



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

FAX 410-313-3467

August 24, 2020

Joseph Penkusky
4707 Beechwood Road
Ellicott City MD 21043

RE: **WP-21-007 Penkusky Property (F-19-018)**

Dear Mr. Penkusky:

The Director of the Department of Planning and Zoning considered your request for an alternative compliance from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request for an alternative compliance to the following Sections:

- **Section 16.116(a)(2)(i)** – Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within fifty feet of an intermittent stream bank
- **Section 16.116(a)(3)** - In residential subdivisions, wetlands, streams, and their buffers shall be in required open space or a non-buildable preservation parcel rather than on residential lots.

***Note:** This alternative compliance petition is not subject to CB61-2019 and CB62-2019 because the preliminary plan (SP-17-006) for this subdivision was signed prior to February 5, 2020.

Approval of this alternative compliance petition is subject to the following six (6) conditions:

1. The disturbance to the stream and its buffer shall be limited to the grading required to widen the driveway and to construct the storm drain system and bioretention facility.
2. Any natural vegetation disturbed during the grading in the stream buffer must be restored to its natural condition once construction is completed.
3. The ultimate/lower stream channel and its buffer must be delineated on the plat and must be located entirely within open space, except the stream buffer may be within the pipestem areas of the residential lots.
4. A copy of the Maryland Department of Environment (MDE) permit approval for the disturbance to the stream channel must be provided to DPZ prior to the recordation of the final plat and referenced as a note on the plat.
5. Additional landscaping that includes a mix of at least 2 trees and 8 shrubs to help slow stormwater runoff, control erosion and reduce sedimentation to the stream must be provided in the stream buffer. This additional landscaping must be shown on the final landscape plan and bonded with the final plan.

6. Include this alternative compliance petition decision as a general note on the plat and site development plan. This note shall include the petition's file number, the regulatory sections, the decision date, and the conditions of approval.

The decision of this alternative compliance petition is based on the following justification:

1. **Extraordinary Hardships or Practical Difficulties**

The subject site contains steep slopes and a stream at its frontage and restricts access to and from the site. Proposed access for development will utilize the existing driveway in order to limit disturbance to the existing steep slopes and stream. However, the existing driveway is only 10 feet in width and to meet County Regulations requiring all use-in-common driveways be paved at a width no less than 16 feet, this existing driveway must be widened. The driveway is also located on a steep slope that inclines from Beechwood Road. The upper portion of a stream channel originates near the driveway incline and will be impacted by its widening. During the review of the Preliminary Equivalent Sketch Plan (SP-17-006), this area was identified as a wetland and not a stream. However, during the review of the final plan (F-19-018), the Maryland Department of Environment (MDE) classified this wetland area as a stream. A site visit was conducted by DPZ staff and it was determined that this stream is intermittent and will require a 50-foot buffer from the stream bank. Strict compliance and adherence to the Regulations would create a hardship or practical difficulty to develop the land.

The upper stream channel and the buffer is requested to be disturbed for road widening and a storm drainpipe (see plan exhibit). As a result of this disturbance, the upper stream channel will be removed entirely, and the required 50-foot buffer will be adjusted to the remaining stream channel accordingly. In the stream's current location and configuration, the 50-foot stream bank buffer encumbers the pipestems for Lots 1 and 3-7, and part of the buildable area of residential Lot 7. Once the upper stream channel is removed, the 50-foot buffer will not be on Lot 7 as shown on the exhibit in its ultimate location but will remain over the pipestem areas.

The applicant states that grading into this stream and its buffer will be necessary to comply with the Design Manual requirements for driveway, storm drain standards and stormwater management. The Development Engineering Division concurs with this justification. Because the driveway must comply with design standards to ensure safe and adequate access for vehicles, disturbance to the upper stream channel and its buffer is required.

2. **The Intent of the Regulations Will Be Served to a Greater Extent Through the Implementation of the Alternative Proposal**

The existing environmental features (stream and steep slopes) limits opportunities of where infrastructure (driveways, storm water and drainage facilities, water and sewer utilities, etc.) can be placed. The most reasonable location for installing the infrastructure is where environmental impact is minimal. The site's existing driveway will be retained and used for access to the subdivision. County Regulations requires that the driveway be widened, thus impacting the stream and its buffer. And because the driveway is existing, the impact to the stream and its buffer would be less severe at this location as opposed to constructing a new driveway at a different location that would cause a greater impact to the stream and steep slopes.

3. Not Detrimental to the Public Interest

The approval of this alternative compliance petition will not be detrimental to the public interest because the requested disturbance is contained within the site and will not impact adjacent properties. Also, the proposed stormwater facilities that are to be constructed shall enhance the public interest through better managing stormwater runoff.


4. Will Not Nullify the Intent or Purpose of the Regulations

The applicant shall limit the disturbance to the stream and its buffer to only the area where grading is necessary. In addition, the grading proposed shall provide for a safer driveway and construction of the bioretention facility will improve water quality of the natural stream channel.

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,


Anthony Cataldo, AICP, Chief
Division of Land Development

AC/dj

cc: Research
DED
DLD - Julia Sauer
File: F-19-018
Sill Engineering



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Single Family Detached development of 6 buildable lots on Beechwood Road

Subdivision Name/Property Identification: Penkusky Property

Location of property: 4707 Beechwood Road

Existing Use: Residential

Proposed Use: Residential

Tax Map: 31

Grid: 4

Parcel No: 119

Election District: 1st

Zoning District: R-ED

Total site area: 5.8680 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:

ECP-15-007; WP-16-047; WP-17-124; SP-17-006; PB 433; F-19-008

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
16.116.(a)(2)(i)	Grading within a stream and it's buffers
16.116.(a)(3)	Buffers allowed on lots other than open space or non-buildable preservation parcels

Section Reference No.	Brief Summary of Request

Signature of Property Owner:



Date: 7/13/20

Signature of Petitioner Preparer:



Date: 7/13/20

Name of Property Owner: Joseph Penkusky

Name of Petition Preparer: Paul Sill

Address: 4707 Beechwood Road

Address: 16005 Frederick Road

City, State, Zip: Ellicott City, Md 21043

City, State, Zip: Woodbine, Md 21797

E-Mail: timbermax3@msn.com

E-Mail: paul@sillengineering.com

Phone No.: 443-324-4807

Phone No.: 443-325-5076

Contact Person: Joseph Penkusky

Contact Person: Paul Sill

Owner's Authorization Attached