



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

January 6, 2023

Howard County Office of Community Sustainability
Attn: Lindsay DeMarzo
3450 Court House Drive
Ellicott City, MD 21043

RE: WP-21-120 Plumtree Branch at Dunloggin Middle School
Ecological Restoration Project

Dear Ms. DeMarzo:

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 June 16, 2022 and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning and Director of the Department of Public Works considered and **approved** your request for alternative compliance with respect to **Section 16.116(a)(1)** and **Section 16.116(a)(2)** of the Subdivision and Land Development Regulations to temporarily impact 25,384 SF of nontidal wetlands and 2,282 LF of stream for a proposed ecological restoration project. Please see the attached Final Decision Action Report for more information.

On June 11, 2022 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 16.155(a)(1)** of the Subdivision and Land Development Regulations 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 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.

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 prevent continued sedimentation into Plumtree Branch and its tributaries, to restore an eroding stream and floodplain and to remove stream pollutants. All applicable permits will be obtained from the MD Dept. of the Environment (MDE) and Howard Soil Conservation District (HSCD). The limits of the project are isolated to forested floodplain and stream channel which will be fully replanted upon completion of the project. There will be no change in use after construction. Approval of the alternative compliance promotes efficiency of the plan review process.

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

1. The alternative compliance plan exhibit shall serve as the substitute for a site development plan. No disturbance is permitted beyond the 4.27-acre limit of disturbance as shown on the alternative compliance exhibit, unless it can be sufficiently demonstrated by the applicant to be justified.
2. 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:



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Anthony Cataldo, AICP, Chief

Division of Land Development

AC/eb

cc: Research
DLD - Julia Sauer
Real Estate Services
Catherine Hoy- Ecotone LLC
Avinash Dewani- DPW



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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-21-120 Plumtree Branch at Dunloggin Middle School
Ecological Restoration Project**
*Request for an alternative compliance to Section 16.116(a)(1) and Section 16.116(a)(2) of the
Subdivision and Land Development Regulations.*

Applicant: Howard County Office of Community Sustainability
Attn: Lindsay DeMarzo
3450 Court House Drive
Ellicott City, MD 21043

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning and Director of the Department of Public Works considered and **approved** the applicants request for an alternative compliance with respect to **Section 16.116(a)(1) and Section 16.116(a)(2)** of the Subdivision and Land Development Regulations. The purpose is to temporarily impact 25,384 square feet of nontidal wetlands and 2,282 linear feet of stream for a proposed ecological restoration project. The Directors deliberated the application in a meeting on June 16, 2022.

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.

The work is proposed to enhance the stream and wetland resources by improving water retention within the floodplain during high flows. The project will stabilize the stream channels by reducing in-channel velocities and shear stresses. The impacts are temporary and self-mitigating. The project will improve stormwater management, which is a high priority in the Plumtree watershed. Strict conformance with the regulations would deprive the applicant from restoring the stream and floodplain to protect against continued erosion and sedimentation.

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 proposed ecological restoration project will include grading and removal of selective vegetation within the wetlands, streams and their buffers. The impacts are temporary and the intent of the project is to enhance the wetland and stream resources. Strict adherence to the regulations would not allow the ecological restoration project to meet the design goals.

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 improve stormwater management and floodplain water retention within the Plumtree Branch watershed.

- 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 improving stormwater management and water retention within the floodplain. The area of the project is heavily used by the community for outdoor nature recreation including scout troops and school classes, which provides a unique opportunity to educate the public about watershed management and stream health. There is no evidence that the project will 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 and trees after construction is complete. Approximately 2,173 trees will be planted within the project limits and approximately 5,820 live stakes will be planted along the stream banks.
- 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 repairing eroded stream banks and increasing water retention within the floodplain. The stream bank restoration will reduce the amount of sediment, nitrogen, phosphorus and other pollutants entering the stream and will increase habitat availability and variety. 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 project is an ecological restoration project intended to provide water quality enhancement and increased flood retention. All best management practices will be followed and all applicable permits from MDE, USACE and HSCD will be acquired prior to construction. The limit of disturbance has been minimized to only the area necessary for construction. All existing forested areas outside of the LOD will remain undisturbed and the floodplain, wetlands, stream and buffers will be planted with native trees and other vegetation after construction is complete.

