



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

June 18, 2021

Samit Paul  
Howard County Housing Commission  
9770 Patuxent Woods Drive, Suite 100  
Columbia, MD 21046

RE: WP-21-124, Ellicott Gardens II

Dear Mr. Paul:

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 June 9, 2021 and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and **approved** your request for alternative compliance with respect to **Section 16.147** of the Subdivision and Land Development Regulations to permit the consolidation of Tax Map 31, Parcels 428 and 467 by deed, and to record public easements through Deeds of Easement.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.147 would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the one (1) item you were required to address, pursuant to Section 16.104(a)(1):

**Strict compliance results in unreasonable hardship or practical difficulty:**

The consolidation of the two parcels is not a technical requirement of the Subdivision and Land Development Regulations for the Ellicott Gardens II development; however, the consolidation is required for the HUD financing requirements and reduces complexities in enforcing building code requirements. Since both parcels were legally created via deed, the applicant is seeking to complete this boundary adjustment through an adjoinder deed rather than record a plat. The proposal does not create any additional lots and requiring the applicant to process a plat in order to eliminate the property line between the two existing parcels would represent an unreasonable hardship for the applicant. The overall boundary lines would remain the same to the adjacent parcels and, had these been previously platted parcels, the process to remove the interior lot line would have been eligible for the expedited Original's Only review process. Requiring the project to proceed through the full final plat submission and review process would not provide any additional benefit to the site design and since there are no right-of-way improvements, allowing the deed consolidation and deeded easements will be more efficient. The adjoinder deed process will yield the same result for the parcels of the processing/recordation of a plat to modify a parcel line.

Approval of this Alternative Compliance is subject to the following conditions:

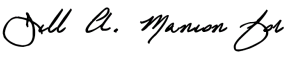
1. The adjoinder deed shall be recorded in the Land Records Office of Howard County, Maryland within one year from the date of the approval letter (on or before June 18, 2022). The adjoinder deed shall reference the

alternative compliance file number (WP-21-124) and the alternative compliance petition exhibit must be an exhibit attached to the recorded deed.

2. Recorded copies of the adjointer deed shall be submitted to this Department for file retention purposes within 30 days of recordation.
3. Approval of this alternative compliance petition is to remove the common parcel boundary between Parcels 428 and 467, and to allow easements to be recorded by deed. No other lots are being legally endorsed. No additional lots are being created.
4. All public easements must have a Deed of Easement that will be process and recorded with the Developer's Agreements for the public improvements.
5. Prior to recordation, the exhibit must be updated to address the attached comments.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval, and date on all related plats, and site development plans, and building permits. This alternative compliance approval will remain valid for one year from the date of this letter or as long as a subdivision or site development plan is being actively processed in accordance with the processing provisions of the Regulations.

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:  
  
4FE38EB4789B46A  
Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/jam

cc: Research  
DED  
DLD - Julia Sauer  
Real Estate Services  
Vogel+Timmons



**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-21-124*  
 Date Filed

**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:** Ellicott Gardens II  
**Subdivision Name/Property Identification:** Housing Commission - Ellicott Gardens II  
**Location of property:** 5511 Waterloo Road  
**Existing Use:** Parking & Vacant      **Proposed Use:** Multi-Family (Housing Commission)  
**Tax Map:** 31      **Grid:** 19      **Parcel No:** 428 & 467      **Election District:** 1st  
**Zoning District:** POR      **Total site area:** 3.00 AC

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

SDP-20-027      WP-08-111  
 BA-06-005V      WP-09-085  
 SDP-07-038      AA-20-010  
 F-08-064      BA-19-013V

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
16.147	Final Subdivision Plan and Plat (Article IV)

ELLICOTT GARDENS II  
ALTERNATIVE COMPLIANCE

III JUSTIFICATION

Section 16.147

The purpose of this Alternative Compliance request is to permit the consolidation of Tax Map 31, Parcels 428 and 467 by deed. Due to COVID challenges and discussions with Howard County staff, it was determined that it would be more expeditious to combine the parcels by deed rather than by recorded plat. An "originals only" plat request was initially processed however it was determined that the plat would be required to utilize the full process since it was combining parcels. There are two existing private easements which were abandoned by deed. There is a proposed Public Water and Utility easement which will be created by a document to be recorded in conjunction with the Developer Agreement. A public drainage easement which was previously created by deed and will be modified by deed.

