



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

January 3, 2023

Avoca Manor, LLC
Jacob Hikmat, P.E.
5550 Sterrett Place, Suite 103
Columbia, MD 21044

RE: F-21-070 Avoca Manor – Lots 1-7

Dear Mr. Hikmat:

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 October 13, 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 **partially approved** your request for a variance with respect to **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove six (6) specimen trees which are greater than 30" in diameter. Please see the attached Final Decision Action Report for more information.

On January 3, 2023 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 16.119(f)(1)**, **Section 16.120(a)(1)** and **Section 16.120(b)(4)(iii)(b)** of the Subdivision and Land Development Regulations to allow the existing historic house to maintain the current access from Montgomery Road and allow the environmental features on the site to be placed on Lot 1 which is less than 10-acres in size. The Department of Planning and Zoning also **approved** your request to **Section 16.121(a)(2)**** to allow the lot size of Lots 2-7 to be below the minimum lot size requirement and **Section 16.127(c)(4)(i)** to allow individual driveways for Lots 2-7 instead of a shared use-in-common driveway.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.119(f)(1), Section 16.120(a)(1), Section 16.120(b)(4)(iii)(b), Section 16.121(a)(2)** and Section 16.127(c)(4)(i) 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.

Section 16.121(a)(2) requires that a R-20 infill subdivision has a minimum lot size of 18,000 SF if additional open space is dedicated to the County. The applicant is not proposing to dedicate any open space to the County and therefore must maintain a 20,000 SF lot size per lot. The design provided by the applicant has the lot sizes as follows:

Lot 1 – 143,207 sf (3.29-acres)

Lot 2 – 12,177 sf (0.28-acres)

Lot 3 – 13,887 sf (0.32-acres)

Lot 4 – 12,962 sf (0.30-acres)

Lot 5 – 15,862 sf (0.36-acres)

Lot 6 – 14,398 sf (0.33-acres)

Lot 7 – 13,550 sf (0.31-acres)

The applicant is seeking to maximize the area of Lot 1 to fully contain the wetland, wetland buffer, stream, stream buffer and forest conservation easements. Not allowing the reduction of lot sizes as shown above will force the applicant to revert to the alternative proposal which is not consistent with the surrounding Knollview Subdivision.

Approval of the waiver to Section 16.121(a)(2)** would permit environmental features on the newly created lot 1 but would not address the Forest Conservation easement under Section 16.120(b)(4)(iii)(c). Concurrently, Section 16.120(b)(4)(iii)(b) requires that environmental features and forest conservation easements may only be allowed on lots greater than 10-acres in size. Therefore, the applicant is requesting relief from this section to allow the environmental features and the proposed forest conservation easements to be placed solely on proposed Lot 1 which is 3.29-acres in size. The proposed 1.7-acres of forest conservation easements will fully encompass the wetland, stream and associated buffer and therefore provide additional protection of the environmental features. This design also helps maintain the scenic nature of the existing dwelling from Montgomery Road and because of the larger size, allows for a usable yard area for the existing dwelling. Proposed Lots 2-7 will not contain any environmental features or forest conservation easements.

Section 16.127(c)(4)(i) requires that for R-20 infill subdivisions, a use-in-common driveway must be utilized to access the proposed lots. The applicant is requesting relief from this requirement in order to provide a single driveway for each lot. Allowing relief to this requirement provides a design that is consistent with the surrounding neighborhood which are single family detached dwellings, each with a single driveway access point and as reviewed by the Historic Preservation Commission. This design also allows for the historic setting to be maintained along with the preservation of Specimen Tree 15. The alternative design provided by the applicant proposed a use-in-common driveway from Knoll Glen Road, which is not consistent with the surrounding development, and added a large amount of impervious area for paving. This alternative design also resulted in the removal of all outbuildings and several additional specimen trees located on the site that are associated with the historically significant house, which is inconsistent with the goals expressed by the Historic Preservation Commission.

Section 16.119(f)(1) and Section 16.120(a)(1) both require that access be restricted from arterial roads and obtain access from a lower classification road, if possible. The applicant is seeking relief to these sections to allow the existing driveway to Montgomery Road for the historic house to remain as it is. The Historic

Preservation Committee made comments regarding the access and asked that it remain as the house faces Montgomery Road and keeps with the historic setting of the site. This request only applies to Lot 1, each of the other proposed lots will obtain access from Knoll Glen Road and Avoca Avenue, which are both Local County Roads.

