



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

August 12, 2016

Christine Lowe
Department of Public Works
SWM Division
6751 Columbia Gateway Drive, Suite 514
Columbia, MD 21046

Dear Ms. Lowe:

RE: WP-16-156, Davis Branch Stream Restoration
Project (Capital Project D-1158)

The Director of the Department of Planning and Zoning considered 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 any non-residential establishment of a use or change in use, and **Section 16.1201(n)** and **Section 16.1202(b)(1)(i)** to allow the limit of disturbance to serve as the Net Tract Area when determining the forest conservation obligation.

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 4.1 acre limit of disturbance as shown on the alternative compliance exhibit unless it can be sufficiently demonstrated by the applicant to be justified.
2. Prior to the commencement of Capital Project D-1158, the Department of Public Works shall pay a fee-in-lieu in the amount of \$23,174.00 for the reforestation obligation of .56 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).
3. The Forest Conservation Easement area impacted by stream repair must be replanted with native trees recommended by the Department of Recreation and Parks.
4. Once Capital Project D-1158 is complete, the Limit of Disturbance shall be restored to its previous condition through stabilization and replanting of forest resources.
5. The applicant shall obtain all required authorizations and permits from the Maryland Department of Environment and U.S. Army Corps of Engineers for disturbances within the floodplain, wetlands, streams and their buffers. Reference any applicable MDE or USACOE permits or tracking numbers on the building or grading permits.

Our decision was made based on the following:

Extraordinary Hardship or Practical Difficulty - The extraordinary hardship or practical difficulty involved with this alternative compliance request would require the developer to submit a formal site development and address Forest Conservation on the entire 45 acre parcel. Per the applicant's justification, strict compliance to the Sections noted above would require additional time, effort and costs to address a large amount of land that is in no way 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, plan and exhibit preparation. Full compliance with the Regulations and the expenditure of the design team's resources would not improve the final design or construction of the project and would take away valuable funds from the implementation of the project design and construction. Performing this extra work would also lengthen the schedule for the project and will not provide a better proposal than that shown on the alternative compliance exhibit.

Not Detrimental to the Public Interest - Approval of the alternative compliance will not alter the essential character of the neighborhood since the applicant will be repairing a stream which is eroding. The existing stream is currently eroding causing loss of trees and stream buffer vegetation. The loss of the trees further destabilizes the stream banks, thus accelerating the rate and amount of erosion. Public interest and safety will be improved by the proposed project. 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.

Will Not Nullify the Intent or Purpose of the Regulations - Approval of this alternative compliance will not nullify the intent or purpose of the Regulations because the Subdivision Regulations will be met through the alternative compliance request. The Regulations are meant to assure that development occurs per County requirements and that environmental criteria are met. 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. Furthermore, the very nature of this project is to protect the environment by reducing erosion and sediment transport downstream and by providing a stable stream system. The County is also working closely with 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.

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 requested alternative compliance will remain valid for one year from the date of this letter or as long as this grading plan remains in active processing.

If you have any questions, please contact Brenda Luber at (410) 313-2350 or email at BLuber@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/BL

cc: Research
DED
Real Estate Services
Marian Honeczy, DNR