



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 8, 2020

Ivis Tapanes
Palencia Construction, LLC
7461 Montevideo Road, LLC
2842 Stuart Drive
Falls Church, VA 22042

RE: WP-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road)
Approval

Dear Ms. Tapanes:

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 May 7, 2020 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 a variance with respect to **Section 16.116(a)(1)** and **Section 16.116(a)(2)(iv)** of the Subdivision and Land Development Regulations to restore a wetland and associated wetland buffer, to restore a perennial stream and associated 50 ft buffer, to construct SWM outfalls and to permit an existing stream crossing, auto repair building and driveway entrance to remain within the 50 ft stream buffer. Please see the attached Final Decision Action Report for more information.

On May 7, 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 16.1205(a)(3)** and **Section 16.1209(b)(1)** of the Subdivision and Land Development Regulations to remove three (3) specimen trees and to reduce the 75 ft minimum width requirement for Forest Conservation Easements along the perennial streams. Please see the attached Final Decision Action Report for more information.

On May 6, 2020 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 16.115(c)(2)** of the Subdivision and Land Development Regulations to construct two (2) outfalls within the 100-year floodplain.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.115(c)(2) would result in unwarranted hardship. This determination is made with consideration of your alternative compliance application and the four (4) items you were required to address, pursuant to Section 16.104(a)(1):

Section 16.115(c)(2)- No clearing, excavating, filling, altering drainage, or impervious paving, may occur on land located in a floodplain.

- 1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas.**

The two outfalls proposed within the floodplain are required to restore the stream channel and for the proposed

stormwater management facilities. Strict compliance with the regulations would deprive the applicant of constructing adequate parking and storage areas and would affect the function of the proposed stream restoration plan.

2. 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 majority of the site is encumbered by floodplain and stream/wetland buffers. The proposed limit of disturbance for the improvements amounts to approximately 25% of the entire site area, while the remainder of the site will be placed into forest conservation easements to protect the environmental features. Due to the site's flat topography, the proposed stormwater management facilities must be placed at the locations proposed on the plan so they can collect maximum drainage and provide maximum treatment for the proposed impervious surfaces.

3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants.

The proposed disturbance to the floodplain is necessary to restore the stream to its previous natural condition and to allow the stormwater management facilities to effectively treat runoff from the impervious surfaces. The stream and wetland restoration is required by MDE and Howard County to restore previous disturbances.

4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.

The placement of the two outfalls within the floodplain will not have an adverse impact since it will not cause an obstruction of stream flow and will not alter the water surface elevation. The restoration of the stream will not be detrimental to the public health because it will return the stream to its natural condition, which will help to improve water quality in the Deep Run watershed.

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

1. Stormwater management specifications will be required on the site development plan. The use of non-structural practices will not be permitted since the site includes vehicle maintenance. No part of the stormwater management facilities will be permitted within an environmental area or buffer. Outfall pipes may be permitted on a case-by-case basis by DPZ as determined as part of the environmental concept plan and/or site development plan review process. All stormwater management devices shall be appropriately constructed, inspected and maintained in accordance with the approved plans.
2. All driveways, parking areas and storage areas shall be constructed of asphalt or concrete surface and identified on the site development plan. The storage areas shall be square or rectangular shaped and clearly defined on the plan by dimension and use.
3. The site development plan shall identify all existing and proposed utilities and their connections to public infrastructure. This includes house connections and associated meter locations. The proposed utility connections to the existing garage building shall be located entirely within the paved areas.

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 Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely,

DocuSigned by:
Anthony Cataldo
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Anthony Cataldo, AICP, Chief
Division of Land Development

cc: Research
DED
OCS, Joshua Feldmark
DRP, Raul Delerme
DPW, Jim Irvin
FSH Associates



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Amy Gowan, Director

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ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

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

RE: WP-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road)
Request for a variance to Sections 16.116(a)(1) & 16.116(a)(2)(iv) of the Subdivision and Land Development Regulations.