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 is rectangular in shape and has frontage on three sides: Montgomery Road to the east, Avoca Avenue to the north and Knoll Glenn Road to the west. There is an existing historically significant house (circa 1802-1890) centrally located on the site that is accessed from Montgomery Road and several outbuildings along the western property line. The northeastern portion of the property is a large drainage area that is completely forested and contains a wetland, intermittent stream and associated buffers. The remainder of the site is maintained lawn area that slopes slightly down to the west.

Not allowing relief to the requested Sections would create practical difficulty due to the uniqueness of the site, environmental features and presence of a historic home. Allowing individual driveways and maintaining the current access to Montgomery Road for the existing historic house matches the surrounding neighborhood and allows for the historic setting be maintained from Montgomery Road. This also allows for the environmental features to be placed on a large lot and within a forest conservation easement to be protected in perpetuity. The alternative design would require the removal of several historic outbuildings and require a large additional amount of impervious area. The design would also have a negative impact on the existing historic house and several additional specimen trees.

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

The project meets 100% of the forest conservation obligation on site and creates two easements totaling 1.7-acres of retention which fully encompasses the environmentally sensitive areas.. Allowing the historic house to maintain the current access does not create a new privilege, as this is an existing condition. Allowing individual driveways for the remaining lots is more consistent with the character of the surrounding neighborhood than a singular access point. Therefore, granting relief to the requested regulations will not confer any special privileges that would be denied to others.

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

Approval of the alternative compliance is not detrimental to the public health, safety or welfare, or injuries to other properties as the proposed site design creates an environmentally conscious subdivision that fits in with the surrounding community. Allowing individual driveways will reduce the amount of impervious area required for the use-in-common driveway and creates a more desirable design which preserves the historic structure on site. The environmental areas will be protected within the forest conservation easement in perpetuity and will all be located on one large lot along with the historic structure and outbuildings. The final plan for this project has been reviewed by all SRC agencies for compliance with County and State Regulations and meets the intent of the Subdivision Regulations.

Approval of this Alternative Compliance is subject to the following conditions:

1. Include the Alternative Compliance application file number WP-21-042, date of approval and conditions of approval on all related plan submissions.
2. Approval of relief to Section 16.119(f)(1) and Section 16.120(a)(1) only applies to Lot 1 and the existing house located on Lot 1. None of the proposed dwellings are permitted access from Montgomery Road.
3. Any further subdivision of Lot 1 will be required to go through the subdivision process and comply with all regulations in effect at that time.
4. The lot sizes that are approved under this alternative compliance must remain the same. Any changes to the lot sizes in the future will require approval of a separate alternative compliance.
5. A 35' environmental setback shall be established from the boundary of the floodplain, wetland, stream and their buffers, and forest conservation easements. No principal structures may be permitted within the environmental setback, except a deck may project ten feet beyond the building envelope.
6. Compliance with the three additional conditions of approval outlined in the attached Final Action Report for partial approval of Section 16.1205(a)(2)&(3):
 - a. The Alternative Compliance approval is limited to the removal of Specimen Trees #8, #10, #11, #12, and #16 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.
 - b. Specimen and Historic Tree #15 will be preserved onsite. Individual tree protection devices (tree fencing) shall be placed completely around the tree prior to the commencement of any grading. Root pruning, as approved in Exhibit G-15 in the Forest Conservation Manual, shall be attempted.
 - c. A minimum of ten, native 3" DBH, shade trees shall be provided as mitigation for the removal of the five (5) specimen trees from the property. Landscaping surety in the amount of \$300.00 per tree shall be provided with the applicant's developer agreement as part of the final plan.

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 Justin Schleicher at (410) 313-2350 or email at jshleicher@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/JS

cc: Research
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR
MBA – Sam Alomer



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-21-042 Avoca Manor**
Request for a variance to Section 16.1205(a)(2)&(3) of the Subdivision and Land Development Regulations.

Applicant: Avoca Manor, LLC
7350-B Grace Drive
Columbia, MD 21044

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 removal of five specimen trees and **DENIED** the removal of one specimen/historic tree of the proposed six trees included in the applicants request for a variance with respect to **Section 16.1205(a)(2)&(3)** of the Forest Conservation Regulations. The purpose is to remove six (6) specimen or historic trees which are greater than 30" in diameter for a residential subdivision. The Directors deliberated the application in a meeting on July 21, 2022.