This consolidation of parcels is required for the completion of the HUD financing requirements. It had been anticipated that the 2/10/21 "originals only" plat request would be approved and that the plat would be recorded expeditiously. However, the request was ultimately denied, because of the lot consolidation.

The timeline to process a plat for subdivision between review and recording can take several months which may result in the loss of financing and jeopardize the viability of the Housing Commission project. However, the process to record a deed can occur much more efficiently. The private easement abandonments can be completed between the subject parties and the Howard County public easement will be completed with the Developer Agreement.

There is no right-of-way dedication associated with this project. Therefore, all Howard County requirements will be fulfilled by the recording of the consolidation deed, private easement abandonments, and completion of the Developer Agreement (proposed Public Water and Utility Easement). Please be advised that the Utility Design Division has been involved in various public water main configurations and the final configuration was received by Vogel + Timmons April 28, 2021 which dictates the Public Water and Utility Easement configuration.

Section Reference No.	Brief Summary of Request

Signature of Property Owner: 

Date: 4/12/2021

Signature of Petitioner Preparer: 

Date: 5/4/21

Name of Property Owner: Howard County Housing Commission

Name of Petition Preparer: Vogel Engineering + Timmons Group

Address: 9770 Patuxent Woods Drive, Suite 100

Address: 3300 North Ridge Road., Suite 110

City, State, Zip: Columbia, MD 21046

City, State, Zip: Ellicott City, Maryland 21043

E-Mail: spaul@househoward.org

E-Mail: rob.vogel@timmons.com

Phone No.: 443-518-7819

Phone No.: 410-461-7666

Contact Person: Samit Paul

Contact Person: Robert H. Vogel

Owner's Authorization Attached



## ALTERNATIVE COMPLIANCE

### REQUEST

In accordance with Section 16.104 of the Howard County Subdivision and Land Development Regulations, the Department of Planning and Zoning, in conjunction with the Subdivision Review Committee may grant alternative compliances or modifications to the minimum requirements stipulated within the Regulations, if it is determined that extraordinary hardships or practical difficulties may result from strict compliance with the regulations, or if it is determined that the regulations may be served to a greater extent by an alternative proposal. Please note that requests for Section 16.1200 require joint approval from the Office of Community Sustainability and the Department of Recreation and Parks. Requests to Section 16.116 require joint approval from the Office of Community Sustainability and the Department of Public Works.

### JUSTIFICATION

All alternative compliance requests must be fully justified by the petitioner. Incomplete or inadequate justification may result in rejections of the application at the time of submission or a deferral of a decision for additional information. **PLEASE ATTACH A SEPARATE NARRATIVE OF JUSTIFICATION TO SUPPORT THE ALTERNATIVE COMPLIANCE REQUEST(S).** Justification must be specific to the subject property. The justification provided by the petitioner should include all factors that rationalize or substantiate the request in accordance with the requisite criteria listed below. Multiple exhibits showing design alternatives, including a scenario if relief is not provided, is strongly encouraged (not required for procedural requests).

### SUBTITLE 1, Articles I, IV or V

Requests for alternative compliance to regulations in Article I, IV or V of Subtitle 1 of the Subdivision and Land Development Regulations must include a detailed description in the justification explaining how strict compliance with the regulations results in unreasonable hardship or practical difficulty.

*Please review the sections below for any applicable pre-submission meeting requirements required for your request.*

### SUBTITLE 1, Articles II, III

Requests for alternative compliance to regulations in Article II or III of Subtitle 1 of the Subdivision and Land Development Regulations must include a detailed description in the justification explaining how the following criteria are met through the alternative compliance request:

1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas;
2. Uniqueness of the property or topographical conditions would result in practical difficulty; other than economic, or unreasonable hardship from strict adherence to the regulations;

3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants and;
4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.

#### **SUBTITLE 1, Section 16.116**

Requests for alternative compliance to Section 16.116 of the Subdivision and Land Development Regulations must include a detailed description in the justification explaining how the above criteria (1-4) and the following additional criteria are met through the alternative compliance request. Additionally, to determine if the modification(s) is warranted an alternative analysis may be required to include different plan concepts that clearly demonstrate that no other feasible alternative exists and that minimal impacts will occur as a result of granting the modification.

