



# 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

August 9, 2022

Howard County Dept. of Public Works  
Stormwater Management Division  
Attn: Christine Lowe, PE  
9801 Broken Land Parkway  
Columbia, MD 21046

RE: WP-22-112 Ashbrook Drive Stream Restoration Project

Dear Sir/Madam:

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 July 21, 2022 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)(2)** of the Subdivision and Land Development Regulations to stabilize approximately 700 linear feet of a perennial stream and 24 linear feet of an intermittent stream along an unnamed tributary to the Patapsco River. Please see the attached Final Decision Action Report for more information.

On July 21, 2022 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 **Sections 16.1201(v)** and **16.1205(a)(3)** of the Subdivision and Land Development Regulations to use the 1.68-acre 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 July 20, 2022 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 as a substitute for 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.**

Strict compliance with the regulations would require the applicant to submit a formal Site Development Plan for the proposed project. This would result in an unreasonable hardship since the alternative compliance plan exhibit contains all necessary information for permitting and construction. The project goals are to prevent continued

sedimentation into the Patapsco River and its tributaries, to restore an eroding stream and to protect public infrastructure and adjacent residential properties. The project is primarily a maintenance project to repair the stream channel and address erosion and sedimentation issues. All applicable permits have been obtained from the MD Dept. of the Environment (MDE), US Army Corps of Engineers (USACE) and Howard Soil Conservation District (HSCD). The scope of the project area is limited to the stream channel and floodplain. No new structures, facilities or roads are proposed that would require extensive review. The project does not change land use, add impervious surface or change the floodplain extent. Approval of the alternative compliance promotes efficiency of the plan review process as the alternative compliance drawings include all relevant information needed for this project's urgently needed stream channel stabilization.


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

1. The alternative compliance plan exhibit shall serve as the substitute for a site development plan. No disturbance is permitted beyond the 1.68-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 applicant shall comply with all grading permit requirements from the Department of Inspections, Licenses & Permits and Howard Soil Conservation District.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval, and date on all related building and grading permits. This alternative compliance approval will remain valid for one year from the date of this letter or as long as a grading 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:  


Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/eb

cc: Research  
DLD - Julia Sauer  
Real Estate Services  
Marian Honecny- DNR



# 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

## ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

**RE:** **WP-22-112 Ashbrook Drive Stream Restoration Project**  
*Request for an alternative compliance to Section 16.116(a)(2), Section 16.1201(v) and Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.*

**Applicant:** Howard County Dept. of Public Works  
Stormwater Management Division  
Attn: Christine Lowe, PE  
9801 Broken Land Parkway  
Columbia, MD 21046

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning 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(a)(2)** of the Subdivision and Land Development Regulations. The purpose is to stabilize approximately 700 linear feet of a perennial stream and 24 linear feet of an intermittent stream along an unnamed tributary to the Patapsco River. The Directors deliberated the application in a meeting on July 21, 2022.

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.**

Strict conformance with the requirements would result in further stream bank erosion which will impact several residential properties. Completion of this project will protect adjacent properties and prevent continued sedimentation into the Patapsco River. Strict conformance would inhibit the county's ability to accomplish the NPDES requirements and goals for sediment and nutrient reduction within the watershed. The area will remain as wooded open space once the project is completed. Additionally, strict conformance with the requirements would not allow the County to protect both private and public property from further damage.

**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 stream is contained within a confined valley and the proposed restoration will eliminate further erosion of the stream and banks. The work requires grading, clearing, excavating, filling and altering drainage in the floodplain. In order to repair the current condition, impacts within the stream and stream buffer are required. Upon completion of the work, all impacted areas will be restored to a more stable condition.

