



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

November 28, 2022

Stephanie Porta
10380 Baltimore National Pike
Ellicott City, MD 21043

RE: WP-23-010 Porta Properties

Revised letter to include Section 16.120(c)(2)(ii)

Dear Mrs. Porta:

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. The purpose of this letter is to update the previous letter dated November 18, 2022 to include Section 16.120(c)(2)(ii).

On November 9, 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)(3)** of the Subdivision and Land Development Regulations to remove two specimen trees for construction of a single-family dwelling. Please see the attached Final Decision Action Report for more information.

On November 15, 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 16.120(c)(2)(ii)** of the Subdivision and Land Development Regulations to reduce the minimum public road frontage to 0 feet for single-family detached lots.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.120(c)(2)(ii) would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the four (4) items you were required to address, pursuant to Section 16.104(a)(1):

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

Other surrounding properties have been developed without fee simple ownership along a public road right-of-way. The adjacent parcels utilizing the 14' shared driveway to US Route 40 were created by deed and do not have public road frontage. The owners of Parcels 2 & 758 intend to reconfigure the property lines and create a new building lot (Lot 2) consisting of 26,685sf for their son. Since these parcels have been previously created by deed and have no public road frontage, strict conformance with the requirements would deprive the applicant of creating a lot that matches the conditions of the immediately adjacent lots.

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;

The subject parcels have access to US Route 40 through a 20' private easement and the owners do not own the entire private easement area. A public roadway cannot be constructed since the minimum width for a public right-of-way is 50'. This would require obtaining land from adjacent Parcels 695, 1002 and 74.

3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants;

Several existing parcels in the surrounding area have been developed without public road frontage. The private shared driveway provides access from US Route 40 for 4 existing users and the proposed lot will be the fifth user. The Howard County Design Manual permits up to six users on a shared driveway, which is common throughout the county. This request is below the 6 maximum users and complies with the Design Manual.

4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.

Approval will not be detrimental to the public interest since the private access easement already exists and has been in use for many years. A new shared maintenance agreement will be recorded and the additional lot will support the maintenance of the private roadway. The Dept. of Fire & Rescue Services has reviewed the subdivision plans and will be able to provide adequate service to all users on the shared driveway through the improvement of a T-turnaround area.


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

1. No further subdivision of Lots 1, 2 or 3 will be allowed until such time as public road frontage is obtained to either US Route 40 or Boones Lane in accordance with Section 16.120(c)(2) of the Subdivision Regulations.
2. The existing shared driveway from US Route 40 shall be improved to minimum standards per the Design Manual for a 16' wide paved shared driveway and turnaround area. Standard detail R-9.02 for an offsite turnaround on a private road should be used.
3. The applicant must provide for new Maintenance Agreements for new Lots 1-3 and adjoining Parcels 1002 and 1071 (all users) for use of the 16' shared use-in-common driveway and between Lots 1 and 3 for use of the shared driveway within the 50' private right-of-way. The agreements will be recorded in the Land Records of Howard County simultaneously with the final plat for this proposed subdivision. If an agreement with adjoining Parcel 1002 and/or Parcel 1071 cannot be obtained, the applicant shall solely be responsible for the maintenance, repair and any required re-paving of the private 16' wide driveway to a point at the northern limits of new Lot 2 to US Route 40.
4. The existing 20' private access easement to US Route 40 shall be enlarged to the 24' minimum width per the Design Manual unless approval of a waiver is obtained from the Development Engineering Division. Private easement documents shall be recorded in Land Records with the final plat for this proposed subdivision.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval and date on all related plats, 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 Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/eb

cc: Research
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR
John Carney- 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

November 21, 2022

Stephanie Porta
10380 Baltimore National Pike
Ellicott City, MD 21043

RE: WP-23-010, Porta Property

Dear Ms. Porta:

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 November 9, 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)(3)** of the Subdivision and Land Development Regulations to remove two specimen trees for the construction of a single-family dwelling. Please see the attached Final Decision Action Report for more information.

If you have any questions, please contact Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief

Division of Land Development

AC/jam

cc: Research
DLD - Julia Sauer
Real Estate Services
Marian Honecny- DNR
John Carney – Benchmark Engineering



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

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Amy Gowan, Director

FAX 410-313-3467

ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

RE: **WP-23-010 Porta Properties**
Request for a variance to Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.

Applicant: Stephanie Porta
10380 Baltimore National Pike
Ellicott City, MD 21043

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)(3)** of the Forest Conservation Regulations. The purpose is to remove two specimen trees for construction of a single-family dwelling. The Directors deliberated the application in a meeting on November 9, 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.

To subdivide and construct a new house on the proposed Lot 2, the owners are requesting to remove two specimen trees (Specimen Tree #3: 46.5" DBH Red Oak- fair to poor condition and Specimen Tree #6: 39" DBH Siberian Elm- non-native- fair condition). The construction of the driveway, house, utilities, stormwater management and grading will result in a severe impact to the critical root zones. Specimen Tree #3 is in fair to poor condition and will be a safety hazard if it remains adjacent to the new house. Specimen Tree #6 is located in the middle of the buildable area and is a non-native tree. The proposed lot is situated in the best location within the property since it will front on the shared driveway and will be oriented similarly to the adjacent houses. An alternative plan which placed the proposed house towards the rear of the new lot was investigated but the design still resulted in significant impacts to these two specimen trees. Relocating the house farther away from Specimen Tree #3 is not desired as it would also result in additional impacts to other specimen trees in the rear of the property which are in 'good' condition.

