



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 25, 2023

Mukesh Kumar & Agila Sundaram
3958 Old Columbia Pike
Ellicott City, MD 21043

RE: WP-23-056 Mitchell Greens

Dear Owners:

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 January 24, 2023 and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and **denied** your request for alternative compliance with respect to **Section 16.125(c)(2)** of the Subdivision and Land Development Regulations to waive the minimum 100-foot continuous vegetative buffer from a scenic road.

The Department of Planning and Zoning finds that strict enforcement of Section 16.125(c)(2) would not result in an unreasonable hardship or practical difficulty. The following factors were considered in making this determination:

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

The existing house on Parcel 134 is approximately 45 feet from the ultimate right-of-way of Old Columbia Pike, a designated scenic road. The applicant is requesting to eliminate the 100-foot continuous vegetative buffer, as measured from the right-of-way, to retain the house and subdivide the land into a total of eight residential lots.

Pursuant to Section 16.125(b)(5)(ii) of the Subdivision and Land Development Regulations, the Planning Board has the authority to determine whether the buffer preserves or enhances the visual character of the road and surrounding area. Other major subdivisions seeking relief from this requirement have presented a case before the Planning Board, demonstrating how a lesser buffer would preserve or enhance the visual character of the road and surrounding area. As with other subdivisions, the applicant has the right to request a reduction to the scenic road buffer through the Planning Board public meeting process.

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 applicant is proposing to develop multiple parcels into an 8-lot subdivision which qualifies as a new major subdivision per the Subdivision and Land Development Regulations requiring the 100' buffer. It is the compilation of three parcels to yield a major subdivision that has caused the request for a waiver rather than any unique conditions of the properties. The regulations allow other development opportunities that provide conformance with the buffer requirements, namely if parcel 134 were developed according to the regulations, no buffer would be required since it would not trigger the scenic road requirements for major subdivision. Therefore, the Department found that the applicant's justification does not meet the threshold of an unreasonable hardship or practical difficulty.

- 3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants and;**
Waiving the 100-foot buffer requirement entirely for a major subdivision would be considered a special privilege, as this has never been provided to other applicants. As with other subdivisions, the applicant has the right to request a reduction to the scenic road buffer through the Planning Board public meeting process, which is not a special privilege that would be denied to other applicants.

- 4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.**
DPZ is unable to determine public health, safety or welfare impacts or if injury to other property owners would result from granting the waiver request. If a 100-foot buffer were required, it may improve the overall environmental condition of an already developed area. However, DPZ lacks information to evaluate any stormwater or other environmental impacts associated with each scenario. Additionally, a Planning Board public meeting process is required to allow a modification or reduction to the scenic road buffer. Foregoing this process would eliminate an opportunity for the public to provide testimony to the Planning Board and would be detrimental to the public interests.

In addition, this letter is to inform you that your request for alternative compliance to **Sections 16.116(a)(3) 16.119(f)(3) and 16.120(c)(2)(iv)** of the Subdivision and Land Development Regulations was reviewed and **no action** can be taken until additional information and revised plans are provided that address the following:

The need for relief to Section 16.116(a)(3) is based on the proposed layout and requirement to provide road frontage for Lots 2-7 that cross the stream and wetland area. With denial of Section 16.125(c)(2), design changes are needed to the lot design that may impact this request. Furthermore, this regulation refers to Section 16.120(b)(4)(iii), which may permit environmentally sensitive features on residential lots that are 10 acres in size or greater and is the appropriate code section for this request.

The need for relief to Section 16.119(f)(3) is based on the proposed layout to retain the existing house and driveway access point along Old Columbia Pike, within the 100-foot scenic road buffer, and provide a second driveway access point for a proposed use-in-common driveway. With denial of Section 16.125(c)(2), design changes are needed to the lot design that may impact this request.

Section 16.120(c)(2)(iv) requires that a proposed subdivision with access from a use-in-common driveway provide a cross easement to an adjoining parcel that can be further subdivided in the future if the potential of the two subdivisions under current zoning will not exceed six units. The proposed subdivision is not required to provide a cross easement to an adjoining parcel. A Design Manual Waiver request has been submitted to allow more than six users on the proposed use-in-common driveway. A separate approval through the alternative compliance process is not necessary.

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before March 11, 2023***), 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 can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Julia Sauer at (410) 313-2350 or email at jsauer@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/js

cc: Research
DLD - Julia Sauer
FCC
Cindee White
David & Rebecca Bohning



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Residential Subdivision

Subdivision Name/Property Identification: Mitchell's Green, Lots 1 thru 8

Location of property: 3958 Old Columbia Road, Ellicott City, Md 21043

Existing Use: Existing 2 Lots to remain **Proposed Use:** 6 additional lots to be added for 8 total

Tax Map: 25 **Grid:** 13 **Parcel No:** 134&135 **Election District:** 2nd

Zoning District: R-ED **Total site area:** 5.65-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-20-040, SP-22-002 and WP-23-013

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)(3)	In residential subdivisions, wetlands, streams, and their buffers shall be located in required open space or a non-buildable preservation parcel rather than on residential lots as permitted under Section 16.120 of this subtitle:
16.125(c)(c)	For new major subdivisions inside the planned service area, a minimum 100-foot continuous vegetated buffer, as measured from the right-of-way, shall be maintained between the road and subdivision to preserve or enhance the visual character of the road:

Section Reference No.	Brief Summary of Request
16.119(f)(3)	For subdivisions and site development plans with no other means of access except from a restricted access road, the Department of Planning and Zoning may approve a single use-in-common driveway that meets the minimum sight distance requirements of the Design Manual or the State Highway Administration's access requirements, if the Department determines that a public road is not required in accordance with subsection 16.119(a)(8) of this subtitle.
16.120(c)(iv)	If subdivision lots with access from a use-in-common driveway adjoin a parcel that can be further subdivided under the parcel's current zoning, cross easements shall be recorded that will allow use and, if required by the design manual, improvement of the use-in-common driveway by the future adjoining subdivision. Shared use and maintenance of a single use-in-common driveway will be required only if the total development potential of the two subdivisions under current zoning will not exceed six units;

Signature of Property Owner:

[Signature]

Date:

11.14.22

Signature of Petitioner Preparer:

[Signature]

Date:

11-12-23

Name of Property Owner:

Mukesh Kumer & Agila Sundaram

Name of Petition Preparer:

Fisher, Collins & Carter, Inc.

Address:

3958 Old Columbia Pike

Address:

10272 Baltimore National Pike

City, State, Zip:

Ellicott City, MD 21043

City, State, Zip:

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E-Mail:

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410-461-2855

Contact Person:

Agila Sundaram

Contact Person:

Aldo M. Vitucci, P.E.



Owner's Authorization Attached