



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 12, 2021

Howard County Dept. of Recreation & Parks
3430 Court House Drive
Ellicott City, MD 21043
Attn: Bob Linz

RE: WP-21-115 MacAlpine Road Stream Restoration

Dear Mr. Linz:

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 April 29, 2021 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 alternative compliance with respect to **Section 16.116(a)(2)** of the Subdivision and Land Development Regulations to stabilize an eroding stream bank. Please see the attached Final Decision Action Report for more information.

On April 29, 2021 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 0.38-acre Limit of Disturbance as the Net Tract Area for determining the forest conservation obligation for a proposed stream restoration project. Please see the attached Final Decision Action Report for more information.

On May 3, 2021 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)** and **Section 16.155(a)(1)(i)** of the Subdivision and Land Development Regulations to temporarily disturb 0.38 acres of floodplain and to use the alternative compliance plan exhibit as a substitute for a Site Development Plan.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Sections 16.115(c) and 16.155(a)(1)(i) would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the items you were required to address, pursuant to Section 16.104(a)(1):

Subtitle I, Article II, Section 16.115(c)

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

Strict conformance with the requirements will extend the timeline for this emergency stream stabilization project. In its nature, the project will temporarily impact an existing stream and floodplain. Grading, clearing, excavating, filling and altering drainage will occur within the floodplain. The project's main goal is to provide emergency

repairs to a failing stream bank which is threatening a public pedestrian pathway. Upon completion, all impacted areas will be restored to a more stable environment and replanted with native species.

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 existing stream banks are eroding and threatening the stability of a heavily-used pedestrian pathway. Strict adherence to the regulations would not allow the stabilization project to proceed and the continued erosion would eventually cause structure failure of the pedestrian pathway.

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

Approval of the alternative compliance request will not grant a special privilege to the applicant since the project is proposed to protect a public pathway system and eroding stream banks.

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

The stream bank stabilization will not result in the change of land use, addition of impervious surface, construction of structures or significant changes to the floodplain within the project area or downstream. The goal of the project is to stabilize an eroding stream and improve conditions within the floodplain.

Subtitle I, Article V, Section 16.155(a)(1)(i)

1. Unreasonable hardship or practical difficulties may result from strict compliance with the regulations.

Strict compliance with the regulations would require the applicant to submit a formal Site Development Plan for the proposed project. This would result in an unreasonable hardship since the alternative compliance plan exhibit contains all necessary information for permitting and construction. The project goals are to protect public safety and to stabilize eroding stream banks. Project funds can be used more effectively by providing a swift repair of the bank erosion which is currently causing major damages to the pedestrian pathway. The Maryland Dept. of the Environment has authorized the project to proceed as an emergency repair and grading permits will be obtained for the proposed construction.


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

1. All disturbed areas within the 100-year floodplain shall be stabilized and seeded or planted after construction is complete, in accordance with the alternative compliance plan exhibit.
2. The applicant shall obtain all required authorizations and permits from the Maryland Department of the Environment and the U.S. Army Corps of Engineers for disturbances within the floodplain. Provide approval letters from MDE and/or USACE with the grading permit application.
3. The alternative compliance plan exhibit shall serve as the substitute for a site development plan. No disturbance is permitted beyond the 0.38-acre limit of disturbance as shown on the alternative compliance exhibit, unless it can be sufficiently demonstrated by the applicant to be justified.
4. The applicant shall comply with all grading permit requirements from the Department of Inspections, Licenses & Permits and Howard Soil Conservation District.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval and date on all related grading and building permits. This alternative compliance approval will remain valid for one year from the date of this letter or as long as a grading 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:


1EB75478A22B49A
Anthony Cataldo, AICP, Chief
Division of Land Development

cc: Research
DED
DLD - Julia Sauer
Real Estate Services
Marian Honeczy- DNR
Haley Kelly- Ecotone, Inc.



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 PUBLIC WORKS
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-21-115 MacAlpine Road Stream Restoration**
Request for an alternative compliance to Section 16.116(a)(2) of the Subdivision and Land Development Regulations.

