



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 17, 2022

Mr. Brandon Boy
Development Partners, LLC
9693 Gerwig Lane
Columbia, MD 21046

RE: WP-22-093 Old Montgomery Meadows
Alternative Compliance Approved

Dear Mr. Boy:

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 6, 2022 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 **approved** your request for a variance with respect to **Section 16.1205(a)** of the Subdivision and Land Development Regulations to remove 6 of 7 specimen trees. Please see the attached Final Decision Action Report for more information.

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 Donna Despres at (410) 313-3429 or email at ddespres@howardcountymd.gov.

Sincerely,

DocuSigned by:

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/DD

Attachment: DAR

cc: Research
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR (if waiver to forest conservation sections)
Benchmark Engineering



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ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

RE: **WP-22-093 Old Montgomery Meadows**
Request for a variance to Section 16.1205(a) of the Subdivision and Land Development Regulations.

Applicant: Development Partners, LLC
9693 Gerwig Lane
Columbia, MD 21046

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 **approved** the applicants request for a variance with respect to **Section 16.1205(a)** of the Forest Conservation Regulations. The purpose is to remove 6 of 7 specimen trees. The Directors deliberated the application in a meeting on October 6, 2022.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in an unwarranted hardship. This determination is made with consideration of the alternative compliance application and the six (6) items the applicant was required to address, pursuant to Section 16.1216:

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

The existing forest, stream buffer and floodplain are priority retention areas and contain 2 of the 7 specimen trees (ST-5 and ST-7). The presence of an existing open space lot between the property and Majors Lane requires access from Old Montgomery Road and limits the developable area to the northeast portion of the property. The naturally occurring stream, forest and floodplain creates the best opportunity for open space and forest retention to the south and west of the property. Four specimen trees proposed to be removed are in poor (ST-1 and ST-7) or fair condition (ST-3 and ST-4) and development activity in the critical root zones would put them at further risk of failure. Preserving poor and fair condition trees would further limit the development and create an unwarranted hardship without adding value to the property. ST-2 is in good condition, however the existing bamboo in the proposed afforestation area needs to be removed before planting. While efforts may be made to protect it, the removal of the bamboo is a priority in order to prevent the bamboo from overtaking the forest conservation areas. The impacts caused by the removal of the bamboo to the CRZ of ST-2 may be beyond the 30% threshold for survivability. The Director's deliberated and questioned the long-term survivability of the white pines with the extent of work being proposed on site. If those specimen trees were to be denied and the development built around them, it was discussed that they would likely decline in health and become hazardous. The Director's discussed that the revised exhibit presented a preferred design from an

overall transportation and connectivity perspective which was balanced against the request to remove these specimen trees.

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

An arborist evaluation, site visit by DPR and DPZ staff and images of the trees to be removed indicate several of these trees appear at the end of their life, do not provide significant canopy coverage and present a public hazard (ST-1, ST-3, ST-4, and ST-7). Strict enforcement would limit development of the property to an odd configuration around the specimen trees that are not in good or excellent condition. An atypical development layout would not be complementary to the surrounding development. The proposed development plan creates a new public street with home lots of similar size and arrangement as the broader neighborhood. The development team worked with SRC staff to refine the layout to the current configuration which represents the preferred design meeting transportation and community design goals. Limiting layout and lot creation based on poor condition specimen trees would deny the property owner development rights commonly enjoyed by others subdividing sites with R-12 zoned property.

3. Verify that the granting of a variance will not adversely affect water quality;

There is no evidence that the granting of a variance will adversely affect water quality. The development is subject to the current Environmental Site Design criteria, which include small filtering processes to address water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the grading permit.

4. Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants;

The application for the removal of six specimen trees is due, in part to the creation of a new public road that will serve standard size R-12 home lots while working within the constraints of the existing environmental features on site. The current plan is the result of a redesign process to address the existing site conditions and technical review comments. Approval of this application will not confer a special privilege that would be denied other applicants.

5. Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;

The request is not based on conditions or circumstances created by the applicant but rather the naturally occurring stream, forest and floodplain creates the best opportunity for open space and forest retention to the south and west of the property. The existing bamboo was not planted by the developer and creates difficulty in preserving ST-2, ST-7 is in poor condition, and ST1, 4, 3 and 6 proposed to be removed are outside the best area for conservation and are in poor or declining condition.

