



# 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

October 20, 2021

Scott Arterburn  
5200 Ten Oaks Rd  
Clarksville, MD 21029

Sent via email to: [sarterburn@therainmakergroup.com](mailto:sarterburn@therainmakergroup.com)

RE: WP-22-015 Arterburn Property  
Tax Map 28, Parcel 128

Dear Mr. Arterburn:

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 October 19, 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 **Sections 16.147 and 16.120(b)(4)(iii)(b)** of the Subdivision and Land Development Regulations to recognize Parcel 128 as a buildable lot for construction of a single-family detached dwelling and to allow environmental features on a lot less than 10 acres.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.147 and 16.120(b)(4)(iii)(b) would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the items you were required to address, pursuant to Section 16.104(a)(1):

For Section 16.147:

**1. Unreasonable hardship or practical difficulties may result from strict compliance with the regulations.**

The owner of Parcel 128 wishes to establish a buildable parcel for future transfer and development of a single-family detached home. Parcel 128 was originally created in 1967 by deed. In 1993, an adjoiner deed was processed, separate of the County's subdivision plat process, to reconfigure the parcel lines between Parcel 128 and adjoining Parcel 213. This reconfiguration did not create any new lots and the remainder of Parcel 128 was transferred to the adjoining Parcel 213 immediately after adjoiner deed creation. Parcel 128 has had two previous owners since its reconfiguration over 28 years ago and has existed undeveloped. Strict compliance with the Regulations would require the current property owner to prepare and process a final subdivision plat to simply recognize Parcel 128 as it exists today. The alternative compliance plan exhibit contains all necessary information to confirm the building envelope and compliancy with the Zoning Regulation bulk requirements. The preparation and recordation of a plat would not add any benefit or alter any existing conditions. Completing the final plat process to correct a problem created decades ago is an unreasonable hardship for the owner who was unaware of the deed history when purchasing the parcel 11 years ago.

For Section 16.120(b)(4)(iii)(b):

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

An unnamed tributary to the Middle Patuxent River is located off-site west of Parcel 128. The stream has an associated floodplain and wetlands that extend on Parcel 128. The distance from the headwater of the stream to the intersection with Ten Oaks Road is a half mile. Along this stretch, stream and floodplain affect 10 lots, all of which are under 10 acres in size. Strict conformance with this requirement would deprive the applicant of rights commonly enjoyed by others in this neighborhood.

**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;**

Parcel 128 was reconfigured by adjoiner transfer in 1993 before the Subdivision and Land Development Regulations restricted environmental features on lots less than 10 acres. Prior to the 1993 adjoiner deed transfer, Parcel 128 was 6.14 acres. Strict adherence to the regulation creates a practical difficulty since Parcel was less than 10 acres when the adjoiner deed transfer occurred.

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

Approval of this alternative compliance would not confer the applicant a special privilege that would be denied to other applicants. The neighboring properties are similarly encumbered with environmental features and are less than 10 acres in size.

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

The approval of this alternative compliance is not detrimental to the public health, safety or welfare, or injurious to other properties. No disturbance to the environmental features is proposed with this request and compliance with the environmental regulations will be required when the property is developed.

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


1. By approval of this alternative compliance request, the Department of Planning and Zoning recognizes Parcel 128 as a buildable lot that was reconfigured by adjoiner deed dated August 30, 1993 as Liber 2966 Folio 373 and is eligible to apply for a building permit to construct a single-family detached dwelling. Please note, Parcel 128 is considered non-buildable by the Howard County Department of Environmental Health until an approved percolation certification plan is approved by the Howard County Health Officer.
2. Prior to building permit application, the applicant must receive approval of an Environmental Concept Plan from the Department of Planning and Zoning.
3. Future development on the lot must comply with the Forest Conservation Act.
4. A 35' environmental setback shall be established from the boundary of floodplain, wetlands, streams, and their buffers. No principal structures may be permitted within the environmental setback, except that a deck may project ten feet beyond the building envelope. Any future plan or permit must delineate the environmental features and the required 35' environmental setback.

5. No grading, removal of vegetative cover or trees, paving and new structures are permitted within the limits of the 100-year floodplain, steep slopes, wetlands, streams or their required buffers in accordance with Sections 16.115 and 16.116 of the Subdivision and Land Development Regulations, unless alternative compliance or necessary disturbance is obtained.
6. The applicant shall comply with all building permit requirements from the Department of Inspections, Licenses and Permits.
7. Future development must comply with the requirements of the Department of Fire and Rescue Services. If the driveway is in excess of 350' long a turn-around apron is required near the residence for an ambulance to have the ability to avoid backing all the way back out.