Applicant: Ivis Tapanes
Palencia Construction, LLC
7461 Montevideo Road, LLC
2842 Stuart Drive
Falls Church, VA 22042

Pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **approved** the applicants request for a variance with respect to **Section 16.116(a)(1)** and **Section 16.116(a)(2)(iv)** of the Subdivision and Land Development Regulations. The purpose is to restore a wetland and associated wetland buffer, to restore a perennial stream and associated 50 ft buffer, to construct SWM outfalls and to permit an existing stream crossing, auto repair building and driveway entrance to remain within the 50 ft stream buffer. The Directors deliberated the application in a meeting on May 7, 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 16.116(d):

1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas.

The restoration of the stream and wetlands is required by MD Dept. of the Environment (MDE) and Howard County DPZ and DPW. The owners intend to retain a single stream crossing to provide access to an existing garage building and parking/storage area on the eastern side of the stream. The remainder of the stream channel, wetlands and buffers will be restored to their natural condition. The existing driveway entrance and a short timber retaining wall currently exist within the 50 ft stream bank buffer. The driveway entrance was constructed by Howard County during a road improvement project for Montevideo Road under Capital Project J-4148. The timber retaining wall was constructed by the owner to accommodate two-way traffic into and out of the property, which meets the Design Manual requirements for commercial driveway entrances. Strict compliance with the regulations would deprive the applicant of a safe vehicle entrance and would render the existing garage building and storage areas to be unusable.

2. 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 majority of the site is encumbered by floodplain and stream/wetland buffers. The proposed limit of

WP-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road) - Request for a variance to Sections 16.116(a)(1) & 16.116(a)(2)(iv) of the Subdivision and Land Development Regulations.

disturbance for the improvements amounts to approximately 25% of the entire site area, while the remainder of the site will be placed into forest conservation easements to protect the environmental features. Due to the site's flat topography, the proposed stormwater management facilities must be placed at the locations proposed on the plan so they can collect maximum drainage and provide maximum treatment for the proposed impervious surfaces. The total site area is 4.22 acres, but approximately 1 acre is usable due to the environmental features. Half of the usable area resides on the eastern side of the perennial stream, which flows from south to north approximately halfway through the site. Access to the eastern portion of the property, which includes an existing garage building and parking/storage lot, requires a stream crossing. If the stream crossing were not permitted, it would result in a large portion of the site and existing improvements to be unusable.

- 3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants.**
The proposed disturbance to the streams, wetland and buffers is necessary to restore the environmental features to their previous natural condition and to allow the stormwater management facilities to effectively treat runoff from the impervious surfaces. The stream and wetland restoration is required by MDE and Howard County to restore previous disturbances. If the stream crossing were not permitted, approximately 0.5 acres of land on the eastern side of the stream would be unusable. Permitting the existing garage building and driveway entrance to remain will allow for continued commercial use of the property. The site is zoned 'M-2' for heavy manufacturing uses, which generally requires a large portion of land to accommodate the intended uses.
- 4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.**
The existing driveway entrance is located at the only possible access point due to the site's topography, existing structures and the vertical alignment of Montevideo Road. The driveway entrance meets the minimum standards in the Design Manual for commercial driveways which ensures public safety. The restoration of the stream and wetlands will not be detrimental to the public health because it will return the environmental features to their natural condition, which will help to improve water quality in the Deep Run watershed.
- 5. Disturbance is returned to its natural condition to the greatest extent possible.**
The perennial stream and wetlands were previously filled with gravel to construct an unpermitted stream crossing, garage building and equipment storage and parking areas. The owner is working with MDE and Howard County to restore the wetlands, stream and buffers to their natural condition. The wetland and 25 ft wetland buffer will be restored through the removal of gravel and planting of native vegetation. A portion of the existing carport structure will be removed from within the wetland and buffer. The wetland restoration will comply with MDE standards and will be inspected by MDE and Howard County for compliance and for survivability of the planted vegetation. The stream crossing is necessary to provide access to the existing garage building and equipment storage areas. The remainder of the stream channel will be reconstructed to its natural condition in accordance with MDE standards. All existing gravel will be removed from the wetlands, wetland buffer and stream buffer and the areas will be planted with native vegetation and placed into forest conservation easements to ensure long-term protection.
- 6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**
The stream channel and 50 ft stream bank buffer will be restored to their natural condition, except for the area of the existing driveway entrance, stream crossing and corner of the existing garage building. The stream buffer will be planted with native trees and will be placed into a forest conservation easement and inspected by Howard County for survivability and compliance with the approved forest conservation plan. The wetland and wetland

