



# 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

July 22, 2022

Chetan Mehta  
5192 Talbots Landing  
Ellicott City, MD 21043

RE: WP-22-118, 7170 Montgomery Road (Mehta Property)


Dear Mr. Mehta:

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 July 19, 2022 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 **denied** your request for alternative compliance with respect to **Section 16.116(b)(1)** of the Subdivision and Land Development Regulations to disturb steep slopes to increase the developable area of the property. Please see the attached Final Decision Action Report for more information.

If you have any questions, please contact Jill Manion at (410) 313-2350 or email at [jmanion@howardcountymd.gov](mailto: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  
DED  
SCD  
Paul Cavanaugh, Fisher Collins and Carter



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## ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

DEPARTMENT OF PLANNING AND ZONING  
DEPARTMENT OF PUBLIC WORKS  
OFFICE OF COMMUNITY SUSTAINABILITY

**RE:** **WP-22-118, 7170 Montgomery Road (Mehta Property)**  
*Request for an alternative compliance to Sections 16.116(b)(1) of the Subdivision and Land Development Regulations.*

**Applicant:** **Chetan Mehta**  
**5192 Talbots Landing**  
**Ellicott City, MD 21043**  
[elkridgedevelopers@gmail.com](mailto:elkridgedevelopers@gmail.com)

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **denied** the applicants request for an alternative compliance with respect to **Section 16.116(b)(1)** of the Subdivision and Land Development Regulations. The purpose is to disturb areas of steep slopes to move dirt from the Elkridge Crossing to 7170 Montgomery Road and grade the site in preparation for future development. The grading is shown on SDP-22-024 as a mass grading plan which differs from the conditions proposed under the approved Environmental Concept Plan (ECP). While there is an approved ECP for the property to be subdivided and developed with seven single-family attached units, no subdivision plans have been submitted for the property to advance the concept.

The Directors deliberated the application in a meeting on June 30, 2022.

### **Subtitle I, Article II, Section 16.116(b)(1):**

Each Department hereby determines that the applicant has not demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unreasonable hardship or practical difficulty. This determination is made with consideration of the alternative compliance application and the seven (7) items the applicant was required to address, pursuant to Section 16.104(a)(1) and Section 16.116(d):

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

The applicant has not adequately satisfied the justification. An Environmental Concept plan has been approved for this site, but the applicant has not applied for subdivision of this property. The approval of the ECP required an alternative compliance for the disturbance of steep slopes as well as documentation of field penetrating radar to verify there are no gravesites on or over the property boundary as part of the future subdivision process. The SDP that has been submitted (SDP-22-024) and the exhibit provided with this alternative compliance request differs from the approved ECP and are for an interim condition until such time the developer is ready to proceed with subdivision. At this time, there is no development being processed for the subdivision and the conditions of

the ECP have not been fulfilled. Further, the developer has communicated with the Soil Conservation District that the interim condition will remain for approximately five years, therefore, the impact proposed to the steep slopes is only to create the interim condition. Absent an approved subdivision plan indicating that the waiver requirements have been met, there is not a basis for which the justification criteria can be met.

**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.**

Limited development potential exists for this site due to extensive steep slopes on the property. However, any disturbance to the steep slope must be tied to an executable development plan that has been reviewed and approved by the Subdivision Review Committee. The applicant's justification indicates the unique condition to be a vacant property on Montgomery Road, with development surrounding the property. While the property meets the definition of infill, being undeveloped land is not a unique condition.

Consultants for the applicant indicated that the steep slopes along the townhouse development boundary to the south were created to tie that grading into the subject property's grade, which could create a long-term erosion concern. Since the proposed mass grading plan does not match the proposed subdivision plan, there is not a basis to approve permanent impacts to the steep slopes. Without evidence that there is an existing erosion problem, there is no condition that requires immediate correction. The petitioner asserts that the ultimate construction of a retaining wall will minimize slope stumps and erosion into the low area. However, there is no timeline when the ultimate development of the property, including the final retaining wall would be installed.

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

Previous applicants have been denied similar requests to grade a site and impact steep slopes without having an actionable development plan approved. Similar alternative compliance requests to impact steep slopes and other environmental features have only been approved when the petitioner has demonstrated that no other feasible alternative exists and that minimal impacts will occur as a result of granting the modification. There are currently no actionable development plans proceeded for this property so approval of this variance would confer a special privilege as there is no evidence that the proposed mass grading SDP will support the land work needed for a future subdivision.

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

There is no conclusive evidence that the current condition nor the proposed condition will be detrimental to the public health, safety or welfare, or injurious to other properties. The applicant indicated that the ground penetrating radar will be inconclusive until the site is taken to "bare ground" due to the amount of vegetation on the site. Therefore, this criterion cannot be fully evaluated until conclusive ground penetrating radar is conducted to ensure no injury to any remains that may be present.