Applicant: Howard County Dept. of Recreation & Parks
3430 Court House Drive
Ellicott City, MD 21043
Attn: Bob Linz

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **approved** the applicants request for an alternative compliance with respect to **Section 16.116(a)(2)** of the Subdivision and Land Development Regulations. The purpose is to stabilize an eroding stream bank. The Directors deliberated the application in a meeting on April 29, 2021.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unreasonable hardship or practical difficulty. 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 16.104(a)(1) and Section 16.116(d):

- 1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by other in similar areas.**
Strict conformance with the requirements will not allow the stream stabilization project to proceed. The eroding stream banks are threatening a county-maintained pedestrian pathway and delays in the project will result in more costly and disruptive repairs. Public safety will be protected by stabilizing the stream and pathway.
- 2. The 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 existing stream banks are eroding and threatening the stability of the heavily-used pedestrian pathway. The limit of disturbance for the project has been minimized to the extent practical and the impacted areas will be planted with native vegetation after the project is completed.
- 3. The variance will not confer to the applicant a special privilege that would be denied to other applicants.**
Approval of the request will not grant a special privilege to the applicant since the project is proposed to protect a public pathway and eroding stream banks.
- 4. The modification is not detrimental to the public health, safety or welfare, or injurious to other properties.**

The project will protect public safety and welfare by repairing a dangerous condition along a heavily-used pedestrian pathway. The project will not have a negative effect on the downstream conditions or floodplain.

5. Any area of disturbance is returned to its natural condition to the greatest extent possible.

The disturbed area will be replanted with native grasses, trees and shrubs after construction is complete. Additional trees will be added to the stream buffer to further improve the aesthetics and to provide additional stabilization.

6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.

The project aims to improve water quality by eliminating a source of excess sediment and nutrients which are currently entering the waterway from the eroding stream banks. The trees to be planted after construction will provide shade and maintain cooler temperatures in the stream, which will improve in-stream habitat.

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 limit of disturbance has been minimized to only the area necessary for construction of the stream stabilization project. All existing forested areas outside of the LOD will remain undisturbed and the stream buffer will be planted with native trees and other vegetation after construction is complete.

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

1. All disturbed areas within the stream and 100 ft stream buffer shall be stabilized and replanted with native vegetation after construction is complete, in accordance with the alternative compliance plan exhibit.
2. The applicant shall obtain all required authorizations and permits from the Maryland Department of the Environment and the U.S. Army Corps of Engineers for disturbances within the stream. Provide approval letters from MDE and/or USACE with the grading permit application.

DocuSigned by:

Amy Gowan

5B4D5DD9470C4D4...

Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Thomas Meunier

977F4202E3D14B4...

Thomas Meunier, Director
Department of Public Works

DocuSigned by:

Joshua Feldmark

3241B974513F4B7...

Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
DED
OCS, Joshua Feldmark
DPW, Thomas Meunier
Haley Kelly- Ecotone, Inc.



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-21-115 MacAlpine Road Stream Restoration**
Request for a variance to Section 16.1201(v) of the Subdivision and Land Development Regulations.

Applicant: Howard County Dept. of Recreation & Parks
3430 Court House Drive
Ellicott City, MD 21043
Attn: Bob Linz

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 0.38-acre Limit of Disturbance as the "Net Tract Area" for determining the forest conservation obligation for a proposed stream restoration project. The Directors deliberated the application in a meeting on April 29, 2021.

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 application requests to allow the Limit of Disturbance (0.38 acres) to be used as the Net Tract Area for forest conservation calculations instead of the entirety of the parcel (1.14 acres). A majority of the project is located within the 100-year floodplain, which results in a forest conservation obligation of 0 acres. Native tree species will be planted within the project limits after construction is complete. The project is designed to stabilize an eroding stream bank which is threatening the stability of a county-maintained pedestrian pathway.

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

The project has been approved as an emergency repair project and enforcement of the regulations would require the project to address forest conservation for the entirety of Lot 3, which will further delay the project's completion. The disturbed areas will be replanted after construction is complete.

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

The project aims to improve water quality by reducing sediment and excess nutrients from entering the waterway from the eroding stream banks. The tree plantings will provide shade and cooler temperatures which will improve in-stream habitat. No specimen trees will be removed for the project.