WP-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road) - Request for a variance to Sections 16.116(a)(1) & 16.116(a)(2)(iv) of the Subdivision and Land Development Regulations.

buffer will also be restored, planted with native vegetation and placed into a forest conservation easement. This will ensure long-term protection of the environmental areas, which will help to minimize adverse impacts to water quality, vegetative habitat and wildlife. Permanent fencing or guardrail will be constructed along the boundaries of the forest conservation easements to provide a barrier between the commercial activity and the environmental features. This will help to reduce the potential for encroachments and dumping within the forest conservation easements.

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.

The site is located in the Deep Run watershed, which requires 10-year and 100-year stormwater management. The proposed stream crossing is the minimum width to allow for single-vehicle traffic to access the existing garage building and storage areas in the rear of the site. The corner of the existing garage building and concrete pad currently encroach 12 ft into the stream buffer. Permitting this existing encroachment will allow the owner to continue to use the garage building to maintain vehicles and equipment. The restoration of the stream, wetlands and buffers will include the planting of native vegetation, which will improve the tree cover onsite. The proposed grading and construction is the minimum necessary to accommodate the necessary improvements.

Directors Action: Approval of alternative compliance of Section 16.116(a)(1) and Section 16.116(a)(2)(iv) is subject to the following conditions:

1. Approval of a site development plan will be required for the proposed stream and wetland restoration and construction of the paved areas and associated site improvements. The site development plan shall demonstrate compliance with all Maryland Department of the Environment requirements for stream and wetland restoration and mitigation.
2. The proposed stream crossing shall be the minimum width required for safe single-lane vehicular traffic. All remaining sections of the existing 24" HDPE pipe shall be removed from the stream channel, as shown on the alternative compliance plan exhibit.
3. All equipment, storage materials, gravel and pavement shall be removed from the wetlands, streams and their required buffers. The existing garage building and adjacent concrete pad, existing driveway entrance and timber retaining wall will be permitted to remain within the stream buffer, as shown on the alternative compliance plan exhibit.
4. The existing oil tank in the rear of the garage building shall be removed from within the 50' stream bank buffer. A replacement location shall be identified on the site development plan.
5. The existing carport structure shall be removed from the wetland and 25' wetland buffer.
6. All disturbed areas within the wetlands, wetland buffers and stream buffers shall be replanted with a mix of native canopy and understory trees. The species, density and planting specifications shall be approved by DPZ on a site development plan and shall be in accordance with the Forest Conservation Manual. The plantings will be bonded with a Developer Agreement and inspected for survivability as part of the site development plan approval.
7. A permanent barrier shall be constructed along the edge of the proposed pavement adjacent to any stream buffer, wetland buffer or forest conservation easement to discourage encroachment or dumping within the environmental areas. The barrier shall consist of guardrail or chain-link fencing at least 6' in height with posts set in concrete and shall

WP-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road) - Request for a variance to Sections 16.116(a)(1) & 16.116(a)(2)(iv) of the Subdivision and Land Development Regulations.

be installed in the locations shown on the alternative compliance plan exhibit. Construction details shall be included on the site development plan.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Jim Irvin

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James Irvin, Director
Department of Public Works

DocuSigned by:

Joshua Feldmark

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Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
DED
Eric Buschman
OCS, Joshua Feldmark
DRP, Raul Delerme
DPW, Jim Irvin
FSH Associates



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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-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road)**
Request for a variance to Sections 16.1205(a)(3) and 16.1209(b)(1) of the Subdivision and Land Development Regulations.