- 3. The variance will not confer to the applicant a special privilege that would be denied to other applicants.**  
Repair of an eroding streambank to protect public infrastructure and private property would not be considered a special privilege.
- 4. The modification is not detrimental to the public health, safety or welfare, or injurious to other properties.**  
The project goals are to improve site conditions and to prevent continued erosion and sedimentation into the Patapsco River. The proposed project will protect public infrastructure and private residential properties and will remove hazardous trees and eroding stream banks which are public safety concerns.
- 5. Any area of disturbance is returned to its natural condition to the greatest extent possible.**  
The project will result in temporary impacts to the stream and adjacent areas for site access, staging and construction of erosion and sediment controls. The disturbed area will be replanted with native grasses, trees and shrubs after construction is complete. Approximately 136 trees and shrubs will be planted within the project limits and over 500 live stakes will be planted along the stream banks.
- 6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**  
The project aims to improve water quality by eliminating a source of excess sediment and nutrients which are currently entering the waterway from the eroding stream banks. Erosion protection measures such as armored stream structures and bank protection will be used to stabilize the stream banks. The trees to be planted after construction will provide shade and maintain cooler temperatures in the stream, which will improve in-stream habitat.
- 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.**  
All best management practices will be followed and all applicable permits from MDE, USACE and HSCD have been obtained. The limit of disturbance has been minimized to only the area necessary for construction of the project. All existing forested areas outside of the LOD will remain undisturbed and the stream buffer will be planted with native trees and other vegetation after construction is complete.

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

1. All disturbed areas within the stream, 75 ft stream buffer and 100-year floodplain shall be stabilized and seeded or planted with native vegetation after construction is complete, in accordance with the alternative compliance plan exhibit.
2. The applicant shall obtain all required authorizations and permits from the Maryland Department of the Environment and the U.S. Army Corps of Engineers for disturbances within the stream and floodplain. Provide approval letters from MDE and/or USACE with the grading permit application.

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*Amy Gowan*  
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Amy Gowan, Director  
Department of Planning and Zoning

DocuSigned by:

Joshua Feldmark

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Joshua Feldmark, Administrator  
Office of Community Sustainability

*Recused*

Thomas Meunier, Director  
Department of Public Works

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 1.68-acre Limit of Disturbance as the Net Tract Area and to remove one specimen tree. The Directors deliberated the application in a meeting on July 21, 2022.

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:

**8. Describe the special conditions peculiar to the property which would cause the unwarranted hardship.**

The application requests to allow the Limit of Disturbance (1.68 acres) to be used as the Net Tract Area for forest conservation calculations instead of the entirety of the parcels (12.19 acres). A portion of the project is located within the 100-year floodplain (0.22 acres). This results in a forest conservation obligation of 1.5 acres of reforestation (outside of the watershed). The applicant proposes to pay a fee-in-lieu to satisfy the forest conservation obligation. Requiring the entire parcel to be included as the net tract area would represent an unwarranted hardship for temporary disturbance necessary for an emergency repair of an eroding stream bank.

A total of 5 specimen trees were identified within the project limits. In order to stabilize the area and restore the stream reach to a stable condition, it is necessary to remove one specimen tree. The tree is located adjacent to the stream and must be removed for the project to succeed. Tree protection measures such as tree save areas, planking, root protection matting and tree protection fencing will be utilized to the maximum extent practical. Native tree species will be planted in all suitable areas within the project limits after construction is complete. A total of 14 native shade trees with a diameter of 3"+ are proposed to be planted onsite which will serve as mitigation for the removal of the specimen tree.

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

The eroding stream is located on land owned by Howard County Dept. of Recreation & Parks and borders a large housing development. Permitting the LOD to be used as the Net Track Area allows the forest conservation regulations to be applied to the portions of property that are physically impacted by this work. Similar projects to repair existing conditions have used the LOD as the net tract area when impacts are temporary, necessary and the work returns the project area to an improved natural condition. Approval does not confer special privileges that other similar projects enjoy.

**10. Verify that the granting of a variance will not adversely affect water quality.**

The project is self-mitigating as the repair will improve water quality by eliminating a source of excess sediment and nutrients that are entering the waterway now. Stream habitat is improved by the planting of additional trees.

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

Approval of the request will not grant the applicant a special privilege since the capital project is designed to restore eroding stream banks on public land in the Patapsco River watershed in order to protect public infrastructure and private property.

