



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 27, 2021

Attn: Paul Nalley
Residential Builders, LLC.
516 Gun Rd.
Baltimore, MD 21227

RE: WP-21-052 Nalley's Landing, Lot 2

Dear Mr. Nalley:

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 20, 2021 and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, Director of the Department of Public Works and Administrator of the Office of Community Sustainability considered and **approved** your request for alternative compliance with respect to **Section 16.116(a)(2)(i)** of the Subdivision and Land Development Regulations to develop a single-family dwelling that will encroach into the stream bank buffer. Please see the attached Final Decision Action Report for more information.

Also, 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 a single-family dwelling that will require the removal of one (1) specimen tree. Please see the attached Final Decision Action Report for more information.


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

1. No grading, removal of vegetative cover and trees, paving and new structures are permitted within the wetlands, streams, and their required buffers, floodplain, and steep slopes, except as permitted by this alternative compliance.
2. The applicant shall obtain all required Federal, State, and Local authorizations for disturbances to environmental features. Reference the applicable permits and tracking numbers on all grading permits.
3. The alternative compliance approval is limited to the removal of Specimen Tree #1, 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.
4. A minimum of two (2), native 3" DBH, shade trees shall be provided as mitigation for the removal of the one (1) specimen tree from the property. Landscaping surety in the amount of \$300.00 per tree shall be provided.

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 Kathryn Bolton at (410) 313-2350 or email at kbolton@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/kb

cc: Research [Section 16.1205(a)(3) - 1 tree req/ 1 tree app]
DED
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR
Angie Taylor, Residential Builders, LLC. - res1builders@gmail.com
Sam Alomer, MBA – salomer@mba-eng.com



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
DEPARTMENT OF PUBLIC WORKS
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-21-052 Nalley's Landing, Lot 2**
Request for a variance to Section 16.116(a)(2)(i) and Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.

Applicant: Attn: Paul Nalley
Residential Builders, LLC.
516 Gun Rd.
Baltimore, MD 21227

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **approved** the applicants request for an alternative compliance with respect to **Section 16.116(a)(2)(i)** of the Subdivision and Land Development Regulations. The purpose is to develop a single-family dwelling that will encroach into the stream bank buffer and require the removal of one specimen tree. The Directors deliberated the application in a meeting on September 20, 2021.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unreasonable hardship or practical difficulty. This determination is made with consideration of the alternative compliance application and the seven (7) items the applicant was required to address, pursuant to Section 16.104(a)(1) and Section 16.116(d):

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

The location of the stream is along the front boundary of the subject property and the 50-foot stream bank buffer covers a large majority of the property. The proposed development of this lot is to remove the existing house and replace with a new house in a similar location. The original subdivision occurred prior to these environmental regulations and therefore, was not subject to them. According to current requirements, the onsite environmental features greatly reduce the buildable area of the site. The surrounding properties are all residentially zoned and mostly developed with single-family dwellings. The proposed home was located to limit impacts to the buffer, the majority of which are a pedestrian walk and proposed front porch. Strict conformance with the requirements would deprive the applicant of reasonable use of their property for a new dwelling unit.

2. The 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 irregularly shaped and is encumbered by multiple environmental features, including wetlands, streams, their associated buffers, floodplain, steep slopes, and three (3) specimen trees. The proposed location of the house was chosen as it was determined to cause the least amount of impact to the existing environmental

features and reduce the amount of grading needed by reusing the existing driveway. Moving the house to the south would increase the disturbance to the stream bank buffer, impact the wetland buffer, and impact the critical root zone of two (2) additional specimen trees. It would also increase the area of impervious surface as the driveway would need to be extended. Moving the house toward the north of the property would increase the disturbance of the stream bank buffer and impact the wetland buffer and floodplain. The current location appears to limit as many of the potential impacts as possible.

- 3. The variance will not confer to the applicant a special privilege that would be denied to other applicants.**
Approval of this alternative compliance would not grant a special privilege that would be denied to other applicants. There are multiple lots in the adjoining neighborhoods with similar existing encroachments into environmental features.
- 4. The modification is not detrimental to the public health, safety or welfare, or injurious to other properties.**
The approval of this request would not be detrimental to public health, safety or welfare, or injurious to other properties. Allowing the proposed location of the dwelling would cause the least impact while still allowing the reasonable development of the property and would be consistent with similarly situated lots in the surrounding neighborhood.
- 5. Any area of disturbance is returned to its natural condition to the greatest extent possible.**
Approval of the request would require protection of the environmental features during construction with minimal disturbance to soil. Once the development is complete, the ground will be stabilized and reseeded to natural lawn.
- 6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**
The proposed location of the house was chosen to reduce the amount of impact to the stream bank buffer. Minimal disturbance to the environmental features would be caused by the development of the home in the proposed location. 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. During construction of the property, the developer will keep the site stabilized with sediment control measures.
- 7. Grading, removal of vegetative cover and trees, or construction shall only be the minimum necessary to afford relief and to the extent required to accommodate the necessary improvements.**
The development of this property would be required to meet sediment control and grading requirements through the site development plan process. Maintaining the house in the same location will reduce the impact to the surrounding area and will not change the location of the driveway. Once the development is complete, the ground will be stabilized and reseeded to natural lawn.

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.

