



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

March 2, 2023

Hill Huang
Trotter 5857, LLC.
1819 Panarama Ct.
McLean, VA 22101
Via Email: hillhuang@yahoo.com

RE: WP-23-069 Aerie in Elkridge

Dear Mr. Huang:

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 February 28, 2023, 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 alternative compliance with respect to **Section 16.116(b)(1)** of the Subdivision and Land Development Regulations to disturb 10,714 square feet of steep slopes 25% or greater with a contiguous area of more than 20,000 square feet. Please see the attached Final Decision Action Report for more information.

On February 28, 2023, 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 three of the five specimen trees existing onsite. 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 site development plan is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Kathryn Bolton at (410) 313-2350 or email at kbolton@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development
AC/kb

cc: Research; DLD - Julia Sauer
Real Estate Services
Marian Honecny- DNR
Benchmark Engineering, Inc.



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ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

RE: **WP-23-069 Aerie in ElkrIDGE**
Request for a variance to Section 16.116(b)(1) and Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.

Applicant: Hill Huang
Trotter 5857, LLC.
1819 Panarama Ct.
McLean, VA 22101
Email: hillhuang@yahoo.com

Subtitle I, Article II, Section 16.116(b)(1)

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **approved** the applicants request for an alternative compliance with respect to **Section 16.116(b)(1)** of the Subdivision and Land Development Regulations. The purpose is to disturb 10,714 square feet of steep slopes 25% or greater with a contiguous area of more than 20,000 square feet. The Directors deliberated the application in a meeting on February 28, 2023.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unreasonable hardship or practical difficulty. This determination is made with consideration of the alternative compliance application and the seven (7) items the applicant was required to address, pursuant to Section 16.104(a)(1) and Section 16.116(d):

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

The site was originally approved to be subdivided into a 12-lot subdivision, with an open space lot and accessed by a public road extended from South Hanover Road. However, the applicant has now submitted a plan that proposes a reduction of density from a 12-lot subdivision to an 8-lot subdivision, with one open space lot and access through a private use-in-common driveway extending from South Hanover Road. Access to the proposed lots requires impacts to the centrally located steep slopes, but the extent of the impacts are reduced from the original proposed subdivision under S-19-004. Strict conformance with the regulations would make any development to the site impractical as the steep slopes surround and bisect the property at the location of the only access point. Access to a reasonable portion of the site is a right commonly enjoyed by other landowners. The applicants have lessened the impacts from the prior approved plan by reducing the density and providing access through a private drive.

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.

The developable area of the site where the existing house sits is located on an elevated plateau, surrounded by steep slopes, which would make accessing the site without impacts to the steep slopes impractical. Efforts have been made by the applicant to reduce the impacts to steep slopes by reducing the intensity of the development to 8 lots and using a private drive for access. The remaining steep slopes are proposed to be placed within forest conservation easements.

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

There is not alternative means of accessing the property's developable area that does not require disturbing steep slopes. The variance to disturb some portion of the slopes to derive access is not a special privilege.

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

Approval of this alternative compliance request will not be detrimental to the public health, safety or welfare, or injurious to other properties. The proposed disturbance is minimal and limited to the area needed for the proposed development. The area of disturbed steep slopes will be stabilized, and a majority of the remaining steep slopes onsite will be protected within the proposed forest conservation easement.

5. Any area of disturbance is returned to its natural condition to the greatest extent possible.

The disturbance to the steep slopes will be stabilized once construction is complete. The area of impacted steep slopes have previously been disturbed for the existing driveway. A retaining wall is proposed to protect the surrounding steep slopes and further protections will be provided by placing them within the proposed forest conservation easement.

6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.

The area of steep slopes to be disturbed will be appropriately stabilized once construction is complete. The development of the property will meet all requirements for stormwater management, and sediment and erosion control measures will be used during construction, including the use of silt fencing as necessary.

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.

The applicant has submitted a less intense project than what was previously approved by DPZ for the site. The current plan proposes 4 less single-family homes and a private driveway instead of a public road. The applicant has also applied for a Design Manual Waiver and part of that review required the applicant to identify alternative placement for the proposed driveway. It was ultimately determined by the review agencies that access from South Hanover Road and then connecting to the existing driveway was an acceptable way to access the lots, and also the most feasible since the existing house is proposed to remain. This design limits a portion of the steep slope impacts to an area previously disturbed with the existing driveway.

Subtitle 12, Section 16.1205(a)(3)

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 three of the five specimen trees existing onsite. The Directors deliberated the application in a meeting on February 28, 2023.

