

MUKESH KUMAR

: BEFORE THE

AND

: HOWARD COUNTY

AGILA SUNDARAM

: BOARD OF APPEALS

Appellants

: HEARING EXAMINAR

v.

HOWARD COUNTY DEPARTMENT OF

: BA Case No. 818D

PLANNING AND ZONING IN WP-25-066

Appellee

.....
.....

DECISION AND ORDER

On July 31, 2025, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, conducted a hearing on the administrative appeal of Mukesh Kumar and Agila Sundaram (Appellants). Appellants are appealing the Department of Planning and Zoning's May 5, 2025 letter attaching the Alternative Compliance Final Decision Action Report (Department of Planning and Zoning (DPZ), Department of Recreation and Parks, and Office of Community Sustainability) denying WP-25-066, Applicants request for Alternative Compliance for Mitchell Greens at 3956 Old Columbia Pike, Ellicott City, Maryland. The appeal is filed pursuant to §130.0.A.3 of the Howard County Zoning Regulations (HCZR).

The Appellants certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure. Mr. Sang Oh, Esq. appeared on behalf of Appellants. Samer Alomer, civil engineer, testified on behalf of the Appellants. Mark and Erika Ragonese testified in opposition.

Appellants presented the following Exhibits:

- Ex. 1. Application for Alternative Compliance
- Ex. 2. Supplemental Plan

BACKGROUND

The approximately 1.04-acre property is located on the south side of Main Street, west of its intersection with Old Columbia Pike, east of its intersection with Church Road, and east of Md Rt 29, also identified as 3956 Old Columbia Pike, Ellicott City, Maryland (the Property). The Subject Property is improved with a single family detached dwelling with access drive onto Old Columbia Pike, and lies in Council District 1, the 2nd Election District, and is identified as Tax Map 25, Grid 13, Parcel 134, in the R-ED (Residential: Environmental Development) Zoning District.

On February 14, 2025, the Appellants requested Alternative Compliance from §16.1205(a)(3) of the Howard County Code in accordance with §16.1216. Section 16.1205(a)(3), Forest Retention Policies, requires the retention of trees with a diameter of 30 inches or greater.

WP-25-066 is requesting the removal of 3 Specimen Trees:

Tree 10- 35.5" Tulip Poplar- Good Condition

Tree 11-57.5" Multi Stem Silver Maple- Very Poor Condition

Tree 15-34.5" Twin Silver Maple- Fair Condition

On May 5, 2025, by cover letter from DPZ, WP-25-066 was unanimously denied, stating that "On April 24, 2025, and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the (sic) Recreation and Parks, and Administrator of the Office of Community Sustainability considered and **denied** your request for a variance with respect to **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove specimen trees." The Alternative Compliance Final Action Report found "After considering the alternative compliance application and the items required to be addressed pursuant to Section 16.1216(c), they find enforcement of this subtitle would not result in unwarranted hardship and agree unanimously to **DENY** the request for a variance with respect to **Section 16.1209(b)(5)** of the Forest Conservation Regulations.". By Administrative Appeal Petition dated June 4, 2025, Appellants appealed the denial of the request for Alternative Compliance to remove three (3) Specimen Trees.

JURISDICTION

WP-25-066 is a request for Alternative Compliance to remove three (3) specimen trees filed pursuant to §16.1216, Subtitle 12, Forest Conservation Act, of the Howard County Code. §16-1216(b) provides

A variance to the provisions of this subtitle shall be considered and approved or denied in writing by the Directors of the Department of Planning and Zoning, the Administrator of the Office of Community Sustainability, and the Director of the Department of Recreation and Parks.

By letter dated May 5, 2025 the Department of Planning and Zoning informed the Appellants that on April 24, 2025 "the Director of the Department of Planning and Zoning, Director of the Recreation and Parks (sic), and Administrator of the Office of Community Sustainability considered and **denied** your request...". Appended to this letter is the Alternative Compliance Final Decision Action Report signed by Lynda Eisenburg, AICP, Director, Department of Planning and Zoning, Bryan Moody for Director Mooneyhan, Department of Recreation and Parks, and Timothy Lattimer, Administrator, Office of Community Sustainability.

STANDARD OF REVIEW

The right to appeal an administrative decision is wholly statutory. Howard County v. JJM, Inc., 301 Md. 256, 261, 482 A.2d 908, 910 (1984) (citing Maryland Bd. V. Armacost, 286 Md. 353, 354-55, 407 A.2d 1148, 1150 (1979); Criminal Injuries Comp. Bd. V. Gould, 273 Md. 486, 500, 331 A.2d 55, 64 (1975); Urbana Civic Ass'n v. Urbana Mobile VIII, Inc., 260 Md. 458, 461, 272 A.2d 628, 630 (1971).

Pursuant to Howard County Code §16.1215, appeals to the Board of Appeals of decisions made pursuant to the Director of Planning and Zoning's administrative decision-making authority shall be heard in accordance with the Board of Appeal's Rules of Procedures. Subtitle 2.-Rules of Procedure of the Board of Appeals, Section 2.210 provides that administrative appeals such as the instant appeal are *de novo* and the burden of proof is on the appellant to show that the action taken by the Administrative Agency was clearly erroneous, and/or arbitrary and capricious, and/or contrary to law. Per Howard County Code § 16.302(a) Jurisdiction of Hearing Examiner), when a matter is authorized to be heard and decided by the Board of Appeals, the matter will first be heard and decided by a Hearing Examiner. Hearing Examiner Rule of Procedure 10.2(c) assigns the burden of proof in an appeal from an administrative agency decision of showing by substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law. See also, Hearing Examiner Rules of Procedure, Rule 10.2.(c)

In a *de novo* (meaning as new) appeal, the role of the Hearing Examiner is akin to a trial court, and the appeal may be a contested case, in which the evidence is adduced, and the Hearing Examiner is the trier of fact awarded deference on appellate review as the Examiner saw the witnesses and the evidence firsthand. Appellants burden of proof is to provide substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law.

APPLICABLE LAW**Section 16.1205. - Forest retention priorities.**

- (a) ***On-Site Forest Retention Required.*** Subdivision, site development, and grading shall leave the following vegetation and specific areas in an undisturbed condition.

* * * * *

- 3) State champion trees, trees 75 percent of the diameter of state champion trees, and trees 30 inches in diameter or larger.

Section 16.1216. - Variances.

- (c) Consideration of a variance requested under this section shall include a determination as to whether an applicant has demonstrated to the satisfaction of each Department that enforcement of this subtitle would result in unwarranted hardship. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an unwarranted hardship to the applicant. The applicant shall:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these regulations would deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that the granting of a variance will not adversely affect water quality;

- (4) Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants;
- (5) Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;
- (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; and
- (7) Provide any other information appropriate to support the request.

Sec. 16.104. - Waivers

(d) *No Waivers of Floodplain, Wetland, Stream, Forest Conservation, or Steep Slope Regulations in the Tiber Branch Watershed.* The Department may not grant waivers of any requirement of section 16.115 or section 16.116, or variances under section 16.1216 of this title, for any property located in the Tiber Branch Watershed unless the waiver:

- (1) Is necessary for the reconstruction of existing structures or infrastructure damaged by flood, fire, or other disaster;
- (2) Is necessary for the construction of a stormwater management or flood control facility as part of a redevelopment project;
- (3) Is necessary for the retrofit of existing facilities or installation of new facilities intended solely to improve stormwater management or flood control for existing development;
- (4) Is requested as part of a development proposal and the Director of the Department of Public Works, or his designee acting as Floodplain Administrator, finds that upon completion of construction of the development, which may include off-site improvements within the

Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch Watershed at least ten percent more than what would otherwise be required by law;

- (5) Is necessary for the construction of an addition, garage, driveway, or other accessory use improvement of an existing residential structure on property located within the Tiber Branch Watershed that increases the square footage of the impervious surfaces on the property by no more than 25 percent over the square footage of impervious surfaces that existed on the property prior to the effective date of this bill; or**
- (6) Is requested to use the limit of disturbance to calculate the 'net tract area' as defined in section 16.1201(v); or**
- (7) Is necessary for the removal of trees that a licensed forester, licensed landscape architect, or a certified arborist determines to be diseased, damaged, dead, or declining in a way that creates a hazard to people or property.**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The first finding for Approval of Alternative Compliance pursuant to §16.1216(c)(1) requires the **Applicant** to satisfy the uniqueness prong of the variance test. Section 16.1216(c)(1) requires a showing of uniqueness. "Maryland cases have used the terms 'unique,' 'unusual,' and 'peculiar' to describe [the uniqueness] step in the variance analysis." *Dan's Mountain Wind Force, LLC v. Allegany Cnty. Bd. of Zoning Appeals*, 236 Md. App. 483,494 (2018). Section 16.1216 states that a variance to the tree conservation provisions may only be granted if the Subject Property has "special conditions peculiar to the property." § 16.1216(c)(1). Thus, § 16.1216(c)(1) requires the Applicants to satisfy the uniqueness prong of the variance test to show that the Subject Property has "special conditions peculiar to the property."