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

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

**13. 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.

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

1. Once the proposed project is complete, the Limit of Disturbance shall be stabilized, seeded and planted in accordance with the alternative compliance plan exhibit.
2. The proposed 1.68-acre Limit of Disturbance shall be used as the gross tract area for forest conservation calculations. Prior to the commencement of the proposed project, the Department of Public Works shall pay a fee-in-lieu in the amount of \$81,675.00 for the reforestation requirement totaling 1.5 acres. The payment shall be made through the transfer of funds to SAP Account 2060000000-3000-3000000000-PWPZ000000000000-432521. A copy of the transfer receipt shall be submitted to DPZ- Division of Land Development. Should the fee increase before the payment is received, the fee-in-lieu amount shall be calculated using the current fee in place at the time of payment.
3. The removal of the specimen tree (40" dbh Sycamore) is permitted as shown on the alternative compliance plan exhibit. The removal of any additional specimen tree is not permitted under this alternative compliance request. The proposed 14 native shade trees (3"+ DBH) will serve as mitigation for removal of the specimen tree, as shown on the alternative compliance plan exhibit.

DocuSigned by:

*Amy Gowan*

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Amy Gowan, Director

Department of Planning and Zoning

DocuSigned by:

*Raul Delorme*

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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  
OCS, Joshua Feldmark  
DPW, Thomas Meunier  
DR+P, Raul Delerme



# 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

May 17, 2022

Christine Lowe, PE  
Howard County DPW- SWM Division  
9801 Broken Land Parkway  
Columbia, MD 21046

RE: WP-22-112 Ashbrook Drive Stream Restoration Project

Dear Ms. Lowe:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject property was reviewed and no action can be taken until the enclosed comments have been addressed and the following additional information is provided.

Copies of the exhibit/plan and the supplemental information and a response letter to the comments for each agency should be submitted to this Division for distribution in the following manner:

Agency: DLD #Copies: 1 copy

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before July 1, 2022\***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition.

Once the requested information has been received and reviewed, this office will coordinate agency comments and will prepare a recommendation for the Planning Director's action. If you have any questions regarding a specific comment, please contact the review agency prior to preparing the revised plans and information. Compliance with all items indicated above is required before the revised plans and information will be accepted.

**In accordance with adopted Council Bill 51-2016, effective 10/05/16, if the deadline date is a Saturday, Sunday or holiday or if the County offices are not open, the deadline shall be extended to the end of the next open County office business day.**

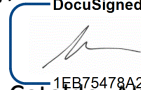
Please refer to the Department of Planning and Zoning website for current business processes during this time. Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 21043 or dropped in the bin labeled 'DLD' at the Department of Planning and Zoning Public Service Counter located on the first floor of the George Howard Building. Submission materials can also be emailed to [planning@howardcountymd.gov](mailto:planning@howardcountymd.gov) for processing.



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:



Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/eb

Attachments: DLD comments

cc: Research  
DLD - Julia Sauer



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

(410) 313-2350

<b>DPZ Office Use only:</b> File No. Date Filed
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**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:**

**Subdivision Name/Property Identification:**

**Location of property:**

**Existing Use:**

**Proposed Use:**

**Tax Map:**

**Grid:**

**Parcel No:**

**Election District:**

**Zoning District:**

**Total site area:**

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:

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 Reference No.	Brief Summary of Request
Section 16.1201(n) – Definition of Net Tract Area for Computations and Reforestation Requirements	Refer to Ashbrook Drive ACA letter for a summary of request
Section 16.1205(a)(3) - Removal of a specimen trees	Refer to Ashbrook Drive ACA letter for a summary of request
Section 16.1216 – Variance to forest conservation	Refer to Ashbrook Drive ACA letter for a summary of request

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

Signature of Petitioner Preparer: *[Handwritten Signature]* Date: *4/25/2021*

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: cslowe@howardcountymd.gov

Phone No.: [Redacted] Phone No.: 410-313-0522

Contact Person: [Redacted] Contact Person: Christine Lowe, P.E.

Owner's Authorization Attached