



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Voice/Relay

FAX 410-313-3467

November 24, 2020

John Neels  
7330 Green Drake Road  
Elkridge MD 21075

RE: **WP-20-036 Cascade Ridge (SP-19-004)**

Dear Mr. Neels:

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 November 19, 2020 and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability considered and approved the removal of 3 specimen trees included in your request for a variance with respect to Section 16.1205(a)(3) of the Subdivision and Land Development Regulations where an existing house and garage is to be razed and where a proposed public road and related improvements are to be constructed as detailed on the preliminary equivalent sketch plan (SP-19-004). 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 subdivision plans/plats, 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 development plan is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Derrick Jones (410) 313-2350 or email [djones@howardcountymd.gov](mailto:djones@howardcountymd.gov).

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief  
Division of Land Development

cc: Research [Section 16.1205(a)(3) - 3 tree req/ 3 tree app]  
DED  
OCS, Joshua Feldmark  
DRP, Raul Delerme  
Vogel+Timmons  
Julia Sauer  
Brenda Luber  
MD DNR



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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## ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

**RE:** **WP-20-036 Cascade Ridge**

**Applicant:** John Neels  
7330 Green Drake Road  
Elkridge MD 21075

Pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, the Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability considered and **APPROVED** the applicant's request for a variance with respect to **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove three (3) specimen trees where an existing house and garage is to be razed and where a proposed public road and related improvements are to be constructed as detailed on the preliminary equivalent sketch plan (SP-19-004).

The Directors deliberated the application for this Section in a meeting on November 19, 2020.

### **Subtitle 12: Section 1205(a)(3)**

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unwarranted hardship. This determination is made with consideration of the variance application and the seven (7) items the applicant was required to address, pursuant to Section 16.1216(c)(1)-(7):

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

The subject property consists of a wooded homestead that is partially surrounded by an existing residential subdivision named Cascade Overlook. At the west and east ends of this property are two dead-end road stubs which were specifically designed for future construction of a public road through the subject site which will provide a road connection between north and south sections of Cascade Overlook. As a result of this design (and the entire frontage at Landing Road being encumbered by environmentally sensitive land) access to and from this property must be achieved from where the two existing dead-end road stubs have been established.

The horizontal and vertical geometry required to design and connect the two dead-end road stubs shall require the removal of specimen tree 13. Although specimen tree 13 is in a fair condition, this tree cannot be retained because the road connection, its utilities, storm drains and a sidewalk are to be constructed over the majority of the tree's critical root zone. Specimen trees 1 and 12 are in poor condition and stand adjacent to the existing house and garage. These two structures are in poor condition and will be razed. Removal of specimen trees 1 and 12 is related to the demolition of these structures, which could occur irrespective of any new construction. These trees are not likely to survive due to their proximity to those structures and the demolition impact to the tree's critical root zones.

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

The enforcement of the regulations would deprive the landowner rights commonly enjoyed by others in the following manner. The existing house and garage are in poor condition and cannot be repaired. Specimen trees 1 and 12 are in proximity to these two structures and will not be able to survive once the structures are razed. Specimen tree 13 stands in the path of where a road connection between the two dead-end road stubs must be located. As a result of razing the structures and constructing the road, the 3 specimen trees cannot be retained. By enforcing the regulations, the applicant could not reasonably develop the property and would have to retain the dilapidated structures on the site to preserve specimen trees 1 and 12, and provide an undesirable road design that would prevent off-site road connections.

**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 that include a combination of water treatment practices to address water quality. In addition, there are two proposed micro-bioretenion facilities and drywells that shall treat and manage stormwater.

**4. Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants.**

Careful considerations were made during the planning and designing of this subdivision to avoid the removal of specimen trees on the property, including eliminating two previously proposed single family detached lots within this plan. As a result of such considerations, the applicant designed a development plan that would have no impact to the site's environmental features as the stream, wetland and their buffers are protected in open space. The ability to demolish a dilapidated structure is not special privilege, nor is the proposed road connection, which is designed to ensure adequate traffic circulation and meet public road standards.

