



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

April 10, 2023

Edmond M. Pollard and Joyce E. Adcock
6349 Basket Switch Road
Newark, MD 21842

RE: WP-22-055, Lawyers Hill Overlook

Dear Mr. Pollard and Ms. Adcock:

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 31, 2023, 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 16.1205(a)(7)** of the Subdivision and Land Development Regulations to remove 11 specimen trees. 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 Jill Manion at (410) 313-2350 or email at jmanion@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief

Division of Land Development

AC/jam

cc: Research
DLD - Julia Sauer
Real Estate Services
Anne Gilbert- DNR anne.gilbert@maryland.gov
Don Reuwer, Land Design and Development
Frank Manalansan, Fisher Collins and Carter
Cathy Hudson
Drew Roth
Kristy Mumma
Wade Sapp



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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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-23-055, Lawyers Hill Overlook**
Request for a variance to Section 16.1205(a)(7) of the Subdivision and Land Development Regulations (as per the Forest Conservation Law in place at the time the Preliminary Sketch Plan was approved).

Applicant: **Edmond M. Pollard and Joyce E. Adcock**
6349 Basket Switch Road
Newark, MD 21842

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)(7)** of the Forest Conservation Regulations. The purpose is to remove 11 specimen trees. The Directors deliberated the application in a meeting on March 31, 2023. The following trees are identified for removal:

- ST589 – White Oak – 38” DBH – Dead
- ST590 – White Oak – 50” DBH – Fair* to Poor Condition (*based on DRP inspection)
- ST591 – Red Oak – 52” DBH – Poor Fair* Condition (*based on DRP inspection)
- ST594 – White Oak – 40” DBH – Dead
- ST597 – Black Oak – 44” DBH – Fair to Poor* Condition (*based on DRP inspection)
- ST600 – Red Maple – 34” DBH – Fair to Poor Condition
- ST601 – Tulip Poplar – 35” DBH – Fair* to Good Condition (*based on DRP inspection)
- ST602 – Tulip Polar – 37” DBH – Fair to Good* Condition (*based on DRP inspection)
- ST603 – Tulip Polar – 40” DBH – Fair – Good* Condition (*based on DRP inspection)
- ST604 – Tulip Polar – 40” DBH – Dead
- ST606 – Tulip Poplar – 38” DBH – Fair to Good* Condition (*based on DRP inspection)

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 property is long and narrow as it stretches from Lawyers Hill Road towards Summer Home Terrace and contains wetlands and environmental features on the south and east sides. It has one access point through the

limited frontage to Lawyers Hill Road and a required utility connection point along Summer Home Terrace. Lawyers Hill Road is a scenic road and, as such, the location of the access point was selected to minimize grading to the extent possible and retain a wooded buffer on both sides of the road. Properties with historic homes part of the Lawyers Hill Historic District exist on the east and west boundaries of the property, which justify centralizing the proposed public road along the existing Lawyers Hill Road frontage.

Following the initial concept plan, the building lots are clustered to avoid healthy specimen trees and remove trees that are or would become a safety hazard. Open spaces are maintained where healthy specimen trees are to remain. Some of these trees will be retained within Forest Conservation easements, including along the southern property boundary where several specimen trees will remain, and a wetland and buffer will be protected. Three of the existing specimen trees are dead (ST604, ST594, ST589) and are being requested for removal as they were located near the developable portions of the site and would propose a hazard once grading on site occurred. There are other specimen trees on site listed in dead condition, but the development plan was designed to allow some to remain in areas where they would not cause an imminent hazard to future homes and may provide some wildlife habitat for the overall site.

Four specimen trees listed from fair to good condition (ST601, ST602, ST603, ST606) are proposed for removal to obtain access to the property. Due to the narrow frontage along Lawyers Hill Road, the proposed central location of the proposed road provides forested buffer to each of the neighboring properties. Alternative alignments of the access road and two use-in-common driveway alignments were explored to determine if any of the centrally located trees could be saved.

