



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

June 2, 2022

H. Mark Bobotek, Esq.
PO Box 66
Ellicott City MD 21042

RE: WP-22-121 Bethany Glen (F-22-033)

Dear Mr. Bobotek:

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 May 27, 2022 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 16.144(r)(3)** of the Subdivision and Land Development Regulations.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.144(r)(3) 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):

Unreasonable hardship and practical difficulties may result from strict compliance with the regulations.

The applicant has indicated that the extension of time to resubmit the plan is needed to resolve the complex nature of the most recent stormwater management (SWM) comments from the Development Engineering Division (DED). The SMW practices required in the Plumtree Watershed have necessitated changes to this project's previous SWM practices and the re-evaluation of these practices on the site development plan. The unique physical characteristics of the property create narrow developable areas in Neighborhoods A and C to accommodate SWM facilities. In addition, there are approximately 12 acres of environmentally sensitive areas in Neighborhoods C and D that further constrain the site. Proposed changes to the SDP may impact the final plan and plat drawings. The development team and County staff needed time to meet and to review the comments and ensure no additional impacts to the existing environmental areas occur. Now that these meetings have concluded, the development team is seeking an additional 30 days to finalize the design consistent with the County's direction. Granting the Alternative Compliance request does not relax any technical requirements but allows the developer additional time to address outstanding DPZ plan comments. If the final plan and plat were to expire, a new submission matching the existing and without any resolution to the outstanding comments would be required which would be an unreasonable hardship. Approval of this alternative compliance promotes efficiency of the plan review process.

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

1. The applicant must provide the additional information as requested by County review offices in our letter dated March 29, 2022 within 30 days of May 27, 2022 (on or before June 27, 2022).
2. Include this alternative compliance petition decision as a general note on the final plan (F-22-033). This note shall include the petition's file number, the regulatory sections, the decision date, and the condition of approval.

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 will remain valid for the time period specified in the conditions of approval.

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

Sincerely,

DocuSigned by:



Anthony Cataldo, AICP, Chief
Division of Land Development

AC/dj

cc: Research
DLD - Julia Sauer
Jason Van Kirk
Bohler Engineering
Community Members



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

(410) 313-2350

DPZ Office Use only:
 File No. *WP22-121*
 Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: 9891 Old Frederick Road - Route 99
Subdivision Name/Property Identification: Bethany Glen -ARAH, F-22-033
Location of property: 9891 Old Frederick Road - Route 99
Existing Use: Residential **Proposed Use:** Age Restricted - Attached & Detached Dwellings
Tax Map: 17 **Grid:** 15 **Parcel No:** 34 **Election District:** 5th
Zoning District: R-20 **Total site area:** 68.57

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:

BA-17-018C, SP-21-002, ECP-21-017, SDP-22-021, F-22-033

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
16.144(r)(3)	Additional Information: Requesting approval for a 30-day extension to the revised plan submission deadline to adequately analyze the requests received by the County and ultimately make the necessary plan and computational updates to resubmit +

Signature of Property Owner:

Date:

Signature of Petitioner Preparer:

Date:

Name of Property Owner:

Name of Petition Preparer:

Address: P.O. Box 66

Address: 5074 Dorsey Hall Drive, Suite 205

City, State, Zip: Ellicott City, MD 21042

City, State, Zip: Ellicott City, MD 21042

E-Mail:

E-Mail: jvankirk@elmstreetdev.com

Phone No.: 410-964-9700

Phone No.: 410-720-3021

Contact Person: H. Mark BoboTek, Esq.

Contact Person: Jason Van Kirk

Owner's Authorization Attached

May 19, 2022

Howard County Department of Planning & Zoning
3430 Court House Drive
Ellicott City, MD 21043
RE: Alternative Compliance Request

Bethany Glen – ARAH
9891 Old Frederick Road- Route 99
Tax Map 17, Grid 15, Parcel 34
Howard County, MD
Alternative Compliance Request
F-22-033
BEMD# MD152018

Dear Sir/Madam,

On behalf of our client (Elm Street Development), we are submitting a request for an Alternative Compliance in accordance with the following sections of the Howard County Subdivision and Land Development Regulations:

- Article IV, Section 16.144(r)(3) – Providing Additional Information

The purpose is to request a 30-day extension to the revised plan submission date for F-22-033 per the March 29, 2022 establishing the resubmission deadline of May 13, 2022, and the subsequent email authorization from Anthony Cataldo dated May 13th extending the resubmission deadline to May 27, 2022. Approval of this additional 30-day extension will establish a new resubmission deadline of June 27, 2022.