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 Julia Sauer at (410) 313-2350 or email at [jsauer@howardcountymd.gov](mailto:jsauer@howardcountymd.gov).

Sincerely,

DocuSigned by:  
  
1EB75478A22B49A

Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/js

cc: Research  
DED  
DLD - Julia Sauer  
Benchmark Engineering ([bei@bei-civilengineering.com](mailto:bei@bei-civilengineering.com))



DPZ Office Use only:  
 File No. *WP22015*  
 Date Filed

**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:** Ten Oaks Road, parcel south of 5200 Ten Oaks Road

**Subdivision Name/Property Identification:** Arterburn Property

**Location of property:** South of 5200 Ten Oaks Road

**Existing Use:** Woods **Proposed Use:** Single Family Dwelling

**Tax Map:** 28 **Grid:** **Parcel No:** 128 **Election District:** 5th

**Zoning District:** RC-DEO **Total site area:** 3 acres

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

The previous owner of this parcel did an adjoiner transfer to Tax Map 28, Parcel 213, tax account number 05-371333, per deed recorded as liber 2966, folio 373. The increase in area for parcel 213 is reflected in the SDAT record. Parcel 128 was transferred to Scott Arterburn and Virginia McGinnis by deed recorded as liber 12527, folio 213, saving and excepting the area transferred to parcel 213. The SDAT record for parcel 128 shows the correct area that was transferred to Scott Arterburn and Virginia McGinnis. The cadastral lines of the tax map were not updated to include the adjoiner transfer or the new common property line between parcels 128 and 213. The owners of parcel 128 have recently completed percolation testing that shows the parcel can be buildable.

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 Plat
16.120	Environmentally Sensitive Features on a lot less than 10 acres

Section Reference No.	Brief Summary of Request

Signature of Property Owner:

*Scott Arterburn*

Date:

6/25/21

Signature of Petitioner Preparer:

*John M. Carney*

Date:

8/12/21

Name of Property Owner:

Scott Arterburn

Name of Petition Preparer:

John M. Carney

Address:

5200 Ten Oaks Road

Address:

8480 Baltimore National Pike  
Suite 315

City, State, Zip:

Clarksville, MD 21029

City, State, Zip:

Ellicott City, MD 21043

E-Mail:

sarterburn@therainmakergroup.com

E-Mail:

bei@bei-civilengineering.com

Phone No.:

443-829-9222

Phone No.:

410-465-6105

Contact Person:

Scott Arterburn

Contact Person:

John M. Carney

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

Variations 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.

N/A 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

### N/A 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.

## Alternative Compliance Justification

### Summary of Alternative Compliance:

The primary goal of the adjoiner transfer presented in this application is to allow Tax Map 28, Parcel 128 (District 05 - Tax Number 347378) to be a buildable parcel by showing the required setback and environmental features within the parcel.

On October 20, 1971 Brian and Lynda Cunningham, as tenants by the entireties, purchased 6.142 acres along Ten Oaks Road as recorded in deed recorded at Liber 574, folio 649. On August 30, 1993 Brian Cunningham, surviving spouse of the tenants by the entirety, completed a transfer of 3.13 acres of his parcel to Tax Parcel 213, Map 28, Tax number 05-371333. This transfer was completed on deed recorded in the land records at liber 2966, folio 373. Tax Parcel 213, Map 28, Tax number 05-371333 was purchased by Raymond and Joan Bosmans by a deed dated November 5, 1982 and recorded in the land records at liber 1128, folio 88. Deed 1128/88 transferred 5.00 acres to the Bosmans's, deed 2966/373 transferred 3.13 acres to the Bosmans's and deed 1776/501 transferred 0.16945 acres from the Bosmans's to Howard County. Immediately after the adjoiner transfer of the 3.13 acres from Cunningham to Bosmans was recorded, the Bosmans's executed a deed of trust which described their parcel as a single piece of land at 7.937 acres, this deed of trust was dated August 23, 1993 and recorded in the land records at liber 2966, folio 376.

The deed from Brian Cunningham to Raymond and Joan Bosmans (2966/373) included the following note: "This is an adjoiner transfer to Tax Parcel 213, Map 28, Tax account number 05-371333, and is exempt from subdivision regulations." Below this sentence on that deed is the Assessments Certification that all taxes on this parcel were paid, it includes the Tax account number of 05-347378. This transfer was for an area from one tax parcel to another tax parcel, no new parcels were created. This transfer does not appear to constitute a subdivision as defined by COMAR 26.04.03 but rather an adjustment to the common line between parcels. No new parcels were created.

