



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

August 30, 2023

Douglas & Melanie Oberholzer
10308 Wetherburn Road
Woodstock, MD 21163

RE: WP-23-105 Montgomery Knolls, Lot 103
Alternative Compliance Approval

Dear Mr. & Mrs. Oberholzer:

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 August 24, 2023 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 alternative compliance with respect to **Section 16.116(a)(2)(iii)** of the Subdivision and Land Development Regulations to disturb a portion of a Use IV-P perennial stream bank buffer area in order to construct a single-family detached dwelling unit and driveway. Please see the attached Final Decision Action Report for more information.

If you have any questions, please contact Jason Lenker at (410) 313-2350 or email at jlenker@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief

Division of Land Development

AC/JL

cc: Research
DLD - Julia Sauer
Real Estate Services



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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-23-105 Montgomery Knolls, Lot 103**
Request for an alternative compliance to Section 16.116(a)(2)(iii) of the Subdivision and Land Development Regulations.

Applicant: Douglas & Melanie Oberholzer
10308 Wetherburn Road
Woodstock, MD 21163

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 **approved** the applicants request for an alternative compliance with respect to **Section 16.116(a)(2)(iii)** of the Subdivision and Land Development Regulations. The purpose is to disturb a portion of a Use IV-P perennial stream bank buffer area in order to construct a single-family detached dwelling unit and driveway. The Directors deliberated the application in a meeting on August 24, 2023.

Each Department hereby determines that the applicant has 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 other in similar areas.

A Use IV-P perennial stream (Red Hill Branch) runs along the western boundary of this lot just beyond the property line. The 100-foot stream bank buffer for this stream encompasses nearly the entire property and building envelope. Strict conformance with this requirement would render the lot unbuildable and would deprive the applicant from building a home, which is a right commonly enjoyed by others in this neighborhood and within Howard County.

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.

This lot was created in 1988 before stream bank buffers were regulated by the Howard County Subdivision and Land Development Regulations; therefore, no stream bank buffer is shown on the recorded plat. With the current regulations, the 100-foot stream buffer now encompasses nearly the entire building envelope making it impossible to reasonably construct a house without impacting the buffer area. This creates a practical difficulty in complying with the regulations since the buildable lot was created prior to being subject to the stream bank buffer regulations.

3. **The variance will not confer to the applicant a special privilege that would be denied to other applicants.**
Approval of this alternative compliance would not confer the applicant a special privilege that would be denied to other applicants in similar situations. There are many instances in this neighborhood and throughout Howard County where buildable lots were created and where dwellings were constructed prior to the current Subdivision Regulations that would now be considered non-buildable lots or would create disturbance within a buffer area if subjected to the current regulations.
4. **The modification is not detrimental to the public health, safety or welfare, or injurious to other properties.**
There is no evidence that this modification is detrimental to the public health, safety or welfare, or injurious to other properties. The impact is held to the minimum amount possible to reasonably construct the proposed house and driveway and is constrained within the limits of the building envelope. Water drainage patterns will not be impacted by the proposed construction, so neighboring properties will not be adversely affected by runoff or flooding due to development of this property.
5. **Any area of disturbance is returned to its natural condition to the greatest extent possible.**
The property in its current state is mowed grass lawn. Besides the removal of grass, there is no proposed disturbance to trees or any other vegetation. Any disturbance within the stream buffer beyond the proposed dwelling and driveway will be stabilized and sodded to return it to its current natural condition.
6. **Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**
The proposed layout of the dwelling and driveway is located along the edge of the building restriction line closest to the neighboring lot 102 and as far from all environmental features as possible. The applicant was able to avoid impacting the floodplain, wetland, and wetland buffer that are located on the property. In order to further minimize adverse impacts to water quality, fish, and wildlife during construction, the disturbed area will comply with the requirements of the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control as outlined on Sheet 2 of SDP-23-041. The perimeter of the limit of disturbance will be wrapped with a super silt fence and dust control methods will be used internally to prevent sediment runoff into the undisturbed portion of the buffer. Additionally, the applicant will plant a riparian enhancement buffer area to mitigate future disturbance and impacts to the stream bank buffer.
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 disturbed stream buffer area is limited to the minimum area required to construct the proposed dwelling. The limit of disturbance is held as tightly as possible to the proposed house, driveway, and necessary grading areas to keep impacts as minimal as possible. There is no proposed removal of vegetation or trees other than existing lawn, and any disturbed lawn will be re-sodded post construction to stabilize the soil as quickly as possible. After construction, planting within a riparian buffer area will occur to enhance ecological quality for the wetland and stream buffer areas.