Project History and Description of Unique Physical Conditions of the Property:

Prior to the initial Preliminary Equivalent Sketch Plan (PESP) submittal, this property went through an extensive review process in accordance with Howard County Zoning Regulations in order to obtain a Conditional Use approval in the R-20 Zoning District for an Age-Restricted Adult Housing (“ARAH”) Community. As originally proposed, the ARAH community was to consist of 238 dwelling units. However, during the conditional use approval process the proposed density of the ARAH community was reduced significantly. The community as now proposed contains only 154 dwelling units as approved by the Hearing Examiner’s Decision & Order in BA Case No 17-018C.

The gross site area is 68.57 acres, with 2.10 acres of flood plain, 2.56 acres of wetlands and wetland buffer, and 30.20 acres of forest. The site is laid out such that there are five (5) distinct neighborhoods within the community proposed. Neighborhood A and B are located on the north side of interstate highway (I-70). Neighborhood A has access from Old Frederick Road – MD Route 99. Neighborhood B is predominately open field with one area of wetland on the eastern edge that will be undisturbed and placed within a forest conservation easement. Neighborhood C, D, and E are located on the south side of interstate highway (I-70) and have access from Bethany Lane. Neighborhoods C, D, and E also have

access from Longview Drive. Neighborhoods are proposed to be accessed by public and private roads, further described herein.

This property is unique in that it is bisected by an interstate highway (I-70), which limits connectivity options from the north to the south. Another unique physical condition of the property is the presence of two (2) riparian systems that originate at separate locations under I-70 and converge in the middle of the property, between Neighborhoods D and E, and flow eastward before exiting the site near the southeast corner of Neighborhood E. The alignment of these stream systems divides the property such that access to Neighborhood D would not be feasible without the proposed stream crossings. Public Road A will require two (2) stream crossings in order to provide access and community connectivity from Bethany Lane to Neighborhood D, and Public Road B will require one (1) stream crossing in order to provide access and community connectivity from Longview Drive through Neighborhood E to Neighborhood D. The proposed public roads, varying in width from 24' wide to 28' wide, cross the existing stream, wetlands, floodplain, and associated buffers running through Neighborhoods D and E. These road crossings are unavoidable in order to provide reasonable access, community connectivity, and public utility services throughout the property. The impacts associated with these stream crossings have been approved under a prior Alternative Compliance request (WP-21-064).

The preceding facts apply to each alternative compliance justification below to the same extent as if fully restated therein.

Alternative Compliance Requests

Section 16.144(r)(3) – Request for Article IV Alternative Compliance –

Sec. 16.144(r)(3) – Additional Information... If additional information needed for plan approval is not provided within 45 days of request, the plan shall be denied.

Background:

The Applicant is seeking an Article IV Alternative Compliance to Section 16.144(r)(3) in order to request a 30-day extension to the revised plan submission deadline for F-22-033.

The need for the extension results in the continued discussion with DPZ regarding the stormwater management approach for the proposed community. In addition to the unique physical conditions of the Property noted above, the Property is also in a watershed that is sensitive to stormwater management matters. With that in mind, there has been considerable attention spent identifying a stormwater management design approach within the proposed community.

With the latest review of the plans for this proposed community, there were several comments from DPZ related to the stormwater management design that require additional discussion and evaluation prior to proceeding with revising the plans and associated supplemental information for resubmission. At the SRC meeting to first review these comments, which was held on April 14, 2022, not all review agencies and reviewers were able to attend. This resulted in the need to set up a separate meeting on April 18, 2022 to discuss the stormwater management-related comments.

Coming from the April 18th meeting, the Design Team had several design options to review. A follow-up meeting was then held with DPZ Staff on May 11, 2022, and from that meeting, further analysis was required by the Design Team to provide answers to DPZ. That additional analysis was provided to DPZ Staff on May 18, 2022 and is pending review as of the date of this letter.

