



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

May 13, 2020

Golden Gate LLC
c/o Gopi Mandela
6404 Ivy Lane
Greenbelt MD 20770

RE: **WP-20-071 Cedars Extended, Lots 6 and 7 (F-20-015)**

Dear Gopi:

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 May 7, 2020 and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, Director of the Department of Public Works and Administrator of the Office of Community Sustainability considered and **approved** your request for a variance with respect to **Sections 16.116(a)(2)(ii) and 16.116(a)(3)** of the Subdivision and Land Development Regulations to disturb a 75-foot stream buffer for the construction of a shared driveway that shall provide access to the subject property and to permit a stream bank buffer on a residential lot that is less than 10 acres in area. Please see the attached Final Decision Action Report for more information.

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.

On May 6, 2020 and pursuant to Section 16.104, the Director of the Department of Planning and Zoning considered and **denied** your request for alternative compliance to **Section 16.134(a)(1)(i)** of the Subdivision and Land Development Regulations to pay a fee-in-lieu of providing a sidewalk as part of this subdivision development.

The Department of Planning and Zoning finds that strict enforcement of Section 16.134(a)(1)(i) would not result in a practical difficulty or unreasonable hardship. 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):

Section 16.134(a)(1)(i) – In residential subdivisions and site developments the developer shall construct sidewalks on both sides of all streets in the project and along the project frontage except that sidewalks are required on only one side of cul-de-sacs and local streets of single-family detached subdivisions.

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

Strict conformance to this requirement will not deprive the applicant rights commonly enjoyed by others. The Regulations require the construction of sidewalks for residential subdivisions along the property's frontage. The subject property fronts a public county road (Cedar Avenue) and conformance to this regulation shall benefit the community by providing a segment of sidewalk along Cedar Avenue that will serve as a necessary link for a future sidewalk should other properties along Cedar Avenue subdivide or a future County capital project to construct additional sidewalk along the remaining distance of Cedar Avenue is approved. The Development

Engineering Division (DED) does not recommend alternative compliance to this sidewalk requirement because the County has completed curb, storm drains and road widening along the south side of Cedar Avenue (which includes the subject property). Therefore, it would be the appropriate time to install sidewalk, in accordance with Section 16.134(a)(1)(i) and the Design Manual, as no future improvements are planned.

2. The uniqueness of the property or topographical conditions would result in practical difficulty, other than economic, or unreasonable hardship from strict adherence to the regulations.

There are no unique topographical or property conditions that would result in a practical difficulty or an unreasonable hardship from strict adherence to the sidewalk regulations. A recent County Capital Project (D-1155) installed curb, storm drains and road widening for approximately 1,000± feet along the south side of Cedar Avenue (this includes the frontage of the subject property Lot D-2). However, there are no County plans to construct a sidewalk along Cedar Avenue. Site visits were performed by DPZ staff to assess existing conditions and the road improvements to Cedar Avenue. The visits revealed that there are no unique topographical conditions that would prevent a sidewalk to be constructed. The frontage is a flat, grassy area that contains a tree (non-specimen). The developer shall dedicate 1,000 SF of the frontage to the county for road widening and it is within this dedicated area that a sidewalk may be constructed.

3. The variance will not confer on the applicant a special privilege that would be denied to other applicants.

The Division is not recommending alternative compliance and, therefore, a special privilege would not be conferred. However, if approved, this variance would confer on the applicant a special privilege since the provision for sidewalk construction is required for all land developers that subdivide and/or pursue site development.

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

If approved, the variance to allow the applicant not to construct the required sidewalk would be detrimental to the public health, safety or welfare. The required sidewalk will be of benefit to this community by providing safe pedestrian access and a segment of sidewalk along Cedar Avenue that will serve as a necessary link for a future sidewalk should other properties along Cedar Avenue subdivide or a future County capital project to construct additional sidewalk along the remaining distance of Cedar Avenue is approved.

