



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

FAX 410-313-3467

July 20, 2020

NVR Inc.
Attn: Jim Duszynski
11700 Plaza America Drive, Suite 500
Reston VA 20169

RE: **WP-20-117 Wellington Farms (P-20-006)**

Dear Mr. Duszynski:

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 July 16, 2020 and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, Director of the Department of Public Works and Administrator of the Office of Community Sustainability considered and **approved** your request for a variance with respect to Section 16.116(a)(2)(i) of the Subdivision and Land Development Regulations to disturb a 50-foot stream bank buffer for the construction of a minor collector road and associated utilities and stormwater management practices (a submerged gravel wetland). 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 development plan is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Derrick Jones (410) 313-2350 or email at djones@howardcountymd.gov.

Sincerely,

DocuSigned by:

Anthony Cataldo

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Anthony Cataldo, Chief

Division of Land Development

AC/dj
attach: Director's Report
cc: Research
DED
DLD - Julia Sauer
Real Estate Services
DPW - Highways
Benchmark Engineering - Dave Thompson



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**ALTERNATIVE COMPLIANCE
FINAL DECISION ACTION REPORT**

DEPARTMENT OF PLANNING AND ZONING
OFFICE OF COMMUNITY SUSTAINABILITY
DEPARTMENT OF PUBLIC WORKS

RE: WP-20-117 Wellington Farms

Applicant: NVR Inc.
attn: Jim Duszynski
11700 Plaza America Drive, Suite 500
Reston VA 20169

Pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, the Administrator of the Office of Community Sustainability and the Director of the Department of Public Works considered and **APPROVED** the applicants request for a waiver with respect to **Sections 16.116(a)(2)(i)** of the Subdivision and Land Development Regulations to disturb a 50-foot intermittent stream bank buffer for the construction of a minor collector road that shall provide access to the subject property. The Directors deliberated the application in a meeting on July 16, 2020.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unwarranted hardship. This determination is made with consideration of the variance application and the seven (7) items the applicant was required to address, pursuant to Sections 16.104(a)(1)(i)-(iv) and 16.116(d)(1)(i)-(iii):

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

The proposed road, Aurora Way, is a minor collector road that will function as the primary point of ingress/egress for the Wellington Farms subdivision, which fronts on Leishear Road and is bisected by a Susquehanna Transmission Company right-of-way. Aurora Way is designed to collect the traffic from the subdivision's internal roads and to move the traffic to high volume roads that abut the development. The road is designed to have its access at the intersection of Leishear Road and Graeloch Road, approximately 600 feet south of where the road's access was initially planned. DPZ, in consultation with DPW, Traffic Engineering, requested that Aurora Way's access be aligned opposite of Graeloch Road to allow a safer intersection, additional spacing to Gorman Road for vehicle stacking, and an intersection crossing for school walkers. The alignment placed Aurora Way at a position where disturbance to the intermittent stream bank buffer would be at risk. To avoid disturbance to the buffer, the developer filed a Design Manual waiver to reduce radius of the road curving below the minimum 550 feet, per Section 2.3.A.1.a of the Design Manual. The waiver was denied by DPW and Development Engineering Division (DED) for safety reasons. Therefore, due to its location and the requirement of maintaining the minimum road curve radii, the alignment of

Aurora Way cannot provide access to the remainder of the parcel through the Susquehanna Transmission Company right-of-way and avoid disturbing the intermittent stream bank buffer. Strict conformance to the requirements would deny the applicant the ability to design a public road with the proposed preferred access that complies with the curve design standards for a minor collector road. The proposed alignment is in accordance with DPZ and DPW standards and specifications and the minimum vehicular and pedestrian safety standards will be achieved.

- 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**
As stated above in criterion no. 1, the alignment for Aurora Way was initially designed to avoid disturbances to on-site environmental features at Wellington Farms. At the request of DPZ and DPW, the road's access was modified to be 600 feet south from where it was originally planned to provide the most beneficial relationship between the uses of land and the circulation of traffic throughout the County. DED has advised that the design of Aurora Way meets the minimum roadway radius based on classified speeds and that this is consistent with the County and Federal roadway design standards. Furthermore, DED asserts that if the roadway radius were increased (or additional intersection were introduced) it would create a substandard roadway design. The property is also bisected by a Susquehanna Transmission Company right-of-way with limited design for public road crossing. These unique characteristics provide a practical difficulty in meeting the safety design standards for a public minor collector road and providing internal road connection between bisected parcels without disturbing the stream bank buffer.
- 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. There are several adjacent developments (Emerson subdivision and two school sites) that were granted approvals by DPZ to disturb environmental features for road construction, utilities, and pathways. Those approved disturbances are referenced in DPZ files: F-01-036, F-01-137, SDP-96-042 and SDP-97-005. The applicant has provided details of each of these disturbances in the justification statement for this petition.
- 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 disturbance is necessary to provide a safe road design and connect the bisected parcels. The requested disturbance shall occur in a 7,987 SF area that is internal to the site and will not impose a hazard to other properties.
- 5. Any area of disturbance is returned to its natural condition to the greatest extent possible**
The applicant states that the requested disturbance to the stream bank buffer and forested areas cannot be returned to its natural state. However, a portion of the disturbed stream bank buffer shall be placed in a forest conservation easement in the form of planting.
- 6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative cover**
The applicant is required to provide best management practices in accordance with MDE standards to manage stormwater management runoff and to control and mitigate the impact to water quality and to the natural environment. The proposed disturbance is at the head of an intermittent stream channel and there is no evidence that there will be impacts to fish or wildlife. The runoff from the proposed roadway section within the stream buffer will be captured and treated for water quality and quantity to avoid impacts to the remaining intermittent stream. Mitigation shall be in the form of tree planting and included as part of the project's reforestation obligation under the forest conservation plan.

