



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

March 8, 2021

Mr. Nicholas DeCampo
Toll Mid-Atlantic LP Company, Inc.
7164 Columbia Gateway Drive
Columbia, MD 21046

Dear Mr. DeCampo:

RE: WP-21-082, Kings Forest, Lot 15

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 February 25, 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** your request for a variance with respect to **Section 12.1202(a)** of the Subdivision and Land Development Regulations for a temporary deferral of the forest conservation obligation for proposed Lot 15. Please see the attached Final Decision Action Report for more information.

If you have any questions, please contact Brenda Luber at (410) 313-2350 or email at BLuber@howardcountymd.gov.

Sincerely,

DocuSigned by:


Anthony Cataldo, AICP, Chief
Division of Land Development

AC/bl

cc: Research
DED
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR
NDrecampo@tollbrothers.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
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-21-082, Kings Forest**
Request for a variance to Section 16.1202(a) of the Subdivision and Land Development Regulations.

Applicant: Toll Mid-Atlantic LP Company, Inc.
7164 Columbia Gateway Drive
Columbia, MD 21046

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 16.1202(a)** of the Forest Conservation Regulations. The purpose is for a temporary deferral of the forest conservation obligation for proposed Lot 15. The Directors deliberated the application in a meeting on February 25, 2021.

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 proposed King's Forest subdivision consists of 36 buildable lots on 97.7 acres of land, 88.60 which is forested. As the parcel exists today, one-single family detached dwelling can be constructed as a matter of right in the zoning district but is required to address the Forest Conservation Act. Typically, construction of one dwelling would result in clearing of less than 20,000 SF of forest and would be conditionally exempt from the Forest Conservation Act through a Declaration of Intent (DOI). The applicant would like to construct the first model home for the future subdivision on the existing site. In order to place the home on the site of a future parcel and using as much existing infrastructure as feasible, the locations available for this home are limited. Since the parcel is primarily forested, the developer is unable to construct the initial dwelling and associated first subdivision improvements without disturbing over 20,000 SF of forest which is triggering the required Forest Conservation requirement that would conditionally exempt if it were a single lot development. The parcel also contains significant topography which requires additional earthwork and expands the proposed LOD for the home construction and impacts the amount of forest to be cleared.

The developer has indicated that there is a timing concern with the recording of the plat. If this request is granted, the developer will submit a building permit for Lot 15 while the plat is in process to be recorded. The filing of the building permit will require the deferral of the forest conservation obligation for Lot 15 which is intended for the model home. The developer is requesting permission to begin construction of the model home prior to plat recordation with the understanding that all requirements of the forest conservation plan will be met when the plat is recorded. Toll Brothers will not deviate from the terms stipulated within the signed and executed developer's agreement or the construction details provided on the approved road construction drawings for F-19-014. As part of the executed developer's agreement, the developer has posted a security in the amount of \$46,174.00 to guarantee the completion of the forest conservation obligation for the entire subdivision, including Lot 15 thereby guaranteeing the obligation will be met even with this initial deferral.

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

Construction of a model home within a community is a common occurrence. Due to the nature of the parcel being fully forested and containing a significant amount of topography, Toll Brothers will need to clear more than 20,000 square feet of forest in order to build this model home. The alternative compliance request is being sought to request permission to disturb 2.02 acres of forest to provide the required access and house location for Lot 15 prior to the recordation of the plat. The developer is requesting this temporary deferral of the forest conservation obligation to construct a model home with the understanding that all requirements of the forest conservation plan will be met upon recordation of the plat. On other sites with less forest cover and topography, developers may more easily keep disturbance to 20,000 sf or less which would allow for a DOI to be submitted with the grading permit in order to begin construction. Toll Brothers will not deviate from the terms stipulated in the recorded and executed developer's agreement, or the construction details provided as part of the road construction drawings for F-19-014.

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

Toll Brothers will construct the model home in accordance with the approved road construction drawings (F-19-014). This plan provides the approved forest conservation plan, landscape plan, stormwater management, grading plan, and sediment and erosion control plan. Allowing the temporary deferral of the forest conservation obligation for the construction of the model home will not adversely affect water quality because the construction of the model home on Lot 15 will not deviate from the construction details which are shown on the approved road construction drawings. All of these approved measures will guide Toll Brothers, Inc. to ensure that water quality is not adversely affected. Once the plat is recorded, Toll Brothers will satisfy the forest conservation obligation for the entire subdivision, including Lot 15.

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 ability to develop a model home in advance of building out a subdivision is a common occurrence so that sales can begin as the development proceeds. The temporary deferral of the forest conservation obligation will allow the developer to begin construction of a model home with the understanding that all requirements of the forest conservation plan will be met upon recordation of the plat. Toll Brothers will not deviate from the terms of the recorded and executed development agreement, or the construction details provided on the approved road construction drawings for F-19-014. As part of the executed developer's agreement, the developer has posted a security in the amount of \$46,174.00 to guarantee

the completion of the forest conservation obligation for the entire subdivision, including Lot 15 thereby guaranteeing the obligation will be met even with this initial deferral. This action would only allow for a change in the timing by which the obligation will be met.

