



# 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 16, 2020

Avinash Dewani  
Howard County Dept. of Public Works  
Stormwater Management Division  
9801 Broken Land Parkway  
Columbia, MD 21046

RE: WP-21-023 Carrigan Drive Outfall Stabilization-  
Capital Project D-1160

Dear Mr. Dewani:

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 12, 2020 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 16.1201(v)** and **Section 16.1205(a)(3)** of the Subdivision and Land Development Regulations to use the Limit of Disturbance as the Net Tract Area and to remove one specimen tree. Please see the attached Final Decision Action Report for more information.

On November 12, 2020 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 16.155(a)(1)** of the Subdivision and Land Development Regulations to use the alternative compliance plan exhibit in place of a Site Development Plan.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.155(a)(1) 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):

**1. Unreasonable hardship or practical difficulties may result from strict compliance with the regulations.**

Requiring a site development plan would create an unreasonable hardship for the applicant. The applicant is proposing to repair a failing outfall channel in order to address erosion issues. The proposed drainage improvement, which represents the majority of this work, falls within an exemption to the SDP requirement but the same exemption does not exist for the proposed stream restoration portion of this project. The project proposes a minor limit of disturbance (0.46-acres) and the provided exhibit will serve as a suitable substitute for the proposed work. Requiring a site development plan would require additional effort and resources by County staff and would lengthen the schedule for this project, allowing degradation to continue to impact downstream waters. Approval of the alternative compliance promotes efficiency of the plan review process.

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


1. *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 and streams. Reference the applicable MDE or USACE permits or tracking numbers on all building or grading permits. Provide approval letters from MDE and/or USACE with the grading permit applications.*
2. *The alternative compliance plan exhibit shall serve as the substitute for a site development plan for development. No disturbance is permitted beyond the 0.46-acre limit of disturbance as shown on the alternative compliance exhibit unless it can be sufficiently demonstrated by the applicant to be justified.*
3. *Prior to the commencement of the proposed outfall stabilization project, the Department of Public Works shall obtain all right-of-entry documents for the two privately-owned lots. Copies shall be forwarded to the Department of Planning & Zoning- Division of Land Development.*

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval and date on all related grading and building permits. This alternative compliance approval will remain valid for one year from the date of this letter or as long as a capital project 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](mailto:ebuschman@howardcountymd.gov).

Sincerely,

DocuSigned by:



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Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/eb

cc: Research [Section 16.1205(a)(3) - 1 tree req/ 1 tree app]  
DED  
DLD - Julia Sauer  
Real Estate Services  
Marian Honeczy- DNR



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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-21-023 Carrigan Drive Outfall Stabilization- Capital Project D-1160**  
*Request for a variance to Sections 16.1201(v) and 16.1205(a)(3) of the Subdivision and Land Development Regulations.*

**Applicant:** Avinash Dewani  
Howard County Department of Public Works  
Stormwater Management Division  
9801 Broken Land Parkway  
Columbia, MD 21046

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 16.1201(v)** and **Section 16.1205(a)(3)** of the Forest Conservation Regulations. The purpose is to use the 0.46-acre Limit of Disturbance as the Net Tract Area and to remove one specimen tree. The Directors deliberated the application in a meeting on November 12, 2020.

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 seven (7) 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 purpose of this project is to repair the storm drain, outfall channel and stream at the confluence with a tributary of the Little Patuxent River. The project does not involve the clearing of any existing forest. An unwarranted hardship would be endured if the applicant were required to satisfy the forest conservation obligation for the entire 25.31-acres, as the project area encompasses only 0.46 acres of disturbance. The 30.2" silver maple tree is located in close proximity to the outfall channel and the critical root zone will be heavily impacted during construction. The tree has the potential to be hazardous to the nearby homes. Removal of the tree will allow the project to provide a more stable slope for long-term stabilization of the outfall channel.
- 2. Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas.**  
Enforcement of the Regulations would deprive the applicant from rights that are common in similar projects. Using the limit of disturbance for purposes of calculating the forest conservation obligation is a common request for

County Capital Projects that expand over multiple parcels and create limited disturbance in relation to the overall parcel sizes. Requiring the specimen tree to be retained with this project would result in a less stable outfall slope and would perpetuate a potential hazard for the nearby homes depriving all involved from rights commonly enjoyed by others in similar areas.

**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 outfall stabilization project will have a positive impact on water quality by ultimately reducing the erosion and sediment transport into the downstream tributaries and the Little Patuxent River.

**4. Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants.**

Granting the variance will not confer a special privilege on the applicant that would be denied to other applicants. Using the limit of disturbance for purposes of calculating the forest conservation obligation is a common request for County Capital Projects that expand over multiple parcels and create limited disturbance in relation to the overall parcel sizes. The removal of specimen trees is routinely approved when the critical root zone will be heavily impacted and there are no other reasonable alternatives to protect the tree. The applicant will be replanting the entire area to include 11 canopy trees, 7 understory trees and a variety of other plant material as a condition of the specimen tree removal.

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

This project is needed to provide maintenance to existing County infrastructure and to restore a storm drain outfall and stream channel that is currently eroding and transporting sediment into the downstream waters. There is no evidence that the applicant created this condition or circumstance.

**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 request for alternative compliance was a result from a condition relating to land or building use, either permitted or non-conforming, on a neighboring property. The request is to repair an eroding storm drain system and to restore an existing outfall.

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

A key to this project is the efficient processing of the design plans and construction. The project has a minimal footprint and will result in the net planting of 0.26 acres of native woody vegetation onsite where no forest currently exists. The very nature of this project is to protect the environment by reducing erosion and sediment transport downstream and by providing a stable outfall and stream system. DPW is also working closely with the Dept. of Recreation & 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. Every effort will be made to beneficially re-use removed trees on-site.


