



# 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

March 21, 2022

Transcend USA, LLC  
8205 Amos Hunter Way  
Ellicott City, MD 21043

RE: WP-21-135, Highland View

Dear Sir or Madam:

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 March 17, 2022 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 16.1205(a)(3)** of the Subdivision and Land Development Regulations to remove 2 of the 3-specimen trees that are located on site. **Please see the attached Final Decision Action Report for more information.**

On March 16, 2022 and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, Considered you application and found **no action** is required for your request for alternative compliance with respect to **Section 16.132(a)(3)(ii)(c), Section 16.134(a)(1)(ii), Section 16.135, and Section 16.136** of the Subdivision and Land Development Regulations. Please see the following determinations:

- The Division of Land Development recommends that **NO ACTION** is required for alternative compliance of Section 16.132(a)(3)(ii)(c) – Road Improvements, of the Subdivision and Land Development Regulations. The Regulations do not require road improvements for minor subdivisions that have no further subdivision potential, as long as, there is no sight distance or traffic safety problem, no sidewalk construction is required and if the road fronting the subdivision is not deficient. DED has determined that there is not a sight distance or traffic safety problem and that Waterloo Road is not deficient. DLD has determined sidewalk construction is not required because the developer has opted to pay a fee-in-lieu of sidewalk construction in accordance with the Regulations. A separate approval through the alternative compliance process is not necessary for this action.
- The Division of Land Development recommends that **NO ACTION** is required for the request of alternative compliance to Section 16.134(a)(1)(ii) – Sidewalks, of the Subdivision and Land Development Regulations. The Regulations allow DPZ to accept a fee-in-lieu for sidewalk improvements. A separate approval through the alternative compliance process is not necessary. The fee-in-lieu payment will be calculated at the final plan stage. At the final plan stage, the applicant is advised to request and process the request to pay a fee for sidewalk construction through DED who will coordinate with DPW. The applicants DED contact for the fee-in-lieu request verification is Heather Akers, [hakers@howardcountymd.gov](mailto:hakers@howardcountymd.gov)
- The Division of Land Development recommends that **NO ACTION** is required for alternative compliance of Section 16.135 - Street Lighting, of the Subdivision and Land Development Regulations. The Regulations allow DPZ to waive the street lighting requirement after consultation with DED and DPW. DPW and DED have determined a streetlight

is not required as part of this subdivision and no fee-in-lieu is required. A separate approval through the alternative compliance process is not necessary for this action.

- The Division of Land Development recommends that **NO ACTION** is required for the alternative compliance of Section 16.136 – Street Trees, of the Subdivision and Land Development Regulations because the applicant states there are existing trees along the right-of-way that will remain. In accordance with the Landscape Manual, credit may be taken for existing street trees that are immediately adjacent to the right-of-way. A separate approval through the alternative compliance process is not necessary for this action.

On March 16, 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 16.120(c)(2)(ii)** of the Subdivision and Land Development Regulations subject to the following conditions:

1. Compliance with all Subdivision Review Committee comments.
2. The alternative compliance application number (WP-21-135) and its conditions of approval must be added to all subdivision plans and final plat.
3. Lots 2 & 3 shall have at least 24 feet of frontage collectively, and the proposed lots must comply with the minimum lot size requirements and setbacks per the R-20 Zoning Regulations.

The Department of Planning and Zoning finds that strict enforcement of Section 16.120(c)(2)(ii) would result in an unreasonable hardship or practical difficulty. The following factors were considered in making this determination:

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

The public road frontage (pipestems) for Lots 2 & 3 adjoin the south side of the property where there is an existing private road for a religious facility, BGE pole, transformer, drainage outlet and other existing utilities. While there is space available on the northern side of the property the contours of the land and dense trees would make the physical placement of a driveway difficult and would require the removal of a significant number of existing trees and greater land disturbance. It would also require adequate intersection spacing and corner clearance from Water Grove Lane. The existing driveway for the property is approximately 75 feet from the southern property line. The applicant is proposing to use the existing driveway that is entirely on Lot 1 to provide access to Lots 1, 2 & 3. Strict conformance with the requirements would require the driveway to be relocated within the pipestems for Lots 2 & 3 and require relocation of existing utilities or removal of existing trees and increased grading.

**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 topography, adjoining driveway and roadway intersections, and existing utilities limit the ability to provide the use-in-common driveway at the public road frontage (pipestems) for Lots 2 & 3. Allowing the access from the existing driveway would eliminate any impact/removal of more trees and land disturbance. The property naturally drains northeast to southwest and constructing the driveway south of the houses is preferred because it provides positive drainage away from the house foundations and allows the stormwater management facilities to capture the runoff from the driveway.

**The variance will not confer to the applicant a special privilege that would be denied to other applicants**

Approval of this alternative compliance request will not confer to the applicant a special privilege that would be denied to other applicants. Approval of this request does not provide relief from compliance with the requirement to provide a use-in-common driveway constructed to Design Manual standards but allows the driveway to gain public road access entirely from Lot 1, instead of from Lot 2 & 3 pipestem area.