The uniqueness prong of the variance test requires the Applicants to prove, and the Directors to find, that the alleged special conditions on the Subject Property are not shared by other nearby properties - that "the plight of the owner [is] due to unique circumstances and not to general conditions in the neighborhood." *Marino v. City of Bait.*, 215 Md. 206, 219 (1957). "It must be shown that the hardship affects the particular premises and is not common to other property in the neighborhood." *Easter v. Mayor and City Council of Baltimore*, 195 Md. 395, 400 (1950). "[T]he property whereon structures are to be placed (or uses conducted) [must be] - in and of itself - unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provisions to impact disproportionately upon that property." *Cromwell v. Ward*, 102 Md. App. 691, 694 (1995); see also *Dan's Mountain Wind Force, LLC v. Allegany Cty. Bd. of Zoning Appeals*, 236 Md. App. 483, 492 (2018).

The Appellants allege that the Subject Property is unique because it has limited road frontage, the shape of the property, the existing topography of the site, and because the Subject Property is located within the Tiber Branch Watershed. However, the Appellants failed, in both their Alternative Compliance

Justification (which the Directors used as the basis of their Final Decision Action Report), and later during the evidentiary hearing, to actually analyze properties nearby as required by §16.1216(c)(1).

The Appellants failed to compare the Subject Property with any other property and thus failed to demonstrate that the alleged special conditions are in fact unique or peculiar to the Subject Property. Therefore, the Directors' decision to deny the requested variance is in accordance with law because nothing in the record satisfies the proposition that the special conditions identified by the Applicants are unique or peculiar conditions compared to surrounding properties.

The Appellants' state that their justification for the requested variance is to provide legal access and water to facilitate the development of a parcel to be subdivided for development from the Subject Property and to provide additional stormwater management to the Tiber Branch Watershed. The proposed design exceeds the disturbance necessary to develop a two-lot subdivision on the Subject Property. The Subject Property has legal access to the continued use of the property.

Appellants argue that their location within the Tiber Branch Watershed requires a larger stormwater management facility than projects not located within the Tiber Branch

Watershed. Any development in the Tiber Branch and Plum Tree Branch are required to meet the same stormwater management requirements. This is not a condition unique to the Subject Property.

The uniqueness prong of the variance test is designed to determine whether a property, due to inherent characteristics of the land itself, will be impacted differently by the County's ordinances than other properties nearby. When many properties share the same constraints, the properties are not unique, and any variance request must be denied. Here, the evidence failed to demonstrate that the conditions identified by the Applicants are unique to the Subject Property but are not shared by other properties in the area. Therefore, as a threshold matter, the Directors' decision was in compliance with law because the Subject Property has not been demonstrated to be in fact unique.

Assuming *arguendo* the shape of the Subject Property, the topography, the access and the location within the Tiber Branch Watershed were nominally "unique," the Appellants would still have not have met their burden of proof because nothing on in the record satisfies the proposition that those conditions have a meaningful nexus to the relief sought. As the Court opined in *Dan's Mountain*:

[T]he unique aspect of the property must relate to have a nexus with the aspect of the zoning law from which a variance is sought. Without the nexus requirement, a motivated sophist could always find similarities or differences between any two properties so as to defeat or support a uniqueness finding. Every property is similar to every other property in some respect (for example, "there are some living things on this property"). And every property can be distinguished from every other property in some other respect (for example, "this property contains exactly x number of trees and y number of woodrats"). Rather than

semantic tricks, the proper question is whether the property is unique in the way that this particular aspect of the zoning code applies to it.

236 Md. App. at 496. A unique aspect of a property is only unique in the context of a variance application if that particular unique aspect is what is preventing adherence to the ordinance.

Where a property's physical peculiarities do not cause the landowner to suffer disproportionately due to application of the zoning enactment in question, the property is not "unique" in the law of variances. For example, if a property has physical characteristics that might justify variance relief from drainage or sewage regulations, those attributes probably would have no bearing on how the property is affected by an ordinance establishing the maximum height for a fence.

Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County, 407 Md. 53, 82 (2008). A variance needs a nexus between the relief sought and the unique aspect. In this case, such a nexus does not exist for any tree requested for removal.

Here, there are essentially two categories of trees that the Applicants request permission to remove - trees to accommodate the location of the proposed access to the Subject Property (Tree 11) and trees to accommodate the proposed stormwater management facility (Tree 10 and Tree 15) Thus, the Applicants must show that the alleged need to remove each of the three (3) specimen trees relates to, or has a nexus with, the alleged uniqueness of the Property.

The Appellants assert that they must have the proposed access drive located along the northern side of the Property, adjacent to the Ragonese's home, due to

Appellants desire to subdivide and build an additional home on the to be subdivided parcel. However, the desire to subdivide off a currently landlocked parcel in order to create an additional building lot is not a characteristic of the land - instead Appellants civil engineer stated that access to the rear of the existing home for a proposed building lot could probably be accessed via the existing driveway but that would require a redesign of the proposed new building lot. Mr. Alomar did opine that he thought the existing proposed layout would be superior to a redesign using the exiting driveway, however no analysis of access via the existing paved driveway has been made. There is no nexus between any of the alleged unique features on the Subject Property and the Appellants' desire to remove the three (3) specimen trees. Instead, the only nexus is between the Appellants' desire to maximize the density on the Subject Property and the inconvenience to the Appellants of having to preserve these trees.

Even assuming *arguendo* that the Appellants could have satisfied the uniqueness prong of the variance test, a variance cannot be approved unless the Appellants demonstrate that they would experience an unwarranted hardship (which is stricter than the practical difficulties test) if the variance is not granted. §16-1216(c)(1).

The Appellants admit that they could redesign the access using the existing pave driveway. Thus, the alleged hardship is not a hardship supported by the evidence on the record because the Appellants could have pursued an alternative design for a private driveway that preserves all of the specimen trees.

Section 16.1216(c) states that a variance cannot be approved unless the Applicants demonstrate that they would experience an unwarranted hardship. Although Section 16.1216(c) does not define unwarranted hardship, it does clarify that "increased cost or inconvenience of meeting the requirements of these regulations does not constitute an unwarranted hardship to the applicant." § 16.1216(c). The Howard County Forest Conservation Manual provides that "an acceptable site plan will balance minimizing forest clearing with achieving reasonable use of the property, which may mean achieving less than the maximum permitted density or square footage." Howard County Forest Conservation Manual, pg. 19. In other words, "reasonable use" of the Subject Property does not inherently include achieving the maximum density allowed under the County's ordinances.

The phrase "unwarranted hardship" requires an applicant demonstrate that "unless [its] application is granted, it will be 'impossible to make reasonable use of [its] property.'" See *Montgomery Cnty. v. Rotwein*, 169 Md. App. 716, 728-29; see also *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 282 (1999).