5. Disturbance is returned to its natural condition to the greatest extent possible;
6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat; and
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. In these cases, the least damaging designs shall be required, such as bridges, bottomless culverts or retaining walls, as well as environmental remediation, including the planting of the areas where grading or removal of vegetative cover or trees has taken place, utilizing best practices for ecological restoration and water quality enhancement projects.

#### **SUBTITLE 12, Forest Conservation Act**

Variances to the Forest Conservation Act of Howard County located in Title 16, Subtitle 12 of the County Code, must meet the requirements established in Section 16.1216. The variance may be granted if it is determined that strict enforcement of Subtitle 12 would result in unwarranted hardship. Please note: increased cost or inconvenience of meeting the requirements does not constitute an unwarranted hardship to the applicant.

The Variance request must include a detailed description in the justification explaining how the following criteria are met through alternative compliance:

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.

*To evaluate the justification, the following information must be provided in addition to the narrative justification:*

- *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 affect its survivability.*

- *An alternative plan analysis explaining why the lots, roads, driveways, parking lots, structures, SWM devices and utilities cannot be reconfigured or relocated on the property to avoid removal of the trees.*
- *A detailed explanation of why removal of the trees will not adversely affect water quality per the State of MD standards.*

### Presubmission Community Meeting Requirement

A pre-submission community meeting may be required for alternative compliance requests to Section 16.155(a) of the Subdivision and Land Development Regulations. Please see detailed instructions on our website <https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Land-Development/Development-Process-and-Procedures> and contact the Division of Land Development regarding the applicability of this requirement.

### Historic Preservation Meeting Requirement

A pre-submission advisory meeting with the Historic Preservation Commission is required for new development located within a Historic District or if the site contains a historic structure (50 years or older) in accordance with Section 16.603A of the Howard County Code.

*\*\*Please see detailed instructions on our website:*

*<https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Conservation-and-Preservation/Historic and> contact the Division of Resource Conservation regarding the applicability of this requirement.*

### MAA Meeting Requirement

For all proposed subdivision or developments located within the BWI Airport Noise Zone or the Airport Zoning District (4-mile radius from the center of the airport), the review and approval by the Maryland Aviation Administration is required prior to signature approval of final plan road and SWM construction drawings, and/or site development plans, or alternative compliance approval of SDP. A copy of the MAA approval letter must accompany the submission of the final road/SWM construction plan original drawings, and/or site development plan original, or alternative compliance application. Please contact the MAA.

*MAA P.O. Box 8766, BWI Airport, Maryland, 21240-0766, or (410) 859-7100*

### Design Advisory Panel (DAP)

In accordance with Title 16, Section 15 of the Howard County Code, a pre-submission advisory meeting with the Design Advisory Panel is required for certain development or redevelopment projects, including those: on parcels located within the U.S. Route 1 Corridor that are zoned CE, CAC, or TOD, or that adjoin the Route 1 right-of-way and that are subject to the Route 1 Manual; on parcels located within the Route 40 Corridor as defined in the Route 40 Design Manual; on parcels on which age-restricted adult housing is to be constructed pursuant to a conditional use; on redevelopment parcels located in New Town Village Centers with boundaries proposed by a property owner or established by the Zoning Board or County Council; on parcels included within the boundaries of the Downtown Columbia Plan; on parcels on State Route 108, between Guilford Road and Trotter Road, that are within the boundaries of the Clarksville Pike Streetscape Plan and Design Guidelines; and on parcels located in the following



zoning districts, as provided by the zoning regulations: R-H-ED, R-APT, BRX, CEF, CR and, for non-conforming uses, CLI. **\*\*Please see detailed instructions on our website:**

<https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Boards-and-Commissions/Design-Advisory-Panel>

## Submission Materials

- a. Please provide two paper copies of the application and exhibits. Plans must be folded to a size no larger than 7-1/2" x 12". Plan applications are available on the DPZ website at <https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Application-Forms-and-Fees> under "Land Development."
- b. Detailed alternative compliance exhibit(s), plot plan, subdivision plan or site development plan must indicate the following required information relevant to the alternative compliance request to ensure acceptance of the alternative compliance application for processing.

