



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

September 20, 2018

Mr. Brian Cleary
Howard County DPW
Stormwater Management Division
675 Columbia Gateway Drive
Columbia, MD 21046

Dear Mr. Cleary

RE: WP-18-119, Font Hill Tributary Stream
Restoration Project, Associated with
Capital Project D-1158, Reconsideration

The Director of the Department of Planning and Zoning reconsidered your request for an alternative compliance from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request for an alternative compliance of **Section 16.155(a)(1)(ii) - Which requires a site development plan for non-residential development and for disturbance greater than 5,000 square feet. The limit of disturbance for the proposed project is 17.05 acres. Section 16.1201(n) - Definitions: "Net Tract Area", to allow the limit of disturbance(LOD) to serve as the Net Tract Area when determining the Forest Conservation obligation. The applicant is requesting to use the 17.05-acre LOD as the Net Tract Area, instead of the total area of the subject parcels (79.98 acres). Section 16.1205(a)(7) - Which prohibits the removal of specimen trees. The applicant is requesting to remove 43 specimen trees in or near the limit of disturbance of the stream restoration project, 36 of which will need to be removed to create a stable platform, cross section, and profile geometry for the stream channel and 100-year floodplain. Avoiding the removal of some of these trees is not possible because up to 6 feet of excavation from the existing grade will occur across the floodplain within the limit of disturbance.**

Approval is subject to the following conditions:

1. **The alternative compliance plan exhibit shall serve as the substitute for a site development plan for development. No disturbance is permitted beyond the 17.05-acre limit of disturbance as shown on the alternative compliance exhibit unless it can be sufficiently demonstrated by the applicant to be justified.**
2. **The removal of the 43 specimen trees will require mitigation at 2:1. The mitigation trees shall be 2-1/2" to 3" caliper native trees. Effort shall be made to reduce impacts to specimen trees during construction. Tree protection fencing and root pruning shall be utilized as necessary.**
3. **Once the proposed stream restoration work is complete, the Limit of Disturbance shall be restored to its previous condition through stabilization and replanting of forest resources as detailed on the plan exhibit.**
4. **The applicant shall obtain all required authorizations and permits from the Maryland Department of the Environment and U.S. Army Corps of Engineers for disturbances within the floodplain, streams, wetlands and their buffers. Reference the applicable MDE or USACOE permits or tracking numbers on any building or grading permits.**

5. **Prior to the issuance of a grading permit, the Department of Public Works shall pay a fee-in-lieu in the amount of \$21,889.00 for the reforestation obligation of .67 acres. The payment shall be made through the transfer of funds to SAP Account 2060000000-3000-3000000000-PWPW000000000000-432521. A copy of the transfer receipt shall be submitted to DPZ-Division of Land Development for file retention records. Also, DPW must submit to DPZ – Division of Land Development a completed Forest Conservation Data Summary for this project (see attachment).**
6. **Compliance with the Department of Recreation & Parks comments dated June 5, 2018. All trees shall be a minimum of 6'-7' tall in a 5-7 gallon container. The proposed shrubs should be replaced with tree species due to the over-population of deer. Acceptable species would include Paw Paw, River Birch, Swamp White Oak and Black Willow.**

Our decision was made based on the following:

Extraordinary Hardships or Practical Difficulties:

The project that is the subject of this alternative compliance request is needed to address an eroding stream system that is negatively impacting water quality in the Little Patuxent River watershed. Strict compliance to the Regulations would require additional time, effort and cost to address a large amount of land that is not affected by the proposed project. The additional work would include a forest stand delineation and survey work in the field as well as additional computations, mapping, reports and plan exhibits. Full compliance with the Regulations would result in the expenditure of the design team's resources and would not improve the final design or construction of the project. Performing this additional work would take away valuable funds from the project and would lengthen the schedule for completion of the time-sensitive restoration work. Mitigation will be provided for the specimen trees which require removal. It has been determined that the repair to eroding stream places a higher priority than the saving of the specimen trees.

Not Detrimental to the Public Interest

The approval of this alternative compliance request will not be detrimental to the public interest. The project is being done to stabilize eroding stream banks. Continued erosion will cause the loss of stream buffer vegetation and falling trees can pose a safety hazard for residents. It is important to public safety and to the environment that the project gets completed in a timely manner.

Will not nullify the intent or purpose of the regulations

The existing stream is currently eroding which results in the loss of trees and stream buffer vegetation. The loss of trees further destabilizes the stream banks, thus accelerating the rate and amount of erosion. The alternative compliance request is not intended to exempt the project from County regulations, but rather to more appropriately match the goals and resources of the project to the overall intent of the Regulations. The project will be designed with the forest conservation regulations in mind. The limit of disturbance will be minimized to only that area necessary for constructing the project. The very nature of this project is to protect the environment by reducing erosion and sediment transport downstream and to provide a stable stream system. The SWMD is working closely with the Department of Recreation and Parks to selectively remove only those trees necessary to accomplish the project, instead of simply clearing out a large area for the contractor to work. Efforts will be made to beneficially re-use removed trees onsite.

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 Brenda Lubber at (410) 313-2350 or email at BLubber@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/bl

cc: Research
DED
Real Estate Services
Marian Honecny, DNR