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

The request to remove specimen trees is not based on conditions or circumstances which are the result of actions by the applicant. The future road connections to the subject property were designed with approval of the surrounding Cascade Overlook subdivision and the house and garage were constructed in 1904. Careful considerations were made during the planning and design of the subdivision to preserve as many specimen trees as possible. The removal of the 3 specimen trees have been verified to be necessary to raze the house and garage and to construct a road, utilities, storm drains and a sidewalk.

**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.**

The need to remove specimen trees 1 and 12 is not from a condition relating to land or building use on a neighboring property. Removal of these trees is a result of the demolition of the existing onsite structures, which could occur irrespective of any new construction. The need to remove specimen tree 13 is a result of the road design approved when the neighboring properties were subdivided. Although, removal of specimen tree 13 is a result of a condition relating to a neighboring subdivision, the Subdivision and Land Development Regulations required the proposed public roads to be extended to the boundary of this parcel so that a safe connection can be made if the parcel was ever subdivided. When the road network was designed, a feasibility study of this property was not conducted to analyze the environmental constraints and development potential because the lot was not part of the subdivision. Therefore, the features on this property were not taken into consideration with the offsite design. The applicant would endure a hardship if penalized by a road design created by the developer of the adjacent subdivision, who developed in accordance with the Subdivision Regulations.

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

The applicant provided supporting data that includes a specimen tree table, a tree assessment, photos of the specimen trees to be removed, and plan exhibits that details the subdivision layout. Furthermore, the subdivision has been redesigned to eliminate two previously proposed lots within the plan and to provide more open space. As a result, more specimen trees have been retained and protected from disturbance than what was proposed under the previous design.

**Directors Action:** Approval of this alternative compliance is subject to the following conditions:

1. The removal of the three (3) specimen trees shall be replaced at a mitigation rate of 2:1, per Section 16.1216(D) of the County Code. Therefore, a total of 6 native trees with a DBH of at least three inches must be planted as part of the subdivision's mitigation plan for specimen tree removal.
2. The 6 native trees must be depicted on the Cascade Ridge forest conservation plan and landscape plan, with notes and tree details included on both plans for this tree mitigation requirement. The 6 native trees shall be bonded as part of the Cascade Ridge landscaping requirements. The applicant must receive approval of a final subdivision plan and grading permit prior to removing the specimen trees.
3. Only those specimen trees requested for removal in this petition are permitted for removal: specimen trees 1, 12 and 13. No other specimen trees are approved to be removed from this site and shall remain undisturbed. The specimen trees to remain must be protected with tree protection devices/methods during construction and these protection practices must be detailed on the subdivision and site development plans.
4. Include this alternative compliance petition decision as a general note on the preliminary equivalent sketch plan, the final plan and site development plan. This note shall include the alternative compliance petition file number, the regulatory section, the decision date and the conditions of approval.

DocuSigned by:

*Amy Gowan*

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Amy Gowan, Director

Department of Planning and Zoning

DocuSigned by:

*Joshua Feldmark*

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Joshua Feldmark, Administrator

Office of Community Sustainability

DocuSigned by:

*Raul Delerme*

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Raul Delerme, Director

Department of Recreation and Parks

cc: DLD, Derrick Jones  
OCS, Joshua Feldmark  
Rec and Parks, 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. ~~WP-20-036~~  
 Date Filed 10/20/20

**ALTERNATIVE COMPLIANCE APPLICATION**

Site Description: CASCADE RIDGE

Subdivision Name/Property Identification: CASCADE RIDGE

Location of property: GREEN DENKE ROAD

Existing Use: VACANT Proposed Use: RESIDENTIAL

Tax Map: 31 Grid: 11 Parcel No: 474 Election District: 10

Zoning District: R-80 Total site area: 9,09 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:

EOP-19-051  
WP-20-036 (THIS APPLICATION REPLACES PREVIOUS APPLICATION)  
SP-19-004

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
<u>18.1205 (a)(7)</u>	<u>30" AND GREATER TREES RETENTION OF SPECIMEN TREES</u> <u>FEASIBILITY RETENTION PRIORITY.</u>



Section Reference No.	Brief Summary of Request

Signature of Property Owner: ORIGINAL DUPLICATION SIGNED  
 WA-20-036 (ATTACHED) Date: 10/17/19 (ORIGINAL)  
 KAREW MARTIN

