



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

October 1, 2018

Howard County Division of Public Works
Attn: Avinash Dewani
6751 Columbia Gateway Drive
Columbia, Maryland 21046

RE: WP-18-091 Court House Slope Repair
Capital Project D-1165, Reconsideration

Dear Mr. Dewani:

The Director of the Department of Planning and Zoning considered your request for the reconsideration of this 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 a reconsideration to this alternative compliance to the following sections:

Section 16.155(a)(1)(ii), Site Development Plan Applicability: A site development plan, approved by the Department of Planning and Zoning is required for any establishment of a use or change in use, unless the Department of Planning and Zoning determines that the establishment of change in use will cause less than 5,000 square feet of site disturbance, that no significant alteration to access, parking, circulation, drainage, landscaping, structures, or other site features is required, and that the proposed use does not qualify as redevelopment that requires stormwater management in accordance with the Design Manual.

The applicant is requesting relief from the requirement of a Site Development Plan to allow a grading limit of disturbance (LOD) of approximately 0.71± acres.

Section 16.1201(n), Definition of Net Tract Area: The total area to the nearest one-tenth acre, whether forested or not, of a proposed development, exclusive of any 100-year floodplain, utility transmission line easements, or preservation parcel as referenced in the Zoning Regulations. Net tract area is to be used in calculating any reforestation or afforestation obligations that may be created by the proposed development.

The applicant is requesting to count the LOD of 0.71± acres instead of the net tract area of 21± acres for forest conservation computations.

Section 16.1205(a)(7), Forest retention priorities: State champion trees, trees 75 percent of the diameter of State champion trees, and trees 30 inch in diameter or larger.

The applicant is proposing to remove one specimen tree, a 30.5" Tulip Poplar.

Approval is subject to the following conditions:

1. The alternative compliance plan exhibit shall serve as the substitute for a site development plan. No disturbance shall be permitted beyond the approximate 0.71± acres of disturbance that is proposed on this alternative compliance petition exhibit, unless demonstrated by the applicant to be warranted.
2. Prior to commencement of this capital Project, Department of Public Works shall pay a fee-in-lieu amount per the Forest Conservation Worksheet in the amount of \$23,196.00. The applicant shall submit a copy

of the memorandum authorizing the Department of Finance, Bureau of Accounting to transfer \$23,196.00 to the Forest Conservation Fund, Section 16.1211, SAP Acct #1000000000-5000000000-RPRP0000000000-439990. Please coordinate on-site tree replacement with the Department of Recreation and Parks.

3. Alternative compliance approval is limited to the removal of Specimen Tree ID # 029, as shown on the exhibit. Any proposal to remove any other specimen tree will require a new alternative compliance request. The applicant may remove Specimen Tree #029 indicated by the exhibit, contingent on the applicant incorporating a minimum of two, native 2.5"-3" caliper, shade trees within the onsite tree replacement planting plan.
4. Compliance with the Historic Preservation comments, dated March 7, 2018.
5. Please make corrections to the plan exhibit based on the Division of Land Development comments, dated September 28, 2018, and resubmit to the office within two weeks of the approval date for file retention purposes.
6. Submission of any required grading permits to the Department of Inspections, Licenses, and Permits.
7. The applicant shall obtain all required authorization and MDE Joint Permit Applications. Reference the permit number on any building and grading permits.

Our decision was made based on the following:

Extraordinary Hardships or Practical Difficulties:

Section 16.155(a)(1)(ii)

The proposed project is a maintenance project to correct a failing culvert and stabilize a steep slope that is eroding and causing damage to an adjoining forested area. The project needs to be completed quickly to prevent more damage to the surrounding area. The existing outfall is currently active and exhibits extreme headcuts along both slopes of Court House Drive. The headcuts threaten both slopes and Court House Drive. This maintenance project has been proposed to protect downstream property and improve the safety of the surrounding area. Requiring the full site development plan process will extend the time required to complete the project and potentially cause more damage to the surrounding area.

Section 16.1201(n)

The maintenance project is located where four different parcels meet. The total area of all parcels is 21± acres, but the limit of disturbance (LOD) for the project is only 0.71± acres. The purpose of the project is to improve the conditions of the steep slope for adjoining properties and protect the environmentally sensitive areas. The work will be completed within a small LOD, but the area is split between different parcels.

Section 16.1205(a)(7)

Specimen tree #029 is located along the southwest edge of the LOD and is adjacent to the proposed grading for the stabilization of the slope. The grading in this area will affect more than 33% of the critical root zone (CRZ). The specimen tree is currently in fair condition with some limb dieback and is covered in vines.

Alternative Proposal:

Section 16.155(a)(1)(ii)

The purpose of the project is to correct a failing culvert and stabilize a steep slope that is causing damage to adjoining land. Quick and efficient processing of the design plans and construction of the project are important to the project's success. Requiring strict adherence to County regulation would increase the time required to complete this project. Additional time would cause completion of the project to take longer, leaving the area a potential safety risk to the public and the environment.

Section 16.1201(n)

Alternatively, the proposed project would be required to count the entire acreage of four parcels towards forest conservation requirements. The project is to improve the conditions of the steep slope and help protect the forest in the adjoining area.

Section 16.1205(a)(7)

If the alternative compliance was to be denied and the specimen tree were to remain onsite, the CRZ of the tree would sustain substantial damage. The damage to the CRZ by the grading of the slope could cause the tree to die, creating a possible danger and disturb the area that was recently stabilized.

Not Detrimental to Public Interest:

Section 16.155(a)(1)(ii)

The current state of the area in the maintenance project poses a potential hazard to the public and the environment. Continued erosion will cause the loss of property, open space, and forested area. The proposed work will redirect storm flow from the road and prevent further erosion into the unnamed tributary that flows into the Patapsco River Watershed.

Section 16.1201(n)

The alternative compliance will not be detrimental to public interest as the proposed improvements will benefit the existing environment and reduce slope erosion. Approval would also eliminate the need to use additional County resources for review of a full plan set, which would not provide greater information than what has been provided.

Section 16.1205(a)(7)

There is a total of five specimen trees within the vicinity of the LOD. Four of the trees are to be retained on the property, and only the one specimen tree that will have substantial damage to its CRZ is proposed to be removed. The applicant is required to plant two shade trees to mitigate the removal of the specimen tree. Also, the completion of this project will reduce erosion and runoff, reducing the loss of adjoining forested areas.

Will Not Nullify the Intent or Purpose of the Regulations:

Section 16.155(a)(1)(ii)

The intent and purpose of the regulations will not be nullified by the alternative compliance to the site development plan. The purpose of this maintenance project is to protect the environment by reducing erosion and sediment transport downstream by correcting the failing culvert. The project will also remove potential safety hazards in the surrounding area.

Section 16.1201(n)

The applicant is proposing to pay fee-in-lieu for 0.71± acres of the LOD. The overall purpose of the project is to protect the surrounding forested areas and waterways from erosion and sediment runoff. The request is to more appropriately match the goals and resources of the project to the intent of the regulations. The project is designed to minimize disturbance to environmental areas and forest resources. The project will provide protection to the environment by providing a stable slope and reduce erosion and sediment transport downstream.

Section 16.1205(a)(7)

Four of the original five specimen trees will remain on the property. The one specimen tree that is proposed to be removed will be replaced with a minimum of two, native 2.5"-3" caliper, shade trees. The location of the mitigation trees will be better suited for the proposed stabilization.

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 Kathryn Bolton at (410) 313-2350 or email at kbolton@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/ktb

cc: Research
DED
Real Estate Services
McCormick Taylor