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

The intention of the proposed subdivision is to create one buildable lot. The health of Specimen Tree #3 is in decline and the tree should be removed to avoid a safety hazard. Specimen Tree #6 is located within the center portion of the site. Removing hazardous trees is a right which is commonly enjoyed by landowners in similar areas and denial of Specimen Tree #6 would result in creation of a lot that could not be developed consistent with others in the immediate area.

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. The existing driveway and garage on Parcel 2 are not currently treated for stormwater management and the impervious areas will be removed during the construction of the new home on Lot 2.

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 removal of hazardous and non-native trees to be replaced with native trees at a 2:1 in order to subdivide and develop one new lot will not confer a special privilege on the applicant.

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

The existing health of the trees plays a significant role in the decision to remove them. The trees contain dead limbs and show signs of internal decay. Overhead utility lines are running through the canopy of Specimen Tree #3. The access easement and driveway to US Route 40 existed when the owners purchased the parcels and they did not select the location of the driveway or public utilities. The proposed house will front on the existing shared driveway and will be oriented similar to the adjacent houses.

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.

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.

7. Provide any other information appropriate to support the request.

An alternative layout plan was submitted showing a house on Lot 2 located farther away from the front building restriction line. This alternative did not result in a condition where less than 30% of the critical root zones were disturbed for both trees. Trenching required to construct the water house connection, driveway and stormwater management will severely impact the critical root zones. This alternative layout also reduces the usable rear yard area on Lot 2 and results in a longer driveway. The applicant included photographs and an arborist report describing the size, species and condition of each specimen tree onsite.

Directors Action: Approval of alternative compliance of Section 16.1205(a)(3) is subject to the following conditions:

1. The removal of Specimen Trees #3 and #6 is hereby permitted, as shown on the Alternative Compliance plan exhibit. The removal of any other specimen tree on the subject property is not permitted under this request. Disturbance to the critical root zone of the remaining specimen trees shall be limited to a maximum of 30%. Protective measures shall be utilized during construction to protect the specimen trees which are proposed to remain. Details shall be provided on the Site Development Plan for Lot 2.

- The applicant shall mitigate the removal of native Specimen Tree #3 by planting a minimum of 4 native shade trees onsite with a planting size of at least 3" diameter at breast height (DBH). Planting details shall be provided on the Site Development Plan for Lot 2. The trees will be bonded with the Developer's Agreement or grading permit along with the required perimeter landscaping. The trees shall be monitored for at least 3 growing seasons and replaced in-kind if the plantings do not survive.

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

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Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
OCS, Joshua Feldmark
DRP, Raul Delerme
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

August 30, 2022

Stephanie Porta
10380 Baltimore National Pike
Ellicott City, MD 21043

RE: WP-23-010 Porta Properties

Dear Mrs. Porta:

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 enclosed comments have been addressed and the following additional information is provided.

Copies of the exhibit/plan, supplemental information and a response letter to the comments for each agency should be submitted to this Division for distribution in the following manner:

Agency: DLD #Copies: 1 copy

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before October 14, 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 in the bin labeled 'DLD' at the Department of Planning and Zoning Public Service Counter located on the first floor of the George Howard Building. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/eb

Attachments: DLD comments

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



ALTERNATIVE COMPLIANCE APPLICATION

Site Description:	Porta Properties, Lot 2		
Subdivision Name/Property Identification:	Porta Properties, F-22-065		
Location of property:	10380 and 10382 Baltimore National Pike (Route 40)		
Existing Use: SFD	Proposed Use: SFD		
Tax Map: 24	Grid: 01	Parcel No: 02	Election District: Second
Zoning District: R-20	Total site area: 3.34		

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:

The Environmental Concept Plan, ECP-15-041, has been signed. Alternative Compliance, WP-14-149, was approved on June 30, 2014 but the approval has expired. Final Construction Plan and Plat, F-22-065, was recently submitted for review.

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
16.120(c)(2)	All lots, preservation parcels, or bulk parcels for single-family detached dwellings shall have minimum lot frontages on approved streets within a public right-of-way which provides access to the property.
16.1205(a)	Subdivision, site development, and grading shall leave the following vegetation and specific areas, including trees 30 inches in diameter or larger, in an undisturbed condition.

Section Reference No.	Brief Summary of Request

Signature of Property Owner: *Stephanie Porta* Date: 7/21/22

Signature of Petitioner Preparer: *John M. Carney* Date: 7/21/22

Name of Property Owner: Stephanie Porta

Name of Petition Preparer: John M. Carney

Address: 10380 Baltimore National Pike

Address: 3300 North Ridge Road, Suite 140
Ellicott City, MD 21043

City, State, Zip: Ellicott City, MD 21043

City, State, Zip: Ellicott City, MD 21043

E-Mail: sporta@verizon.net

E-Mail: bei@bei-civilengineering.com

Phone No.: 410-465-4103

Phone No.: 410-465-6105

Contact Person: Stephanie Porta

Contact Person: John M. Carney

Owner's Authorization Attached