Applicant: Ivis Tapanes
Palencia Construction, LLC
7461 Montevideo Road, LLC
2842 Stuart Drive
Falls Church, VA 22042

Pursuant to Section 16.1216, the Director of the Department of Planning and 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 16.1205(a)(3)** and **Section 16.1209(b)(1)** of the Subdivision and Land Development Regulations. The purpose is to remove three (3) specimen trees and to reduce the 75 ft minimum width requirement for Forest Conservation Easements along the perennial streams. The Directors deliberated the application in a meeting on May 7, 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 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.**
Specimen tree #2 suffered storm damage and has already been removed by the owner. The other two specimen trees proposed for removal are in poor health and pose as safety hazards to the garage building, equipment and employees. The restoration of the stream channel will result in additional damage to the critical root zones, which will likely cause further damage to the health of the trees. Strictly adhering to the regulations and requiring a 75 ft wide forest conservation easement along the perennial streams will deem the site unusable for the intended use, which is heavy manufacturing in accordance with the 'M-2' zoning designation. It would reduce the usable area of the site to 0.6 acres, which is approximately 14% of the entire site area. The site is bifurcated by two perpendicular streams, which divides the usable area of the site into two distinct areas. This unique condition imposes a hardship that is not typical to other sites.
2. **Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas.**
Strict enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in the 'M-2' zoning district. This district allows for heavy manufacturing uses and the usable area of the property would

WP-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road) - Request for a variance to Sections 16.1205(a)(3) and 16.1209(b)(1) of the Subdivision and Land Development Regulations.

be limited to approximately 0.6 acres if the 75 ft width requirement for riparian forest conservation easements were strictly enforced. The majority of the forest conservation easements along the streams will be at least 50 ft in width. The existing wooded area on the northern portion of the site will be retained within a forest conservation easement. The specimen trees proposed to be removed are in poor health and pose as safety hazards for the existing commercial operation.

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. 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 site development plan and grading permit. The forest conservation easements will encumber the majority of the 50 ft stream bank buffers and the entire wetland and 25 ft wetland buffer. This will allow the environmental features to return to their natural condition and will improve water quality in the Deep Run watershed.

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

The site's topography and extensive environmental features severely limit the reasonable use of the property. If the 75 ft width requirement for riparian forest conservation easements were strictly enforced, the site would be unusable for a heavy manufacturing use, which is the intended use in the 'M-2' zoning district. The specimen trees are in poor health and alternative compliance petitions are routinely approved to remove unhealthy trees due to a higher risk of damage to infrastructure and a safety hazard to people.

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

A perennial stream flows from south to north midway through the site, which divides the usable area of the property into two separate areas. If the stream crossing were not permitted, it would result in half of the usable area to be non-accessible. The applicant is proposing a riparian forest conservation easement along the perennial stream that is approximately 50 feet in width. Strictly enforcing the 75 ft minimum width would result in the existing garage building and a large portion of the existing equipment storage and parking areas to be unusable.

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.

It has been verified to the best of our knowledge that the condition did not arise from a condition relating to land or building use on a neighboring property.

