



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 10, 2021

Howard County Department of Public Works
7125 Riverwood Drive, Suite B
Columbia, MD 21046
Attn: Brandon Love, P.E.

RE: WP-21-049 Montevideo Road Relocation CP-J-4206-1B

Dear Mr. Love:

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 March 9, 2021 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), Section 16.1205(a)(3) and Section 16.1209(b)(1)** of the Subdivision and Land Development Regulations to perform a task under Capital Project J-4206-1B to construct a new alignment of Montevideo Road. The request is to allow the LOD of 5.9 acres to serve as the Net Tract Area for calculating Forest Conservation obligations, to remove 2 of 11 Specimen Trees (ST-2 and ST-10) and to satisfy the 6 acres out of watershed forest conservation obligation by utilizing 3.4 available planting credits in the DPW Forest Conservation Bank SDP-19-006 and paying fee-in-lieu of \$169,884 for the remaining 2.6 acres of obligation. 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 Donna Despres at (410) 313-3429 or email at ddepres@howardcountymd.gov.

Sincerely,

DocuSigned by:

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/DD

Enclosures (2): Directors Action Report, Forest Conservation Summary Chart

cc: Research [Section 16.1205(a)(3) – 2 of 11 tree req/ 2 tree app]
DED
DLD - Julia Sauer
Real Estate Services
Marian Honecny- DNR
DPZ – Annette Merson
DILP



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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-21-049 Montevideo Road Relocation Capital Project J-4206-1B
Request for a variance to Section 16.1201(v), Section 16.1205(a)(3) and Section 16.1209(b)(1) of the Subdivision and Land Development Regulations.

Applicant: Howard County Department of Public Works
7125 Riverwood Drive, Suite B
Columbia, MD 21046
Attn: Brandon Love

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), Section 16.1205(a)(3) and Section 16.1209(b)(1)** of the Forest Conservation Regulations. The purpose is to perform a task under Capital Project J-4206-1B to construct a new alignment of Montevideo Road. The sum area of the Lots impacted by the project is 202.15 acres, however the proposed Limit of Disturbance (LOD) is 5.9 acres. The request is to allow the LOD to serve as the Net Tract Area for calculating Forest Conservation obligations. There are also 11 Specimen Trees either within or near the LOD. Two specimen trees (ST-2 and ST-10) are requested to be removed for the proposed roadway alignment and associated stormwater management facilities. The applicant proposes to satisfy the 6 acres out of watershed forest conservation obligation by utilizing 3.4 available planting credits in the DPW Forest Conservation Bank SDP-19-006 and paying fee-in-lieu of \$169,884 for the remaining 2.6 acres of obligation.

The Directors deliberated the application in a meeting on March 9, 2021.

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 sum of the area of the lots and parcels is 202.15 AC, however the limit of disturbance is 5.9 AC. It is typical that a linear transportation project acquire ROW necessary for the road construction and associated storm water management facilities. Completing a Forest Stand Delineation and Forest conservation obligation for the entire 202 acres when only 5.9 acres is affected by the project would represent an unwarranted hardship. Allowing the LOD to serve as the net tract area provides for an efficient review of the project and addresses the area of disturbance. The road alignment has been selected to minimize impact and avoids 9 of the 11 specimen

trees identified in or near the LOD. The nature of the acquired ROW does not include area for onsite forest retention or planting. Acquiring additional ROW for on site forest conservation would extend the project timeline and is unnecessary as forest conservation bank credits and funds for fee-in-lieu are available now.

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

Howard County DPW is acquiring ROW for the re-alignment of Montevideo Road to a more logical terminus with US 1, while also providing access to the future location of the Waterloo Fire Station. The entirety of the subject Parcels and Lots are not being purchased or developed. 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. It is also permissible by code to allow the removal of specimen trees with mitigation. Strict enforcement of the onsite planting requirement would require 2 acres of retention and would prohibit the project from being constructed within the acquired ROW. Denial of this request would deny the County development rights that are typically granted throughout the County.