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

Sincerely,

DocuSigned by:

Anthony Cataldo

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Anthony Cataldo, AICP, Chief
Division of Land Development

Attachment: Final Decision Action Report

cc: Research
DED
OCS, Joshua Feldmark
DPW, James Irvin
DLD, Julia Sauer
DPZ Files: WP-20-071, F-20-015
Fisher, Collins and Carter



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 PUBLIC WORKS

RE: **WP-20-071 Cedars Extended, Lots 6 and 7**
Request for a waiver to Sections 16.116(a)(2)(ii) and (a)(3) of the Subdivision and Land Development Regulations.

Applicant: Golden Gate LLC
c/o Gopi Mandela
6404 Ivy Lane, Suite 320
Greenbelt MD 20770

Pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, the Administrator of the Office of Community Sustainability and the Director of the Department of Public Works considered and **APPROVED** the applicants request for a waiver with respect to **Sections 16.116(a)(2)(ii) and 16.116(a)(3)** of the Subdivision and Land Development Regulations to disturb a 75-foot stream bank buffer for the construction of a shared driveway that shall provide access to the subject property and to permit a stream bank buffer on a residential lot that is less than 10 acres in area. The Directors deliberated the application in a meeting on May 7, 2020.

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 16.116(d):

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

The front half of Lot D-2 is encumbered by a 75-foot stream buffer. The applicant is seeking to construct a shared, 16-foot wide paved driveway in a portion of this stream buffer. The applicant states that strict conformance to the requirements would create an odd driveway configuration that would shift the driveway access to the western edge of the subdivision. This would place the driveway near where a proposed stormwater management bio-retention facility is located. In addition, it would shift the driveway closer to the adjacent church property (Cedars Extended, Lot 5). The requested location of the driveway would be central to the subdivision and be unobtrusive to the adjacent church property to the west. The area where the driveway is to be located would be over an underground pipe that conveys a stream system to an open section of the stream that flows 45 feet to the east. The driveway shall not impact the underground pipe and its function of conveying the stream flow easterly to the open section. In addition, the applicant states

WP-20-071 Cedars Extended, Lots 6 and 7 - *Request for a waiver to Sections 16.116(a)(2)(ii) and 16.116(a)(3) of the Subdivision and Land Development Regulations.*

that other adjacent properties in this area have piped the flow of the stream; this includes the adjacent church property (Lot 5 of the adjoining Cedars Extended subdivision, plat 10256). The church's driveway access crosses the same underground pipe that directs the flow of the stream under the subject site and further east.

2. **The uniqueness of the property or topographical conditions would result in practical difficulty, other than economic, or unreasonable hardship from strict adherence to the regulations.**
As stated above in criterion no. 1, the front half of Lot D-2 is encumbered by a 75-foot stream buffer that prohibits grading, land clearing, construction or paving in the buffer. This buffer restricts driveway access for the development of Lot D-2 to a small area near the western edge of the property, close to adjacent Lot 5. Access at the western edge would be constrained due to the required stormwater management bio-retention facility proposed in that area and, therefore, would create an odd driveway configuration, as opposed to an access point that will be central the proposed subdivision. In addition, the applicant did provide an alternative analysis to demonstrate how relocating the driveway outside of the stream bank buffer and closer to the western edge would still adversely impact the buffer. By relocating the driveway, a part of the required stormwater management bio-retention facility would have to be located in the stream bank buffer (*see attached alternative analysis exhibit*). The Development Engineering Division reviewed this analysis and concurred with its findings.
3. **The variance will not confer on the applicant a special privilege that would be denied to other applicants.**
This variance will not confer to the applicant a special privilege that would be denied to other applicants. The applicant is requesting, with justification, to disturb a portion of a 75-foot stream buffer for access to and from a proposed subdivision for 2 lots. Legal and safe vehicular access to and from a property is evaluated at the time of land subdivision; all applicants for land subdivision would have to demonstrate that the property has legal and safe access to and from the property, in accordance to County Regulations. The approval of this variance is not conferring a special privilege to the applicant as the applicant has provided cogent justification for disturbing the stream buffer within the scope of the Regulations.
4. **The modification is not detrimental to the public health, safety or welfare or injurious to other properties.**
This request shall not be detrimental to the public health, safety or welfare or injurious to other properties. Protective measures and standards shall be imposed by the Department to prevent impact to the open section stream on adjacent Lot 1 of the Harver Property and the underground pipe located on the subject property.
5. **Any area of disturbance is returned to its natural condition to the greatest extent possible.**
The applicant stated that all areas beyond the paved driveway shall be returned back to its natural condition. The restoration of natural areas that are disturbed for the construction of the paved driveway will be required by this Department.
6. **Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**
The applicant is required to provide best management practices in accordance with MDE standards to manage stormwater management runoff and to control and mitigate the impact to water quality and to the natural environment. The remaining stream bank buffer that is not encumbered by public easement will be planted.