- ✓ Vicinity map scale 1" = 2,000' indicating and identifying the total boundary of the property, exact site location, vicinity roads and north arrow
- ✓ Bearings and distances of property boundary lines for the entire tract and size of tract area
- ✓ North arrow and scale of plan
- ✓ Location, extent, boundary lines and area of any proposed lots
- ✓ Any existing or proposed building(s), structures, points of access, driveways, topography, natural features and other objects and/or uses on the subject and adjacent properties which may be relevant to the petition: i.e. historic structures, cemeteries or environmentally sensitive areas.
- ✓ Delineation of building setback lines.
- ✓ Delineation of all existing public road and/or proposed street systems.
- ✓ Identification and location of all easements.
- ✓ Approximate delineation of floodplain, streams, wetland and forested areas, if applicable, and/or provide a professional certification that environmental features do not exist on the property.
- ✓ Road profile to evaluate sight distance, if the application includes a request for direct access to a major collector or more restrictive roadway classification.
- ✓ Any additional information to allow proper evaluation (e.g. for alternative compliance to wetland buffers an alternative analysis and mitigation proposal are needed.; for alternative compliance to SDP requirements where there is no subdivision of land, an APFO Roads Test evaluation may be needed, for alternative compliance of final plat or SDP, a copy of property deeds to confirm legal creation or status of property is needed).
- ✓ Photographs, perspective sketches or cross-sections as necessary to adequately portray the alternative compliance request.
- ✓ The exhibit plans should be highlighted to accurately illustrate the requested alternative compliance(s) to allow proper evaluation (i.e. proposed grading, tree clearing, or other disturbances within environmentally sensitive areas or buffers).
- N/A Submit two sets of photographs for all existing on-site structures

### Route 1 Manual

Compliance with the Route 1 Manual is required for new development and some alterations or enlargements located in the CE, TOD and CAC zoning districts and for other zoning districts located within the Route 1 corridor. All plan submissions, beginning with the initial submission or site development plan, shall show all applicable streetscape, site and building designs responding to the Route 1 Manual's requirements and recommendations. All plan submissions shall provide a written summary of how the proposed design achieves the objectives of the Route 1 Manual. Also, building design and schematic architectural elevation details must be included with the initial subdivision or site development plan submission.

N/A

#### **Route 40 Design Manual**

Compliance with the Route 40 Design Manual is required for new development and redevelopment projects located in the Traditional Neighborhood Center (TNC) zoning districts and on parcels located within the Route 40 Corridor as defined in the Route 40 Design Manual. All plan submissions within the Route 40 corridor, beginning with the initial subdivision or site development plan, shall show all applicable streetscape, site and building designs responding to the Route 40 corridor shall provide a written summary of how the proposed design achieves the objectives of the Route 40 Design Manual. Also, building design and schematic architectural elevation details must be included with the initial subdivision or site development plan submission.

N/A

#### **Clarksville Pike Streetscape Plan and Design Guidelines**

Compliance with the Clarksville Pike Streetscape Plan and Design Guidelines is required for new development and redevelopment projects located within the streetscape sections as defined in the Clarksville Pike Streetscape Plan and Design Guidelines. Specific criteria for streetscape, architectural, and signage design are outlined within the “streetscape detail areas” of the plan. All plan submissions shall provide a written summary of how the proposed design achieves the objectives of the Clarksville Pike Streetscape Plan and Design Guidelines. Also, building design and schematic architectural elevation details must be included with the initial subdivision or site development plan submission.

#### **Property Deeds**

Information to confirm the legal creation or status of the property to be improved. (Copy of deeds from Howard County Land Records Office or record plat name and recording reference number.) **A complete chronological deed history is required for all deeded residential properties. Provide 2 copies of the recorded deeds for the subject property tracing its history back to 1960.**

### Fees

The Alternative Compliance application fee shall be in accordance with the adopted fee schedule. The fee schedule is available on the DPZ website at <https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Application-Forms-and-Fees> (view “Land Development and Zoning Fees”). All checks shall be made payable to the Director of Finance. **The petition will not be accepted for processing until the fee has been paid. Incomplete, incorrect or missing information may result in rejection of the application and could cause additional time to be required to revise the application for resubmittal and review.** For more information or questions, contact DPZ at (410) 313-2350.