The applicant provided concept designs for an alternate alignment of the public road as well as a Use-In-Common driveway to the Directors per the prior Revise and Resubmit request. Analysis showed that aligning the public road to the existing driveway access point would have similar impacts to these four specimen trees along the frontage of this property. Both of the shared Use-In-Common driveway alignment designs would reduce the permitted number of lots from 17 to 6, per County regulations and would still require the removal of 2-3 of the specimen trees in this area. The use of a Use-In-Common design would only permit the applicant to construct 34% of the lots that were approved by the Planning Board with the public road design. Given the very limited frontage and access opportunities for this site and the Planning Board approved public road plan, it would be an unwarranted hardship to require a Use-In-Common driveway in order to retain these 4 trees within the frontage access.

The remaining four specimen trees proposed for removal are listed in fair to poor condition (ST600, ST597, ST590, ST591) and are located within the developable portion of the overall site. The proposed locations of the lots were the result of the development team redesigning the site to maximize the retention of healthy specimen trees, providing adequate protection of the existing wetlands and environmental features, and clustering of the home sites to limit overall grading impacts. Stormwater management facilities and utility connections have also been placed to minimize impacts to the existing specimen trees. Forest conservation areas have been designated on site to provide beneficial protection of environmental features and specimen trees where feasible. The development team investigated the use of a T-Turnaround in lieu of a cul-de-sac but found that it resulted in similar impacts to the site and specimen trees. Due to the existing site conditions, shape, and limited frontage, the alternative concept plan designs that the team investigated resulted in similar impacts to the site, the team believes it would be an unwarranted hardship to retain these additional four specimen trees on site. Please see criteria 7 for additional analysis.

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

The location of several specimen trees at the property's only access point along Lawyers Hill Road creates an impediment to the reasonable use of the property. Relocating the proposed public road either east or west in an attempt to retain the specimen trees would require additional grading, did not appear to retain any trees, and would further impact one of the adjacent property owners by reducing the buffer from a public road. When specimen trees are located at the sole access point of a property, it is not uncommon for landowners in similar situations to be granted relief. In this case, minimizing grading to the extent possible and maintaining a wooded buffer on either side of the road is also consistent with scenic road design parameters. Lastly, the removal of specimen trees that are dead or in poor health is commonly granted. Other options to preserve trees located in proximity of Lawyers Hill Road would result in a 66% reduction of the lots approved by Planning Board with the Preliminary Equivalent Sketch Plan.

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 will be using environmental site design to try stormwater, which accounts for both the diversion of stormwater as well as ensure water quality comparable to woods in good condition. During development there will be sediment and erosion control measures in place and land will be stabilized post construction. The planting of 22 new 4" DBH native trees in addition to the standard required landscaping will contribute to this stabilization. There will also be forest conservation areas at the north and south edges of the site to maintain wooded areas and provide a healthy environment for the remaining trees. The development proposes that 50% of the site will remain in open space.

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 goal of the R-ED zoning district is to cluster development and prioritize resources to be retained. As such 50% of the site is to be retained within open space, include forested (retained and reforested) areas, wetlands and the wetland buffer, along with 13 of the healthier specimen trees on the site. Removal of specimen trees for access to the site and construct a public road does not confer a special privilege that would be denied to other applicants.

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

There are only three trees identified for removal that were determined to be in fair to good condition, and that is to obtain access to the site. When possible, the developer arranged lots to retain healthy specimen trees and concentrated development in areas where there were no specimen trees, or where specimen trees were dead or in poor health. The limited site frontage along the scenic road and placement of specimen trees in declining health within the developable portion of the site are not conditions which result from actions by the applicant.

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.

