



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

August 4, 2021

The Estate of Ruth L. Harbin
c/o Mark Bobotek, Esq.
PO Box 66
Ellicott City MD 21042

RE: **WP-21-127 Bethany Glen – ARAH (SP-21-002)**

Dear Mr. Bobotek:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

On August 3, 2021 and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and **denied** a portion of the request to **Section 16.134(a)(1)** to provide a sidewalk on one side of private road 6 and **approved** your request for alternative compliance with respect to **Sections 16.119(f)(1), 16.120(c)(3), 16.120(c)(4) and a portion of 16.134(a)(1)** of the Subdivision and Land Development Regulations to retain the driveway for the existing house on Lot 155 for ingress/egress to MD Route 99; to develop single-family semidetached and single-family attached Lots 1-18; 82-104; 117-154 without public road frontage and to provide a sidewalk on one side of public Road A (Neighborhood C) and private roads 1, 2, 3, 4, 5 and 7.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of **Sections 16.119(f)(1), 16.120(c)(3), 16.120(c)(4) and 16.134(a)(1)** would result in an unreasonable hardship or practical difficulty. These determinations are made with consideration of your alternative compliance application and the four (4) items you were required to address, pursuant to Section 16.104(a)(1):

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

The age-restricted adult housing (ARAH) development is bisected by an interstate highway (I-70) creating two separate parcels, which are proposed to be subdivided into five distinct neighborhoods. The northern parcel contains Neighborhoods A and B. Neighborhood A contains single-family semidetached and attached lots that are accessed by a private road system (Roads 6 & 7) from MD Route 99. The southern parcel contains Neighborhoods C, D and E. These Neighborhoods contain single-family detached and attached lots that are accessed by public and private roads (Public Roads A-C and Private Roads 1-5) from Bethany Lane and an extension of Longview Road. The southern parcel is bisected by two riparian systems that originate at separate locations under I-70 and converge in the middle of the property, between Neighborhoods D & E, and flow eastward before exiting the site near the southeast corner of Neighborhood E.

Section 16.119(f)(1) of the Regulations requires that street layout provide vehicular access to the subdivision by a lower classification public road when a subdivision fronts on an arterial road. There is an existing house in Neighborhood A that abuts two arterial roadways (MD Route 99 and Bethany Lane). The house faces and is accessed from MD Route 99 with the garage and driveway along the side of Bethany Lane, opposite of the ARAH development. The conditional use approval

(BA-17-018c) for the ARAH development does not include the existing single-family detached house. Although this lot is not part of the conditional use plan, the lot is included in the overall subdivision which proposed to separate the existing house (Lot 155) from the ARAH redevelopment and retain its use as a permitted single-family detached dwelling. To comply with the regulations, internal private Road 6 would need to be public to create a vehicular access point to a lower classification public road and the existing driveway would wrap around the house to connect with the road. Redesigning Neighborhood A with a public right-of-way for the sole purpose of providing public road access for one existing house via a lower classification road, would increase the development's impervious footprint and stormwater runoff with no overall design benefit. Therefore, strict conformance with the access requirements would deprive the applicant of rights to maintain the existing house as-is and conform with the conditional use approval, as is customary for properties that use the conditional use process.

Section 16.120(c)(3) and 16.120(c)(4) of the Regulations require single-family semidetached lots and single-family attached lots to have 15 feet of public road frontage. Neighborhood A proposes Lots 117-154 to be accessed by a private road system extending from MD Route 99. Neighborhood C proposes a public road from Bethany Lane with private roads to access Lots 1-18. Neighborhood D proposes two private roads from a public road cu-de-sac to access Lots 82-92 and 93-104. The developable areas in Neighborhoods A and C are narrow due to I-70 bisecting the property, and the presence of two existing riparian systems that originate under I-70 and converge on site representing approximately 12 acres of environmental sensitive areas, further limits the developable area in Neighborhoods C and D. To comply with the Regulation, the private roads could be converted to public roads with a 50-foot public road right-of-way however these requirements would increase the required right-of-way dimension resulting in the reduction of green space area and forest cover and would increase impervious area, stormwater runoff and grading. Since the private roads would be constructed to County standards, the appearance and function of the roads would match those commonly enjoyed by others in similar areas and provide a more compact design which minimizes impervious surfaces and the impact to open spaces, buffers, and environmentally sensitive areas.

