



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 13, 2020

Howard County Department of
Public Works
Attn: Keri Dinsmore
7125 Riverwood Road, Suite B
Columbia, Maryland 21046

RE: WP-20-070 Guilford Elevated Watertank (SDP-20-032)

Dear Applicant:

This letter is to inform you that your request for alternative compliance to the Howard County Forest Conservation Regulations for the subject property was reviewed.

On July 30, 2020 and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Department of 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 **16.1205(a)(3)** of the Howard County Forest Conservation Regulations to utilize the limits of disturbance for the water tower construction for the purposes of satisfying the forest conservation requirements, and for the removal of one specimen tree. Please see the attached Final Decision Action Report for more information.

This alternative compliance approval will remain valid for one year from the date of this letter. If you have any questions, please contact Nicholas Haines at (410) 313-4333 or by email at nhaines@howardcountymd.gov.

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief
Division of Land Development

cc: Research
DED
DLD – Julia Sauer
OCS, Joshua Feldmark
DRP, Raul Delerme
DNR – Marian Honecny
RK&K



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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-20-070 Guilford Water Tower** (SDP-20-032)
Request for a variance to Sections 16.1201(v) and 16.1205(a)(3) of the Howard County Forest Conservation Regulations

APPLICANT: Howard County Department of Public Works
Attn: Kerri Dinsmore
7125 Riverwood Road, Suite B
Columbia, Maryland 21046

Pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Department of Recreation and Parks and Administrator of the Office of Community Sustainability considered and **approved** the applicant's request for a variance with respect to **16.1201(v)** and **16.1205(a)(3)** of the Howard County Forest Conservation Regulations. The purpose is to utilize the limits of disturbance for the water tower construction for the purposes of satisfying the forest conservation requirements, and for the removal of one specimen tree. The Directors deliberated the application in a meeting on June 30, 2020.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unwarranted hardship. This determination is made with consideration of the variance 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 proposed elevated water tank project is unique in that it is tied into three separate projects that are in design or under construction. The three projects are the actual Guilford Elevated Water Storage Tank construction, High School #13 project, and the Ridgely's Run Road construction leading to the Guilford Water Storage Tank and High School #13. The applicant is requesting that the Total Tract Area equal the total limits of disturbance (LOD) for the proposed EWST and Ridgely's Run Road Capital Projects, and Net Tract Area deductions include the overlapping areas that were previously addressed under the Chase mass-grading SDP to avoid applying the forest conservation law twice to the same areas. The specimen tree proposed for removal is listed as T-14, a sycamore in fair condition. Its removal is proposed for the construction of water quality protection measures under the roadway erosion and sediment control design. The erosion and sediment control measures for the roadway construction requires a temporary gabion structure placed adjacent the road in a low topography spot which is the location that specimen tree T-14 is located.

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

Enforcement of the Regulations would deprive the applicant from rights commonly utilized in similar areas. Utilizing the limits of disturbance for the purposes of satisfying the forest conservation requirements and requesting regeneration credit as the preferred method of forest regeneration are common requests for linear projects such as roadways and projects that cover multiple parcels. The applicant seeks to avoid applying the forest conservation law twice to the same areas. The proposed elevated water storage tank limits of disturbance is also the preferred tract area for new tank construction as the LOD was reduced to minimize impacts to the current forest resources. The requested removal of specimen tree T-14 is to provide required water quality protection measures as part of the roadway construction.

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

There is no evidence that the granting of a variance will adversely affect water quality. The development is subject to the current Environmental Site Design criteria, which include small filtering processes to address water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the grading permit. Significant forest buffers will remain around much of the proposed water tank and the roadway to provide visual buffers and to maintain the water quality benefits from forest areas. The 40 feet of forest clearing around the proposed tank will provide access for construction and a clear zone to reduce the potential for damage to the new water tower from falling trees or branches.

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 this request will not confer a special privilege on to the applicant that would be denied to other applicants. Utilizing the limits of disturbance for the purposes of satisfying the forest conservation requirements and requesting regeneration credit as the preferred method of forest regeneration are common for linear projects such as roadways and projects that cover multiple parcels. The applicant seeks to avoid applying the forest conservation law twice to the same areas. The removal of the proposed specimen tree is essential to the construction of the public roadway.

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

The elevated water tank project is necessitating the alternative compliance request as it is tied into three separate projects that are in design or under construction and are not the result of the applicant. The request that the Total Tract Area equal the total limits of disturbance (LOD) is to avoid applying the forest conservation law twice to the same areas. The proposed water tank and the Ridgely's Run Road Capital Projects include overlapping areas that were previously addressed under the Chase mass grading SDP. The specimen tree proposed for removal is for the construction of water quality protection measures under the existing Ridgely's Run roadway erosion and sediment control design.

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 request for the alternative compliance was the result from a condition relating to land or building use, either permitted or non-conforming, on a neighboring property. The request is due to existing on site conditions and plans currently in process.

7. Provide any other information appropriate to support the request.

Approval of this request will not be detrimental to the public health; safety or welfare, or injurious to other properties. Utilizing the limits of disturbance for the purposes of satisfying the forest conservation requirements and requesting regeneration credit as the preferred method of forest regeneration are common for linear projects such as roadways and projects that cover multiple parcels. The applicant seeks to avoid applying the forest conservation law twice to the same areas. The alternative proposal will provide for the replacement of the removed specimen tree with two additional trees to be placed on the property.

Directors Action: Approval of this alternative compliance is subject to the following conditions:

1. A 35 foot Environmental BRL shall be provided from the environmental buffer and forest conservation easements (from whichever extends further into the lots).
2. The specimen tree removal is subject only to the requested tree T-14. Another alternative compliance request must be submitted to propose the removal of any additional specimen trees associated with the elevated water tank project. If at all possible, specimen trees should be preserved, and tree protection measures provided during construction for other specimen trees on site. Provide (2) replacement trees a DBH of at least 3" on site in addition to the required landscaping in place of the removed tree as mitigation.
3. The alternative compliance file number, requested sections, decision date and conditions of approval shall be indicated on the plat as a general note.
4. The work to replace the 40 year old fence will be performed using smaller equipment to minimize site disturbance. Disturbance to existing forested conditions will be kept to a minimum in order to install the proposed fencing. The entire fence area of the site will be stabilized and returned to a natural state once the fence installation has been completed.
5. Add a note to the plans specifying, "Fence installation and removal of old fence within forest areas shall be conducted using smaller equipment that will result in minimal disturbance, and tree cutting/trimming shall be kept to the minimum necessary to accomplish the work. Areas outside of the LOD are forest retention/protection areas that shall not to be disturbed for this construction.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delerme

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Raul Delerme, 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 Delerme