Mature forest with several specimen trees will be retained on the southern portion of the site, and the northeast corner of the site will be reforested. As stated above, 22 trees that are 4" DBH will be planted on the site in addition to the proposed landscape buffers and street trees. Alternative site plans were investigated, including the redesign of lots around specific conditions of each specimen tree, shifting the public road access point, the use of a use-in-common driveway in two concept locations, and the use of a T-turnaround. The resultant impact to the specimen trees on site remained largely the same with the reorganization of lots to protect the healthiest specimen trees.

The applicant provided updated justification materials on February 10, 2023. The Directors used this information to deliberate the request. Two alternative access exhibits were submitted in attempt to avoid Specimen Trees #601, #602, #603 and/or #606, which are centrally located near the Lawyers Hill Road public right-of-way. The first exhibit showed the relocation of the public road access point aligned with the existing driveway in the vicinity of the former Peddicore Lane (at the northwest property corner). The second exhibit showed two different locations for a use-in-common driveway, one located at the existing driveway in the vicinity of Peddicore Lane (at the northwest property corner), and the second location closer to the east property boundary.

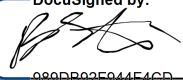
The Directors found that the alternative public road exhibit demonstrated that relocating the road would not reduce the impact to these trees due to Design Manual standards for public roads, site topography and the necessary stormwater management. One tree, #ST 601 may be able to be retained but its critical root zone would be at least 21% impacted and the health of the tree was downgraded to "fair" by DRP, thus making the long-term survival of the tree uncertain.

The use-in-common driveway exhibit shows that both the east and west alignment would have limited opportunities for specimen tree preservation. Again, due to site topography, extensive grading would be required to gain access to the developable area of the site. The eastern driveway alignment would necessitate the removal of ST #601 and #606 and impact portions of critical root zones for ST#602 and ST#603. In evaluating the western driveway alignment, there may be encroachment into the 30' structure and use setback. In addition, portions of the critical root zones of ST#602, ST#603, and ST #606 would likely be impacted due to the necessary grading and stormwater management. Finally, the retention of the existing forest along the western boundary which adjoins forest on Open Space Lot 80 would need to be removed, thereby reducing the area of contiguous undisturbed forest at this location. It was deliberated that the utilization of either use-in-common option may have the potential to save 1 or 2 of the specimen trees in proximity to the Lawyers Hill Road right-of-way but would result in a 66% reduction of the lots that were approved by Planning Board with the Preliminary Equivalent Sketch Plan. Reviewing these conditions, the Directors determined the reduction would result in an unwarranted hardship.

The Directors also reviewed the upgrade of the health of two trees, ST#590 and ST#591, to 'fair' condition to determine if the removal was warranted. The trees are situated adjacent to proposed open space that could be expanded to retain the trees, however, both trees are oaks. The Directors, with assistance from Recreation and Parks staff discussed the recent decline of oaks, that these trees appear to be in declining health, and that there would be significant disruption to the CRZ with the roadway construction. It was discussed that if retained and the health continued to deteriorate, the trees would have targets associated with them that would be hazardous in the future. Ultimately, the Directors determined that modifying the plan to retain these trees would also be an unwarranted hardship.

Directors Action: Approval of alternative compliance of Section 16.1205(a)(7) is subject to the following conditions:

1. The removal of Specimen Trees ST589, ST590, ST591, ST594, ST597, ST600, ST601, ST602, ST603, ST604 and ST606 is hereby permitted, as shown on the Alternative Compliance plan exhibit. The removal of any other specimen tree on the subject property is not permitted under this request. Protective measures shall be utilized during construction to protect the specimen trees which are proposed to remain. Details of the tree protection devices shall be provided on the final construction plans or supplemental plan and on the site development plan.
2. The removal of each specimen tree shall be mitigated with a 2:1 replacement with native 4" DBH trees. The trees are to be identified on the Final Forest Conservation Plan, and a surety is to be provided for the trees.
3. Specimen trees within proximity of open space should be felled and left within the wooded area when possible (Specimen Trees #589, #594, #604, and #606).