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 the request will not grant the applicant a special privilege since the project is designed to stabilize eroding stream banks and to protect a county-maintained pedestrian pathway.

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

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

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.

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 16.1201(v) is subject to the following conditions:

1. The Limit of Disturbance shall be replanted with a minimum of 25 native trees, in accordance with the alternative compliance plan exhibit.

DocuSigned by:

Amy Gowan

5B4D6DD9470G4B4...

Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:

Raul Delerme

88D74370827248A...

Raul Delerme, Director
Department of Recreation and Parks

DocuSigned by:

Joshua Feldmark

3241B974513F4B7...

Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
DED
OCS, Joshua Feldmark
DRP, Raul Delerme
Haley Kelly- Ecotone, Inc.



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: UT Plumtree Branch at MacAlpine Road

Subdivision Name/Property Identification: [Redacted]

Location of property: South of the terminus of MacAlpine Road, Ellicott City, MD 21042

Existing Use: Recreation in a residential area **Proposed Use:** No change

Tax Map: 0024 **Grid:** 0016 **Parcel No:** 1016 **Election District:** 02

Zoning District: R-20, low density residential **Total site area:** 1.14

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:

The site is currently used as parkland with several pedestrian trails and utility lines crossing the property. The stream bank is currently eroding towards a Howard-County-maintained pedestrian path.

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
Sec. 16.155(a)(l)(i)	<p>Site Development plan is needed for nonresidential development</p> <p>The alternate compliance for the SDP requirement is relevant as the limits of the project area are isolated to floodplain and stream channel which will be fully replanted upon completion of the stream stabilization</p>
Sec. 16.115 (c)(2)	<p>Floodplain preservation; minimize excavating, clearing, filling, alternative drainage, etc. within the 100-year floodplain.</p> <p>In its nature, the proposed stream bank stabilization will temporarily impact existing floodplain. For the project to be completed grading, clearing, excavating, filling, and altering drainage will occur within the floodplain. However, upon the completion of the project, all impacted areas will be restored to a more stable environment and replanted with native species. stream bank stabilization efforts will not result in the change of land use, addition of impervious surface, the addition of structural buildings, or significant changes to floodplain extent with the project area or downstream.</p>

Section Reference No.	Brief Summary of Request
Sec. 16.116 (c)	<p>Protection of wetlands, streams, and steep slopes</p> <p>The proposed stream bank stabilization will temporarily impact existing stream, stream buffer, wetland, and steep slopes. The project will focus on enhancing wetlands, streams, and steep banks. Therefore, grading, clearing, excavating, filling, and altering drainage will need to occur within these areas for the project to be complete. The limit of disturbance has been minimized where possible to protect areas not being enhanced from the temporary impacts associated with this project. The project will be restored to a more stable environment and replanted with native species after construction.</p>
Sec. 16.1201 (n)	<p>Forest Conservation, net tract area</p> <p>The application aims to allow the LOD to serve as the net tract area for forest conservation calculations. Per the Forest Conservation regulations (Subtitle 12) the entirety of all parcels impacted by the proposed work are to be used to define the net tract area for forest conservation calculations. The LOD is only 0.47 acres as opposed to the total parcel acreage of 1.14 acres. The Forest Conservation Worksheet has been completed to calculate planting requirements and is included with this submittal. As this is a county funded repair project, limiting the LOD will provide the County with the most cost-effective repair strategy.</p>

Signature of Property Owner:

Robert E. Lutz

Date:

03-02-2021

Signature of Petitioner Preparer:

Haley Kelly

Date:

03/02/2021

Name of Property Owner:

Howard Co. Dept. of Recreation and Parks

Name of Petition Preparer:

Haley Kelly/ECOTONE INC.

Address: 3450 Court House Drive

Address: 129 Industry Lane

City, State, Zip: Ellicott City, MD 21043

City, State, Zip: Forest Hill, MD 21050

E-Mail: blinz@howardcountymd.gov

E-Mail: hkelly@ecotoneinc.com

Phone No.: 410-313-4709

Phone No.: 410-420-2800x171

Contact Person:

Bob Lutz

Contact Person: Haley Kelly



Owner's Authorization Attached