

ALTERNATIVE COMPLIANCE
DEPARTMENT OF PLANNING AND ZONING
Division of Land Development
Staff Recommendation

To: Amy Gowan, Director
Department of Planning and Zoning

Thru: Anthony M. Cataldo, AICP, Chief
Division of Land Development

From: Jennifer Wellen, Division of Land Development
jwellen@howardcountymd.gov

RE: **WP-22-100, Wynne Property, Lots 1 & 2**

Applicant: **Kevin Wynne**
5668 Trotter Road
Clarksville, MD 21029

Alternative Compliance Request(s):

The applicant is requesting alternative compliance to the following section of the Subdivision and Land Development Regulations:

- **Section 16.127(c)(4)(i) which states that residential infill developments have a limit on adjoining driveway entrances. A shared use-in-common driveway must be provided in accordance with the Design Manual within a minimum 24-foot wide access easement for all proposed residential infill development lots. Any existing driveway entrances onto the public road right-of-way must be connected to a single use in common driveway or abandoned.**

The applicant proposes to provide a separate driveway along the norther property line for the proposed house. The existing driveway is located along the southern property line leading to the existing garage.

- **Section 16.1205(a)(3) On-Site Forest Retention Required: which states that on-site forest retention is required for state champion trees, trees 75% of the diameter of state champion trees, and trees 30” in diameter or larger.**

There are 2 specimen trees on site and the applicant is requesting to remove 1 specimen tree.

No.	DBH	Species	Condition	Remain/Removed
1	30”	Maple	Fair	Remain
2	31”	Beech	Fair	TBR

Site Description: The subject property is 1.05 acres of land located on Trotter Road (scenic road) in Clarksville, MD. Identified as 5668 Trotter Road on Tax Map 35, Parcel 167, Lot 19 in the Forest Hill Subdivision, Plat Book 5, Page 4 in the 1st Election District.

Brief Plan/Site History Relevant to Alternative Compliance Request:

- Forest Hill Subdivision, Plat Book 5 Page 4, was recorded in August 1955.
- ECP-21-045 Wynne Property, Lots 1 & 2 was approved on September 21, 2022 to create one additional lot.
- Trotter Road is classified as a scenic road and will require Planning Board approval.

Alternative Compliance Action:

The Division of Land Development recommends **APPROVAL** for alternative compliance of **Section 16.127(c)(4)(i)** of the Subdivision and Land Development Regulations subject to the following conditions:

1. Include a note on all plan submissions with this Alternative Compliance file number, a summary of the request, date of approval and conditions of approval.
2. Compliance with all SRC comments F-21-016, Wynne Property.

Justification for Recommendation:

The Division of Land Development recommends **APPROVAL** of alternative compliance to **Section 16.127(c)(4)(i)** of the Subdivision and Land Development Regulations and find that strict enforcement of the above-cited regulations would result in an unreasonable hardship or practical difficulty. Pursuant to Section 16.104(a)(1), this determination was made considering the following:

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

The existing lot has approximately 168 feet of public road frontage onto Trotter Road and will be subdivided into two lots. The existing house is situated about 91 feet from Trotter Road, 30 feet from the southern property line and 39 feet from the northern property line. The existing driveway is located along the southern property line leading to a sideload garage. The new house will be situated behind the existing house via a pipestem lot proposed along the northern property line.

Given the existing house location, there are two design options to conform with the regulation. One option is to place the required 20-foot wide pipestem along the southern property line and use the existing access. This design would provide 10 feet from the existing sideload garage to the property line of the pipestem and make it impracticable to provide a 16-foot wide shared driveway, 10-foot wide landscape buffer and park vehicles in the driveway for the sideload garage. This option would also provide access to the proposed house from the lower side of the lot and force the grades and could potentially cause drainage issues. There would not be adequate space to provide a micro-bioretenion facility to treat runoff for the driveway, relying on other stormwater management methods that are not supported for infill subdivisions (per Section 16.127(c)(4)(iv)). The proposed driveway along the northern side of the property would place the driveway at a higher grade, which best suits the proposed stormwater management and will allow for runoff to the proposed micro bioretention facility.