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

1. All disturbed areas within the wetlands, 25 ft wetland buffer, streams, 100 ft stream buffer and 100-year floodplain shall be stabilized and seeded or planted 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 wetlands, streams and floodplain. Provide approval letters from MDE and/or USACE with the grading permit application.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:
Thomas Meunier
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Thomas Meunier, Director
Department of Public Works

Recused – OSC Project

Joshua Feldmark, Administrator
Office of Community Sustainability

cc: Research
OCS, Joshua Feldmark
DPW, Thomas Meunier
Catherine Hoy- Ecotone LLC



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

July 20, 2021

Lindsay DeMarzo
Howard County Office of Community Sustainability
3430 Court House Drive
Ellicott City, MD 21043

RE: WP-21-120 Plumtree Branch at Dunloggin Middle School

Dear Ms. DeMarzo:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject property was reviewed and no action can be taken until the enclosed comments have been addressed and the following additional information is provided.

Copies of the exhibit/plan and the supplemental information and a response letter to the comments for each agency should be submitted to this Division for distribution in the following manner:

Agency: DLD #Copies: 1 copy

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before September 3, 2021***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition.

Once the requested information has been received and reviewed, this office will coordinate agency comments and will prepare a recommendation for the Planning Director's action. If you have any questions regarding a specific comment, please contact the review agency prior to preparing the revised plans and information. Compliance with all items indicated above is required before the revised plans and information will be accepted.

*Deadlines for submission are pursuant to the Fifth Edition of the Subdivision and Land Development Regulations. **In accordance with adopted Council Bill 51-2016, effective 10/05/16, if the deadline date is a Saturday, Sunday or holiday or if the County offices are not open, the deadline shall be extended to the end of the next open County office business day.**

Please refer to the Department of Planning and Zoning website for current business processes during this time. Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 20143 or dropped into the bin labeled 'DPZ' in the George Howard Building lobby. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Eric Buschman at (410) 313-2350 or email at ebuschman@howardcountymd.gov.

Sincerely,

DocuSigned by:



Anthony Cataldo, AICP, Chief
Division of Land Development

Attachments: DLD comments

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

DEPARTMENT OF PLANNING AND ZONING
Division of Land Development

Date: July 20, 2021

Reviewer: Eric Buschman- 410-313-0729- ebuschman@howardcountymd.gov

Re: WP-21-120 Plumtree Branch at Dunloggin Middle School
Alternative Compliance request for Sections 16.155(a)(1)(i), 16.115(c)(2), 16.116(c),
16.1201(v) and 16.1205(a)(3)

Subj: Division Review Comments

The DPZ, Division of Land Development reviewed the Alternative Compliance application referenced above and has the following comments. Please address prior to resubmitting the application for review.

- 1) All affected property owners must sign the Alternative Compliance application (Board of Education, Rec & Parks, etc). Submit a signed application with the resubmission.
- 2) This project must hold a pre-submission community meeting in accordance with Section 16.128 of the Subdivision & Land Development Regulations. Register the community meeting with Howard County Dept. of Planning & Zoning and submit meeting minutes along with the resubmission. Contact Eric Buschman if you have any questions.
- 3) Have permit applications been submitted to the MD Dept. of the Environment (MDE)? Submit copies of all permits or correspondence from MDE along with the resubmission.
- 4) The application requests alternative compliance for “Section 16.116(c)”, however this Section is related to “necessary disturbance” and is not applicable for stream restoration projects. Revise the application and justification to include the following Sections:
 - Section 16.116(a)(1)- grading, removal of vegetative cover and trees shall not be permitted within 25 feet of a wetland. Be sure to indicate the area of wetland impacts (square feet).
 - Section 16.116(a)(2)- grading, removal of vegetative cover and trees shall not be permitted within 50’ of an intermittent stream bank and within 100’ of a perennial stream bank for ‘Use IV’ streams. Be sure to indicate the amount of disturbance to streams and stream buffers. Label all streams as “intermittent” or “perennial” on the plans.

5) Label the contiguous area (onsite and offsite) of all 25%+ slopes. If impacts are proposed to 25%+ slopes which are greater than 20,000sf in size, include Section 16.116(b)(1) in the Alternative Compliance application and justification.

