



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

October 5, 2020

Christine Lowe, PE
Howard County Department of Public Works
Stormwater Management Division
9801 Broken Land Parkway
Columbia, MD 21046

RE: WP-20-107 Greenway Drive Drainage Improvements
(Capital Project D-1175)

Dear Ms. Lowe:

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 October 1, 2020 and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the 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)** of the Subdivision and Land Development Regulations to use the 0.21-acre Limit of Disturbance as the Net Tract Area for forest conservation calculations. Please see the attached Final Decision Action Report for more information.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of **Section 16.155(a)(1)** would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the one (1) item you were required to address, pursuant to Section 16.104(a)(1):

- 1. Unreasonable hardship or practical difficulties may result from strict compliance with the regulations.**
Requiring a site development plan would create an unreasonable hardship for the applicant. The applicant is proposing to repair a failing storm drain in order to mediate flooding issues that currently exist, along with restoring a stream in order to prevent continued sedimentation, which currently is impacting the downstream Southview Road Stream Restoration project. The proposed drainage improvement, which represent the majority of this work, falls within an exemption to the SDP requirement but the same exemption does not exist for the proposed stream restoration portion of this project. The project proposes a minor limit of disturbance (0.21-acres) and the provided exhibit will serve as a suitable substitute for the proposed work. Requiring a site development plan would require additional effort and resources by County staff and would lengthen the schedule for this project, allowing degradation to continue to impact downstream waters. Approval of the alternative compliance promotes efficiency of the plan review process.

Approval of alternative compliance to **Section 16.155(a)(1)** 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 0.21-acre limit of disturbance as shown on the alternative compliance exhibit unless it can be sufficiently demonstrated by the applicant to be justified.**

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval and date on all related grading and/or building permits and Capital Project plans. This alternative compliance approval will remain valid as long as a Capital Project plan or grading permit is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Justin Schleicher at (410) 313-2350 or email at jschleicher@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/JS

cc: Research
DED
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR



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

**ALTERNATIVE COMPLIANCE
FINAL DECISION ACTION REPORT**

DEPARTMENT OF PLANNING AND ZONING
DEPARTMENT OF RECREATION AND PARKS
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-20-107 Greenway Drive Drainage Improvements (Capital Project D-1175)**
Request for a variance to Section 16.1201(v) of the Subdivision and Land Development Regulations.

Applicant: Christine Lowe, PE
Howard County DPW- Stormwater Management Division
9801 Broken Land Parkway
Columbia, MD 21046

Pursuant to Section 16.1216, the Director of the Department of Planning 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 16.1201(v)** of the Forest Conservation Regulations. The purpose is to use the 0.21-acre Limit of Disturbance as the Net Tract Area for forest conservation calculations. The Directors deliberated the application in a meeting on October 1, 2020.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in an unwarranted hardship. This determination is made with consideration of the alternative compliance 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 purpose of this project is to repair the storm drain constructed under Greenway Drive and Lot 26 and restore the outfall and stream that discharges onto the County open space lot. For the stream restoration to be completed, the Stormwater Management Division will need to clear 0.04-acres (1,742 square feet) of forest to access and perform the proposed work. The obtained drainage easement across Lot 26 dictates the location for which access to the Open Space lot is provided. The design provided creates the least amount of forest clearing possible in order to stabilize the eroding stream to prevent further erosion and flooding. An unwarranted hardship would be endured if the applicant were required to satisfy the forest conservation obligation for the entire 6.57-acre parcel as the project area encompasses only 0.21 acres of disturbance within the total area of the two parcels (6.57 acres).
- 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 used in similar projects. Using the limit of disturbance for purposes of calculating the forest conservation obligation is a common request for County Capital Projects that expand over multiple parcels and create limited disturbance in relation to the overall parcel sizes. The applicant also seeks to avoid applying the forest conservation law twice to the same

parcel, since the limit of disturbance was used to calculate the forest conservation obligation in the adjacent Southview Road Stream Restoration Project located on the same parcel.

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 grading permit. The stream stabilization project will have a positive impact on water quality by ultimately reducing the erosion and sediment transport downstream into the Southview Road Stream Restoration Project and the Plumtree 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 a special privilege on the applicant that would be denied to other applicants. Using the limit of disturbance for purposes of calculating the forest conservation obligation is a common request for County Capital Projects that expand over multiple parcels and create limited disturbance in relation to the overall parcel sizes. The applicant also seeks to avoid applying the forest conservation law twice to the same parcel, since the limit of disturbance was used to calculate the forest conservation obligation in the adjacent Southview Road Stream Restoration Project located on the same parcel.

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

This project is needed to provide maintenance to existing County infrastructure and restore an outfall and stream channel that has degraded as a result from flooding. 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.

There is no evidence that the request for alternative compliance was a result from a condition relating to land or building use, either permitted or non-conforming, on a neighboring property. The request is to repair an aged storm drain system and restore an existing outfall.

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

The existing channel is unstable and actively eroding due to uncontrolled stormwater discharge through the outfall. The active downcutting of the channel is accelerating the rate and amount of erosion. The project has a minimal footprint and a forest conservation plan is not required; however, the project will be designed with the forest conservation regulations in mind. 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. DPW is also working closely with DRP to selectively remove only those trees necessary to accomplish the project, instead of simply clearing out a large area for the contractor to work. Every effort will be made to beneficially re-use removed trees on-site, particularly live cuttings of willows for use in bioengineering.

Directors Action: Approval of alternative compliance of **Section 16.1201(v)** is subject to the following conditions:

1. 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 floodplain, streams, and stream buffers. 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 applications.

2. Once Capital Project D-1175 is complete, the Limit of Disturbance shall be restored to its previous condition through stabilization and permanent vegetation.

DocuSigned by:

Amy Gowan

584D5DD9470C4D4...

Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delorme

88D74370827248A...

Raul Delorme, Director
Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

3241R974513EAB7

Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
DED
OCS, Joshua Feldmark
DRP, Raul Delorme
WP-20-107



Howard County Maryland
Department of Planning and Zoning
 3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:
 File No. *WP-20-107*
 Date Filed *5/14/2020*

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Greenway Drive Drainage Improvements

Subdivision Name/Property Identification: Greenway Drive

Location of property: Greenway Drive, Ellicott City, MD 21043

Existing Use: Open Space, Forested **Proposed Use:** Open Space, Forested

Tax Map: 17 **Grid:** 22 **Parcel No:** 0445 **Election District:** 2

Zoning District: R-20 **Total site area:** 0.2 acre

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:

A County capital project is proposed to restore an eroding outfall channel to improve water quality. Flows to the channel are proposed to be better managed through the addition of new SWM infrastructure such as curb and gutter, 4 new inlets, and the repair of an existing inlet along Greenway Drive. This project will also require relocation of a water line.

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 16.155(a)(i)(ii)	Requirements for site development plans

Section Reference No.	Brief Summary of Request

Signature of Property Owner: [Redacted] **Date:** [Redacted]

Signature of Petitioner Preparer: [Redacted] **Date:** [Redacted]

Name of Property Owner: [Redacted] **Name of Petition Preparer:** [Redacted]

Address: [Redacted] **Address:** [Redacted]

City, State, Zip: [Redacted] **City, State, Zip:** [Redacted]

E-Mail: [Redacted] **E-Mail:** [Redacted]

Phone No.: [Redacted] **Phone No.:** [Redacted]

Contact Person: [Redacted] **Contact Person:** [Redacted]

Owner's Authorization Attached