Directors Action: Approval of alternative compliance of Section 16.1205(a)(3) and Section 16.1209(b)(1) is subject to the following conditions:

1. Forest conservation for Lots 3 and 4 shall be addressed on the site development plan in accordance with Section 16.1202 of the Howard County Code. The forest conservation calculations will be based on the existing conditions prior to the unpermitted disturbance. Aerial photographs prior to 2017 can be used to determine the extent of the existing forest resources. The site contains priority areas for forest conservation and any obligation shall be satisfied onsite through the recordation of forest conservation easements. A forest stand delineation and forest conservation plan will be required as part of the site development plan.
2. The reduction of the minimum 75' width requirement for forest conservation easements along the perennial streams, per Section 16.1209(b)(1), is permitted as shown on the alternative compliance plan exhibit. All on-site sensitive areas

WP-20-088 Ella L. McAdoo Subdivision- Lots 3 & 4 (7461 Montevideo Road) - Request for a variance to Sections 16.1205(a)(3) and 16.1209(b)(1) of the Subdivision and Land Development Regulations.

including floodplain, wetlands, wetland buffers and stream buffers shall be protected within forest conservation easements, except for the existing driveway entrance and timber retaining wall, existing 20' sewer right-of-way, proposed stream crossing and stormwater management outfalls as shown on the plan exhibit.

3. The removal of the three specimen trees (ST #2, #3 and #5) 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 developer shall plant six 3" minimum-caliper native shade trees in addition to the required wetland and stream buffer restoration plantings to mitigate the removal of the three specimen trees. The six trees shall be planted within the proposed forest conservation easements to ensure long-term protection. All necessary planting details shall be included on the site development plan. These trees will be bonded along with the required restoration plantings as part of the Developer Agreement.
4. The applicant shall coordinate with the owner of adjacent Parcel 586 to restore the offsite wetland and existing forest conservation easement to its previous condition through the removal of gravel and replanting of forest resources. Planting details shall be included on the site development plan. The plantings will be bonded with a Developer Agreement and inspected for survivability as part of the site development plan approval. Written authorization from the owner of Parcel 586 shall be submitted to DPZ with the site development plan.

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
Eric Buschman
OCS, Joshua Feldmark
DRP, Raul Delerme
DPW, Jim Irvin
FSH Associates



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: The site is mostly wooded, the site contains 2 streams and a 100 year floodplain. There are ex. structure

Subdivision Name/Property Identification: Ella L. McADOO subdivision Lots 3 and 4

Location of property: 7461 Montevideo road

Existing Use: Contractors yard **Proposed Use:** Contractors yard

Tax Map: 43 **Grid:** 16 **Parcel No:** 96 **Election District:** 2nd

Zoning District: M-2 **Total site area:** 4.22 ac +/-

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:

WP-18-135 , WP-19-074 , ECP-19-053 , SDP-20-021

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.

Section Reference No.	Brief Summary of Request
16.115.(c).(2)	To permit grading and installing two (2) outfalls within the 100 year floodplain limits. One outfall for a stream restoration and one for a storm water management outfall.
16.116.(a).(1) & (2).(iv)	To permit grading within wetlands stream and their buffers for a stream and wetlands restoration, one stream crossing, safe access to the property from an established access
16.1205.(A).(3)	To permit removal of 3 existing specimen trees. Trees 2,3 and 5. Tree 2 removed due to storm damage, trees 3 and 5 are in fair to poor condition.
16.1209.(b).(1)	To permit reduce the minimum width of a forest conservation easement along a stream bank buffer from 75 feet to less than 75 feet.

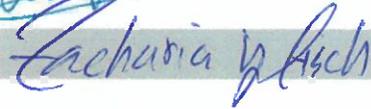
Signature of Property Owner:



Date:

2/27/2020

Signature of Petitioner Preparer:



Date:

2/27/2020

Name of Property Owner: 7461 Montevideo rd. LLC

Name of Petition Preparer: FSH Associates

Address: 2842 Stuart drive

Address: 6339 Howard lane

City, State, Zip: Falls Church , VA , 22042

City, State, Zip: Elkridge , MD , 21075

E-Mail: ivis@palenciaconstructionllc.com

E-Mail: zfish@fsheri.com

Phone No.: 703-538-0992

Phone No.: 410-567-5210 EXT. 230

Contact Person: Ivis Tapanes

Contact Person: Zach Fisch

Owner's Authorization Attached