3. Verify that the granting of a variance will not adversely affect water quality;

There is no evidence that approval will adversely affect water quality. The development is subject to the current Storm Water Management regulations to improve and treat storm water for the additional impervious area. There is adequate right of way being purchased to accommodate required erosion and sediment control practices and provide permanent stormwater management facilities.

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

Road construction is an essential function of the County and DPW has been tasked with Capital Project J-4206-1B to construct a new alignment of Montevideo Road. 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 project will comply with forest conservation requirements through bank credits and a fee in lieu payment. Removal of the 2 specimen trees will be mitigated by the planting of 4 native shade trees.

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

This is a Capital Improvement Project, there is no evidence that the request is based on conditions or circumstances which are the result of actions by the County. The project will improve roadway geometry and connectivity with public services including the future Waterloo Fire Station.

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; and

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 Forest Stand Delineation, Forest Conservation Plan and tree planting plan developed for the project are included with the application and have been reviewed by DPZ staff as accurate. The alignment and storm water management features have been refined several times to avoid sensitive environmental features including streams, wetlands, wetland buffers and specimen trees.

Directors Action: Approval of alternative compliance of Section 16.1201(v), Section 16.1205(a)(3) and Section 16.1209(b)(1) is subject to the following conditions:

1. Mitigate the removal of Specimen Trees ST-2 and ST-10 by planting two native shade trees with DBH of 3" within the project area as shown on the planting exhibit provided.
2. Prior to applying for grading permits and within 30 days of approval of WP-21-049, the Department of Public Works (DPW) will submit the redline revision to SDP-19-006 DPW Forest Conservation Bank to DPZ - Development Engineering Division (DED) and complete the approved changes to the mylars. The purpose of the redline is to apply 3.4 AC of available planting credits to CP-J-4206-1B Montevideo Road Relocation.
3. Prior to applying for grading permits, DPW shall pay a fee-in-lieu in the amount of \$169,884 for the remaining 2.6 AC reforestation obligation. The payment shall be made through the transfer of funds to SAP Account 2060000000-3000-3000000000-PWPZ0000000000-432521. A copy of the transfer receipt and a completed Forest Conservation Summary Chart shall be submitted to DPZ – Division of Land Development and provided with the grading permit application.
4. The applicant shall obtain authorization for the Maryland Department of the Environment and US Army Corps of Engineers for activities in regulated areas prior to submission of grading permits and reference applicable approvals on grading permit applications.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delorme

88D74370827248A

Raul Delorme, Director
Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

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Joshua Feldmark, Administrator
Office of Community Sustainability

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

FOREST CONSERVATION DATA SUMMARIES

OPTION 1: FEE-IN-LIEU	FOREST CONSERVATION DATA SUMMARY	
File Number:	Project/Subdivision Name:	
Fee-In-Lieu Amount:	Net Tract Area:	Cash Receipt No. *:
Comment: Fee-In-Lieu for _____ acres of Reforestation or Afforestation (specify which is applicable) * To be completed by DPZ staff		

OPTION 2: EXEMPT/DOI	FOREST CONSERVATION DATA SUMMARY	
File Number:	Project/Subdivision Name:	
Regulation Section: _____ (provide Regulation reference and a brief description of the applicable exemption or DOI)		

OPTION 3: PREVIOUSLY ADDRESSED (including use of a FC Bank)	FOREST CONSERVATION DATA SUMMARY	
File Number:	Project/Subdivision Name:	
Comment: Addressed by _____ (provide file number and project/subdivision name)		

OPTION 4: FOREST RETENTION CREDIT	FOREST CONSERVATION DATA SUMMARY	
File Number:	Project/Subdivision Name:	
Net Tract Area:		
Comment: DPZ 60,000 square foot policy, forest retention credit for _____ acres		