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 seven (7) 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 site is encumbered with multiple environmental features, including stream, wetlands, their associated buffers, floodplain, steep slopes, and three (3) specimen trees. The house was proposed in this location as it would

cause the least impact to the environmental features. Allowing the applicant to remove specimen tree #1, which is in fair condition, decreases the impact to the stream bank buffer and sites the home in a way that provides the most protection for the two (2) remaining specimen trees onsite.

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

The critical root zone of specimen tree #1 covers the majority of the developable area and the removal of this tree will reduce disturbances to other sensitive environmental features. The proposed layout has been designed to create the least amount of impact to these existing environmental features and further protects the critical root zone of the other two (2) specimen trees onsite, while allowing reasonable development of the existing lot and not depriving the landowner of rights commonly enjoyed by others within 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 includes small filtering processes to address water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the grading permit. During construction of the property, the developer will keep the site stabilized with sediment control measures. Specimen Tree #1 will be replaced with two (2), native, 3" DBH, shade trees.

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

Approving this request does not confer a special privilege as most other vicinal properties improved with single-family dwellings also encroach into environmental features since this subdivision pre-dated the current environmental regulations. Allowing the proposed location of the dwelling would cause the least impact, while still allowing the reasonable development of the property.

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

The specimen tree proposed to be removed is in fair condition and may pose a safety hazard if it were to remain as it is located adjacent to the existing driveway and only buildable portion of the site.

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 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.**

The original proposed layout by the applicant located the home further within a portion of the environmental buffers, which would have required the removal of Specimen tree #1, #2, and potentially #3. This original layout would have also impacted more area of the environmental features onsite. The applicant worked with DPZ to relocate the proposed dwelling to minimize the impact to the stream bank buffer. This layout will cause the removal of one (1) of the three (3) specimen trees onsite. However, the tree is in fair condition and may pose a hazard if left onsite due to its close proximity to the proposed dwelling and limits the impacts to the environmental buffers onsite. The proposed location appears to be the most environmentally sensitive, given the site constraints.

Directors Action: Approval of alternative compliance of Section 16.116(a)(2)(i) and Section 16.1205(a)(3) is subject to the following conditions:

1. No grading, removal of vegetative cover and trees, paving and new structures are permitted within the wetlands, streams, and their required buffers, floodplain, and steep slopes, except as permitted by this alternative compliance.
2. The applicant shall obtain all required Federal, State, and Local authorizations for disturbances to environmental features. Reference the applicable permits and tracking numbers on all grading permits.
3. The alternative compliance approval is limited to the removal of Specimen Tree #1, 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.
4. A minimum of two (2), native 3" DBH, shade trees shall be provided as mitigation for the removal of the one (1) specimen tree from the property. Landscaping surety in the amount of \$300.00 per tree shall be provided.

DocuSigned by:

Amy Gowan

5B4D5DD9470C4D4...

Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delorme

88D74370827248A...

Raul Delorme, Director
Department of Recreation and Parks

DocuSigned by:

Thomas Meunier

977F1202E9D14B4...

Thomas Meunier, Director
Department of Public Works

DocuSigned by:

Joshua Feldmark

3241B974513E4B7...

Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
DED
OCS, Joshua Feldmark
DPW, Thomas Meunier
DRP, Raul Delorme
Angie Taylor, Residential Builders, LLC. - res1builders@gmail.com
Sam Alomer, MBA – salomer@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.
 Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: 5302 Landing Rd, Elkridge MD 21075
Subdivision Name/Property Identification: Nalley's Landing
Location of property: ADC Map: 4936, Grid J-4
Existing Use: RESIDENTIAL **Proposed Use:** RESIDENTIAL
Tax Map: 31 **Grid:** **Parcel No:** 759 **Election District:** First
Zoning District: R-20 **Total site area:** 0.751 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:

Property is on Landing Road. Lot 2 fronting Landing Road (L 803, F 481).
 Lot 2 utilizes an existing "10' R/W FOR INGRESS & EGRESS PLAT 4386"
 adjacent to the northern property line.
 The applicant requests to allow placement of a new house and driveway within the 50-foot intermittent stream buffer.

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
16.116(a)(2)(i)	Allow placement of the new house and driveway within the 50-foot intermittent stream buffer at the same general location as the existing house to be demolished.

Signature of Property Owner:



Date: 10/21/2020

Signature of Petitioner Preparer:



Date: 10.30.2020

Name of Property Owner: Residential Builders, LLC

Name of Petition Preparer: Mildenberg Boender & Assoc.

Address: 515 Gun Road

Address: 7350 B Grace drive

City, State, Zip: Baltimore, MD, 21227

City, State, Zip: Columbia, MD, 21044

E-Mail: res1builders@gmail.com

E-Mail: salomer@mba-eng.com

Phone No.:

Phone No.: 410-997-0296

Contact Person: Paul Nalley

Contact Person: Sam Alomer

Owner's Authorization Attached

Department of **Planning & Zoning**

HOWARD COUNTY MARYLAND GOVERNMENT

3430 Court House Drive, Ellicott City, Maryland 21043 410-313-2350

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.**



(Signature of Property Owner/Agent)*

Residential Builders, LLC / 11/3/2020
(Print Name of Owner/Agent) (Date)

Paul Nalley

res1builders@gmail.com
(Property Owner's Email Address)

515 Gun Road
(Property Owner's Address)

MD 21227
(State and Zip Code)

443 354 4116
(Property Owner's Fax Number)*