



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

June 19, 2020

Avinash Dewani
Department of Public Works
9801 Broken Land Parkway
Columbia, Maryland 21046

RE: **WP-20-091 Ellicott City Site H-7 (Capital Project D-1165)**

Dear Avinash Dewani:

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 June 18, 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), 16.1205(a)(3) and 16.1209(b)(1)** of the Howard County Forest Conservation Regulations to use the Limit of Disturbance as the Net Tract Area when calculating the reforestation and afforestation obligation, to remove five specimen trees, and to waive providing a forest conservation easement within the onsite stream buffer. 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 Julia Sauer at (410) 313-2350 or by email at jsauer@howardcountymd.gov.

Sincerely,

DocuSigned by:

Anthony Cataldo

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Anthony Cataldo, AICP, Chief
Division of Land Development

cc: Research
DED
DLD – Julia Sauer
OCS, Joshua Feldmark
DRP, Raul Delorme
Century Engineering
DNR – Marian Honeczy



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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-20-091 Ellicott City Site H-7 (Capital Project D-1165)**
*Request for a variance to Sections 16.1201(v), 16.1205(a)(3) and 16.1209(b)(1) of the
Howard County Forest Conservation Regulations*

APPLICANT: Department of Public Works
Attn: Avinash Dewani
9801 Broken Land Parkway
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 applicants request for a variance with respect to **Section 16.1201(v), 16.1205(a)(3) and 16.1209(b)(1)** of the Howard County Forest Conservation Regulations. The purpose is to use the Limit of Disturbance as the Net Tract Area when calculating the reforestation and afforestation obligation, to remove five specimen trees, and waive providing a forest conservation easement within the onsite stream buffer. The Directors deliberated the application in a meeting on June 18, 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 project area is within the State Highway Administration right-of-way interchange loop for Route 40 and Route 29 and is minimal compared to the vast area of the right-of-way. The 2016 Ellicott City Hydrology/Hydraulic Study & Concept Mitigation Analysis indicated that there are limited areas for the County to construct in-line stormwater management ponds within the Hudson Branch subwatershed because the development adjacent to the floodplain is denser and more commercial than the other subwatersheds. A hardship would be endured if the applicant were required to satisfy the forest conservation obligation for the entire right-of-way and there would be significant delays to the project and the County's Safe and Sound Plan if the County had to pursue an easement on State Highway Administration property. And, an effective in-line pond and flood storage area could not be constructed if the specimen trees were retained.

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

The State of Maryland owns the right-of-way and the County does not regulate State projects on State property. Since this is a County capital project it is subject to local regulations. Enforcement of the regulations would deprive the County the right to construct a public improvement project that would be permitted by the State.

3. Verify that the 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 purpose of this project is to provide the maximum amount of flood storage to alleviate flooding in downtown Ellicott City and improve the condition of Hudson Branch.

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

Granting the variance will not confer on the County a special privilege that would be denied by other applicants. The State would not be subject to local regulations for public improvement projects on State Property.

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

The project area was selected as the most effective area to construct an in-line stormwater management pond in the Hudson Branch subwatershed. This is a flood mitigation project. The applicant did not create the condition or circumstance.

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.

Neither the location of the stream, specimen trees or parcel right-of-way is created by a condition on a neighboring property. The flood storage facility is required to alleviate flooding in the Hudson Branch subwatershed.

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

The applicant provided supporting data including a Natural Resource Inventory of the subject area, a draft agreement with the State of Maryland and pre-submission community meeting notes. The project is a recommended flood mitigation project to reduce flooding in downtown Ellicott City during large storm events and is supported by the County Executives in the EC Safe and Sound Plan.

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

1. The removal of the five (5) specimen trees is permitted and requires mitigation per Section 16.1216(d) of the Forest Conservation regulations. The ten (10) mitigation plantings are shown on the forest conservation plan in the Capital Project design plans for Ellicott City Site H-7.

2. Prior to commencement of the Capital Project, the Department of Public Works shall receive approval of a site development plan modification ("redline revision") to the approved forest mitigation bank to fulfill the 5.2 acre forest conservation obligation for this project.
3. The applicant shall obtain all required authorizations and permits from the Maryland Department of the Environment and U.S. Army Corps of Engineers for disturbances within the streams. Reference the applicable MDE or USACE permits or tracking numbers on all building or grading permits. Provide approval letters from MDE and/or USACE with the grading permit application, if applicable.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delorme

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Raul Delorme, Director
Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

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Joshua Feldmark, Administrator
Office of Community Sustainability



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:

*Arvish
Bewani*

Date:

Signature of Petitioner Preparer:

KarBown

Date:

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