OPTION 5: ON-SITE/OFF-SITE PLANTING AND RETENTION		FOREST CONSERVATION DATA SUMMARY			
File Number:		Project/Subdivision Name:			
Net Tract Area <i>Net tract area under review</i>	Area of Floodplain unforested forested total			Existing Forest <i>Forest in net tract area minus floodplain</i>	Cleared Forest All forest cleared including floodplain
Retained Forest <i>Retained forest minus floodplain</i> onsite offsite total	Planted Forest onsite offsite total			Long Term Protection <i>Total amount of forest planed into LTP</i>	Surety Amount Posted <i>Total amount of surety posted</i>
In-Lieu Fees Amount Collected	Forested Stream Buffers Linear Length Acreage		Planted Stream Buffers Linear Length Acreage		



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Montevideo Road Relocation

Subdivision Name/Property Identification: Jessup

Location of property: Jessup in vicinity of intersection of Montevideo Road and U.S. 1

Existing Use: Government & Institutional/Industrial/Commercial/Roadway & Parking **Proposed Use:** Roadway and Parking

Tax Map: 0043 **Grid:** 0009/0010 **Parcel No:** 0016/0028/0543/055-1/0745/0274 **Election District:** 1-15

Zoning District: Grid 43: Industrial/Commercial/Office **Total site area:** 202.15


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 Howard County Department of Public Works (DPW) is performing a task under Capital Project J-4206-1B to construct a new alignment of Montevideo Road that will intersect with U.S. Route 1 (US 1) and Port Capital Drive, slightly to the west of the existing Montevideo Road terminus in the Jessup area of Howard County, Maryland. Phase 1A extends from the new intersection with US 1 and Port Capital Drive approximately 850 feet south, to a point just beyond what will be the entrance of the future Waterloo Fire Station. Phase 1B extends southeast from the southern limit of Phase 1A, to tie in with the existing Montevideo Road. It is the intent that the Waterloo Fire Station project will be constructed during or shortly after the construction of Relocated Montevideo Road – Phase 1B. Minor improvements adjacent to existing Montevideo Road and US 1 will also occur as part of Phase 1B. This request is specific to Phase 1B of the overall Montevideo Road Realignment Project.

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
Section 16.1201(v) – Net Tract Area	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 lots is 202.15 acres; however, the proposed limit of disturbance (LOD) is only 5.97 acres. Net tract areas for linear transportation projects are typically based on the LOD rather than total tract areas of all parcels the roadway traverses. DPW further requests that it be allowed to use the forest conservation bank to meet the reforestation requirements of 2.95 acres of planting shown on the Forest Conservation Worksheet.
Section 16.1205(a)(3) – On-site Forest Retention Priorities	There are 5 specimen trees either within or in the vicinity of the LOD, one of which will need to be removed as a result of the roadway alignment and associated stormwater management facilities. The specimen tree to be impacted is dead (see pictures within FSD) and therefore redesigning the roadway to retain this individual tree would not be considered reasonable. All other specimen trees have been avoided to the maximum extent practicable with less than 30% of the critical root zone being impacted. Best management practices such as root pruning and installation of orange tree protection fencing at the limits of disturbance will ensure these trees are not adversely affected by the project.

Section Reference No.	Brief Summary of Request

Signature of Property Owner:  Digitally signed by Brandon Love
Date: 2020.09.09 08:34:09 -04'00' **Date:** 9/4/2020

Signature of Petitioner Preparer:  **Date:** 9/4/2020

Name of Property Owner: Brandon Love **Name of Petition Preparer:** Stacey Thompson Gill

Address: Howard County Government Department of Public Works 7125 Riverwood Drive, Suite B **Address:** Johnson, Mirmiran and Thompson 40 Wight Avenue

City, State, Zip: Columbia, MD 21046 **City, State, Zip:** Hunt Valley, MD 21030

E-Mail: blove@howardcountymd.gov **E-Mail:** sgill@jmt.com

Phone No.: 410-313-5398 **Phone No.:** 410-316-2409

Contact Person: Brandon Love **Contact Person:** Stacey Gill

Owner's Authorization Attached

Section Reference No.	Brief Summary of Request