Here, the evidence on the record demonstrates clearly that the Appellants have other economically viable options for using the Subject Property that would preserve the specimen trees on the Subject Property. Therefore, the Directors' determination that the Appellants would not face an unwarranted hardship is in accordance with law because the only alleged hardship is an inability to maximize density and profit on the site and the Appellants have other economically viable options available.

Howard County's Forest Conservation Act requires property owners to "leave [specimen trees] in an undisturbed condition." § 16.1205. To remove a specimen tree, the Applicants must demonstrate that they satisfy each of the elements under § 16.1216. Neither section authorizes the Directors to approve a variance based on the health of the specimen trees.

The goal of the Howard County Forest Conservation Act is to "protect and maintain forest vegetation and forest areas in Howard County." § 16.1200(c). Baselessly allowing a property owner to remove specimen trees that will continue to provide ecological benefits to forested areas frustrates the stated purpose of the Forest Conservation Act and is not permitted thereunder.

CONCLUSION

The Alternative Compliance Final Decision Action Report, dated May 5, 2025, which denied WP-25-066, is in accordance with law, and the evidence presented during the evidentiary hearing made clear that Appellants failed to meet their threshold burden of proof as required by §16-1216(c)(1). Since Appellants failed to meet their requirement of §16.1216(c)(1) there is no need to analyze the additional requirements of §16.1216(c)(2)-(7). Additionally, Appellants failed to provide any evidence to overcome the prohibition on variances from §16.1216 in the Tiber Branch Watershed.

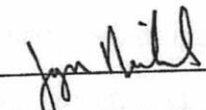
ORDER

Based upon the foregoing, it is this 4th day of August, 2025, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That Appellants' appeal of the May 5, 2025 letter from the Department of Planning and Zoning attaching the Alternative Compliance Final Decision Action Report denying Alternative Compliance for the removal of 3 Specimen Trees for WP-25-066, at 3956 Old Columbia Pike, Ellicott City, Maryland, in the R-ED (Residential: Environmental Development) Zoning District, Council District 1, Election District 2, Map 25, Grid 13, Parcel 134, be and is hereby **DENIED**.

HOWARD COUNTY

HEARING EXAMINER



Joyce Nichols

NOTICE: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.



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

May 5, 2025

Mukesh Kumar & Agila Sundaram
3958 Old Columbia Pike
Ellicott City, MD 21043
Sent via email to mukeshagila@gmail.com; mukeshk_singh@hotmail.com

RE: WP-25-066 Mitchell Greens
Alternative Compliance to Section 16.1200

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 April 24, 2025, and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Recreation and Parks, and Administrator of the Office of Community Sustainability considered and **denied** your request for a variance with respect to **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove specimen trees. Please see the attached Final Decision Action Report for more information.

If you have any questions, please contact Julia Sauer at (410) 313-4342 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
JNM Engineering (jnmengineeringllc@gmail.com)
Cindee White (cindeevelleballet@verizon.net)
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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

ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

RE: **WP-25-045 Mitchell Greens**
Request for an alternative compliance to Section 16.1205(a)(3) of the Howard County Code.

Applicant: Mukesh Kumar & Agila Sundaram (owners)

Pursuant to Section 16.1216, the Director of the Department of Planning Zoning, Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability considered and **denied** the applicants request for a variance with respect to **Section 16.1205(a)(3)** of the Forest Conservation Regulations. The purpose is to remove specimen trees. The Directors deliberated the application in a meeting on April 24, 2025.

Each Department hereby determines that strict enforcement of Section 16.1205(a)(3) would not result in an unwarranted hardship. The following factors were considered in making this determination:

Section 16.1216(c) of the Subdivision Regulations states:

"Consideration of a variance requested under this section shall include a determination as to whether an applicant has demonstrated to the satisfaction of each Department that enforcement of this subtitle would result in unwarranted hardship. Increased cost or inconvenience of meeting the requirements of the regulations does not constitute an unwarranted hardship to the applicant. The applicant shall:

- 1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*
- 2. Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas;*
- 3. Verify that the granting of a variance will not adversely affect water quality;*
- 4. Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants;*
- 5. Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;*
- 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; and*
- 7. Provide any other information appropriate to support the request."*

The Directors reviewed the justification and exhibit supplied by the applicant prior to the meeting and conducted a site visit to deliberate the merits of the applicant's justification and plan exhibit in the context of Section 16.1200 of the Howard County Code. The Directors met to deliberate on April 24, 2025, and found:

1. The applicant's position provided in the justification states the reason for specimen tree removal is to provide legal access and water to the adjoining property located at 3958 Old Columbia Pike and the requirement to provide additional stormwater management in the Tiber Branch Watershed. The Directors discussed the applicant's justification and proposal to facilitate development of an adjoining parcel and determined that the design exceeds the disturbance necessary to develop a two-lot subdivision on this site, as proposed. The adjoining parcel is currently developed with a single-family dwelling and has established legal access to continue use of the property.
2. The justification cites the requirement for additional stormwater management in the Tiber Branch Watershed, which results in a larger stormwater management facility. Projects in the Tiber Branch and Plum Tree Branch Watersheds are required to provide stormwater management controls to meet the storm of record as outlined in Design Manual Volume I Chapter 5. Any development in the same watershed is required to meet the same stormwater management requirements. This is not a condition unique to this property that would create an unwarranted hardship.
3. The applicant's justification did not persuade the Directors that the subject property had any special conditions unique to itself which would cause an unwarranted hardship for the proposed 2-lot subdivision.
4. The Directors reviewed the applicant's written justifications and plan exhibit and determine that it fails to demonstrate why compliance with the regulations would constitute an unwarranted hardship.

The meeting concluded with the Director of the Department of Planning Zoning, Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability finding that the applicant's criteria justifications have not met the unwarranted hardship threshold. After considering the alternative compliance application and the items required to be addressed pursuant to Section 16.1216(c), they find enforcement of this subtitle would not result in unwarranted hardship and agreed unanimously to **DENY** the request for a variance with respect to **Section 16.1209(b)(5)** of the Forest Conservation Regulations.

DocuSigned by:
Lynda Eisenberg
4720BB35863942F

Lynda Eisenberg, AICP, Director
Department of Planning and Zoning

Signed by:
Bryan Moody
1F82E7849A704EE

Bryan Moody, for Director Mooneyhan
Department of Recreation and Parks

Signed by:
Timothy Lattimer
AEB60003A8F04A0...

Timothy Lattimer, Administrator
Office of Community Sustainability

cc: Research
OCS
DRP



JNM Engineering, LLC

Civil Engineering, Surveying, Land Planning, Environmental Planning, Arboriculture

1105 Leafy Hollow Circle
Mount Airy, MD 21771
301-514-2808(C)
JNMEngineeringllc@gmail.com
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February 14, 2025

Alternative Compliance Justification

On behalf of our clients, Mukesh Kumar and Agila Sundaram, owners of the property to be known as 3956 Old Columbia Pike, Ellicott City, Maryland. We are requesting alternative compliance to the following Section of the Howard County Subdivision and Land Development Regulations:

SECTION 16.1205 (A) (3) – SPECIMEN TREES

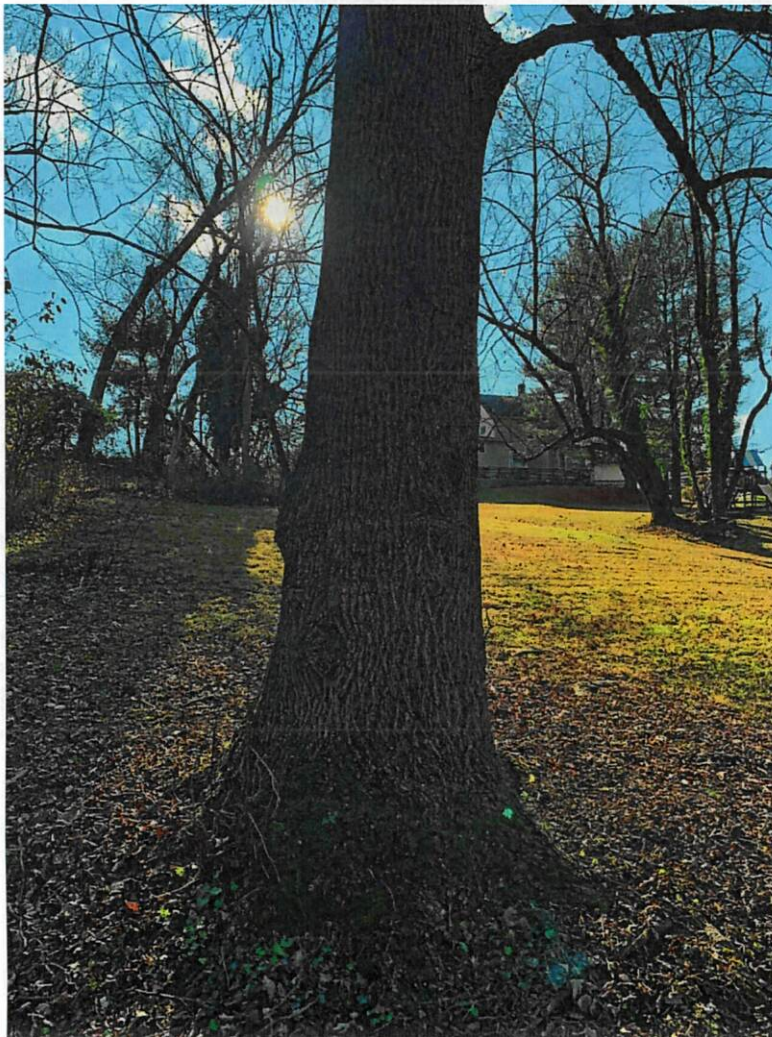
Justification for Alternative Compliance to Section 16.1205 (a)(3)- Subdivisions, site development, and grading shall leave the following vegetation and specific areas in the undisturbed condition, State champion trees, trees 75% of the diameter of state champion trees, and trees 30-inches in diameter or larger.

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

The subject property contains special conditions that are peculiar to the site which cause unwarranted hardship related to strict compliance with the Forest Conservation regulations. The applicant is seeking alternative compliance approval to allow for the removal of three specimen trees on the property. The special conditions that are peculiar to this property include the shape of the property as it relates to access and utilities. Additionally, this property is located in the Tiber Branch watershed and is subject to significantly more stormwater management volume retention requirements. This necessitates the need for a large Stormwater facility utilizing a larger portion of the property that could otherwise remain undisturbed.

Despite the proposed development of the site a total of 6 specimen trees are present on the property and only three are proposed for removal. Tree 13 was previous removed but included in this request. The removal was outside and unrelated to this application and only due to the location in reference to the existing house and concerns over the tree falling into the house. The trees proposed for removal are the following:

- a. Tree 10- 35.5" Tulip Poplar – Good Condition. The removal of this tree is required due to the grading needed for the proposed stormwater management facility. Additionally, the tree lies along the edge of a public water easement which will be utilized to serve an existing parcel to the west of this property. The public water easement is required to ensure the property to the west has adequate access to public water. The disturbance to the critical root zone of this tree far exceeds the maximum 30% with an even larger impact when the public water main is installed. As shown on the associated plan, there is no feasible way to realign the roadway or future public utilities that would reduce the impacts to this tree sufficient to avoid a large portion of the critical root zone.



Specimen Tree #10

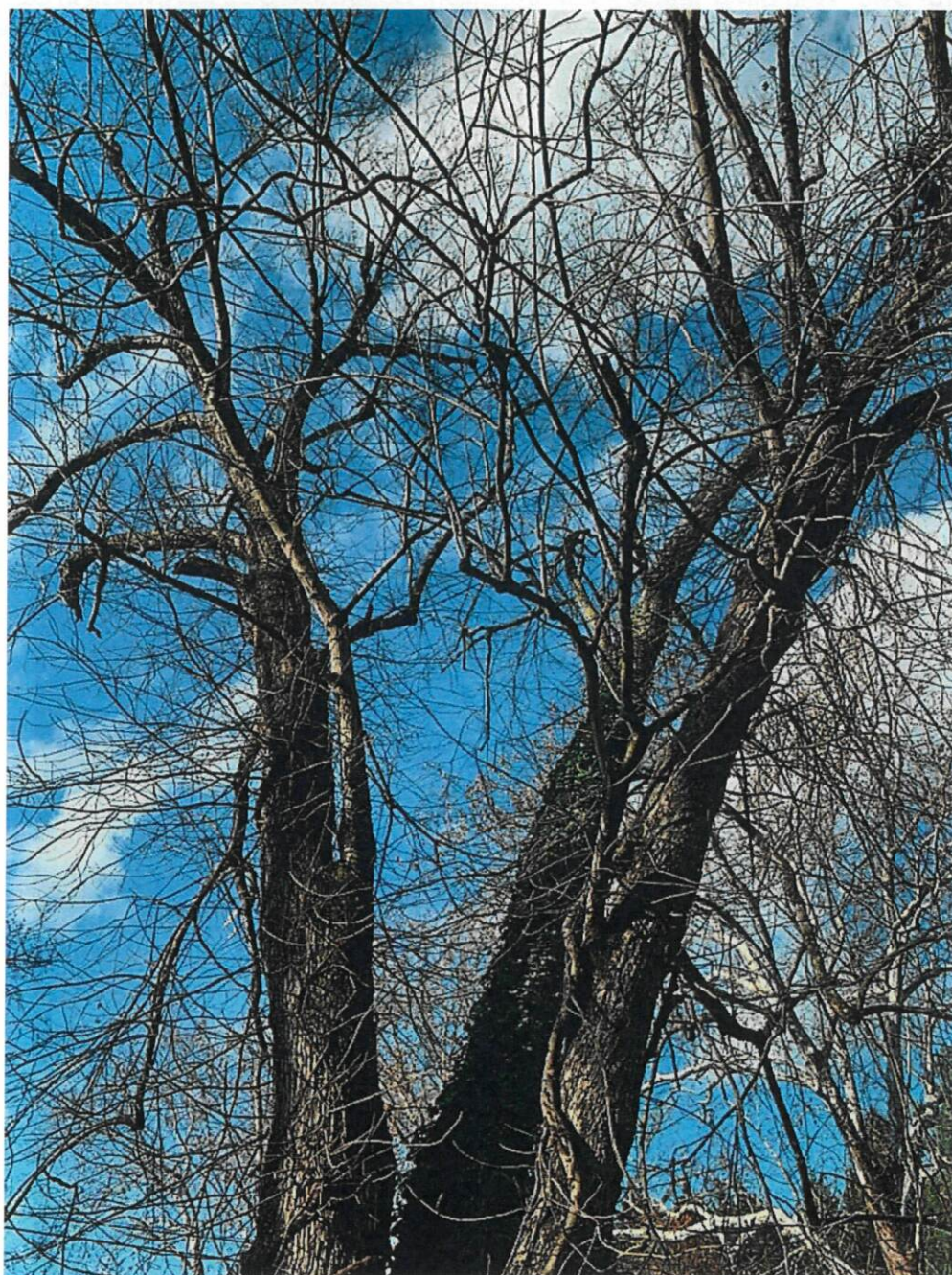


Specimen Tree 10

- b. Tree 11- 57.5" Multi Stem Silver Maple – Very Poor Condition. Tree has severe rot/decay with open cavity and dieback. Weak branch unions and high probability of failure. Each Trunk is attached at V-Crotches with included bark. The removal of this tree is required to provide stormwater management for the development of this site. Due to the site being located within the Tiber Branch, we are providing additional stormwater management to ensure the development does not increase runoff volumes based on the 6.6" storm and the 100-year storm event. This subject tree is located within the proposed facility. Based on the topography on the site, and how the property drains, we have to locate the SWM device where it is located to ensure its situated in a lower portion of the property.



