



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

April 12, 2024

Robert Flack
12945 Linden Church Rd
Clarksville, MD 21029

RE: WP-24-047, Flack Property (12945 & 12965 Linden Church Road)
Updated Approval Letter

Dear Mr. Flack:

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 28, 2024 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)(3)** of the Subdivision and Land Development Regulations to remove five (5) specimen trees where 30% or more of critical root zone (CRZ) will be impacted by the development. **Please see the attached Final Decision Action Report for more information.**

In addition, on March 25, 2024, 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 16.120(b)(4)(iii)** of the Subdivision and Land Development Regulations to provide on-site forest conservation easements on lots less than 10 acres.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of **Section 16.120(b)(4)(iii)** 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;**

The proposed forest conservation easement and existing environmental features are located along the rear of the property and will encompass 4.3 acres of the 10.79-acre property. The applicant has worked to subdivide the property to allow adequate room to develop per the zoning district while protecting the features that exist onsite. Strict adherence to the regulations would deprive the applicant the ability to develop their site in a manner that is similar to existing land use in the surrounding area.

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 proposed development site is 10.79 acres in size and mostly wooded. There are 97 significant trees onsite with a DBH of 24 inches or greater, and 34 of them are specimen trees with a DBH of 30 inches or greater. The lot is triangular with a very narrow neck abutting Linden Church Road, where access is located for the site. The shape of the lots requires the building setback to be pushed into the site where the width of the lots is a minimum of 200 feet wide. The uniqueness of the property creates a smaller buildable envelope for the lots of the proposed subdivision. The environmental features onsite are along the rear of the property and expand onto the adjoining properties. It would be an unreasonable hardship to require the applicant to meet forest conservation obligations offsite when there is an appropriate area of healthy forest onsite, which also serves to protect the existing DocuSign Envelope ID: B2A1CC80-7422-42FD-8D61-9EAB7F60FED7 environmental features onsite. Having the balance of the significant and specimen trees within the proposed Forest Conservation easement also protects them on the private lots in perpetuity.

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

Granting the requested variance will not confer the applicant a special privilege. The granting of the variance will allow reasonable development of the property, while allowing the placement of a forest conservation easement onsite to further protect the existing environmental features. The forest conservation easement is located a reasonable distance from the proposed dwellings when accounting for the small building envelope and a split rail fence will be provided in addition to posted signs to help limit any encroachment into the easement and environmental features.

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

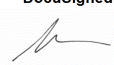
The proposed onsite forest conservation easement will protect 4.3 acres of the property. Providing an onsite forest conservation easement will not detract or harm neighboring properties or the public's health, safety or welfare and is not injurious to other properties.

Approval of this Alternative Compliance is subject to the following conditions as listed in the attached Final Director Action report.

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 Kat Bolton at kbolton@howardcountymd.gov or Jill Manion 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
DNR – fca.dnr@maryland.gov
John Canoles, Eco-Science Professionals – espijc@aol.com



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

April 3, 2024

Robert Flack
12945 Linden Church Rd
Clarksville, MD 21029

RE: WP-24-047, Flack Property (12945 & 12965 Linden Church Road)

Dear Mr. Flack:

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 28, 2024 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)(3)** of the Subdivision and Land Development Regulations to remove five (5) specimen trees where 30% or more of critical root zone (CRZ) will be impacted by the development. Please see the attached Final Decision Action Report for more information.

If you have any questions, please contact Kat Bolton at (410) 313-2350 / kbolton@howardcountymd.gov or Jill Manion 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
DNR – fca.dnr@maryland.gov
John Canoles, Eco-Science Professionals – espijc@aol.com



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

Lynda D. Eisenberg, AICP, 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-24-047 Flack Property (12945 & 12965 Linden Church Rd)**
Request for a variance to Section 16.1205(a)(3) of the Howard County Code.