Signature of Petitioner Preparer: [Signature] Date: 10/14/19 (ORIGINAL) 10/4/20

Name of Property Owner: JOHN KEELS Name of Petition Preparer: Robert Vogel + Timmas Group

Address: 7330 GREEN DANCE BRAD Address: 3300 N. RIDGE ROAD  
 SUITE 110

City, State, Zip: ELKIDGE MD 21075 City, State, Zip: ELKIDGE CITY MD 21043

E-Mail: martin281@Verizon.net E-Mail: Rob.Vogel@Timmas.com

Phone No.: 410 869-0134 Phone No.: 410 461-7666

Contact Person: KAREW MARTIN Contact Person: Rob Vogel

Owner's Authorization Attached

VI. Fees

The Alternative Compliance application fee shall be in accordance with the adopted fee schedule. All checks shall be made payable to the *Director of Finance*. **The petition will not be accepted for processing until the fee has been paid. Incomplete, incorrect or missing information may result in the rejection of the application** and could cause additional time to be required to revise the application for resubmittal and re-review. For more information or questions, contact DPZ at (410) 313-2350.

VII. Owner's/Petitioner's Certification

**I/WE** the undersigned fee simple owner(s) hereby make application to the Howard County Department of Planning and Zoning to provide an alternative compliance request of the minimum requirements of the Howard County Subdivision and Land Development Regulations. The undersigned hereby certifies the information supplied herewith is correct and complete, confirms that the regulations and policies as referred to in the attached are understood, and authorizes periodic on-site inspections by the Howard County Subdivision Review Committee agencies. **\*If the applicant is the owner's agent, written documentation from owner granting that authority is required at the time of the submission.**

Owner's authorization attached \*

Karen Martin  
(Signature of Property Owner)  
(Fee Simple Owner Only)

10-17-2019  
(Date)

[Signature]  
(Signature of Petition Preparer) \*

10-14-19  
(Date)

JOHN NEELS  
(Name of Property Owner)

VOGEL ENGINEERING + TIMMONS & ROE  
(Name of Petition Preparer, Surveyor/Engineering/Architect  
or Agent/Developer)

1330 GREEN DRAKE ROAD  
(Address)

3300 N. RIDGE ROAD, SUITE 110  
Address)

ELKRIDGE, MD 21075  
(City, State, Zip Code)

ELLIOTT CITY, MD 21043  
(City, State, Zip Code)

E-Mail marti281@verizon.net

E-Mail rob.vogel@timmons.com

410-869-0134  
(Telephone) (Fax)

410-461-7666 410-461-8961  
(Telephone) (Fax)

Contact Person: KAREN MARTIN

Contact Person: ROBERT H. VOGEL





HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING  
3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

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[www.howardcountymd.gov](http://www.howardcountymd.gov)  
FAX 410-313-3467  
TDD 410-313-2323

November 8, 2019

John Neels  
7330 Green Drake Road  
Elkridge MD 21075

RE: **WP-20-036 Cascade Ridge (SP-19-004)**

Dear Mr Neels:

Regarding the above referenced alternative compliance petition to Section 16.1205(a)(7) of the County Code for the removal of nine (9) specimen trees, this Division is advising you that **no action** will be taken until after the Planning Board has had an opportunity to review and consider the preliminary equivalent sketch plan proposal at a public hearing. In accordance with Section 107.0.F.1. of the Zoning Regulations, a preliminary equivalent sketch plan must be approved by the Planning Board.

In the meantime, please review the attached comments from the Division of Land Development and respond to these comments within 45 days from the date of this letter (on or before **December 23, 2019**)

Once the Planning Board has had the opportunity to review and consider the SP plan (SP-19-004), then this Division shall render a decision on this waiver petition.

If you have any questions, please contact Derrick Jones at (410) 313-4330 or email at [djones@howardcountymd.gov](mailto:djones@howardcountymd.gov).

Sincerely,

Kent Sheubrooks, Chief  
Division of Land Development

KS/dj  
cc: Research  
Vogel+Timmons  
File: SP-19-004