Specimen Tree 11



Specimen Tree 11

- c. Tree 15- 34.5" Twin Silver Maple – Fair Condition. Deadwood/Dieback evident in canopy, weak branch unions, V-Crotch with included bark, high probability of failure. This tree is located within the public water easement and also the use-in-common easement for the proposed development. There are no alternatives to this location due to the shape of the site and the existing structures that will remain. Also, due to slopes, significant grading is required throughout this area as shown on the plan.



Tree 15



Tree 15

- d. Tree 13, which was previously removed, was a 56" diameter multi-stem Silver Maple. Prior to removal, trunk rot was noted. Given the location of the house and high risk of tree failure (due to species, weak branch unions, and decay/rot). This tree was not located in an area affected by this development.

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

The proposed Alternative Compliance request does not seek to allow the landowner to be exempted from the enforcement of the regulations. Simply that the County consider all the factors associated with the site conditions and constraints.

As indicated, the strict enforcement of the regulations would preclude the landowner from developing the property in a manner that is in keeping with, and complementary to, the existing zoning. Per the County's Alternative Compliance process, all landowners with unique site conditions and substantial site constraints created by current regulations, are eligible to receive consideration for a waiver to the regulations to allow for reasonable and complementary use of their property. As noted, the need for a public utility easement, a use-in-common driveway, and additional stormwater management for the development utilizes a significant amount of site area which could not be reduced to retain the notes specimen trees.

3. Verify that the approval of the alternate compliance will not adversely impact water quality.

The approval of the Alternative Compliance request will not adversely impact water quality for this project. The specific function of a tree/forest ability to enhance water quality is derived primarily from the canopy's protection of the ground surface by intercepting precipitation, the transpiration provided by the leaves, and the stability that the roots provide to the ground surface.

The ability of a tree to provide these functions vary based on many factors including position in the landscape, soil conditions, time, and health of the tree.

More importantly, the proposed stormwater management facility will not only mitigate water quality for the proposed development, but it will also provide peak runoff control which will reduce site runoff when compared to existing conditions. Overall, water quality and quantity will be significantly enhanced as part of this development.

4. Verify that the approval of the alternate compliance will not confer on the applicant a special privilege that would be denied to other applicants.

The approval of the alternative compliance will not confer any special privilege to the applicant. The County has established this procedure to allow any landowner aggrieved by strict application of the regulations the opportunity for modified application of the regulations when circumstances warrant. The granting of this alternative compliance would allow the applicant to adequately develop their property in conformance with the land development and development engineering regulations. The development of this site, as requested, has been prepared in a manner that would not confer any privilege that other applicants would not enjoy.

5. Verify that the alternate compliance request is not based on a condition of circumstance which is the result of actions taken by the applicant.

The proposed request for Alternative Compliance is not based on a condition or circumstance which is the result of actions taken by the applicant. The request for approval of this alternate compliance request has been made proactively and not as the result of any enforcement action. The request is being made based on the current land development regulations and the applicants need to address the required regulations as part of this development.

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 request to obtain an Alternative Compliance to allow for the removal of specimen trees from the site is based solely on the site conditions and development regulations. This request is not related to any activity or condition on a neighboring property.

7. Provide any other information appropriate to support the request

The removal of specimen trees is required for the proposed development of this site. This is not a result of maximizing density or proposing an oversized home. The four trees that have to be removed (one previously removed) are based on the need for additional stormwater management due to the stormwater management requirements within the Tiber Branch watershed. Additionally, the applicant has proposed a public utility easement and use-in-common access easement that can be utilized by the land locked parcel to the west. The applicant has not proposed an unreasonable design which necessitates this request. Additionally, under section 16.104(d) we believe a waiver is not required based on 16.104(d)(2) and 16.104(d)(4). As part of this project, we will have to construct a large stormwater management device to capture peak flood control due to the watershed. The appropriate location for the stormwater device is downhill from all proposed improvements which is why we have located it where it has been proposed. We have engineered the facility to have a low flow orifice and overflow weir to control storm discharge to the maximum extent. Below is a table showing the changes in site runoff discharge for the required design storms.

Design Storm Event	Max. Allowable Discharge (cfs)	Design Discharge (cfs)	Percent Reduction Achieved
10-year	4.16	2.50	40%
100-year	10.67	9.37	12%
6.6" storm	11.58	9.85	15%

We believe, based on the justification provided, an alternative compliance for the removal of four specimen trees is reasonable and appropriate to ensure the property can be developed adequately to meet the requirements of the subdivision and land development regulations in addition to the engineering design manuals.

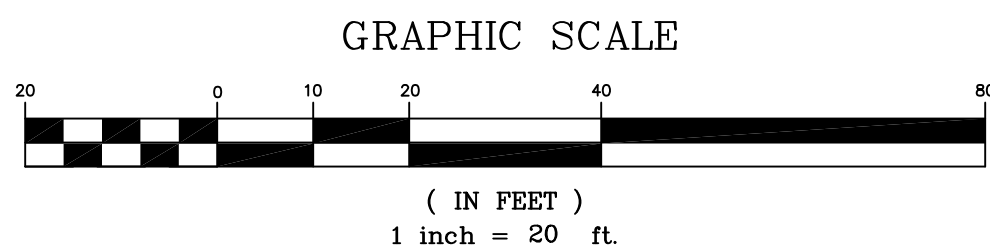
Sincerely,


Jim Witmer, PE, LS
ISA Certified Arborist
President

SPECIMEN & SIGNIFICANT TREE DATA SHEET

NO.	COMMON NAME	SCIENTIFIC NAME	DBH	CONDITION	NOTES	CRZ	% CRZ (184)
9	Green Ash	Fraxinus pennsylvanica	37.5	Poor	Dead	9940.19	14.0%
10	Tulip Poplar	Liriodendron tulipifera	35.5	Good		8908.17	33.0%
11	Silver Maple	Acer saccharinum	57.5	Very Poor	Trunk damage/rot	23370.48	100.0%
12	White Pine	Pinus strobus	33.5	Good		7932.71	17.0%
13	Silver Maple	Acer saccharinum	56	Removed	Tree Was Removed	0.00	0.0%
14	Norway Spruce	Picea abies	40.5	Good		11584.23	29.3%
15	Silver Maple	Acer saccharinum	34.5	Fair	Significant dieback in scaffold branches	8364.67	100.0%

Disclaimer: This tree evaluation is based on a visual "walk around" inspection only. A level 2 assessment was conducted as identified in ANSI A300 (part 4). Internal defects may exist within these trees which were not visually evident during this analysis. This report should not be interpreted as a tree hazard evaluation, as additional studies would be required to make these assessments. Tree health should be monitored by an ISA Certified Arborist during and after all construction activities to insure proper tree save measures have been implemented. Due to the proximity of some of the existing trees to the existing/proposed structures, we suggest that a tree risk assessment be periodically conducted, after construction has been completed, to better insure the future safety of persons and property.



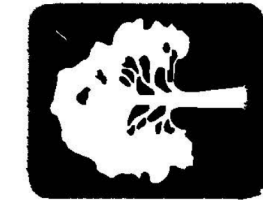
OWNERS:

MUKESH KUMAR & AGILA SUNDARAM
3958 OLD COLUMBIA PIKE
ELLCOTT CITY, MARYLAND 21043
513-293-0598

MITCHELL GREENS
3956 OLD COLUMBIA PIKE
PROPOSED LOTS 1-2, 1.04 ACRES
PARCEL 134, TAX MAP 25, GRID 13
ELECTION DISTRICT 2, ACCT#02-227339
ALTERNATIVE COMPLIANCE EXHIBIT

JNM ENGINEERING, LLC

CIVIL ENGINEERING, SURVEYING, LAND PLANNING,
ENVIRONMENTAL, ARBORICULTURE, LEED PROFESSIONALS
1005 LEAFY HOLLOW CIRCLE, MOUNT AIRY, MD 21771
(301) 514-2808, JNMENGINEERINGLLC.COM



| OF |

MITCHELL GREENS

Minor Subdivision Plan

TAX MAP 25, GRID 13, PARCEL 134, 1.04 ACRES

2ND ELECTION DISTRICT, HOWARD COUNTY, MARYLAND

ALTERNATIVE COMP. EXHIBIT

DATE BY REVISION

PROJECT

ILLUSTRATION

ENGINEERING

APPROVAL

DATE

PROJECT

ILLUSTRATION

ENGINEERING

APPROVAL

21-0526

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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

January 15, 2025

Mukesh Kumar & Agila Sundaram

3958 Old Columbia Pike

Ellicott City, MD 21043

Sent via email to mukeshagila@gmail.com; mukeshk_singh@hotmail.com

RE: WP-25-066 Mitchell Greens
Alternative Compliance to Section 16.1205

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 property was reviewed and no action can be taken until the review comments in ProjectDox have been addressed, and the following additional information is provided.