As is demonstrated from this timeline, the nature of some of the stormwater comments from the County's review of the latest plans has required extensive discussion, analysis, and coordination and ultimately, re-evaluation of the stormwater management approach for the proposed community. To adequately analyze the impact of the requests and ultimately make the necessary plan and computational updates, additional time beyond the standard 45-days (and subsequent extension from Anthony Cataldo) is necessary.

The Design Team remains committed to working with DPZ to review design options and provide a stormwater management design, and proposed community, that the future residents of this community and Howard County residents alike can be confident will be beneficial to this watershed.

The Applicant therefore requests approval of an Article IV alternative compliance to Section 16.144(r)(3) to permit a 30-day extension to the revised plan submission deadline for F-22-033. As demonstrated below, the Applicant's Alternative Compliance request is fully justified and satisfies all of the approval criteria.

Justification:

Requests for alternative compliance to regulations in Article IV 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.* Given the complex nature of the comments received coming out of the post-SRC meeting and subsequent follow-up meetings, the standard 45-day resubmission deadline does not allow for adequate time to finalize discussions with the County on the stormwater management approach and then finalize the associated revisions for resubmission for County Review. The changes to the stormwater management approach are at the request of the County, after having previously received prior approvals on earlier applications.
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.* As noted above, this property is unique in that it is bisected by interstate I-70, along with the presence of existing environmental features. The developable area and site access are limited due to these factors, and any requested changes to the proposed stormwater management approach need to be evaluated to ensure no additional impacts to these areas occur.
3. *The Variance will not confer to the applicant a special privilege that would be denied to other applicants.* The approval of the requested alternative compliance to section 16.156(g)(2) will not confer to the Applicant any special privilege that would be denied to

other applicants. Other applicants would have the same opportunities to seek a variance to the regulations if similar situations warranted such a variance due to the complexity of the stormwater management approach and County requested re-evaluation of the design.

4. *The modification is not detrimental to the public health; safety or welfare, or injurious to other properties* The requested modification is not detrimental to the public health, safety or welfare, or injurious to other properties. Approval of the requested modification will grant the necessary time to finalize discussions with the County on the stormwater management approach and finalize the design plans and computations for resubmission to the County.

Having fully justified its request and having further demonstrated that its request for relief satisfies all criteria for approval, the Applicant requests approval of an Article IV alternative compliance to Section 16.144(r)(3) to permit a 30-day extension to the revised plan submission deadline for F-22-033

If you should have any questions or require additional information, please do not hesitate to contact our office at (410) 821-7900.

Sincerely,
BOHLER ENGINEERING VA, LLC



Brandon R. Rowe, P.E.
Associate

June 19, 2017

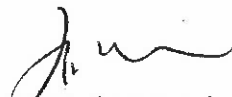
Re: Owner's Authorization to Make Submissions for the Bethany Glen development on behalf
of The Estate of Ruth L. Harbin (Howard County Estate No.).

25810

To Whom It May Concern:

Please be advised that Elm Street Development is the contract purchaser of the real property located on Bethany Lane in Ellicott City, MD (Map 17, Parcel 34). As part of the Agreement of Sale, Elm Street Development has been granted the right to submit and obtain approval of any and all applications for residential subdivision plans, variances, conditional uses, alternative compliances, as well as any other applications for permits, waiver or variances to any federal, state and local jurisdictions or other organizations that Elm Street Development deems appropriate in order to achieve plan approvals.

Sincerely,



H. Mark Bobotek, Esq.
Personal Representative
The Estate of Ruth L. Harbin

Golden Oak Elder Law, P.C.
P.O. Box 66
Ellicott City, MD 21043



**STATE OF MARYLAND
LETTERS OF ADMINISTRATION**

ESTATE NO. 25810

I certify that administration of the Estate of

RUTH L. HARBIN

was granted on the 5th day of JANUARY, 2015,
to H. MARK BOBOTEK

as personal representative(s) and the appointment is in effect

this 5th day of JANUARY 2015

Will probated January 5, 2015
(date)

Intestate estate

BYRON E MACFARLANE

Register of Wills for

HOWARD COUNTY

VALID ONLY IF SEALED WITH THE SEAL OF THE COURT OR THE REGISTER

RW1120

ROWNET
11/2009