Applicant: Robert Flack
12945 Linden Church Rd
Clarksville, MD 21029
Email: rnflack@gmail.com

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. The purpose is to remove five (5) specimen trees where 30% or more of critical root zone (CRZ) will be impacted by the development. The Directors deliberated the application in a meeting on March 28, 2024.

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 development site is 10.79 acres in size and mostly wooded. There are 97 significant trees onsite with a DBH of 24 inches or greater, and 34 of them are specimen trees with a DBH of 30 inches or greater. The lot is triangular with a very narrow neck abutting Linden Church Road, where access is located for the site. The shape of the lots requires the building restriction line setback to be pushed into the site as Zoning Regulations require the minimum lot with at the building restriction line to be 200 feet. The rear of the property is encumbered with floodplain, a stream and wetlands, their associated buffers, and a proposed forest conservation easement. These existing features of the site in combination with the required building restriction line, greatly reduce the building envelope for the proposed dwellings. Details on the specific conflicts for each of the lots is elaborated below. The applicant is requesting to remove 5 specimen trees which are central to the small buildable envelope for the proposed lots.

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

Strict adherence to the regulations would deprive the landowner reasonable development of the property. Specimen Trees 2, 3, 4, and 28 are located in the area of the septic system for proposed Lot 2 and the proposed house is located at the required building restriction line. Requiring these trees to remain would prevent the

applicant the required septic area and the dwelling could not be built. Specimen Tree 34 is located in the area of the proposed use-in-common driveway access for Lot 1. Alternative locations for the driveway were investigated but resulted in impacts to other trees on site. The specimen trees the applicant is requesting to remove are centrally located within the building envelope for each lot and adherence to the regulations would deprive the applicant the ability to develop their site in a manner that is similar to existing land use in the surrounding 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 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.

Removal of the specimen trees does not confer the applicant a special privilege that would be denied to other applicants. The variance will allow for reasonable development of residential lots. The location of the trees proposed for removal creates practical difficulty that precludes reasonable development of the site.

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

The conditions and circumstances of this request are not the result of actions by the applicant. The conditions are based on the naturally occurring environmental features onsite and the limited developable area of the property.

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 applicant altered the plan where feasible to reduce the impact to the specimen trees onsite. The original request from the applicant proposed to remove 6 (six) specimen trees from the site. The County asked the applicant to review their request of removal of ST#24, a White Oak, 31" DBH, fair condition, which was impacted by the proposed driveway location for Lot 3. The applicant was also requested to review the removal of ST#34. The plan was revised by the applicant to reduce the impact to ST#24 enough that the tree was able to remain onsite. However, the relocation of the driveway to reduce the impact to specimen tree #34 was not successful. Shifting the driveway to the east would impact the CRZ of ST#36, moving the driveway to the west would impact a sugar maple the owner would like to maintain onsite, and an alternate route for the driveway would greatly encroach into the usable area of Lot 2. A majority of the specimen trees are proposed to remain on-site, and most will be protected within the forest conservation easement.

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 #2, #3, #4, #28, and #34 only as depicted on the exhibit. Any proposal to remove any of the other remaining specimen trees will require a new alternative compliance request or an amendment to this alternative compliance request.
2. All attempts must be made to preserve specimen tree #28. Individual tree protection devices (tree fencing) shall be placed completely around specimen tree #28 prior to the commencement of any grading. Root pruning will

occur. These measures shall be outlined in the pre-construction management plan of the final Forest Conservation Plan (FCP) and within the sequence of construction provided on the final plan for "Flack Property".

3. A minimum of 10 native, 3" DBH, shade trees shall be provided as mitigation for the removal of the 5 (five) specimen trees from the property. Landscaping surety in the amount of \$300.00 per tree shall be provided with the applicant's grading permit.

