313-3429 or email at [dledespres@howardcountymd.gov](mailto:dledespres@howardcountymd.gov).

Sincerely, DocuSigned by:



Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/DD

Attachment: Directors Action Report

cc: Research [Section 16.1205(a)(3) - 6 tree req/ 5 tree app]  
DED  
DLD - Julia Sauer  
Real Estate Services  
Marian Honecny- DNR  
Vogel Engineering + Timmons Group



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## ALTERNATIVE COMPLIANCE DECISION ACTION REPORT

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

**RE:** **WP-21-021 Nordau Subdivision Lots 63-65 & Open Space Lot 66**  
(F-20-032 Nordau Lots 63-65 & Open Space Lot 66)  
*Request for a variance to Section 16.1205(a)(3) of the Forest Conservation Regulations.*

**Applicant:** Billy Goat Holdings, LLC  
30 Courthouse Square Unit 206  
Rockville, MD 20850

The above referenced application to remove 6 specimen trees was reviewed on December 4, 2020. That review resulted in a Revise and Resubmit request of the applicant. The revised proposal was reviewed on April 16, 2021. Pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Department of Recreation and Parks and Administrator of the Office of Community Sustainability considered and **APPROVED** the removal of 5 specimen trees and **DENIED** the removal of 1 specimen tree of the proposed 6 specimen trees included in the applicant's request for a variance with respect to **Section 16.1205(a)(3)** of the Howard County Forest Conservation Regulations.

In regards to specimen trees 1-5, each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unwarranted hardship. This determination is made with consideration of the variance application and the seven (7) items the applicant was required to address, pursuant to Section 16.1216(c)(1)-(7).

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

The subject property is extremely long (1,000') and narrow (100') which limits the flexibility to create lots. The topography falls approximately 40' from Mission Road on the north to the southern boundary. The southern portion of the property (approximately 45% of the total property area) is encumbered with wetlands, streams and buffers which are proposed to be in an open space lot and protected by a Forest Conservation easement.

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

The adjoining properties were developed with differing densities. For example, an adjacent subdivision on the west, Nordau Subdivision Section G (Lots 34-37), F-01-019 was developed with a minimum Lot size of 10,800 SF. An adjacent subdivision to the east, Nordau Subdivision Block 'G' (Lots 28 & 29), F-89-251 was developed with larger lots of variable sizes; Lots 28 is 2.39 ac. and Lot 29 is 29,490 SF. The proposed lots 63-65 is situated between these two very different lot sizes. Enforcing the regulations and denying removal of any of the specimen trees would deny the property owner the ability to subdivide the lot any further. Permitting the

removal of Specimen trees 1-5 was determined by the Directors to permit the reasonable development of the property in a manner similar to other parcels in the 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 existing house is in disrepair and there is trash throughout the site. There are no existing storm water quality features. The subdivision is subject to current Environmental Site Design criteria which includes rain gardens and bioretention facilities in accordance with the Maryland Department of the Environment. Sediment and erosion control will be provided as approved by the Howard Soil Conservation District. Howard County will inspect and monitor the sediment control through the permit and inspection process. The permanent water quality features are subject to perpetual inspections.

**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 removal of the specimen trees is required to construct the homes, use in common driveway and storm water management facilities. The property is zoned R-12 and surrounded by R-12 zoned properties. Subdividing a 2.3 acre R-12 property into two or three buildable lots is not a special privilege that would be denied others in the same zone. Denial of this variance would prohibit access to the property and given the presence of the wetlands, streams and buffers, the removal of some of the specimen trees is necessary to develop the portion of the lot outside these environmentally sensitive features.

**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 are not a result of the applicant's actions. Research indicates Nordau Subdivision Section 'G' Lot 2 was created in 1936 (PB 1 F 75). The boundaries remained unchanged. It is estimated that the existing house was constructed in the 1960's. The current owner purchased the property in 2018. The streams, wetlands and their buffers were present at the time of the purchase and the limited development potential was pre-existing.