In regard to specimen trees #8, #10, #11, #12 and #16, 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;

There are sixteen specimen trees on the property which is proposed to be developed into an eight-lot subdivision. The applicant has requested six of those trees to be removed to develop the property.

The sixteen specimen trees are dispersed around the developable area of the site. Specimen Trees #8, #10, #11, and #12 are located closest to Avoca Avenue and farthest from the historic house. In order to not impinge on the view-scape of the historic house, the new residential lots were designed with direct access and frontage to the public roads, which results in significant impacts to these trees and their critical root zones (CRZ). The homes cannot be shifted to the rear without impacting more specimen trees and encroaching closer to the existing historic house which is to remain. The site fronts Avoca Avenue and Knoll Glen Road and the proposed dwellings are setback from the roadway to coincide with the surrounding community and allow a usable back yard while preserving the historic setting of the existing house.

Specimen Tree #16 is a standing dead White Ash tree. Although the development of this site will not impact this tree, the developer is proposing to remove the tree for safety reasons.

The project was presented to the Historic Preservation Commission to seek advice from the Commission on the historic significance of the trees. Of the specimen trees proposed to be removed, the Commission determined Specimen Tree #15, Bald Cypress, was a significant tree that is part of the historic setting. In review of the petition, the Director's did not find that sufficient evidence was presented to warrant removal of Specimen Tree #15 in accordance with this criterion. Due to the size and location, this tree is considered to be pertinent to the historic nature of the site and should be retained.

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

The property has a total of sixteen specimen and/or historic trees onsite, a historic house to remain and multiple environmental features with associated buffers which greatly reduces the developable area of the site. The area encumbered by these specimen and historic trees and their CRZ account for the majority of the developable area outside of the environmental features. The houses were set back from the right-of-way at a similar distance as the dwellings on the adjacent lots. The location of the proposed dwellings was chosen to match the character of the existing neighborhood, maintain the historic setting and avoid disturbing environmental features and associated buffers. Strick conformance of all the regulations would leave limited area to develop the site, as permitted by the property's zoning and would deprive the owner of those rights.

3. Verify that the granting of a variance will not adversely affect water quality;

There is no evidence that the partial 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;

Partial approval of this variance will provide the applicant with the ability to subdivide properties which will allow for the preservation of the existing historic house and new residential lots that are similar in configuration to the lots of the surrounding area. The subdivision proposed is consistent with subdivisions that have occurred along Avoca Avenue and Knoll Glen Road.

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

All of the specimen trees proposed for removal and their respective critical root zones are centrally located on the developable area of the site and not based on a condition that is the results of actions by the applicant. The applicant would not be allowed reasonable development the property if Specimen Trees #8, #10, #11 and #12 were required to remain.

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 by a neighboring property. The conditions are a result of the environmental features and historic structures on the property.

7. Provide any other information appropriate to support the request.

The applicant presented the proposed development to the Historic Preservation Committee on May 5, 2022 to receive input on any historic trees located on the site. Several understory trees were noted to be possibly historic, however none of them will be removed as part of this development. Specimen Tree #15 was determined to also be historic on site.

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 #8, #10, #11, #12, and #16 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. Specimen and Historic Tree #15 will be preserved onsite. Individual tree protection devices (tree fencing) shall be placed completely around the tree prior to the commencement of any grading. Root pruning, as approved in Exhibit G-15 in the Forest Conservation Manual, shall be attempted.
3. A minimum of ten, native 3" DBH, shade trees shall be provided as mitigation for the removal of the five (5) specimen trees from the property. Landscaping surety in the amount of \$300.00 per tree shall be provided with the applicant's developer agreement as part of the final plan.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

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Raul Delorme

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Raul Delorme, 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 Delorme
MBA
Marian Honeczy, MD DNR



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Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

February 25, 2022

Jacob Hikmat
Avoca Manor LLC
7350-B Grace Drive
Columbia, MD 21044

RE: WP-21-042 Avoca Manor

Dear Sir/Madam:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject property was reviewed and the Department of Planning and Zoning, Department of Recreation and Parks, and the Office of Community Sustainability is requesting you **Revise and Resubmit** your proposal. Please see the attached comments for more information.