Section 16.134(a)(1) of the Regulations requires sidewalks on both sides of all internal streets and along the external street frontage. The approved Conditional Use Plan includes sidewalks on one side of many of the public and private streets. Through the plan review process, the applicant has added additional sidewalks to address the concerns raised by County staff. The applicant is requesting to only provide a sidewalk on one side of public Road A in Neighborhood C and on the open space side of private roads 1-3 which provides access to Lots 1-18 in that neighborhood. Road A runs from Bethany Lane, through Neighborhood C, over two intermittent streams and terminates in a cul-de-sac in Neighborhood D. Sidewalks are provided on both sides of Public Road A, B, and C as they move through neighborhood D and E. Internal Roads 4-5 provide access for Lots 82-104 in Neighborhood D which proposes a sidewalk along Lots 82-100. Internal roads 6-7 provide access for Lots 117-154 in Neighborhood A which proposes sidewalks along only a portion of the lots.

The southside of Road A in Neighborhood C does not contain residential lots and private roads 1-5 and 7 will provide a sidewalk along one side of the road where either all or most of the townhome units front. Strict conformance with the sidewalk requirements would require sidewalk on both sides which would result in unnecessary impervious surface and environmental disturbances, however, there are areas where additional sidewalks should be constructed to facilitate pedestrian connections through the site. No sidewalk is required where the applicant is proposing them along the side of private roads 1, 2 and 3 that abuts the recreational open space area, therefore, it's being recommended that these sidewalks are removed and provided along the lot frontages of the townhome units for private roads 1, 2 and 3 in Neighborhood C. Sidewalks should also be constructed along Lots 129-144 along private road 6. With these additional sidewalks provided at the lot frontages and removing/not requiring sidewalks along areas where pedestrian connections are limited or otherwise addressed, the function of the overall sidewalk system will promote pedestrian connectivity and allow safe movement similar to rights commonly enjoyed by others in similar area.

The following roads (pertinent to this request) have been recommended for approval to provide a sidewalk on only one side of the road:

- Public Road A (Neighborhood C): recommend approval to provide a sidewalk on only one side of this road as requested.
- Private Roads 4 and 5 (Neighborhood D): recommend approval to provide a sidewalk on only one side of these roads as requested.
- Private Road 7 (Neighborhood A): recommend approval to provide a sidewalk on only one side of this road as requested.

The following roads (pertinent to this request) has been recommended for approval with conditions for the request to provide a sidewalk on only one side of the road:

- Private Roads 1, 2 and 3 (Neighborhood C): recommend approval to provide a sidewalk on only one side of this road but it must be located along the frontages of Lots 1-18.

The following road (pertinent to this request) has been recommended for denial to provide a sidewalk on only one side of the road:

- Private Road 6 (Neighborhood A): recommend denial of the request and require a sidewalk along both sides of the road as required. (A sidewalk must be provided from Lot 154 along the rear of Lots 145-148 on the inside radius of the loop roadway design of private road 6 in Neighborhood A. However, this portion of sidewalk will not be required for the rear of Lots 145-148 if the loop road is eliminated.)

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

The unique physical characteristics of the property include bisection of the property by I-70 which creates narrow developable areas in Neighborhood A and C, the location of approximately 12 acres of environmentally sensitive areas in Neighborhoods C-D, and the enhanced stormwater management practices required in the Plumtree Watershed.

The bisection by I-70 limits access points and road connection from the north to the south. The conditional use plan was approved to exclude the existing house (and its existing driveway access) from the development and allow one private access road to Neighborhood A that aligns directly across from Liter Drive and will be exclusively used and maintained by ARAH development. Since no new public roads are being created, a practical difficulty exists in connecting the existing house to a lower classification public road.

The environmental features and narrowness of the parcels restricts a uniform developable area. Using private roads in lieu of public roads allows a more compact design while reducing impervious areas and stormwater runoff. Other alternatives that require redesigning the overall layout and organization of the road system would result in an unreasonable hardship and the need for significant design changes that would nullify the conditional use approval and increase the amount of impervious surface. Therefore, the preferred alternative is to allow the private roads with reduced impervious surface and larger green space areas.

Strict adherence to the regulations results in a less desirable pedestrian network and inefficient site design. Providing sidewalks along the southside of Road A in Neighborhood C and along both sides of the short segment private roads 1-5

and 7 will provide an unreasonable hardship since sidewalks will be provided along most of the lot frontages. With the additional sidewalk connections to mitigate the waiver, the ultimate condition will provide safe pedestrian movement overall.

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

This variance will not confer to the applicant a special privilege that would be denied to other applicants. The existing home in Neighborhood A is excluded from the ARAH development, which will not be accessed by a public road and practical difficulties would arise trying to connect the existing site to the lower classification roadways. Construction of private roads to access townhome lots is commonly permitted when developable areas are constrained by environmental areas and broader circulation patterns. Requiring sidewalks along the southside of Road A in Neighborhood C and on the short segments of private Roads 1-5 and 7 does not provide any benefit, as the proposed sidewalk design and required additions, will provide sidewalks along most of the lot frontages.