**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; and**

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.**

Specimen Tree #5 is dead and should be removed. The removal of Specimen Trees 1-5 will be mitigated by planting native trees with a DBH of 3" at a ratio of 2:1.

In regards to Specimen Trees #6, each Department hereby determines that the applicant has not demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unwarranted hardship. This determination is made with consideration of the variance application, the revised application and the seven (7) items the applicant was required to address, pursuant to Section 16.1216(c)(1)-(7). The Department of Recreation and Parks certified arborist found Specimen Tree #6 to be in 'Good' to 'Fair' condition (closer to Good than Fair) and should be protected by the parameters of the Forest Conservation easement, if possible. The intent of the Forest Conservation

ordinance is better served by protecting the forest canopy and specimen trees in an easement that is easily recognizable and enforceable.

Section 16.104(a)(1)(ii) of the Subdivision & Land Development Regulations prohibits granting of variances for reasons of economic hardship. Section 16.1216(c) of the Subdivision Regulations is specific to Forest Conservation and also states: "...increased cost or inconvenience...does not constitute unwarranted hardship...". The applicant's justification identified: "...retention of ST#6 is not feasible without the loss of the third lot...". The Directors did not find this justification to meet the hardship requirements of the regulations. In addition, other properties in the original Nordau Subdivision have the same 100' x 1000' boundary and have subdivided into 2 buildable lots. Denying the removal of ST-6 would not prevent the applicant from subdividing into two lots or exploring other development options available to the R-12 Zoned property.

**Directors Action:** Approval of this alternative compliance is subject to the following conditions:

1. Approval is for Specimen Trees #1-5 only.
2. Mitigation of removal of the specimen trees will be provided with planting native trees with a DBH of 3" at a ratio of 2:1.
3. Include this alternative compliance petition decision as a general note on the final and site development plans. The note shall include the petitions file number, regulatory sections, the decision date and the conditions of approval.
4. Final plans, F-20-032 Nordau Subdivision Lots 63-65 & Open Space Lot 66 shall be redesigned to protect Specimen Tree #6 and 70% or more of its critical root zone. The tree should be included within the Forest Conservation Easement if possible.

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  
Vogel Engineering & Timmons Group



DPZ Office Use only:  
 File No. *WP-21-021*  
 Date Filed *9/10/20*

**ALTERNATIVE COMPLIANCE APPLICATION**

Site Description: *NORDEW SUBDIVISION LOTS 63-65 AND GREEN SPARKS LOT 66*

Subdivision Name/Property Identification: *RESUBDIVISION OF NORDEW PROPERTY, SECTION G, LOT 2*

Location of property: *8763 MISSISSIPPI ROAD*

Existing Use: *VACANT RESIDENTIAL* Proposed Use: *SFD RESIDENTIAL*

Tax Map: *42* Grid: *24* Parcel No: *106* Election District: *6TH*

Zoning District: *R-12* Total site area: *2.3 AC*

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:


*F-20-032*

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. Please use the additional page if needed.

Section Reference No.	Brief Summary of Request
<i>16.1205(a)(3)</i>	<i>REMOVAL OF SPECIMEN TREES</i>

Section Reference No.	Brief Summary of Request

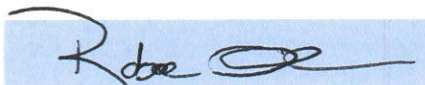
Signature of Property Owner:



Date:

7-9-20

Signature of Petitioner Preparer:



Date:

7-9-20

Name of Property Owner:

Billy Goat Holdings, LLC

Name of Petitioner Preparer:

Vogel Engineering + Timmons Group

Address:

30 Courthouse Square - Unit 206

Address:

3300 N. Ridge Road, Suite 110

City, State, Zip:

Rockville, MD 20850

City, State, Zip:

Ellicott City, MD 21043

E-Mail:

E-Mail:

rob.vogel@timmons.com

Phone No.:

301-300-3696

Phone No.:

410-461-7666

Contact Person:

James Peters

Contact Person:

Robert H. Vogel

Owner's Authorization Attached