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before March 1, 2025***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition. **The resubmission of revised plans in ProjectDox must be completed by the applicant and payment of any required additional fees, if applicable, shall be verified by DPZ staff prior to 5:00 p.m. of the deadline date to ensure acceptance of the plan for processing.**

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.**

If you have any questions, please contact Julia Sauer at (410) 313-4342 or email at jsauer@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/js

cc: Research
DLD – Julia Sauer
JNM Engineering (jnmengineeringllc@gmail.com)
Cindee White (cindeevellballet@verizon.net)
Rebecca & David Bohning (rebboh@verizon.net)



Howard County Maryland
Department of Planning and Zoning
3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:
Case No: WP-25-066
Date Filed: 12/13/2024

ALTERNATIVE COMPLIANCE COMMENT FORM

Date: 12/10/2024 Comment Due Date: 12/24/2024 DPZ File No: WP-25-066

Demirel Plaza

This request for comments has been distributed to the following Departments.

DPZ – Development Engineering Division	DPZ – Resource Conservation Division
DPZ – Research Division	Recreation and Parks
Department of Fire and Rescue Services	Office of Transportation
Department of Inspections, Licenses & Permits	Office of Community Sustainability
DPW, Real Estate Services & Directors Office	Soil Conservation District
Health Department	State Highway Administration
Public School System	

COMMENTS:

No comment.

Patrick Smith12/12/2024

Print NameDate



Howard County Maryland
Department of Planning and Zoning
3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:
Case No: WP-25-066
Date Filed: 12/12/2024

ALTERNATIVE COMPLIANCE COMMENT FORM

Date: 12/12/2024

Comment Due Date: 12/26/2024

DPZ File No: WP-25-066

Mitchell Greens

This request for comments has been distributed to the following Departments.

DPZ – Development Engineering Division

DPZ – Resource Conservation Division

DPZ – Research Division

Recreation and Parks .

Department of Fire and Rescue Services

Office of Transportation

Department of Inspections, Licenses & Permits

Office of Community Sustainability

DPW, Real Estate Services & Directors Office

Soil Conservation District

Health Department

State Highway Administration

Public School System

COMMENTS:

The Development Engineering Division takes NO EXEPTION to the removal of three (3) specimen tress based on the justification presented in the application. The trees are in alignment with the proposed construction of the driveway access, utility easement and stormwater management facility needed for the development of the proposed lot and to provide access to a land locked adjacent parcel to the west.


Print Name _____ Date 12.16.24



ALTERNATIVE COMPLIANCE COMMENT FORM

Date: 12/19/2024

Comment Due Date: 12/26/2024

DPZ File No: WP-25-066

Mitchell Greens

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DPZ – Research Division	Recreation and Parks
Department of Fire and Rescue Services	Office of Transportation
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DPW, Real Estate Services & Directors Office	Soil Conservation District
Health Department	State Highway Administration
Public School System	

COMMENTS:

Another visual inspection occurred on 12/19/2024 regarding the removal of 3 Specimen trees. These 3 trees were previously inspected on 08/10/2022 and their status still remains the same as the previous inspection.

Specimen Tree #10 is still in 'Good' condition.

Specimen Trees # 11 and #15 are still in 'Poor' condition.

Scott Bowen

12/19/2024

Print Name

Date



Howard Soil Conservation District
Phone (410) 313-0680
FAX (410) 489-5674
www.howardscd.org

14735 Frederick Road, Cooksville, MD 21723

JNM Engineering
1 Park Avenue
Suite 1A
Mount Airy, MD 21771

Date: December 20, 2024

Re: Mitchell Greens
WP-25-066

The above referenced plan has been reviewed by the Howard Soil Conservation District for compliance with sediment control, pond safety, temporary stormwater management, and sensitive area protection requirements. Results of the review are as follows:

- (X) Howard SCD approval is not required. However, the following recommendations and requests are being made to the Department of Planning & Zoning.
- () The plan is approved, subject to signatures being placed on the original(s). Any alterations to the plan shall void approval.
- () Address all comments which, due to their minor nature, may be addressed directly on the original(s) at the time of formal signature approval. There is no need to resubmit the plan.
- () Address all comments as noted below and resubmit the plan for further review.

REVIEW COMMENTS:

1. No objection to granting alternative compliance.

Warning: All soils have limitations, ranging from slight to severe, for building homes, constructing roads and ponds, and various other uses. Please consult the *Soil Survey of Howard County* for determining soil types and their suitability for development, engineering and building.

Technical Review by: Alexander Bratchie
Alexander Bratchie, PE



Howard County Maryland
Department of Planning and Zoning
3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:
Case No: WP-25-066
Date Filed: 12/12/2024

ALTERNATIVE COMPLIANCE COMMENT FORM

Date: 12/19/2024

Comment Due Date: 12/26/2024

DPZ File No: WP-25-066

Mitchell Greens

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Department of Fire and Rescue Services	Office of Transportation
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DPW, Real Estate Services & Directors Office	Soil Conservation District
Health Department	State Highway Administration
Public School System	

COMMENTS:

A historic tree chart with tree ages was not submitted therefore RCD cannot fully evaluate. The trees in question are fast growing.

HPC saw the property in case HPC-20-41 for Advisory Comments on June 4, 2020.

Margaret S. Melikian

12.23.2024

Print Name

Date



HOWARD COUNTY HISTORIC PRESERVATION COMMISSION
ELlicOTT CITY HISTORIC DISTRICT ■ LAWYERS HILL HISTORIC DISTRICT
3430 Court House Drive ■ Ellicott City, Maryland 21043

Administered by the Department of Planning and Zoning

www.howardcountymd.gov
410-313-2350
FAX 410-313-3467
TDD 410-313-2323

July 9, 2020

Agila Sundaram
3958 Old Columbia Pike
Ellicott City, MD 21043

RE: HPC-20-41; 3956 & 3958 Old Columbia Pike

Dear Ms. Sundaram:

I am writing to confirm that your application for Advisory Comments for 3956 Old Columbia Pike and 3958 Old Columbia Pike was heard on June 4, 2020.

The Commission had the following general comments:

- The garages should not be located on the front façade of the new structures, consider side loading garages.
- The overall heights, proportion and massing of the proposed new structures is not compatible with the existing historic structures.
- Provide a dense landscape buffer between the historic houses and new structures.
- The overall density is too high.
- Lot 2 and 6 will encroach on the historic house.
- The Commission appreciates that the historic houses will be retained.

Please see the enclosed minutes for more information regarding the Commission's comments on your application. Please contact Samantha Holmes at 410-313-4428 or sholmes@howardcountymd.gov if you have any questions.

Sincerely,

Beth Burgess
Executive Secretary
Historic Preservation Commission



Howard County Maryland
Department of Planning and Zoning
3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:
Case No: WP-25-066
Date Filed: 12/12/2024

ALTERNATIVE COMPLIANCE COMMENT FORM

Date: 12/12/2024

Comment Due Date: 12/26/2024

DPZ File No: WP-25-066

Mitchell Greens

This request for comments has been distributed to the following Departments.

DPZ – Development Engineering Division	DPZ – Resource Conservation Division
DPZ – Research Division	Recreation and Parks
Department of Fire and Rescue Services	Office of Transportation
Department of Inspections, Licenses & Permits	Office of Community Sustainability
DPW, Real Estate Services & Directors Office	Soil Conservation District
Health Department	State Highway Administration
Public School System	

COMMENTS:

Our office has no comment.