The second option is to provide a shared driveway along the front of the existing house to allow access to the existing garage and provide a driveway for the new house along the northern property line. This would allow the proposed driveway for the new house to be placed at a higher point which will allow for proper grading for the proposed stormwater management but increase the amount of impervious driveway. This would also result in a parallel driveway from Trotter Road that is 100 feet long and would contradict the guidelines for developing land abutting a scenic road, which aims to minimize grading and retain existing slopes along the scenic road frontage and preserve the foreground. Allowing two separate

driveways will provide a better placement for proposed house without having a driveway going through the front yard to connect with the existing driveway. Although it includes an additional access point, the result better protects the visual quality of the scenic road which is commonly afforded to others in similar areas along scenic roads. The proposed and existing driveway will have over 100 feet of separation, which is similar to other driveway separations for existing houses on Trotter Road.

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 location of the existing house with the existing driveway on the lower side of the property provides a unique condition for designing the subdivision and stormwater management. The proposed driveway should be on the higher side of the property to allow for proper grading and treatment of the proposed impervious surface via a micro-bioretenion facility. Use of the existing driveway would cause a practical difficulty resulting in inefficient stormwater management design and will prevent having a parallel driveway through the front yard of the existing house.

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

Approval of the alternative compliance will not confer to the applicant a special privilege that would be denied to other applicants as the conditions listed above outline the difficulties in having one driveway for both lots and the provides a design that is more compatible with the existing houses in the neighborhood.

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

There is no evidence that this proposal for a separate driveway entrance to the new home will be detrimental to the public health. The proposed plan appears to benefit the public interest by reducing the impervious area and creating a design that is compatible with the existing neighborhood while maintaining the driveway and garage access for the existing house.

Alternative Compliance Action:

The Division of Land Development recommends **APPROVAL** for alternative compliance of **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations subject to the following conditions:

1. The removal of specimen tree #2 is permitted and requires the onsite planting of 2 native trees with a DBH of 3". The trees shall be shown on the final subdivision landscape plan sheet and must be bonded as a landscape obligation.

Justification for Recommendation:

The Division of Land Development recommends **APPROVAL** of alternative compliance to **16.1205(a)(3)** of the Subdivision and Land Development Regulations and find that strict enforcement of the above-cited regulations would result in an unwarranted hardship. Pursuant to Section 16.1216(c), this determination was made considering the following:

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

There are two specimen trees on site and the applicant is proposing to remove Specimen Tree #2 (31" Beech) to allow for the construction of the new SFD. Based on the site layout, lot shape and topography that dictate the location of the proposed house and storm water management facility, the 31" Beech tree would need to be removed. The outfall location was selected to tie into the existing drainage easement and the size of the SWM facility is needed to treat the run-off created by the proposed impervious surfaces. The proposed stormwater management facility and outfall will have a significant impact on the tree's CRZ necessitating it's removal.

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

Enforcement of the Regulations would deprive the applicant from rights commonly enjoyed by others in similar areas. Adjacent residential lots are approximately one-half acre in size and are improved with single-family homes. Denying removal of Specimen Tree #2 would not allow the owner to develop his property in a similar way.

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 site will meet the current MDE design standards by using a micro-bioretenion facility to treat for water quality. The site will be stabilized after construction and sediment control measures will be used during construction. Also, with the removal of the specimen tree it will allow the new stormwater management facility to discharge into the existing private drainage easement.

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 property is zoned R-20 and surrounded by R-20 properties. Subdividing the property into half acre lots is not a special privilege that would be denied to others in the same zoning district. The removal of the additional tree will require mitigation by planting two native trees with a 3" DBH. The current regulations require the same mitigation of all applicants.

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

The location of Specimen Tree # 2 and its respective critical root zone are centrally located within the developable area of the existing lot and not based on a condition that is the results of actions by the applicant. The applicant would not be allowed to reasonably develop the lot should the specimen tree remain.

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;

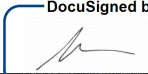
There is no evidence that the site conditions arise from a condition relating to land or building use on a neighboring property

7. Provide any other information appropriate to support the request.

A drawing showing proposed minor subdivision was submitted along with photos. A representative from Recreation and Parks did a site visit and determined that the tree is in fair condition with branch dieback present and recent limb breakage. Some decay was observed in some of the scaffolding limbs.

Jennifer Wellen May 27, 2022

Prepared by Date

DocuSigned by:


Anthony M. Cataldo, AICP, Chief 6/9/22
Division of Land Development Date

ACTION OF THE PLANNING DIRECTOR*

Section 16.127(c)(4)(i)

 X Approval subject to the conditions as outlined above and/or modified on this form.

____ Denial based on the above reasons.

DocuSigned by:

Amy Gowan

6/9/22

Amy Gowan, Director Date
Department of Planning and Zoning

***Refer to Director's Action Report for final decision of Section 16.1205(a)(3)**