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

There is no evidence that the modification will be detrimental to the public health, safety, or welfare or injurious to other properties. The existing house shall retain its driveway location at MD Route 99 and will not create any new impervious cover by relocating a new paved driveway to connect to proposed private Road 6. The residents of the townhomes that front the private roads will have legal, proper access to and from MD Route 99 and/or the proposed public Road A by an access easement. The applicant is to provide a sidewalk along the lot frontages of private roads 1, 2, 3 and 6. A sidewalk along the southern side of public Road A in Neighborhood C; the western side of private roads 4 and 5; and the eastern side of private road 7 are not necessary because there are either no residential lots on the public road or limited lots that front the side of the private roads.

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

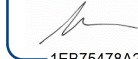
1. All the private roads must provide safe, adequate access to the residential and open space lots. The private roads are to be owned and maintained by the community HOA.
2. The private road design and widths must comply with the design standards for public roads as required by the Design Manual.
3. Compliance with the SRC plan review comments for the preliminary equivalent sketch plan, SP-21-002.
4. All sidewalks, curb ramps and other roadside improvements should be designed consistent with the Howard County Design Manual and the US Access Board ADA/PROWAG design specifications.
5. Sidewalks must be provided along the lot frontages of the townhome units for private roads 1, 2 and 3 in Neighborhood C. No sidewalk is required along the side of private roads 1, 2 and 3 that abuts the recreational open space area; no sidewalks are required along the western sides of private roads 4 and 5; and no sidewalk is required along the eastern side of private road 7. No sidewalk is required along the southern side of public road A in Neighborhood C.
6. A sidewalk must be provided along the lot frontages of the townhome units for private road 6 in Neighborhood A.

7. A sidewalk must be provided from Lot 154 along the rear of Lots 145-148 on the inside radius of the loop roadway design of private road 6 in Neighborhood A. However, this sidewalk will not be required for the rear of Lots 145-148 if the loop road is eliminated.

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 Derrick Jones at (410) 313-2350 or email at djones@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/dj
cc: Research
DED
DLD - Julia Sauer
DPW Highways
Elm Street Development
Bohler Engineering
Community Members



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: 9891 Old Frederick Road - Route 99

Subdivision Name/Property Identification: Bethany Glen -ARAH SP-21-002 and ECP-21-017

Location of property: 9891 Old Frederick Road - Route 99

Existing Use: Residential **Proposed Use:** Age Restricted - Attached & Detached Dwellings

Tax Map: 17 **Grid:** 15 **Parcel No:** 34 **Election District:** 5th

Zoning District: R-20 **Total site area:** 68.57

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:

BA-17-018C, SP-21-002, ECP-21-017

In the area below, the petitioner shall enumerate the specific numerical section(s) from the Subdivision and Land Development Regulations for which an alternative compliance is being requested and provide a brief summary of the request.

Section Reference No.	Brief Summary of Request
16.119(f)(1)	Access Restrictions - Requesting to permit a plan design allowing the existing home, located on proposed Lot 155, to maintain its current driveway alignment and connection to Old Frederick Road, MD Route 99 +
16.120(c)(3)	Minimum Frontages, Single-Family Semi-Detached - Requesting to permit a plan design providing one (1) community-owned private road serving single-family semi-detached lots.
16.120(c)(4)	Minimum Frontages, Single-Family Attached - Requested to permit a plan design providing two (2) Use in Common Driveways and seven (7) community-owned private roads serving single-family attached lots +
16.134(a)	Sidewalks & Walkways - Requesting to permit a plan design that for a portion of Internal Public Road A, and Private Roads 1-7, to provide sidewalk on one side of the road.

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

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

Name of Property Owner: The Estate of Ruth L. Harbin
C/O Mark BoboTek, Esq. **Name of Petition Preparer:** Elm Street Development - Jason Van Kirk

Address: P.O. Box 66 **Address:** 5074 Dorsey Hall Drive, Suite 205

City, State, Zip: Ellicott City, MD 21042 **City, State, Zip:** Ellicott City, MD 21042

E-Mail: [Redacted] **E-Mail:** jvankirk@elmstreetdev.com

Phone No.: 410-964-9700 **Phone No.:** 410-720-3021

Contact Person: H. Mark BoboTek, Esq. **Contact Person:** Jason Van Kirk

Owner's Authorization Attached