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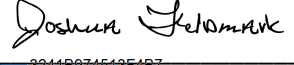
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Brian Shepter, Acting Director
Department of Planning and Zoning

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Raul Delerme, Director
Department of Recreation and Parks

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Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
OCS, Joshua Feldmark
DRP, Raul Delerme



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 6, 2023

Edmond M. Pollard
Joyce E. Adcock
6349 Basket Switch Road
Newark, MD 21842

RE: WP-23-055, Lawyers Hill Overlook

Dear Mr. Pollard and Ms. Adcock:

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 December 22, 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 your request for a variance with respect to **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove 11 specimen trees and is requesting you **Revise and Resubmit** your proposal. Please see the attached Decision Action Report for more information.

The revised and resubmitted alternative compliance application must be submitted within 45 days from the date of this letter (on or before February 20, 2023*).

***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 in the bin labeled 'DLD' at the Department of Planning and Zoning Public Service Counter located on the first floor of the George Howard Building. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Jill Manion at (410) 313-2350 or email at jmanion@howardcountymd.gov.

Sincerely DocuSigned by:

1EB75478A22B49A
Anthony Cataldo, AICP, Chief
Division of Land Development

AC/jam

cc: Research / DLD - Julia Sauer
Real Estate Services
Kathy Hudson
Drew Roth
Don Ruerwer
Wade Sapp

**ALTERNATIVE COMPLIANCE
DECISION ACTION REPORT**

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

RE: **WP-22-055, Lawyers Hill Overlook**
Request for a variance to Section 16.1205(a)(3) of the Forest Conservation Regulations.

Applicant: Edmond M. Pollard
Joyce E. Adcock
6349 Basket Switch Road
Newark, MD 21842

The above referenced application to remove 11 specimen trees from the was reviewed on December 22, 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 **Section 16.1205(a)(3)** of the Howard County Forest Conservation Regulations and are requesting that the applicant **Revise and Resubmit** the proposal addressing the following items:

1. Submit an alternative design exhibit that evaluates a Use-In-Common along former Pedicore Drive and avoids impacts to trees in good condition along site frontage (in particular, specimen trees #601, #602, #603, and #606) in addition to saving any additional specimen trees on site.
2. Address discrepancies between the 2019 and 2022 specimen tree charts, in particular determination of tree species, DBH size, and changes in health conditions.
3. Address discrepancies between the 2022 specimen tree charts determination of tree species health condition and the finding of the Department of Recreation and Parks site inspection findings.
4. Confirm there are no state champion or those of 75% diameter of state champion trees on-site that would be protected under the forest conservation regulations.

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

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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
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ALTERNATIVE COMPLIANCE APPLICATION

Site Description: [Redacted]

Subdivision Name/Property Identification: Lawyers Hill Overlook

Location of property: 5819 Lawyers Hill Road, Elkrigde, MD 21075

Existing Use: Residential - SFD

Proposed Use: Residential - SFD

Tax Map: 32

Grid: 20

Parcel No: 13

Election District: 1st

Zoning District: R-ED

Total site area: 8.76 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:

ECP-18-054

WP-19-087

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
16.1205(a)(7)	Request authorization for removal of 11 specimen trees.

Section Reference No.	Brief Summary of Request

Signature of Property Owner: *Edmond Pollard* Date: *11/10/22*

Signature of Petitioner Preparer: *Dreuer* Date: *11-14-22*

Name of Property Owner: Edmond M. Pollard
Joyce E. Adcock

Name of Petition Preparer: Donald R. Reuwer, Jr.

Address: 6349 Basket Switch Road

Address: 8318 Forrest Street, Suite 200

City, State, Zip: Newark, MD 21842

City, State, Zip: Ellicott City, MD 21043

E-Mail:

E-Mail: dreuer@ldandd.com

Phone No.:

Phone No.: 410-992-4600

Contact Person:

Contact Person: Donald R. Reuwer, Jr.

Owner's Authorization Attached