**5. Any area of disturbance is returned to its natural condition to the greatest extent possible.**

The applicant has not met this justification with this request. There is no plan to bring the any portion of the site back to its natural condition, nor is there any enforceable timeline provided to proceed with potential development of the property. The applicant has not successfully identified existing erosion problems on site to justify the proposed grading.

**6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**

While the applicant has proposed standard Sediment and Erosion Control measures during the interim condition, the long-term maintenance of the interim condition would be required to ensure there are no adverse impacts to water quality and fish, wildlife and vegetative habitat. Being an interim condition, there is no permanent mitigation provided to meet this standard.

**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.**

No alternative development options have been suggested for this site and there are no assurances that the petitioner will develop the site in a reasonable time period to justify impacting to the steep slopes. The applicant proposes to grade the entire property into an interim condition to resolve the “potential” for erosion, and does not intend to develop the property within the next five (5) years.

**Directors Action:** Denial of alternative compliance of Section 16.116(b)(1) based on the above justification.

DocuSigned by:

*Amy Gowan*

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Amy Gowan, Director  
Department of Planning and Zoning

DocuSigned by:

*Thomas Meunier*

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Thomas Meunier, Director  
Department of Public Works

DocuSigned by:

*Joshua Feldmark*

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Joshua Feldmark, Administrator  
Office of Community Sustainability

cc: Research  
OCS, Joshua Feldmark  
DPW, Thomas Meunier

**Certificate Of Completion**

Envelope Id: 64C950DF2EED414D9F8DF6A64755B622	Status: Completed
Subject: Please DocuSign: WP-22-118 denial.docx, WP-22-118 DAR_final.docx.pdf	
Source Envelope:	
Document Pages: 4	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Disabled	Envelope Originator:
Enveloped Stamping: Disabled	Anthony Cataldo
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	Ellicott City, MD 21043
	acataldo@howardcountymd.gov
	IP Address: 167.102.191.18

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Anthony Cataldo  
 acataldo@howardcountymd.gov  
 Division Chief  
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**Signature**

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**Carbon Copy Events**

**Status**

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**Witness Events**

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**Notary Events**

**Signature**

**Timestamp**

**Envelope Summary Events**

**Status**

**Timestamps**

Envelope Sent	Hashed/Encrypted	7/21/2022 5:31:51 PM
Certified Delivered	Security Checked	7/21/2022 5:31:56 PM
Signing Complete	Security Checked	7/21/2022 5:32:12 PM
Completed	Security Checked	7/21/2022 5:32:12 PM

**Payment Events**

**Status**

**Timestamps**





**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-22-118*  
 Date Filed

**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:** 7170 MONTGOMERY ROAD

**Subdivision Name/Property Identification:** MEHTA PROPERTY

**Location of property:** 7170 MONTGOMERY ROAD

**Existing Use:** RESIDENTIAL      **Proposed Use:** RESIDENTIAL

**Tax Map:** 38      **Grid:** 2      **Parcel No.:** 700      **Election District:** FIRST

**Zoning District:** R-A-15      **Total site area:** 0.92 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-22-012, SDP-22-024

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
Section 16.116(b)(1)	Sec. 16.116. - Protection of wetlands, streams, and steep slopes. (b)Steep Slopes. Steep slopes are slopes that average 25 percent or greater over ten vertical feet.(1)Grading, removal of vegetative cover and trees, new structures, and paving shall not be permitted on land with existing steep slopes, except when:(i)The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet; and(ii)There is sufficient area, a minimum ten feet, outside of stream and wetland buffers for required sediment and erosion control measures.



Section Reference No.	Brief Summary of Request

**Signature of Property Owner:** [REDACTED] **Date:** [REDACTED]

**Signature of Petitioner Preparer:** [REDACTED] **Date:** [REDACTED]

**Name of Property Owner:** CHETAN MEHTA **Name of Petition Preparer:** FISHER, COLLINS, AND CARTER, INC.

**Address:** 5192 TALBOTS LANDING **Address:** 10272 BALTIMORE NATIONAL PIKE

**City, State, Zip:** ELLICOTT CITY, MD 21043 **City, State, Zip:** ELLICOTT CITY, MD 21042

**E-Mail:** elkridgedevelopers@gmail.com **E-Mail:** PAULC@FCC.COM

**Phone No.:** 443-285-9563 **Phone No.:** 410-461-2855

**Contact Person:** CHETAN MEHTA **Contact Person:** PAUL G. CAVANAUGH, P.E.

**Owner's Authorization Attached**