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.

The proposed site has a total of five specimen trees onsite. The critical root zone (CRZ) of the specimen trees covers a large portion of the central, developable area, which is also constrained by the area of steep slopes along the southern portion of the parcel. The applicant is requesting to remove three of the five specimen trees. Specimen Tree #1 is in a central location to the proposed private drive and a large portion of Lot 6. Specimen Tree #3 was confirmed dead upon visual inspection by Howard County Recreation and Parks. While it will be located in the open space lot, the removal is necessary to protect life and property due to its close proximity to Lot 2. Specimen Tree #5 was also confirmed dead upon visual inspection by Howard County Recreation and Parks. The location of the proposed private drive will impact almost half of ST#5 CRZ. Requiring the trees to remain would be an unwarranted hardship, as the central location of ST#1 and the condition of ST#3 and #5 would prohibit reasonable development of this property.

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

Due to the central location of Specimen Tree #1 and associated CRZ, the landowner would be deprived of reasonable development of the property. Specimen Trees #3 and #5 are currently dead. Enforcing the regulations to retain these two dead trees would deprive the landowner the right to remove dead and hazardous trees, which is commonly enjoyed by others.

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 includes small filtering processes to address water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the grading permits.

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 granting of this variance will not confer on the applicant a special privilege that would be denied to other applicants. The central location and the dead condition of the trees proposed for removal creates practical difficulty that precludes reasonable development of the site.

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

The conditions and circumstances for this request are not the result of actions by the applicant. The conditions are based on the naturally occurring environmental features onsite and the limited developable area of the property.

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.

The applicant proved images and a detailed description of their condition for all the specimen trees onsite. Specimen Trees #3 and #5 were determined to be dead by visual inspection of Howard County Department of Recreation and Parks. Since it will be located within a forest conservation easement, the applicant is proposing to physically remove ST#3 only if necessary.

Directors Action: Approval of alternative compliance of Section 16.116(b)(1) and Section 16.1205(a)(3) is subject to the following conditions:

1. The alternative compliance approval is limited to the area of steep slopes disturbance depicted on the exhibit. Any proposal to disturb other location of steep slopes will require a new alternative compliance request or an amendment to this alternative compliance request (within the permitted reconsideration period).
2. After construction is completed, all disturbed areas shall be stabilized as shown on the alternative compliance plan exhibit.
3. The alternative compliance approval is limited to the removal of Specimen Trees #1, #3, and #5 only as depicted on the exhibit. Any proposal to remove any other specimen trees will require a new alternative compliance request or an amendment to this alternative compliance request.
4. A minimum of 6 (six) native, 3" DBH, shade trees shall be provided as mitigation for the removal of the 3 (three) specimen trees from the property. Surety in the amount of \$300.00 per tree shall be added to the landscaping surety posted with the developer's agreement or the applicant's grading permit.

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

3241B974513F4B7...

Joshua Feldmark, Administrator

Office of Community Sustainability

DocuSigned by:

John Seefried

6D03C1AB3D51446...

John Seefried, Acting Director

Department of Public Works

cc: Research
OCS, Joshua Feldmark
DRP, Raul Delerme
DPW, John Seefried
Benchmark Engineering, Inc.



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: Residential Development

Subdivision Name/Property Identification: The Aerie in Elkridge

Location of property: 6399 Anderson Avenue

Existing Use: Residential **Proposed Use:** Residential

Tax Map: 38 **Grid:** 14 **Parcel No:** 232 **Election District:** 1

Zoning District: R-12 **Total site area:** 5.25

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-19-028, S-19-004, P-20-003, F-20-070, WP-19-053, WP-22-109, WP-23-049

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(b)	Disturbance of Steep Slopes
16.1205 (a)(3)	Removal of Specimen Trees

Section Reference No.	Brief Summary of Request

Signature of Property Owner: Will T. Huang Date: 1-19-23

Signature of Petitioner Preparer: Chris Malagari Date: 1-18-23

Name of Property Owner: Trotter 5857, LLC Name of Petition Preparer: Benchmark Engineering, Inc

Address: 1819 Panarama Court Address: 3300 N. Ridge Road
Suite 140
ET

City, State, Zip: McLean, VA 22101 City, State, Zip: Elliott City, MD 21043

E-Mail: hillhuang@yahoo.com E-Mail: bei@bei-civilengineering.com

Phone No.: 443-250-1555 Phone No.: 410-465-6105

Contact Person: Hill Huang Contact Person: Chris Malagari

Owner's Authorization Attached