WP-20-071 Cedars Extended, Lots 6 and 7 - Request for a waiver to Sections 16.116(a)(2)(ii) and 16.116(a)(3) of the Subdivision and Land Development Regulations.

7. **Grading, removal of vegetative cover and trees, or construction shall only be the minimum necessary to afford relief and to the extent required to accommodate the necessary improvements.**

The disturbance to the stream buffer shall be limited only to the area necessary to construct the shared driveway. The applicant states that the disturbed area shall be reversed back to its natural condition in the form of a lawn and DPZ will require the stream bank buffer that is not encumbered by public easement to be planted.

Directors Action: Approval of this alternative compliance of Sections 16.116(a)(2)(ii) and 16.116(a)(3) is subject to the following conditions:

1. The disturbance to the 75-foot stream buffer shall only be permitted for the construction for the proposed 16-foot wide paved shared driveway and land clearance related to the driveway construction, storm drain requirements, and associated utilities, such as water and sewer line connections at Cedar Avenue.
2. Any natural vegetation that has been disturbed near the limits of where the paved driveway is constructed must be restored to its natural condition once the driveway has been constructed.
3. Additional landscaping be provided within the stream buffer to help slow stormwater runoff, control erosion and reduce sediment pollution to the stream.
4. A 35-foot environmental setback will be required for the lots of this subdivision from the edge of the 75-foot stream bank buffer.
5. Include this alternative compliance petition decision as a general note on 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

3241B974543E4B7...

Joshua Feldmark, Administrator
Office of Community Sustainability

DocuSigned by:

Jim Irvin

260BA262E428441...

James Irvin, Director
Department of Public Works

cc: Research
DED
OCS, Joshua Feldmark
DPW, James Irvin
Derrick Jones



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: 7368 Cedar Ave

Subdivision Name/Property Identification: Cedars Extended, Lots 6 & 7

Location of property: 7368 Cedar Ave

Existing Use: Residential **Proposed Use:** Residential

Tax Map: 43 **Grid:** 08 **Parcel No:** 257 **Election District:** Sixth

Zoning District: R-SC **Total site area:** 0.595 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-19-011; F-20-015

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.

Section Reference No.	Brief Summary of Request
16.116(a)(2)(ii)	Be allowed to disturb the edge of stream buffer in order to provide common driveway straight to the two proposed houses to limit impervious surface and odd alignment.
16.116(a)(3)	Due to the small size of the lots in R-SC zoning, stream buffer is being requested to remain on the lots to not have a small open space lot.
16-134(a)(1)(i)	Requesting to pay a fee-in-lieu of sidewalk since no sidewalk exists in this area to connect to and adjacent church has entire frontage paved down to the road.

Signature of Property Owner:

Gopi Mandela

Date:

3/19/2020

Signature of Petitioner Preparer:

Stephanie Tuite

Date:

3/19/20

Name of Property Owner:

Golden Gate LLC

Name of Petition Preparer:

Fisher, Collins & Carter, Inc.

Address:

6404 Ivy Lane Suite 320

Address:

10272 Baltimore National Pike

City, State, Zip:

Greenbelt, Maryland 20770

City, State, Zip:

Ellicott City, Maryland 21042

E-Mail:

gopi@mygoldengate.com

E-Mail:

stephanie@fcc-eng.com

Phone No.:

301-821-1111

Phone No.:

410-461-2855

Contact Person:

Gopi Mandela

Contact Person:

Stephanie Tuite

Owner's Authorization Attached agent)