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

There is no evidence that the conditions arose from a condition relating to land or building use, either permitted or nonconforming on a neighboring property

Directors Action: Approval of alternative compliance of Section 16.1205(a) is subject to the following conditions:

1. Removal of the six specimen trees is to be mitigated at 2:1 by the planting of 12 native trees with a DBH of 3". The location of the mitigation trees shall be clearly shown and labeled on subsequent subdivision and site plans.
2. Approval is for removal of specimen trees 1-4 and 6 and 7 as shown on the exhibit provided with the alternative compliance application.
3. Include a general note with the alternative plan file number, summary of request, decision, date of decision and conditions of approval on all plans submitted to the County for review
4. S-22-006 and subsequent plan submittals shall minimize LOD encroachment into the CRZ of Specimen tree 5 to less than 30% and ST-5 shall be protected within the forest conservation easement as shown on the revised alternative compliance application exhibit dated September 2022.
5. Approval of WP-22-093 is for removal of cited specimen trees only. The applicant must comply with comments at plan review that may require layout changes in order to meet the regulations.
6. Subsequent plan submissions should explore methods of removing the bamboo that may preserve ST-2. However, complete removal of the bamboo is the priority in order to protect the proposed forest conservation areas from encroachment.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director

Department of Planning and Zoning

DocuSigned by:

Raul Delerme

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Raul Delerme, Director

Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

3241B974513F4E7...

Joshua Feldmark, Administrator

Office of Community Sustainability

cc: Research
OCS, Joshua Feldmark
DRP, Raul Delerme
Benchmark Engineering



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

September 6, 2022

Mr. Brandon Boy
Development Partners, LLC
9693 Gerwig Lane, Suite L
Columbia, MD 21046

RE: WP-22-093 Old Montgomery Meadows
Deferral of Second Submission

Dear Mr. Boy:

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 following comments have been addressed and revised plans and justification provided:

1. Review of the sketch plan, S-22-006, indicates compliance with subdivision review agency comments may entail additional layout changes. Please revise the exhibit to reflect the most current layout of the sketch plan.
2. Provide an alternative plan analysis based on the public road design that removes or reconfigures Lots 6 & 7 to preserve ST-5.
3. Provide an updated Justification narrative to reflect revisions to the site plan and impacted trees.

Copies of the revised plan exhibit and justification should be submitted to this Division for distribution in the following manner:

Agency: DLD #Copies: (1)

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before October 21, 2022***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition.

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.**

Please refer to the Department of Planning and Zoning website for current business processes during this time. Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 20143 or dropped into the bin labeled 'DPZ' in the George Howard Building lobby. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Donna Despres at (410) 313-3429 or email at ddepres@howardcountymd.gov.

Sincerely, DocuSigned by:

1EB75478A22B49A...
Anthony Cataldo, AICP, Chief
Division of Land Development

AC/DD

cc: Research
DLD - Julia Sauer
Real Estate Services
Benchmark Engineering



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

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

May 13, 2022

Mr. Brandon Boy
Development Partners, LLC
9693 Gerwig Lane, Suite L
Columbia, MD 21046

RE: WP-22-093 Old Montgomery Meadows
Deferral

Dear Mr. Boy:

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 following comments have been addressed and revised plans and justification provided:

1. Site visit by staff found an additional specimen tree. Please locate the additional specimen tree on the plan exhibit and update the chart and justification as appropriate.
2. Review of the sketch plan, S-22-006, indicates compliance with subdivision review agency comments may entail significant layout changes. Please revise the exhibit to reflect the most current layout of the sketch plan.
3. Provide an alternative plan analysis explaining why the lots, roads, structures, SWM devices and utilities cannot be reconfigured or relocated on the property to avoid removal of the trees.

Copies of the revised plan exhibit and justification should be submitted to this Division for distribution in the following manner:

Agency: DLD #Copies: (1)

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before June 27, 2022***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition.

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.**

Please refer to the Department of Planning and Zoning website for current business processes during this time. Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 20143 or dropped into the bin labeled 'DPZ' in the George Howard Building lobby. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Donna Despres at (410) 313-3429 or email at dledespres@howardcountymd.gov.

Sincerely, DocuSigned by:

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/DD

cc: Research
DLD - Julia Sauer
Real Estate Services
Benchmark Engineering



DPZ Office Use only:
 File No. *WR-22-093*
 Date Filed *2/22/22*

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Proposed Single Family Lots

Subdivision Name/Property Identification: Old Montgomery Meadows

Location of property: 9005 Old Montgomery Road

Existing Use: Residential **Proposed Use:** Residential

Tax Map: 36 **Grid:** 17 **Parcel No:** 271 **Election District:** 6th

Zoning District: R-12 **Total site area:** 4.0AC.

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:

[Empty text box for listing previously submitted or currently active plans]

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
16.1205(a)	Removal of three specimen trees.

Section Reference No.	Brief Summary of Request

Signature of Property Owner:

Brandon Boy

Date:

February 17, 2022

Signature of Petitioner Preparer:

Date:

Name of Property Owner:

Development Partners, LLC

Name of Petition Preparer:

Benchmark Engineering

Address: 9693 Gerwig Lane, Suite L

Address: 8480 Baltimore National Pike

City, State, Zip: Columbia, MD 21046

City, State, Zip: Ellicott City, MD 21043

E-Mail: brandondboy@gmail.com

E-Mail: bei@bei-civilengineering.com

Phone No.: 443-676-2417

Phone No.: 410-465-6105

Contact Person: Brandon Boy

Contact Person: Chris Ogle

Owner's Authorization Attached