



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

July 10, 2023

Michele Monde, PE
Howard County Dept. of Public Works
Stormwater Management Division
Bureau of Environmental Services
9801 Broken Land Parkway
Columbia, MD 21046

RE: WP-23-037 Ellicott City H-4 Dry Flood Mitigation Pond

Dear Ms. Monde:

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 7, 2023 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 entirety of the Howard County-owned parcels and the Limit of Disturbance on the two privately-owned parcels as the Gross Tract Area and to remove two specimen trees greater than 30" DBH. Please see the attached Final Decision Action Report for more information.

If you have any questions, please contact Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/eb

cc: Research
DLD - Julia Sauer
Real Estate Services
Anne Gilbert - DNR anne.gilbert@maryland.gov
Dan Yeager- Century Engineering



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

RE: **WP-23-037 Ellicott City H-4 Dry Flood Mitigation Pond**
Request for a variance to Section 16.1201(v) and Section 16.1205(a)(3) of the Subdivision and Land Development Regulations.

Applicant: Michele Monde, PE
Howard County Dept. of Public Works
Stormwater Management Division
Bureau of Environmental Services

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 entirety of the Howard County-owned parcels and the Limit of Disturbance on the two privately-owned parcels as the Gross Tract Area and to remove two specimen trees greater than 30" DBH. The Directors deliberated the application in a meeting on March 7, 2023.

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:

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

Howard County DPW Bureau of Environmental Services is proposed to develop a flood mitigation facility for Site H-4 under the Ellicott City Safe and Sound Flood mitigation master plan. The project proposes the construction of an earthen dam, excavation to maximize available flood storage, installation of a concrete weir, realignment of the existing stream channel, modification of an existing storm drain outfall, and the installation of maintenance access roads.

The Forest Conservation Regulations (Subtitle 12) require the entirety of all parcels impacted by the project to be used to define the net tract area for forest conservation calculations. The application requests to allow the entirety of Parcels 115 & 117 (10.97 acres) and the Limit of Disturbance on Parcels 118 & 1033 (0.33 acres) to be used to calculate the Net Tract Area, instead of the entirety of all 4 parcels (15.41 acres). The applicant proposes to record a 5.9-acre forest retention area on Parcels 115 & 117 to fulfill the forest conservation obligation onsite. Given the limited scope of disturbance proposed on Parcels 118 & 1033, requiring the entirety of these sites to be used to calculate the forest conservation obligation would pose an unwarranted hardship.

The construction of the project will require the removal of two specimen trees. The trees are a 30" black walnut in 'poor' condition and a 30.5" American sycamore in 'fair' condition. The two trees could not be avoided due to their location in the low-lying area along the existing stream channel. Due to the extensive flood attenuation requirements and the proposed excavation, the limit of disturbance cannot be modified to protect the two trees and trying to do so would be an unwarranted hardship. Native tree species will be planted in all suitable areas within the project limits after construction is complete. A total of four native shade trees with a DBH of 3"+ will be planted to mitigate the removal of the two specimen trees.

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

The capital project is part of the county's Safe and Sound flood mitigation plan and will provide essential stormwater retention within the Tiber-Hudson watershed. The project goals are to provide flood attenuation and reduce downstream discharges. Strict compliance with the forest conservation requirements in this case would require the plan to address forest conservation for the entire of all 4 parcels and would prohibit the removal of the 2 specimen trees; one in poor condition and one in fair condition. Using the net tract area as the limit of disturbance is commonly afforded to property owners that propose disturbance that is minimal within the context of the overall site acreage. Additionally, property owners have the right to removal of hazardous trees and trees in poor fair condition while seeking redevelopment. The proposed facility will provide a greater public benefit and safety with the removal of the 2 specimen trees and construction of the attenuation facility.

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. Soil erosion and sediment control measures will be implemented under the grading permit. The project aims to improve water quality by reducing flood hazards and associated environmental impacts downstream.

4. 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 provide essential stormwater retention in the Tiber-Hudson watershed in order to further protect the health, safety and welfare of the public. The variance request is not from the forest Conservation requirements in whole, only to the basis of calculating the required conservation to the area of disturbance where the work is being performed. Therefore, no special privileges will be conferred, as the proposed plan will meet all county regulations.

5. 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. The applicant is requesting relief from the strict adherence of forest conservation regulations to generate a proportionate requirement to the public safety work to be performed instead of for the entire site in addition to the removal of 2 specimen trees within the development area.

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 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 entirety of Parcels 115 & 117 and the proposed limit of disturbance on Parcels 118 & 1033 shall be used as the gross tract area for forest conservation calculations.
3. Prior to application for grading permits, a Declaration of Forest Conservation shall be recorded in Land Records for the 5.9-acre forest retention area, as proposed on the alternative compliance plan exhibit. Provide a copy of the recorded Declaration to Eric Buschman in the Division of Land Development.
4. Forest Conservation Easement signage shall be placed around the perimeter of the retention area every 50'-100' and at each bearing change. All trash, fencing and other debris shall be removed from the forest retention area.
5. The removal of the two specimen trees 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 4 native shade trees (3"+ DBH) will serve as mitigation for removal of the two specimen trees, as shown on the alternative compliance plan exhibit.

DocuSigned by:

Amy Gowan

5B4D5DD9470C4D4

Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delerme

88D74370827248A...

Raul Delerme, Director
Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

3241B974513E4B7

Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
OCS, Joshua Feldmark
DRP, 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

October 20, 2022

Michele Monde, PE, PMP
Howard County Government
Stormwater Management Division
Bureau of Environmental Services
9801 Broken Land Parkway
Columbia, MD 21046

RE: WP-23-037 Ellicott City H-4 Dry Flood Mitigation Pond

Dear Ms. Monde:

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 December 4, 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 for processing.

If you have any questions, please contact Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/eb

Attachments: DLD comments

cc: Research
DLD - Julia Sauer
Real Estate Services



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

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

Signature of Property Owner: *Michela Monde*
Michela Monde

Date:

Signature of Petitioner Preparer: *Daniel Grogan*

Date:

9/23/22

Name of Property Owner:

Name of Petition Preparer:

Address:

Address:

City, State, Zip:

City, State, Zip:

E-Mail:

E-Mail:

Phone No.:

Phone No.:

Contact Person:

Contact Person:

Owner's Authorization Attached

Section Reference No.	Brief Summary of Request