



# 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 12, 2021

Port Capital Center of Maryland, LLC  
Mr. Arnold Sagner  
P.O. Box 416  
Ellicott City, MD 21041

RE: WP-21-143 Potters Place  
Alternative Compliance Approved

Dear Mr. Sagner:

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 11, 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 **Section 16.156(m)** of the Subdivision and Land Development Regulations to extend the deadlines to process SDP-20-004 Potters Place.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.156(m) would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the one (1) item you were required to address, pursuant to Section 16.104(a)(1):

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

The developer was unable to contract with a home builder during the COVID-19 pandemic due to COVID-19 protocols, restrictions and related market uncertainty. The developer is now moving forward and completing negotiations with a home builder and completing the required items in the April 17, 2020 approval letter. Granting the Alternative Compliance request and extending the deadlines does not relax any technical requirements but provides the time necessary to complete the developer's agreement, payment of fees, posting of surety and processing originals for signature. Denial would create an unreasonable hardship and practical difficulty as the developer would have to submit new plans for review with no changes to the plan. Approval of the alternative compliance promotes efficiency of the plan review process.

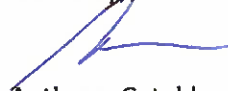
Approval of this Alternative Compliance is subject to the following conditions:

1. The deadline to complete the Developers Agreement and payment of fees shall be September 25, 2021.
2. The deadline to complete all items outlined in the technically complete letter of April 17, 2020 letter and submit original mylars for signature approval shall be February 7, 2022.

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](mailto:ddespres@howardcountymd.gov).

Sincerely,



Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/DD

cc: Research  
DED  
DLD - Julia Sauer  
Real Estate Services  
Vogel Engineering & Timmons Group



**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: POTTERS PLACE

Subdivision Name/Property Identification: THE OAKS AT WATERS EDGE PHASE III PARCEL 'D'

Location of property: POST CAPITAL DRIVE

Existing Use: VACANT Proposed Use: APARTMENTS

Tax Map: 43 Grid: 3 Parcel No: 644 Election District: 15

Zoning District: R-2-15 Total site area: 1.79 AC

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:

SDP-20-004

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
160156(1)+(m)	DEADLINE TO SUBMIT DEVELOPER AGREEMENT, POSTING OF SURETY, PAYMENT OF FEES DEADLINE TO SUBMIT ORIGINAL DRAWINGS FOR SIGNATURE

POTTERS PLACE  
SDP-20-004  
ALTERNATIVE COMPLIANCE

III JUSTIFICATION

SECTION 16.156(l) & SECTION 16.156(m)

The purpose of this Alternative Compliance petition is to request an extension to the June 1, 2020 deadline to complete the Developer Agreement tasks and the October 14, 2020 deadline to submit Site Development Plan originals for signature.

The subject deadlines were previously extended due to the extension granted by the County Executive in regards to COVID-19. This extension expires June 30, 2021 and the owner/developer is requesting a 6-month extension.

The developer was unable to complete a contract with a homebuilder during COVID-19 due to the significant and constant rise of building product prices and market uncertainty. The developer is currently in the process of completing negotiations with a homebuilder and the homebuilder will be moving forward with completing the required items outlined in the April 17, 2020 letter.

There have been no changes to the Regulations or technical criteria during this period which would impact the current approval. Once the Developer Agreement process has been completed then the original drawings will be submitted for signature approval.

Should this Alternative Compliance not be granted, the housing allocations and school allocations will be forfeited, and the Site Development Plan would be voided. This would require the processing of a new Site Development Plan and a multi-year waiting period for open schools. This presents a significant financial hardship for the petitioner.

The granting of this Alternative Compliance request does not result in the relaxation of any technical requirements but provides the time necessary to complete the development process in regards to payment of fees, posting of surety, execution of documents and processing of original drawings for signature. This Alternative Compliance, if granted, will not adversely affect adjacent property owners or the Public.

Section Reference No.	Brief Summary of Request

*Pracor LLC, Managing member*  
**Signature of Property Owner:** *Carol Sagner member* **Date:** *June 04, 2021*

**Signature of Petitioner Preparer:** *[Signature]* **Date:** *6/28/21*

**Name of Property Owner:** *Port Capital Center of Maryland LLC* **Name of Petition Preparer:** *Vogel Engineering + Timmons Group*

**Address:** *P.O. Box 416* **Address:** *3300 North Ridge Road., Suite 110*

**City, State, Zip:** *Ellicott City, MD 21041* **City, State, Zip:** *Ellicott City, Maryland 21043*

**E-Mail:** *asagner@aol.com* **E-Mail:** *rob.vogel@timmons.com*

**Phone No.:** *410-465-2020* **Phone No.:** *410-461-7666*

**Contact Person:** *Arnold Sagner* **Contact Person:** *Robert H. Vogel*

**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

Variances 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.
- ✓ 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).
- N/A Photographs, perspective sketches or cross-sections as necessary to adequately portray the alternative compliance request.
- N/A 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.