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 of vegetative cover or trees has taken place, utilizing best practices for ecological restoration and water quality enhancement projects**

The disturbance to the stream bank buffer shall be limited to a 7,987 SF area necessary to construct the road, utilities, and stormwater management. The only impact to a regulated environmental area is the intermittent stream bank buffer. The applicant states that the efforts have been made to minimize impact to this area limiting the disturbance to only the intermittent stream buffer. The storm drain outfalls and stormwater management practices (a submerged gravel wetland) will impact an ephemeral stream channel, which is not regulated by DPZ or MDE. However, ephemeral streams can be regulated by the Army Corps of Engineers and as such a permit may be required to disturb this channel. The Development Engineering Division has no objection to this request provided that the disturbed stream bank buffer is stabilized, and measures provided to prohibit erosion with the remaining stream channels and all outfalls and discharge points are armored to ensure the preservation of downstream channels.

Directors Action: Approval of this alternative compliance is subject to the following conditions:

1. The disturbance to the stream bank buffer shall be limited to the 7,987 SF area that is shown on the plan exhibit filed with this petition. The stream buffer must be appropriately stabilized, and additional measures must be provided to prohibit erosion within the remaining stream channels. All outfalls and discharge points shall be armored to ensure the preservation of downstream channels.
2. Mitigation for the disturbed area must be in the form of additional reforestation and included as part of this project's reforestation plan for forest conservation.
3. Include this alternative compliance petition decision as a general note on the preliminary plan, the final plan and site development plan(s). This note shall include the alternative compliance petition file number, the regulatory section, the decision date, and the conditions of approval.
4. The applicant shall obtain all required Federal, State and Local authorizations for disturbances to environmental features. Reference the applicable permits and tracking numbers on all grading permits.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Joshua Feldmark

3241B974913F4B7...

Joshua Feldmark, Administrator
Office of Community Sustainability

DocuSigned by:

Thomas Meunier

977F1202E3D14B4...

Thomas Meunier, P.E., Acting Director
Department of Public Works

cc: DLD, Derrick Jones OCS, Joshua Feldmark DPW, Thomas Meunier



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

(410) 313-2350

DPZ Office Use only:
 File No.
 Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: [Redacted]

Subdivision Name/Property Identification: Wellington Farms

Location of property: southeast corner of Leishear an Gorman Roads

Existing Use: vacant field **Proposed Use:** residential development

Tax Map: 46 **Grid:** 6 **Parcel No:** 163 **Election District:** 6

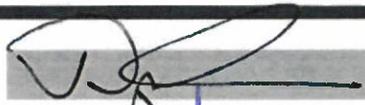
Zoning District: R-20-MXD-3 and R-SC-MXD-3 **Total site area:** 121.47 acres

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:

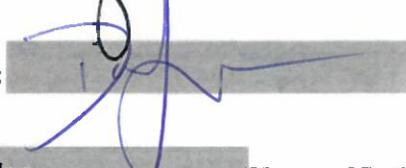
S-18-003 signed on 5.29.2019
 ECP-18-042 signed on 6.20.2019
 P-20-006 active processing began on 1.22.2020
 WP-20-039 approved on 5.1.2020
 WP-20-099 submitted 4.3.2020

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
16.116(a)(2)(i)	Title 16, Subtitle 1, Article II: to allow for grading, removal of vegetative trees or over, paving, and new structures within 50 feet of an intermittent stream bank.
[Redacted]	[Redacted]

Signature of Property Owner: 

Date: 6/4/2020

Signature of Petitioner Preparer: 

Date: 6/9/2020

Name of Property Owner: NVR Inc

Name of Petition Preparer: Benchmark Engineering, Inc.

Address: 11700 Plaza America Drive, Suite 500

Address: 8480 Baltimore National Pike, Suite 315

City, State, Zip: Reston, VA 20169

City, State, Zip: Ellicott City, MD 21043

E-Mail: jduszyns@nvrinc.com

E-Mail: bei@bei-civilengineering.com

Phone No.: 703-956-4080

Phone No.: 410-465-6105

Contact Person: Jim Duszynski

Contact Person: David Thompson

Owner's Authorization Attached