Jeremy Zeller

12/30/2024

Print Name

Date



Howard County Maryland
Department of Planning and Zoning
3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:
Case No: WP-25-066
Date Filed: 12/12/2024

ALTERNATIVE COMPLIANCE COMMENT FORM

Date: 12/12/2024

Comment Due Date: 12/26/2024

DPZ File No: WP-25-066

Mitchell Greens

This request for comments has been distributed to the following Departments.

DPZ – Development Engineering Division	DPZ – Resource Conservation Division
DPZ – Research Division	Recreation and Parks
Department of Fire and Rescue Services	Office of Transportation
Department of Inspections, Licenses & Permits	Office of Community Sustainability
DPW, Real Estate Services & Directors Office	Soil Conservation District
Health Department	State Highway Administration
Public School System	

COMMENTS:

OCS recommends having the applicant show the location of the required 6 specimen tree replacements before moving forward.

Bill Mahoney

12.30.24

Print Name

Date

REV 2/20

Plan Review - Review Comments Report

Project Name: **WP-25-066**
Workflow Started: **12/11/2024 10:11:12 AM**
Report Generated: **10/21/2025 01:41 PM**

REVIEW COMMENTS						
REF #	CYCLE	REVIEWED BY	TYPE	FILENAME	DISCUSSION	STATUS
1		DLD_Intake Payton Semmont 12/12/24 9:19 AM	Checklist Item Please provide a narrative of justification to support the alternative compliance request. Justification must be specific to the subject property. The justification provided by the applicant should include all factors that rationalize or substantiate the request in accordance with the requisite criteria in the Code. Multiple exhibits showing design alternatives, including a scenario of relief is strongly encouraged (not required for procedural requests).			Resolved
2		DLD_Intake Payton Semmont 12/12/24 9:19 AM	Checklist Item Please provide a plan exhibit or exhibits related to the alternative compliance request.			Resolved
5		DLD_Intake Payton Semmont 12/12/24 9:19 AM	Checklist Item The application preparer submitted the application. Since the application preparer is not the owner, please upload the completed owner's authorization to the Application Folder.			Resolved
7		DLD_Intake Payton Semmont 12/12/24 9:19 AM	Checklist Item Alternative compliance requests are only accepted if the initial development plan is in review, unless the request is to waive the subdivision or SDP process. The ECP is not considered an initial development plan. Please resubmit the alternative compliance request once the intake for the initial development plan is considered acceptable/complete.			Resolved
8	1	DLD Julia Sauer 1/7/25 2:35 PM	Changemark Changemark note #02 Pursuant to Section 16.1204(d)(3) of the County Code if trees have been cleared onsite within the 5 year period to entering the development or subdivision process, then those trees shall be described in the plan and the property subject to the provisions of this title as though still existing onsite. ST-13 is shown on the plan and has been removed. Please revise the plan application and justification to include a request for retroactive removal of ST-13.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/27/25 2:10 PM Noted. Tree 13 was added to the request.	Resolved
9	1	DLD Julia Sauer 1/7/25 2:38 PM	Changemark Changemark note #03 If approval is granted to remove the requested trees, any specimen tree removed shall be replaced on-site by at least two native trees with a DBH (diameter at breast height) of at least three inches. In order to evaluate the request, please provide a plan that shows the location of the mitigation trees, in addition to the landscaping trees.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/27/25 2:19 PM 8 Pin Oaks have been shown.	Resolved



Plan Review - Review Comments Report

Project Name: **WP-25-066**
Workflow Started: **12/11/2024 10:11:12 AM**
Report Generated: **10/21/2025 01:41 PM**

REF #	CYCLE	REVIEWED BY	TYPE	FILENAME	DISCUSSION	STATUS
10	1	DLD Julia Sauer 1/7/25 2:40 PM	Changemark Changemark note #01 In accordance with Section 16.104(d) of the Subdivision and Land Development Regulations, the Department may not grant waivers of any requirement of Section 16.1216 for any property located in the Tiber Branch Watershed, unless certain criteria are met. Please explain how this project will comply with the criteria in Section 16.104(d) of the Regulations.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/27/25 2:31 PM justification added.	Resolved
11	1	DLD Julia Sauer 1/7/25 2:42 PM	Changemark Changemark note #04 Section 3.11 of the Forest Conservation Manual requires certain information be submitted with an Alternative Compliance request to remove specimen trees. Please revise your application to include the following information: 1. Pictures of any specimen trees to be removed, including a detailed assessment for each tree regarding its size, age, health, and any other conditions that may affects its survivability. 2. An alternative plan analysis explaining why the lots, roads, driveways, parking lots, structures, stormwater management devices and utilities cannot be reconfigured or relocated on the property to avoid removal of the trees. Explain why the SWM pond is located where it is. Why the utilities are located where they are, etc.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/28/25 12:36 PM We have added the additional information as requested. Due to the site shape, existing house, and grades we do not have alternatives to propose. We have noted this in the report.	Resolved
12	1	DLD Julia Sauer 1/7/25 2:42 PM	Changemark Changemark note #05 Please upload the forest stand delineation related to this project.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/28/25 12:37 PM We have requested this from FCC. Would there be a copy with the ECP they submitted?	Resolved
13	1	DLD Julia Sauer 1/7/25 2:43 PM	Changemark Changemark note #06 Please see and provide a response to all agencies comments that are either listed on the Reviews tab or uploaded to the Reviewer Comments folder.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/27/25 2:31 PM okay	Resolved
14	1	DLD Julia Sauer 1/7/25 4:06 PM	Changemark Changemark note #07 Please show the CRZ for trees 10, 11 & 15. Please confirm the % of CRZ disturbed in the Specimen Tree chart. ST-10 indicates 100%, but the tree is not located entirely within the LOD. If the request is taking into consideration future grading needed for the driveway, please provide a sketch showing the conceptual extended driveway and connection.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/28/25 12:47 PM Fixed. We are at 33% for this plan.	Resolved

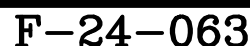


Plan Review - Review Comments Report

Project Name: **WP-25-066**
Workflow Started: **12/11/2024 10:11:12 AM**
Report Generated: **10/21/2025 01:41 PM**

REF #	CYCLE	REVIEWED BY	TYPE	FILENAME	DISCUSSION	STATUS
15	1	DLD Julia Sauer 1/8/25 10:45 AM	Changemark Changemark note #08 Please explore shifting the driveway and utility easement to the greatest extent south in order to provide the driveway and utility crossing at the narrowest part of the stream and farther away from ST-10. If infeasible, please explain why.	Supplimental Plan.Specimen Trees.pdf	Responded by: jim witmer - 2/27/25 2:32 PM Noted and adjusted. we will need area for grading and catching existing grades.	Resolved







JNM Engineering, LLC

Civil Engineering, Surveying, Land Planning, Environmental Planning, Arboriculture

1105 Leafy Hollow Circle
Mount Airy, MD 21771
301-514-2808(C)
JNMEngineeringllc@gmail.com
JNMEngineeringllc.com

December 1, 2024

Alternative Compliance Justification

On behalf of our clients, Mukesh Kumar and Agila Sundaram, owners of the property to be known as 3956 Old Columbia Pike, Ellicott City, Maryland. We are requesting alternative compliance to the following Section of the Howard County Subdivision and Land Development Regulations:

SECTION 16.1205 (A) (3) – SPECIMEN TREES

Justification for Alternative Compliance to Section 16.1205 (a)(3)- Subdivisions, site development, and grading shall leave the following vegetation and specific areas in the undisturbed condition, State champion trees, trees 75% of the diameter of state champion trees, and trees 30-inches in diameter or larger.