DocuSigned by:

Lynda Eisenberg

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Lynda Eisenberg, AICP, Director
Department of Planning and Zoning

DocuSigned by:

Nicholas Mooneyhan

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Nicholas Mooneyhan, Director
Department of Recreation and Parks

DocuSigned by:

Timothy Lattimer

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Timothy Lattimer, Administrator
Office of Community Sustainability

cc: Research
OCS
DRP



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

December 20, 2023

John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057
Via email: espjic@aol.com

RE: WP-24-047 Flack Property

Dear Mr. Canoles

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 no action can be taken until the enclosed comments have been addressed, and the following additional information is provided.

Two copies of the exhibit/plan and the supplemental information and a response letter to the comments should be submitted to this Division for distribution.

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before February 3, 2024***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition.

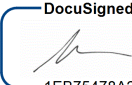
Once the requested information has been received and reviewed, this office will coordinate agency comments and will prepare a recommendation for the Planning Director's action. If you have any questions regarding a specific comment, please contact the review agency prior to preparing the revised plans 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.

Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 20143 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 must be received on or before the due date. Submission materials can also be emailed to planning@howardcountymd.gov for processing. **Please include this letter with your submission as it will serve as the checklist for staff.**

If you have any questions, please contact Kathryn Bolton at (410) 313-2350 or email at kbolton@howardcountymd.gov.

Sincerely, DocuSigned by:



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Anthony Cataldo, AICP, Chief
Division of Land Development

cc: Research
DLD - Julia Sauer
Real Estate Services
Robert Flack – rnflack@gmail.com



DPZ Office Use only:
 File No.
 Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Project consists of two parcels as shown on tax map #28, parcels #0146 & 0155 and recorded in the Howard County Land Records as deed reference 15713/309 & 20024/204 which consists of total 438,774 Sq. Ft. / 10.073 Ac. +/- Property has an existing single family dwelling of which is surrounded by existing forest and lawn areas. Property is served by private sewage disposal system and well.

Site Description:

Subdivision Name/Property Identification: 12945 & 12965 Linden Church Road

Location of property: 12945 & 12965 Linden Church Road, Clarksville, MD 21209

Existing Use: residential **Proposed Use:** residential

Tax Map: 0028 **Grid:** 0016 **Parcel No:** 0155/0146 **Election District:** 5th

Zoning District: RR-DEO **Total site area:** 10.79 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:

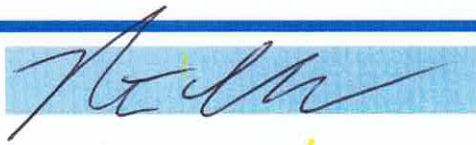
ECP-22-075
 Site & Grading Plan, Stormwater Management Plans, Floodplain Analysis, Forest Stand Delineation Plan and Forest Conservation Plans.

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
Subdivision regulations 16.120.(b)(4)	The subdivision regulations 16.120.(b)(4) prohibits lots less than 10 acres in size from being encumbered by environmentally sensitive features. The proposed minor subdivision will require that wetlands, buffers and forest conservation easements be present on lots less than 10 acres in size. See attached
FCA Regulations 16.1205 - Forest Retention Priorities	The FCA regulations require that alternative compliance approval be received prior to the removal of any specimen trees on project subject to the regulation. This project requests the removal of 5 of the 43 specimen trees onsite See attached

Section Reference No.	Brief Summary of Request

Signature of Property Owner:



Date:

9/30/2022

Signature of Petitioner Preparer:



Date:

9/27/2022

Name of Property Owner:

Robert Flack

Name of Petition Preparer:

John Canoles

Address:

12945 Linden Church Road

Address:

Eco-Science Professionals, Inc.
P.O. Box 5006

City, State, Zip:

Clarksville, MD 21029

City, State, Zip:

Glen Arm, MD 21057

E-Mail:

rnflack@gmail.com

E-Mail:

espijc@aol.com

Phone No.:

443-386-1261

Phone No.:

410 683-7840

Contact Person:

Robert Flack

Contact Person:

John Canoles



Owner's Authorization Attached

Section Reference No.	Brief Summary of Request