Copies of the exhibit/plan and the supplemental information and a response letter to the comments for each agency should be submitted to this Division for distribution in the following manner:

Agency: DLD #Copies: 2 copies

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before April 11, 2022***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition.

Once the requested information has been received and reviewed, this office will coordinate agency comments and will prepare a recommendation for the Director of Planning and Zoning, Director of Recreation and Parks, and Administrator of the Office of Community Sustainability's action. If you have any questions regarding a specific comment, please contact the review agency prior to preparing the revised plans and information. Compliance with all items indicated above is required before the revised plans and information will be accepted.

In accordance with adopted Council Bill 51-2016, effective 10/05/16, if the deadline date is a Saturday, Sunday or holiday or if the County offices are not open, the deadline shall be extended to the end of the next open County office business day.

Please refer to the Department of Planning and Zoning website for current business processes during this time. Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 21043 or dropped into the bin labeled 'DPZ' in the George Howard Building lobby. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Justin Schleicher at (410) 313-2350 or email at jschleicher@howardcountymd.gov.

Sincerely,

DocuSigned by:


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Anthony Cataldo, AICP, Chief
Division of Land Development

Attachments: DAR report

cc: Research
DLD - Julia Sauer
Mildenberg Boender & Associates



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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-21-042 Avoca Manor**
Request for a variance to Section 16.1205(a)(2) & (3) of the Forest Conservation Regulations.

Applicant: Jacob Hikmat
Avoca Manor LLC
7350-B Grace Drive
Columbia, MD 21044

The above referenced application to grant approval to remove specimen and historic trees was reviewed on February 17, 2022. 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 the applicant's request for a variance with respect to **Sections 16.1205(a)(2) & (3)** of the Howard County Forest Conservation Regulations and are requesting that the applicant **Revise and Resubmit** the proposal addressing the following items:

1. In compliance with Section 2.2.5 of the Howard County Forest Conservation Manual data must be collected, tabulated and summarized for historic trees. Historic trees are part of an historic site and contribute to a significant view or setting, or they area associated with an historic structure. Smaller understory trees, such as dogwoods, sourwoods and redbuds, naturally have a smaller DBH and usually do not qualify as a specimen tree (30" DBH or greater). To ensure smaller trees with historic significance are not overlooked, data must also be collected on understory trees with a DBH of 10 inches or greater on historic sites or sites with a historic structure. The FSD does not provide information on historic trees. The FSD narrative and plan, and alternative compliance exhibit must specifically identify understory trees with a DBH of 10 inches or greater and any other historic tree that may not be considered a specimen tree or understory tree species (outside of the proposed forest conservation easement). The plan must detail the tree species, diameter and circumference measured at breast height, estimated age, condition and historic significance. The alternative compliance application must be revised if the applicant proposes to remove an understory tree with a 10" DBH or greater, or any other historic tree.
2. In compliance with Section 16.606(d) of the Howard County Code the Historic Preservation Commission shall provide advice and assist the Department of Planning and Zoning in identifying historic resources on property that requires subdivision. The Department of Planning and Zoning may require the applicant to resubmit the plan to the Historic Preservation Commission for its review and advice if the applicant submits a revised plan that is inconsistent with the Commission's comments on the previous plan. The plan presented to the Historic Preservation Commission only provided information on specimen trees (30" DBH or greater) and did not include understory trees with a 10" DBH or greater or other historic trees. The applicant must present the revised exhibit to the Historic Preservation Commission for advisory comments on the historic trees.

Following action on the items above, the Directors will review the updated alternative compliance submission.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

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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



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:

Subdivision Name/Property Identification:

Location of property:

Existing Use:

Proposed Use:

Tax Map:

Grid:

Parcel No:

Election District:

Zoning District:

Total site area:

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:

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

Section Reference No.	Brief Summary of Request

Signature of Property Owner:

Date:

Signature of Petitioner Preparer:

Date:

Name of Property Owner:

Name of Petition Preparer:

Address:

Address:

City, State, Zip:

City, State, Zip:

E-Mail:

E-Mail:

Phone No.:

Phone No.:

Contact Person:

Contact Person:

Owner's Authorization Attached

Section Reference No.	Brief Summary of Request