



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

December 4, 2023

Steve O'Donnell
801 Key Highway, Unit 454
Baltimore MD 21230
Sent via email to steve@tin-us.org

RE: WP-24-009 O'Donnell Properties (SDP-23-013)

Dear Mr. O'Donnell:


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 21, 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(a)(1) and 16.116(a)(2)(i)** of the Subdivision and Land Development Regulations to grade within the wetland, wetland buffer and stream buffer to remove existing impervious area to redevelop the property into an apartment development. 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 Julia Sauer at (410) 313-2350 or email at jsauer@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

AC/js
cc: Research
DLD - Julia Sauer
Pennoni (jnorman@pennoni.com)



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ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

DEPARTMENT OF PLANNING AND ZONING
DEPARTMENT OF PUBLIC WORKS
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-24-009 O'Donnell Properties**
Request for an alternative compliance to Section 16.116(a)(1) and Section 16.116(a)(2)(i) of the Subdivision and Land Development Regulations.

Applicant: Steve O'Donnell
801 Key Highway, Unit 454
Baltimore, MD 21230

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 **Sections 16.116(a)(1) and 16.116(a)(2)(i)** of the Subdivision and Land Development Regulations. The purpose is to grade within the wetland, wetland buffer and stream buffer to remove existing impervious area to redevelop the property into an apartment development. The Directors deliberated the application in a meeting on November 21, 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 property is currently developed as an industrial use and is almost entirely covered with impervious material. There is an existing intermittent stream located off-site and the 50-foot stream bank buffer extends on the southwest corner of the property. There is also a wetland and 25-foot wetland buffer that encroaches 40-feet onto the property along the southwest boundary. The applicant is requesting disturbance to the stream buffer, wetland and wetland buffer to remove the existing paving and fencing. Once the impervious surfaces are removed, the area will be returned to its natural state and allow water to infiltrate the ground surfaces. The proposed redevelopment consists of a 285 unit, 5-story apartment building and improvements that will be located outside of the environmental features. Strict conformance with the requirement would not allow the applicant to restore the environmental features and redevelop the site, which is a right commonly enjoyed by others.

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 property has been used as an industrial site prior to the environmental features being regulated by the Land Development Regulations. The goal of the disturbance is to remove the impervious paving and fencing from the environmental features and return the area to a natural state. Strict adherence to the regulations would not allow the restoration.

- 3. The variance will not confer to the applicant a special privilege that would be denied to other applicants.**
The variance will not confer to the applicant a special privilege that would be denied to other applicants. Alternative compliance requests have been granted for County capital projects where disturbance to environmental features is necessary for restoration.
- 4. The modification is not detrimental to the public health, safety or welfare, or injurious to other properties.**
There is no evidence that approval of the request will be detrimental to the public health, safety or welfare, or injurious to other properties. The intent of the disturbance is to remove impervious surfaces and structures from the environmental features and restore the area to pre-development conditions.
- 5. Any area of disturbance is returned to its natural condition to the greatest extent possible.**
The purpose of this request is to return all disturbed areas to its natural condition.
- 6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**
Mitigation is provided to promote the natural function of the stream buffer, wetland, and wetland buffer and to restore the environmental features to their natural condition.
- 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.**
Disturbance to the environmental features to remove the impervious surfaces and structures is necessary to restore to area to its natural condition. The redevelopment plan proposes perimeter landscape planting along the boundary of the project where the environmental features are located.

Directors Action: Approval of alternative compliance of Section 16.116(a)(1) & 16.116(a)(2)(i) is subject to the following conditions:

1. The impact to the wetland, 25-foot wetland buffer and 50-foot stream buffer shall be limited to the disturbance necessary to remove the existing paving and fencing from these features, as shown on the site development plan, SDP-23-013.
2. All disturbances within the wetland, wetland buffer and stream buffer must be returned to their natural conditions and revegetated immediately after removal of the existing improvements. Appropriate sediment and erosion control measures must be in place to protect the environmental features from further disturbance during construction of the apartment development. Temporary construction trailers, staging areas, equipment and stockpiles shall not be located within the stream buffer, wetland or wetland buffer. Disposal of material is prohibited within the environmental features.
3. In addition to the proposed plantings along the southwest side of the building, the stream buffer, wetland and wetland buffer must be planted with a row of 10 native shade trees, with a variety of 2 or more species that are suitable for growth within a riparian buffer zone. Financial surety for the required plantings shall be posted with the developer's agreement in accordance with the Department of Planning and Zoning unit prices for landscaping surety.

- The applicant shall obtain all required authorizations and permits from the Maryland Department of the Environment of the U.S. Army Corps of Engineers for disturbances within the wetland and wetland buffer. The authorization number and date shall be included in a note on the site development plan. The authorization must remain valid at the time of development.

DocuSigned by:

Lynda Eisenberg

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Lynda Eisenberg, AICP, Director
Department of Planning and Zoning

DocuSigned by:

Yosef Kebede

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Yosef Kebede, Director
Department of Public Works

DocuSigned by:

Timothy Lattimer

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Timothy Lattimer, Administrator
Office of Community Sustainability

cc: Research
OCS
DPW



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
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ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Proposed Apartment Building

Subdivision Name/Property Identification: O'Donnell Properties

Location of property: 6720 Binder Lane, Elkridge, MD 21075

Existing Use: Commercial **Proposed Use:** Apartment Building

Tax Map: 37 **Grid:** 23 **Parcel No:** 276, 278, 283 **Election District:** 1

Zoning District: TOD **Total site area:** 5.63 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:

Previously submitted plans consist of ECP-18-020, SDP-19-060, ECP-21-038. Currently active plans consist of SDP-23-013.

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.1 16.116.a.2	Request to disturb land within the wetland, wetland buffer, and stream buffer to remove impervious paving material (gravel and concrete) and fencing and let these buffers and environmental areas return to a natural state. Impacts are as follows: Wetlands: 153 SF, Wetland Buffer: 6,079 SF, and Stream Buffer: 481 SF.
16.124.e.1	Request relief from providing street trees

Section Reference No.	Brief Summary of Request

Signature of Property Owner:  Date: 7/12/23

Signature of Petitioner Preparer:  Date: 7/12/23

Name of Property Owner: Steve O'Donnell Name of Petition Preparer: Pennoni

Address: 801 Key Highway, Unit 454 Address: 8890 McGaw Road, Suite 100

City, State, Zip: Baltimore, MD 21230 City, State, Zip: Columbia, MD 21045

E-Mail: steve@tin-us.org E-Mail: jnorman@pennoni.com

Phone No.: 410-245-4555 Phone No.: 443-537-2725

Contact Person: Steve O'Donnell Contact Person: Jonathan S. Norman, RLA

Owner's Authorization Attached