The deed recorded at liber 446, folio 58 (dated Nov. 15, 1965, described a single parcel of 214.873 acres transferred to Frank and Linda Willson. The deed recorded at liber 453, folio 555 (dated May 13, 1966) transferred the ownership of that same parcel to Frank Willson et al. The deed recorded at liber 464, folio 556, dated January 14, 1967, transferred three parcels from Frank Willson et al to Jesse and Martha Aiken. This deed was the first to describe three parcels, they are described as "being parts of all those pieces or parcels of ground which, by deed dated November 15<sup>th</sup>, 1965, and recorded among the Land Records of Howard County in Liber W.H.H. No. 446, folio 58, etc....". The second of these new parcels was the parcel that was designated as Tax Parcel 128, Tax Account Number 05-343378. And, in combination with Parcel 213 Tax account number 05-371333, adjusted the common boundary lines resulting in one parcel becoming 3.13 acres larger and one parcel being an equal amount smaller.

We feel that for the purposes of the Bureau of Environmental Health the creation date of the parcel in question should be January 14, 1967.

The adjoiner transfer date of August 30, 1993 may have necessitated a review by the Department of Planning and Zoning. We propose the attached exhibit and this Alternative Compliance as a resolution to this lack of review of that adjustment between parcels. At the time of the purchase 11 years ago, the current owners, Scott Arterburn and Virginia McGinnis, were not aware of the potential impacts the deed history contained for this parcel. The property has changed hands twice since the adjoiner transfer that occurred 28 years ago. Additionally, the Bosmans's have recorded a deed of trust with a property description of one parcel being 7.937 acres. the 7.937 acres represents the 5.00 acres the Bosmans's initially purchased plus the 3.13 acres of the adjoiner transfer, minus 0.16945 acres dedicated to Howard County for Harris Farm Lane.

The 3.13 acres obtained 28 years ago by Raymond and Joan Bosmans is in a low landscape position. The Howard County Interactive Map indicates that the majority of the 3.13 acres obtained is within a floodplain area. The ability to obtain adequate percolation test results is questionable due to high groundwater and slow percolation times as encountered on Parcel 128. Additionally, since this area was adjoined to that tax parcel, as stated in the adjoiner transfer deed, any development of the Bosmans's single parcel (Tax Parcel 213) would require them or the future owners to process a development plan and plat. Any development plan requires full investigation of the environmentally sensitive areas, adequate platting of those features and their setbacks. The cost and burden of providing those studies should be completed by that parcel's owners at the appropriate time.

The owner has provided the attached Wetland and Forest Stand Delineations for Parcel 128 to show the environmentally sensitive areas within the 3.01 acre parcel.

The attached exhibit shows a proposed house and driveway location that does not impact the environmentally sensitive resources identified in the delineations.

The owner has completed percolation testing within the parcel that provide adequate sewage disposal for a parcel that was a creation prior to 1972. These areas are shown on the attached exhibit. The percolation certification plan is not yet signed.

The attached exhibit shows the building setback lines and the building envelop can support a house that is comparable to the residential development in the vicinity.

At this time the current owner is not proposing the development of this parcel. There is no clearing, new construction or new imperviousness proposed at this time. Eventually, the parcel will be transferred and it is assumed that development may take place at that time by the new owners. This Alternative Compliance request should satisfy exemption #6 of the Howard County Forest Conservation Manual. For these reasons the current owner does not wish to provide a forest conservation plan. Forest conservation plan may be required with the grading permit request for the future single family dwelling construction. A note has been added to the Exhibit detailing the need

for forest conservation. The Forest Conservation Worksheet is provided to show the approximate obligation area. An approximate Limit of Disturbance is shown on the exhibit to show that this area is achievable on-site. It will be the eventual developer of the parcel that will make a final determination of the Forest Conservation Area.

The size of parcel 128, 3.01 acres, will prohibit any further subdivision.

Since this parcel is 3.01 acres the owner cannot dedicate area containing the environmentally sensitive features to an HOA or Howard County and remain above 3.00 acres as required. The owner can provide a detailed analysis of these features, show their location on the property and delineate the required setbacks. This is provided on the attached exhibit.

An adequate building envelop is provided for future single family detached dwelling with these features, and their setbacks, remaining on the parcel. These features, shown on the attached exhibit, can be shown on any future building permit plans and grading plans.

Scott Arterburn and Virginia McGinnis purchased this parcel for \$275,000.00 in June, 2010. That price indicates that they believed this parcel to be developable at that time.

