



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 10, 2022

Jamie and Susie Brickell
12201 Howard Lodge Drive
Sykesville, MD 21784

Dear Mr. and Mrs. Brickell:

RE: WP-22-091, Brickell Property

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 March 10, 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 **approved** your request for a variance with respect to **Section 16.1202(a)** of the Subdivision and Land Development Regulations to defer the forest conservation obligation for F-22-020 until the submission of the major subdivision for SP-19-003. 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 Brenda Lubber at (410) 313-2350 or email at BLubber@howardcountymd.gov.

Sincerely,

DocuSigned by:

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/bl

cc: Research
DLD - Julia Sauer
Real Estate Services
Marian Honecny- DNR
FCC



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ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

RE: **WP-22-091, Brickell Property**
Request for a variance to Section 16.1202(a) - of the Subdivision and Land Development Regulations, Forest Conservation Plan required for Subdivision, Site Development Plan or Grading Permit.

Applicant: **Jamie and Susan Brickell**
12201 Howard Lodge Drive
Sykesville, MD 21794

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 to defer the forest conservation obligation for F-22-020 until the submission of the major subdivision for SP-19-003. The Directors deliberated the application in a meeting on March 10, 2022.

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 subject property currently consists of two buildable parcels and a non-buildable parcel; one buildable parcel currently improved with an existing house and accessory structures. A preliminary equivalent sketch plan, SP-19-003, consisting of 11 buildable lots was approved in 2019 and was placed on hold due to inadequate school capacity. Currently, the owner is processing a minor subdivision, F-22-020, to create one buildable lot for the existing house, and two non-buildable bulk parcels that will be further subdivided when SP-19-003 complies with the school capacity requirements of the Adequate Public Facilities Ordinance.

The properties consist of 36.13 acres of land, 8.9 acres which is forested. The approved SP-19-003 indicates the forest conservation obligation will be addressed by creating two forest conservation easements consisting of 7.90 acres of on-site forest retention and 2.0 acres of reforestation. As shown on SP-19-003, both forest conservation easements will be located on future Non-Buildable Preservation Parcel "B" and will be transferred to the Howard County Department of Recreation and Parks as part of the major subdivision.

To meet the needs of the community, an equestrian path will be provided on future Non-Buildable Preservation Parcel 'B'. This path must be located outside of the forest conservation easements. At this time, the Howard County Department of Recreation and Parks has not finalized the design or location of the equestrian path. The owner is requesting that the recording of the forest conservation easements be deferred to the final subdivision plat for the major subdivision since the design of the equestrian path may impact the location of the forest conservation easements. Once the easements are recorded, the County may lose flexibility to obtain optimal siting of the pathway.

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

The owner is requesting a variance to temporarily defer recording the forest conservation easements with F-22-020 and to subsequently provide the total forest conservation obligation with the final subdivision plan associated with SP-19-003. Since SP-19-003 is on hold because of inadequate school capacity, the landowner is unable to submit final design plans for the major subdivision but has the right to reconfigure the parcels to create a single lot for the existing dwelling through the minor subdivision process. Approval of the request will not waive the forest conservation requirement, but simply defer recording of the forest conservation easements until Non-Buildable Preservation Parcel "B" is created with the major subdivision.

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

The purpose of the minor subdivision plat for F-22-020 is to create a building lot (Lot 1) to include the existing house, driveway and accessory residential structures. There are no improvements or alterations to the existing property. The land use for the property remains unchanged and therefore does not adversely affect water quality.

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 a variance will not confer on the applicant a special privilege that would be denied to other applicants. Lot 1 and Non-Buildable Bulk Parcels "A" and "B" will be included when the final plans and plats are prepared for SP-19-003. This provision ensures that the entire gross area of the project outlined on SP-19-003 will be utilized to achieve the total forest resource obligation approved by the County agencies. The special condition peculiar to this property is that the subdivision includes a mix of deeded lots and recorded lots, therefore, the owner is not eligible for alternative boundary adjustment processes afforded to other individuals. Those lot line adjustments are not typically subject to Forest Conservation requirements. Reconfiguration of these existing boundary lines requires a subdivision plan and, therefore, Forest Conservation to be met at this time per the regulations.

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

The variance is to temporarily defer the forest conservation obligation at the minor subdivision stage, F-22-020, and to provide the total forest conservation obligation with the major subdivision associated with SP-19-003. At the request of the community, an equestrian path is being provided with the major subdivision. At this time the design and location of the path has not been finalized by the County and recording of the forest conservation easements with F-22-020 may impact the design and location of the equestrian path.

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

The request to temporarily defer the forest conservation obligation to the re-subdivision of Non-Buildable Bulk Parcels "A" and "B" and Lot 1 does not arise from land or building use, either permitted or non-conforming on a neighboring property. The intent of the requested variance is to allow the existing house, driveway and accessory structures to be located on Lot 1 without any land use changes.

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

1. The future subdivision of the non-buildable bulk parcels must include Lot 1 which contains the existing house and will be converted to a preservation parcel.
2. Deferral of the Forest Conservation requirement does not exempt the subdivision from complying with the forest conservation requirements. This approval is only to temporarily defer the recordation of forest conservation easements until the bulk parcels are resubdivided in accordance with the preliminary equivalent sketch plan, SP-19-003. The total forest conservation obligation requirement for the entire subdivision (including Lot 1) shall be established and recorded with the initial resubdivision of the bulk parcels.
3. No forest shall be removed prior to recording of the forest conservation easements. No specimen trees shall be removed, unless approved through the alternative compliance process.
4. The existing 16.5 right-of-way for Ingress and Egress must be extinguished with the recordation of F-22-020.
5. Show and label the Green Infrastructure Network on the forest stand delineation and forest conservation plans.
6. Add the Alternative Compliance Request number (WP-22-091), purpose, section, date and conditions on all subsequent plan submissions.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delerme

88D74370027248A...

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



ALTERNATIVE COMPLIANCE APPLICATION

Site Description:	3200 PFEFFERKORN ROAD		
Subdivision Name/Property Identification:	ASHER PROPERTY		
Location of property:	3200 PFEFFERKORN ROAD		
Existing Use:	VACANT	Proposed Use:	RESIDENTIAL
Tax Map:	22	Grid:	01
	Parcel No:	177	Election District: THIRD
Zoning District:	RR-DEO	Total site area:	18.70 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:

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
16.116(a)(2)(iii)	a) Streams and Wetlands: (2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within: (iii) One hundred feet of a perennial stream bank for Use III and IV streams;

Section Reference No.	Brief Summary of Request

Signature of Property Owner: *Regina W. Asher* Date: *Sept. 21, 2021*

Signature of Petitioner Preparer: *Paul G. Cavanaugh* Date: *Sept. 21, 2021*

Name of Property Owner: JAMES ASHER Name of Petition Preparer: FISHER, COLLINS, & CARTER, INC.

Address: 3217 ROSCOMMON DR Address: 10272 BALTIMORE NATIONAL PIKE

City, State, Zip: GLENELG, MD 21737 City, State, Zip: ELLICOTT CITY, MD 21042

E-Mail: E-Mail: PaulC@fcc-eng.com

Phone No.: Phone No.: 410-461-2855

Contact Person: JAMES ASHER Contact Person: PAUL G. CAVANAUGH, P.E.

Owner's Authorization Attached