6) Forest Conservation:

- Section 16.1202(b)(1)(xv) states that stream restoration projects are exempt from Forest Conservation requirements if a binding maintenance agreement of at least 5 years is executed with the affected property owners. “Stream Restoration project” is defined as an activity that:

(1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway or floodplain;

(2) Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project;

(3) May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the state or Howard County to achieve or maintain water quality standards; and

(4) Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

If applicable, submit justification explaining how the project meets this definition and provide a copy of the 5-year maintenance agreement with the resubmission. Contact Eric Buschman if you have any questions.

- If the project does not meet the “stream restoration” exemption referenced above, forest conservation requirements must be fulfilled. Include a note on Sheet 1 identifying how the forest conservation obligation will be addressed. Be advised, the proposed restoration plantings cannot count for afforestation/reforestation credit unless they are placed within a recorded Forest Conservation Easement.
- Use the current Forest Conservation Worksheet (contact Eric Buschman for a copy if needed). Be sure to use the “Institutional/Linear” land use category. Based on the current plan, the project should have a total afforestation/reforestation requirement of 0.3 acres. Submit a copy of the updated worksheet along with the resubmission.



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

(410) 313-2350

DPZ Office Use only:

File No. *WR 51-020*

Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Plumtree Branch at Dunloggin Middle School

Subdivision Name/Property Identification:

Location of property: Dunloggin Park, 9129 Northfield Road, Ellicott City, MD 21042 (in forested corridor behind school)

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

Tax Map: 24/24/24/30 **Grid:** 16/21/16/4 **Parcel No:** 1073/1147/1016/396 **Election District:** 02

Zoning District: R-20, low density residential **Total site area:** 25.04

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. This ecological restoration project is sponsored by the Howard County Office of Community Sustainability

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 forested floodplain and stream channel which will be fully replanted upon completion of the stream restoration. There will be no change in use after construction. Furthermore, this project aims to provide enhanced stormwater management within the watershed by attenuating flows and increasing floodplain storage. The wide floodplain and property ownership provide a unique opportunity to provide high value ecological benefits and stormwater management.</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 ecological restoration will temporarily impact existing floodplain. For the project to be completed grading, clearing, excavating, filling, and altering drainage will occur within the floodplain for the project to be completed. However, upon the completion of the project, all impacted areas will be restored to a more stable environment and replanted with native species. Ecological restoration 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. See attached cover letter for additional justification.</p>

Section Reference No.	Brief Summary of Request
Sec. 16.116 (c)	<p>Protection of wetlands, streams, and steep slopes</p> <p>The proposed ecological restoration 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. See attached cover letter for additional justification.</p>
Sec.16.1201 (v)	<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 total tract area for forest conservation calculations. The LOD is only 11.2 acres as opposed to the total parcel acreage of 25.0 acres. The Forest Conservation Worksheet has been completed to calculate planting requirements and is included with this submittal. The proposed reforestation area is 11.22 acres which exceeds the total required afforestation area of 0.4 acres calculated through the Forest Conservation Worksheet. Please refer to the attached cover letter and appendices for additional justification.</p>
Sec. 16.1205 (a)(3)	<p>Specimen trees 30 inch in diameter or larger</p> <p>Only trees impacting construction directly will be removed within the proposed limit of disturbance. Clear-cutting is not proposed as part of this project and as such, trees may remain throughout construction.</p> <p>Only two of the 18 specimen trees within the LOD will need to be removed: a 30" red maple (Acer rubrum, tree #22) in poor condition, and a 32" red maple in fair condition (tree #32) (photos attached). Both trees are located on the stream bank and need to be removed in order to achieve the goals of the project. All other specimen trees within the LOD have been avoided to the maximum extent practicable with less than 30% of the critical root zone being impacted. Best management practices such as root pruning and installation of orange tree protection fencing at the limits of disturbance and around the individual specimen trees will ensure these trees are not adversely affected by the project. Each specimen tree removed shall be replaced on-site by at least two native trees with a DBH (diameter at breast height) of at least three inches. See attached letter for additional justification.</p>

Signature of Property Owner: [Redacted] Date: 4/12/2021
Lindsay A. Demarzo

Signature of Petitioner Preparer: [Redacted] Date: 4/15/2021
Haley Kelly

Name of Property Owner: [Redacted] 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: Ldemarzo@howardcountymd.gov E-Mail: hkelly@ecotoneinc.com

Phone No.: [Redacted] Phone No.: 410-420-2600x171

Contact Person: [Redacted] Lindsay Demarzo Contact Person: Haley Kelly

Owner's Authorization Attached