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

The subject property contains special conditions that are peculiar to the site which cause unwarranted hardship related to strict compliance with the Forest Conservation regulations. The applicant is seeking alternative compliance approval to allow for the removal of three specimen trees on the property. The special conditions that are peculiar to this property include the shape of the property as it relates to access and utilities. Additionally, this property is located in the Tiber Branch watershed and is subject to significantly more stormwater management volume retention requirements. This necessitates the need for a large Stormwater facility utilizing a larger portion of the property that could otherwise remain undisturbed.

Despite the proposed development of the site a total of 6 specimen trees are present on the property and only three are proposed for removal. The trees proposed for removal are the following:

- a. Tree 10- 35.5" Tulip Poplar – Good Condition. The removal of this tree is required due to the grading needed for the proposed stormwater management facility. Additionally, the tree lies along the edge of a public water easement which will be utilized to serve an existing parcel to the west of this property. The public water easement is required to ensure the property to the west has adequate access to public water. The disturbance to the critical root zone of this tree far exceeds the maximum 30% with an even larger impact when the public water main is installed.
- b. Tree 11- 57.5" Multi Stem Silver Maple – Very Poor Condition. Tree has severe rot/decay with open cavity and dieback. Weak branch unions and high probability of failure. The removal of this tree is required to provide stormwater management for the development of this site. Due to the site being located within the Tiber Branch, we are providing additional stormwater management to ensure the development does not increase runoff volumes based on the 6.6" storm and the 100-year storm event. This subject tree is located within the proposed facility.
- c. Tree 15- 34.5" Multi Stem Silver Maple – Fair Condition. This tree is located within the public water easement and also the use-in-common easement for the proposed development. There are no alternatives to this location due to the shape of the site and the existing structures that will remain. Also, due to slopes, significant grading is required through out this area as shown on the plan.

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

The proposed Alternative Compliance request does not seek to allow the landowner to be exempted from the enforcement of the regulations. Simply that the County consider all the factors associated with the site conditions and constraints.

As indicated, the strict enforcement of the regulations would preclude the landowner from developing the property in a manner that is in keeping with, and complementary to, the existing zoning. Per the County's Alternative Compliance process, all landowners with unique site conditions and substantial site constraints created by current regulations, are eligible to receive consideration for a waiver to the regulations to allow for reasonable and complementary use of their property. As noted, the need for a public utility easement, a use-in-common driveway, and additional stormwater management for the development utilizes a significant amount of site area which could not be reduced to retain the notes specimen trees.

3. Verify that the approval of the alternate compliance will not adversely impact water quality.

The approval of the Alternative Compliance request will not adversely impact water quality for this project. The specific function of a tree/forest ability to enhance water quality is derived primarily from the canopy's protection of the ground surface by intercepting precipitation, the transpiration provided by the leaves, and the stability that the roots provide to the ground surface.

The ability of a tree to provide these functions vary based on many factors including position in the landscape, soil conditions, time, and health of the tree.

More importantly, the proposed stormwater management facility will not only mitigate water quality for the proposed development, but it will also provide peak runoff control which will reduce site runoff when compared to existing conditions. Overall, water quality and quantity will be significantly enhanced as part of this development.

4. Verify that the approval of the alternate compliance will not confer on the applicant a special privilege that would be denied to other applicants.

The approval of the alternative compliance will not confer any special privilege to the applicant. The County has established this procedure to allow any landowner aggrieved by strict application of the regulations the opportunity for modified application of the regulations when circumstances warrant. The granting of this alternative compliance would allow the applicant to adequately develop their property in conformance with the land development and development engineering regulations. The development of this site, as requested, has been prepared in a manner that would not confer any privilege that other applicants would not enjoy.

5. Verify that the alternate compliance request is not based on a condition of circumstance which is the result of actions taken by the applicant.

The proposed request for Alternative Compliance is not based on a condition or circumstance which is the result of actions taken by the applicant. The request for approval of this alternate compliance request has been made proactively and not as the result of any enforcement action. The request is being made based on the current land development regulations and the applicants need to address the required regulations as part of this development.

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 request to obtain an Alternative Compliance to allow for the removal of specimen trees from the site is based solely on the site conditions and development regulations. This request is not related to any activity or condition on a neighboring property.

7. Provide any other information appropriate to support the request

The removal of specimen trees is required for the proposed development of this site. This is not a result of maximizing density or proposing an oversized home. The three trees that have to be removed are based on the need for additional stormwater management based on the requirements within the Tiber Branch watershed. Additionally, the applicant has proposed a public utility easement and use-in-common access easement that can be utilized by the land locked parcel to the west. The applicant has not proposed an unreasonable design which necessitates this request. We believe, based on the justification provided, an alternative compliance for the removal of three specimen trees is reasonable and appropriate to ensure the property can be developed adequately to meet the requirements of the subdivision and land development regulations in addition to the engineering design manuals.

Sincerely,


Jim Witmer, PE, LS
President



Alternative Compliance Application Form Submitted
Howard County Department of Planning and Zoning
3430 Court House Drive | Ellicott City | MD | 21043
TEL: 410.313.2350

The following Application has been submitted: AC-1574

PROJECT IDENTIFICATION

Site Description: Mitchell Greens
Location Address: , , MD,
Existing Use: residential
Proposed Use: residential
Tax Map: 25
Grid: 13
Parcel No: 134
Election District: 2
Zoning: R-20
Total Site Area: 1.13

PREVIOUSLY SUBMITTED OR CURRENTLY ACTIVE PLANS ON FILE

F-24-063

SECTION REFERENCE INFORMATION

Your initial Application Fees cover up to 2 Section References for this application.

1.) Section Reference No.: 16.1205 (a)(3)

Brief Summary of Request: AC for the removal of 3 specimen trees

2.) Section Reference No.:

Brief Summary of Request:

Adding more than 2 Section Reference Numbers will incur an additional fee. You can the additional Section Reference Numbers below.

3.) Section Reference No.:

Brief Summary of Request:

4.) Section Reference No.:

Brief Summary of Request:

5.) Section Reference No.:

Brief Summary of Request:

6.) Section Reference No.:

Brief Summary of Request:

7.) Section Reference No.:

Brief Summary of Request:

8.) Section Reference No.:

Brief Summary of Request:

PROPERTY OWNER INFORMATION

Name: Agila Sundaram

Owner Company Name:

Address: 3958 old columbia pike, ellicott city, MD, 21043

Phone: 5132930598

Email: mukeshagila@gmail.com

PREPARER INFORMATION

Preparer Company Name: JNM Engineering

Name: James Witmer

Address: 1 Park Avenue, suite 1A, Mount Airy, MD, 21771

Phone: 3015142808

Email: jim@jnmengineeringllc.com

CONTACT US

3430 Court House Drive, Ellicott City, MD 21043

Department of Planning & Zoning

HOWARD COUNTY MARYLAND GOVERNMENT

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

www.howardcountymd.gov

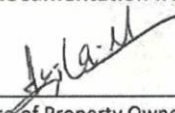
FAX: 410-313-3467

TDD: 410-313-2323

Certification of Applicant

Advisory Comment – In accordance with Section 16.1103 of Subtitle 11, "Adequate Public Facilities Ordinance" (APFO), all residential subdivisions or site development plans (if subdivision is not required) are required to pass the tests for adequate public school facilities as a condition of approval, except those listed as exemptions under Section 16.1107.

I hereby certify that the information supplied herewith is correct and complete and authorize such periodic on-site inspections by the Department of Planning and Zoning and the Subdivision Review Committee agencies as may be necessary to review this application and any waiver petitions filed in connection herewith and to enforce the Subdivision Regulations and other applicable laws. This right-of-entry shall continue until all administrative appeals pertaining to the property have been exhausted. *If the applicant is the owner's agent, written documentation from the property owner granting that authority is required.


(Signature of Property Owner/Agent)*

AGILA MEENAKSHI
SUNDARAM
(Print Name of Owner/Agent)

(Date)

6/14/2024

mukeshagila@gmail.com
(Property Owner's Email Address)

41569 White Yarrow Ct.
Ashburn
(Property Owner's Address)

VA-20148
(State and Zip Code)

(Property Owner's Fax Number)*