Sections to be Waived:

Article IV, Section 16.147 – Final Subdivision Plan and Final Plat

Section 16.147 Justifications:

- a) Strict Compliance with the regulation to provide a final plat for the 6.142 acres results in unreasonable hardships and practical difficulties.

The adjoiner transfer was done by a prior owner 28 years ago. The property was transferred two times without discovery that the adjoiner transfer may have been an illegal subdivision.

The property that was transferred to the Tax Parcel 213 was incorporated into that parcel per the SDAT assessment website. Any development of that parcel will require that owner to provide the necessary environmental analysis and adequate well and septic locations. The two parcels have operated as distinct parcels for 28 years.

The current owner of Tax Parcel 128 should not bear the cost of providing environmental analysis of the adjoining tax parcel 213. And tax parcel 213 should not be subject to the environmental analysis done for their neighboring parcel.

The time, cost and effort to provide the required Environmental Concept Plan, development plans and final plat for both parcels is a hardship for the owners because the purchase only included the 3.01 acres they own. The current owners have not benefited from the transfer to the Bosmans. The transfer of the 3.14 acres to the Bosmans was completed by a previous owner.

Showing the environmental features, as done for the attached exhibit, can be completed on the future building permit plan, simplified environmental concept plan and grading plan. The processing and recording of the plat will be expensive and time consuming just to affirm the existing outline of the property.

Article II, Section 16.120(b)(4) – Lot Layout, Usable Design

Section 16.120(b)(4) Justifications:

- a) Strict Compliance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas.

In examining the Howard County Interactive Map there is a stream that flows to the north in this vicinity. This stream has an associated floodplain. That stream and floodplain overlap onto 9 lots prior to flowing under Ten Oaks Road. The distance from the headwater of the stream to the intersection with Ten Oaks Road is a half mile. The impact of the stream and the floodplain onto lots less than 10 acres is common in this area.

- b) The uniqueness of the property or topographical conditions would result in practical difficulties and unreasonable hardships from strict adherence to the regulations.

The property is 3.01 acres in size. Any attempt to locate the environmentally sensitive features on a separate preservation parcel will reduce this parcel to less than the 3.00 acres minimum.

There is not adequate area to provide fee simple frontage to the preservation parcel as the panhandle of this parcel to Ten Oaks Road is only 25' and the property will require a 12' wide driveway.

The property is deepest near the building envelope. The house will have a usable backyard area. The environmental features will be located outside of the building area and mostly along the rear property line.

- c) The variance will not confer to the applicant a special privilege that would be denied to other applicants.

The properties along this part of Ten Oaks Road and the properties off Voland Court have similar conditions. Some of these lots have an Alternative Compliance approved to allow environmentally sensitive features on the lots. Other lots were platted in 1977, prior to the restriction on environmentally sensitive features on lots less than 10 acres, and have environmentally sensitive features on them. At least one other parcel (#5038 Ten Oaks Road) is a deeded parcel where environmentally sensitive parcels appear to be existing on the developed parcel.

The development of this parcel, a single family detached dwelling with driveway, is common for this area. Residential development is widely completed in this area and many of the parcels and lots contain a similar condition where existing environmentally sensitive features are within the parcel or lot limits.

- d) The alternative compliance modification is not detrimental to the public health, safety or welfare, or injurious to other properties.

Field testing for adequate and safe sewage disposal has been completed. A Percolation Certification Plan is being prepared for submission to the Bureau of Environmental Health to show the adequate areas of sewage disposal and well location. A sewage disposal permit will be required to show the treatment and disposal of the sewage.

The owner does not intend to disturb the environmentally sensitive features or their buffers.

The access point to Ten Oaks Road is limited to the vicinity of the frontage of the property. Along this part of Ten Oaks Road there are three existing driveway connections to the public roadway. This parcel's connection to Ten Oaks Roadway will be inside of the limit of these driveway connections. This driveway connection will be at the high point of Ten Oaks Road and should support adequate sight distance in both directions.