**Directors Action:** Approval of alternative compliance of Section 16.1201(v) and Section 16.1205(a)(3) is subject to the following conditions:

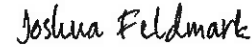
- 1. The removal of the 30.2" silver maple tree is permitted as shown on the alternative compliance exhibit. The removal of any additional specimen tree is not permitted under this alternative compliance request. The proposed 11 canopy*

*trees and additional understory trees, evergreens, shrubs and live-stakes will serve as mitigation for removal of the specimen tree, as shown on the alternative compliance exhibit.*

- 2. *Once the proposed outfall stabilization project is complete, the Limit of Disturbance shall be restored to its previous condition through stabilization and planting of native vegetation, as shown on the alternative compliance exhibit.*

DocuSigned by:  
  
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 Amy Gowan, Director  
 Department of Planning and Zoning

DocuSigned by:  
  
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 Raul Delerme, Director  
 Department of Recreation and Parks

DocuSigned by:  
  
 324TB974513F4B7...  
 Joshua Feldmark, Administrator  
 Office of Community Sustainability

cc: Research  
 DED  
 OCS, Joshua Feldmark  
 DRP, Raul Delerme



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

(410) 313-2350

DPZ Office Use only:  
 File No. *wp-21-023*  
 Date Filed *9/10/23*

**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:** Carrigan Drive Outfall Stabilization Project (Capital Proj. D-1160)  
**Subdivision Name/Property Identification:** Carrigan Drive Outfall at Font Hill Park  
**Location of property:** The outfall extending from Carrigan Drive, between 9949 and 9945 Carrigan Drive to Font Hill Drive in Font Hill Park  
**Existing Use:** High Density Residential      **Proposed Use:** High Density Residential  
**Tax Map:** 24      **Grid:** 002 & 008      **Parcel No:** 631, 635, & 655      **Election District:** 9-B  
**Zoning District:** R-20      **Total site area:** 0.46 AC (LOD)

**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:**

No previous submittals have been made to DPZ for the subject Capital improvement project. Howard County Department of Public Works (HCDPW) Storm Water Management Division (SWMD) is proposing the stabilization of an intermittent outfall channel located near 9941 Carrigan Drive, Ellicott City, Maryland (Carrigan Drive Outfall Stabilization Project - Capital Project No. D-1160). The purpose of the project is to stabilize approximately 239 linear feet (LF) of eroding outfall channel to address the bank erosion and loss of property. The proposed project consists of the extension of the existing storm drain system approximately 172 LF and the stream restoration/stabilization of approx. 96 LF along the channel to the confluence with an unnamed tributary to the Little Patuxent River.

**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
16.155 (a)(1)(ii)	1. Section 16.155(a)(1)(ii) – Waiver of requirements for site development plan: The proposed project is capital improvement project for the purpose of stabilizing and restoring an eroding outfall channel. The project is necessary to prevent continued sedimentation into the Little Patuxent River and protect adjacent property loss and infrastructure issues.
16.1201(n)	2. Section 16.1201(n) – Definition of net tract area for forest conservation computations: Per Forest Conservation regulations (Subtitle 12) the entirety of all parcels impacted by the proposed work are to be used to define the net tract area for forest conservation computations. The sum of the area of the 3 impacted parcels is 25.31 acres; however, the proposed limit of disturbance (LOD) on those parcels is 0.46 acres. The remaining parcel area after public utility easements, parcels where forest conservation has already been addressed, and floodplain are netted out of the LOD, included 0.15 acres. The purpose of the Alternative Compliance Request is that the LOD of 0.46 acres be allowed as the initial project total tract area. Furthermore, the NTA would be 0.15 acres after netting out public utility easements, parcels where forest conservation has already been addressed, and floodplain. The HCDPW further requests that it be allowed to pay fee-in-lieu to meet the mitigation requirement for the specimen tree removal and any unmet reforestation requirements not addressed by onsite planting shown on the landscape plans and on the Forest Conservation Worksheet, attached in Exhibit D.

Section Reference No.	Brief Summary of Request
16.1205 (a)(7)	<p>Section 16.1205(a)(7) - Removal of a specimen tree: One (1) specimen tree was identified within the project limits. In order to stabilize the area, install the storm drain pipe, and restore the stream reach to a stable condition it is necessary to remove the one (1) specimen tree. The tree in question is a 30.2" Silver Maple and, while still in good condition, has the potential to be hazardous during construction and is in a location that prevents the creation of a more stable stream slope. The tree is near the property owner's home and will endure significant critical root zone impact in order to create a more stable stream bank. Based upon past flooding, the potential exists for a large storm event to saturate the root zone of the tree and subsequently weaken the surrounding soil and subjecting the tree to wind throw. Removing the tree will allow for this streambank stabilization project to provide a more stable slope for long-term as well as providing less hazards to surrounding neighbors.</p>
	<p>Approval of the waivers noted above would allow the SWMD to repair the existing erosion quickly and efficiently, while still meeting the intent of the development and forest conservation regulations.</p>

Signature of Property Owner: [Redacted] Date: [Redacted]

Signature of Petitioner Preparer:  Date: 9/9/2020

Name of Property Owner: [Redacted] Name of Petition Preparer: HODPW SWM Division

Address: [Redacted] Address: 9801 Broken Land Parkway

City, State, Zip: [Redacted] City, State, Zip: Columbia, MD 21046

E-Mail: [Redacted] E-Mail: adewani@howardcountymd.gov

Phone No.: [Redacted] Phone No.: 410-313-6417

Contact Person: [Redacted] Contact Person: Avinash Dewani

Owner's Authorization Attached