Directors Action: Approval of alternative compliance of Section 16.116(a)(2)(iii) is subject to the following conditions:

1. Disturbance to the stream bank buffer must only be the minimum necessary to construct the single-family detached house, driveway, utilities and grading as shown on the site development plan, SDP-23-041.
2. The riparian buffer enhancement area, as shown on the alternative compliance exhibit, shall be shown on the site development plan, SDP-23-041. Financial surety for the required plantings shall be posted with the grading permit in accordance with the Department of Planning and Zoning unit prices for landscaping surety and will require a landscape inspection fee to be paid with the SDP. The owner, tenant, and their respective agents, if any, shall jointly and severally be responsible for the maintenance of the required riparian buffer enhancement area. All required plantings shall be maintained in good growing condition and, whenever necessary, replaced with comparable new plant materials to ensure continued compliance with this alternative compliance approval.
3. No grading or removal of vegetative cover or trees is permitted within the 100-foot stream bank buffer, wetland or 25-foot wetland buffer, or 100-year floodplain, except for the specific area approved under this alternative compliance request and as shown on the site development plan, SDP-23-041.

4. The applicant shall comply with all building and grading permit requirements from the Department of Inspections, Licenses and Permits.

DocuSigned by:

Lynda Eisenberg

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Lynda Eisenberg, AICP, Director
Department of Planning and Zoning

DocuSigned by:

Yosef Kebede

7436E469C7824F6...

Yosef Kebede, Director
Department of Public Works

DocuSigned by:

Timothy Lattimer

AEB00003A8F04A0...

Timothy Lattimer, Administrator
Office of Community Sustainability

cc: Research
OCS
DPW



DPZ Office Use only:
File No.
Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: vacant recorded lot

Subdivision Name/Property Identification: Montgomery Knolls, Section 1, Lot 103

Location of property: 4874 Avoca Avenue

Existing Use: vacant lot **Proposed Use:** single family detached residence

Tax Map: 31 **Grid:** 07 **Parcel No:** 273 **Election District:** 2

Zoning District: R-20 **Total site area:** 0.45 acres

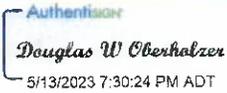
Please list all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.). If no previous plans have been submitted, please provide a brief history of the site and related information to the request:

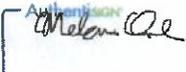
The lot was recorded in 1988 as plat #7605
 SDP-23-041 has been submitted for first review

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
Subtitle 1 Article II Section 16.116.a.2.iii	Request to disturb a portion of a Use IV-P perennial stream bank buffer in order to construct a single family detached home and driveway

Section Reference No.	Brief Summary of Request

Signature of Property Owner:  **Date:** 05/13/2023
5/13/2023 7:30:24 PM ADT

Signature of Petitioner Preparer:  **Date:** 05/13/2023
5/13/2023 3:54:32 PM ADT

Name of Property Owner: Douglas and Melanie **Name of Petition Preparer:** Benchmark Engineering, Inc
Address: 10308 Wetherburn Road **Address:** 3300 N Ridge Road, Suite 140

City, State, Zip: Woodstock, Maryland 21163 **City, State, Zip:** Ellicott City, Maryland 21043

E-Mail: justin@cornerstone-homes.com **E-Mail:** bei@bei-civilengineering.com

Phone No.: 410-792-2565 **Phone No.:** 410-465-16105

Contact Person: Justin Boy **Contact Person:** D Thompson

Owner's Authorization Attached