Arterburn/McGinnis Parcel						
Deed	Date	Tax Account	Area (Ac.)	Grantor	Grantee	Notes
241/546	3/19/1953			Mary Jane and Alvin Hall Gaither	William Scribner	Multiple Parcels
446/58	11/15/1965		214.873	Thomas Hennessey and Bernard Goldberg	Frank and Linda Wilson	Description as single parcel, Grantees are Trustees
453/555	5/15/1966		214.873	Frank and Linda Wilson	Frank Willson et al	Undivided interest transfer
464/556	1/14/1967		6.142	Frank Willson et al	Jesse and Martha Aiken	Second Parcel of Deed
516/461	8/7/1969		6.142	Jesse and Martha Aiken	Frank Willson et al	Second Parcel of Deed
521/341	11/5/1969		6.142	Jesse and Martha Aiken	Frank Willson et al	Second Parcel of Deed
558/673	5/14/1971	Not Specified	6.142	John and Elizabeth Moody	John and Elizabeth Moody	Confirmatory
574/649	10/20/1971	Not Specified	6.142	John and Elizabeth Moody	Brian and Lynda Cunningham (T/E)	Conveyance
2966/373	8/30/1993	to 05-371333	3.13	Brian Cunningham (surviving spouse of T/E)	Raymond and Joan Bosmans	Conveyance
3575/638	10/3/1995	Not Specified	3.012	Brian Cunningham	Lynn Matson	Conveyance
12527/213	6/23/2010	05-347378	3.012	Lynn Matson	Scott Arterburn and Virginia McGinnis	Conveyance

Bosmans Parcel						
Deed	Date	Tax Account	Area (Ac.)	Grantor	Grantee	Notes
1128/88	11/5/1982	05-371333	5.00	Allan Weintraub	Raymond and Joan Bosmans	Conveyance
1776/501	6/3/1987		0.16945	Raymond and Joan Bosmans	Howard County	Harris Farm Road dedication
2966/373	8/30/1993	to 05-371333	3.13	Brian Cunningham	Raymond and Joan Bosmans	Conveyance
2966/376	8/29/1993		7.937			Adjoiner transfer to Tax Parcel 213 Map 28, Tax account number 05-371333

There are other mortgages and deeds of Trust for Bosmans Parcel



5038 Ten Oaks Road

Ten Oaks Farm  
Plat 24785-89  
WP-16-108

Linden Chapel Hills  
Section 5  
Plat 3691-3692

Parcel 128

Parcel adjustment  
L. 2699 F. 303

Part of  
Parcel  
213  
Joan Bosmans  
and  
Raymond

Approximate  
100-year  
Floodplain

Parcel  
Frontage



**FOREST CONSERVATION WORKSHEET FOR: Parcel 128 Ten Oaks Road**

**Net Tract Area**

- A. Total (Gross) Tract Area A = 3.0
- B. Area within 100-year Floodplain B = 0.1
- C. Other Deductions (Identify: \_\_\_\_\_) C = 0.0
- D. Net Tract Area D = 2.9

**Land Use Category**

Insert the number "1" under the appropriate land use (limit to only one entry)

Resid. Rural LD	Resid. Rural MD	Resid. Suburban	Inst./ Linear	Retail/Ind./ Office	Mixed Use/ PUD
0	1	0	0	0	0

- E. Afforestation Threshold (Net Tract Area x 20%) E = 0.6
- F. Reforestation Threshold (Net Tract Area x 25%) F = 0.7

**Existing Forest Cover**

- G. Existing Forest Cover within the Net Tract Area G = 2.9
- H. Area of Forest above Afforestation Threshold H = 2.3
- I. Area of Forest above Reforestation Threshold I = 2.2

**Break Even Point**

- J. Break Even Point J = 1.4
- K. Forest Clearing Permitted without Mitigation K = 1.5

**Proposed Forest Clearing**

- L. Total Area of Forest to be Cleared L = 1.5
- M. Total Area of Forest to be Retained M = 1.4

**Planting Requirements Inside Watershed**

- N. Reforestation for Clearing above the Reforestation Threshold N = 0.8
- P. Reforestation for Clearing below the Reforestation Threshold P = 0.0
- Q. Credit for Retention above the Reforestation Threshold Q = 0.8
- R. Total Reforestation Required R = 0.0
- S. Total Afforestation Required S = 0.0
- T. Total Reforestation and Afforestation Requirement T = 0.0
- U. 75% of Total Obligation (Retention + Planting) U = 1.1
- V. Planting Required Onsite to meet 75% Obligation V = 0.0

**Planting Requirements Outside Watershed**

- W. Total Planting within Development Site Watershed W = 0.0
- X. Total Afforestation Required X = 0.0
- Y. Remaining Planting within Watershed for Reforestation Credit Y = 0.0
- Z. Reforestation for Clearing above the Reforestation Threshold Z = 0.0
- AA. Reforestation for Clearing below the Reforestation Threshold AA = 0.0
- BB. Credit for Retention above the Reforestation Threshold BB = 0.0
- CC. Total Reforestation Required CC = 0.0
- DD. Total Afforestation and Reforestation Requirement DD = 0.0

Date: \_\_\_\_\_