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

Toll Brothers has purchased the Zeigler property and begun land development activities under the already approved road construction drawings for F-19-014 and grading permit. The alternative compliance request is focused solely on a proposed model home on Lot 15 and the construction of the model home triggering Forest Conservation obligation. The developer is requesting permission to begin construction of a model home with the understanding that all requirements of the forest conservation plan will be fully met for the entire subdivision upon recordation of the plat which is in process. Toll Brothers will not deviate from the terms stipulated in the recorded and executed developer's agreement, or the construction details provided on the approved road construction drawings for F-19-014.

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, either permitted or nonconforming, on a neighboring property. At present time, Toll Brothers has only conducted initial land development activities including clearing and the beginnings of road infrastructure under an issued grading permit. The parcel permit and Alternative Compliance Request are related to future activities as they address the construction of a model home on proposed Lot 15. The developer is requesting permission to begin construction of a model home with the understanding that all requirements of the forest conservation plan will be met upon recordation of the plat. Toll Brothers will not deviate from the terms stipulated in the recorded and executed developer's agreement, or the construction details provided on the approved road construction drawing for F-19-014.

Directors Action: Approval of alternative compliance of Section 16.1202(a) is subject to the following conditions:

1. The limit of disturbance shown on the approved road construction drawings, F-19-014 may not be expanded.
2. Changes to the approved forest conservation plan (as shown on F-19-014) are not permitted.
3. The final record plat for F-19-014 must be submitted for recordation by April 7, 2021.

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

WP-21-082, Kings Forest

Page 4

DocuSigned by:

Joshua Feldmark

3241B974513F4B7

Joshua Feldmark, Administrator
Office of Community Sustainability

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



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Kings Forest

Subdivision Name/Property Identification: Kings Forest

Location of property: Pudding Lane, Ellicott City Maryland 21042

Existing Use: approved for subdivision **Proposed Use:** Single Family Residential, Model Home

Tax Map: 23 **Grid:** 23 **Parcel No:** 148 **Election District:** 2nd

Zoning District: RC-DEO **Total site area:** LOD= 87,967 sq ft (97.74AC TOTAL)

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:

Record Plats-Submitted not yet recorded // F-19-014 approved // perc cert plan - approved

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
16.1202(a) subtitle 12 16.1216	Toll Brothers is requesting the approval of this ACR in order to acquire a parcel permit for the construction of a model home on Lot 0015 prior to the recording of Plats for this subdivision. All grading, vegetative removal etc. will take place in area already approved by F-19-014 plan. all environmental concerns have been reviewed and addressed by same plan. Below are explanations to the (7) stipulations of this particular section.
	<ol style="list-style-type: none"> 1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship - No special conditions exist but for a timing concern with the recording of plats. A parcel permit is being sought in conjunction with the alternative compliance request in order to avoid waiting until plats are recorded in order to acquire a building permit for the model home. 2. Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas - Due to the nature of the parcel permit request, Toll Brothers will be disturbing more than the stipulated amount of sqft on the lot that is allowed for by code. The alternative compliance request is being used to request the ability to disturb the necessary amount of lot sqft as shown on the parcel permit submission package. This has been granted in the past and we are hoping for the same at this new community.

Section Reference No.	Brief Summary of Request
	<p>3. Verify that the granting of a variance will not adversely affect water quality - Toll Brothers operations will be building the model in accordance with the previously approved F-19-014 plan. This will dictate all grading, vegetative removal, etc. and will ensure that water quality is not adversely affected.</p> <p>4. Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants - Alternative compliance requests and parcel building permit requests are not atypical with building operations in many jurisdictions, including Howard County. These requests are truly in the spirit of avoiding a delayed opening of sales in the community. There are no other builders in the community and the adjoining areas are previously developed so we are not gaining an advantage or undue privilege against "competitors".</p>
	<p>5. Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant - To date Toll Brothers has purchased the Zeigler property and begun land development activities under the already approved F-19-014 plan. The parcel permit application and alternative compliance request are focused solely on future model building activities in order to open for sale by the fall of 2021.</p> <p>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 - At present time, Toll Brothers has only conducted initial land development activities including clearing and the beginnings of road infrastructure. The parcel permit and ACR are related to future activities as they relate to the construction of a model home on lot 0015.</p>
	<p>7. Toll Brothers is seeking to acquire the parcel permit to begin building operations by February 15th 2021. Howard County's consideration of the ACR is greatly appreciated.</p>

Signature of Property Owner: *John Harris* **Date:** January 11 2021

Signature of Petitioner Preparer: *Nicholas DeCampo* **Date:** January 11 2021

Name of Property Owner: Toll Mid-Atlantic LP Company, Inc. **Name of Petition Preparer:** Nicholas DeCampo

Address: 7164 Columbia Gateway Drive **Address:** 7164 Columbia Gateway Drive

City, State, Zip: Columbia MD 21046 **City, State, Zip:** Columbia MD 21046

E-Mail: jharris@tollbrothers.com **E-Mail:** jharris@tollbrothers.com

Phone No.: 301 448 9409 **Phone No.:** 717 870 8864

Contact Person: John Harris **Contact Person:** Nicholas DeCampo

Owner's Authorization Attached

Section Reference No.	Brief Summary of Request