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

The modification is not detrimental to the public health, safety or welfare, or injurious to other properties. The request is being asked due to the unique site conditions such as existing utilities, trees, adjoining driveway and road entrances and slopes and to limit the disturbance by using the existing driveway.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval, and date on all related plats, and site development plans, and building permits. 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 Jennifer Wellen at (410) 313-2350 or email at [jwellen@howardcountymd.gov](mailto:jwellen@howardcountymd.gov).

Sincerely,

DocuSigned by:  


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

AC/jw

Attachment:

cc: Research  
DLD - Julia Sauer  
Real Estate Services  
Marian Honecny- DNR  
Kui Lin, P.E.



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive

Ellicott City, Maryland 21043

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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-21-135, Highland View**  
*Request for a variance to Section 1205.(a)(3) and of the Subdivision and Land Development Regulations.*

**Applicant:** Transcend USA, LLC  
8205 Amos Hunter Way  
Ellicott City, MD 21043

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 16.1205(a)(3)** of the Forest Conservation Regulations. The purpose is to remove 2 of the 3-specimen trees that are located on site. The Directors deliberated the application in a meeting on March 17, 2022.

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 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.**

The property is partially wood with a single-family detached house constructed in the center of the property approximately 75 feet from the Waterloo Road public right-of-way. The proposed subdivision will result in the removal of the existing house and creation of three lots that will obtain access from the existing driveway entrance. There are 3 specimen trees located on the site and the applicant proposes to remove 2 of the 3 trees. Specimen tree #1 is currently 3 feet from the existing house and removal of the house will greatly impact the critical root zone of the tree. Specimen tree #2 is located at the southern edge of the existing driveway and will be significantly impacted by the grading necessary to expand the driveway to current standards and construct the bioretention facility. Relocating the driveway north of the proposed houses to avoid removal of this tree will result in more tree clearing and require adequate intersection spacing and corner clearance from Water Grove Lane. The property naturally drains northeast to southwest and constructing the driveway south of the houses is the preferred because it provides positive drainage away from the house foundations.

**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 enjoyed by others in similar areas. Adjacent residential lots are approximately one-half acre in size and are improved with single-family homes. Regardless of the subdivision proposal, removal of the existing house cannot occur without greatly impacting the

critical root zone for specimen tree #1. Denying removal of specimen tree #2 would still require abandonment of the existing driveway and cause impacts the critical root zone of the tree.

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

There is no evidence that the granting of this variance will adversely affect water quality. The development is subject to the current Environmental Site Design criteria, which includes individual bioretention facilities to treat runoff. Stormwater management and soil erosion and sediment control measures will be implemented under the site development plan and grading permit. DPZ has approved an Environmental Concept Plan for this project and the applicant will be going through all appropriate steps for a minor subdivision.

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

Removal of the specimen trees is necessary to demolish the existing house and construct a driveway and stormwater management facility to current standards. The property is zoned R-20 and surrounded by R-20 properties. Subdividing the property into half acre lots is not a special privilege that would be denied to others in the same zoning district. The removal of the additional tree will require mitigation by planting 4 native trees 3" DBH. The current regulations require the same mitigation of all applicants.

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

Specimen trees #1 & 2 and their respective critical root zone are centrally located within the developable area of the existing lot. The applicant would not be allowed reasonable use of the existing lots should the specimen trees remain.

**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 site conditions arise from a conditional relating to land or building use on a neighboring property.

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

A drawing showing proposed minor subdivision was submitted along with photos. A representative from Recreation and Parks did a site visit and determined that the trees were in good condition however due to the location of the specimen tree #1 the critical root zone would be greatly impacted with any grading done on the site and that specimen tree #2 is in fair condition with limb dieback and some sapsucker holes present.

**Directors Action:** Approval of alternative compliance of Section 16.1205(a)(3) is subject to the following conditions:

1. The alternative compliance approval applies only to this minor subdivision and grants the applicant the authority to remove Specimen Tree #1 and #2 (as shown on the alternative compliance plan exhibit). The removal of any other specimen tree on the subject property is not permitted under this approval.
2. The removal of Specimen Tree # 1 and Specimen Tree #2 is permitted and requires the onsite planting of 4 native trees with a DBH of 3". The trees shall be shown on the final subdivision landscape plan sheet and must be bonded as a landscaping obligation.
3. Protective measures shall be used during construction to protect Specimen Tree #3 that is to remain, including how the critical root zone will be protected in accordance with the Forest Conservation Manual. Include details of the proposed tree protection measure on the final subdivision 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  
OCS, Joshua Feldmark  
DRP, Raul Delerme



## ALTERNATIVE COMPLIANCE APPLICATION

**Site Description:** Existing single family dwelling

**Subdivision Name/Property Identification:** Highland View Subdivision

**Location of property:** 5001 Waterloo Road, Ellicott City, MD

**Existing Use:** Residential      **Proposed Use:** Residential

**Tax Map:** 31      **Grid:**      **Parcel No:** 409      **Election District:** 1

**Zoning District:** R-20      **Total site area:** 1.6349 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:

ECP-20-031

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 16.132(a)(2) (i)-Provide construction of road improvement on one side of the road	Strict compliance with the mentioned regulations would create practical difficulty, as the provisions of curb and gutter, sidewalks, street lights, and street trees would create impractical and unattractive discontinuity of existing, well-established street scape. The neighborhood is a well-established and mature community; and addition of sidewalks or street lights is neither desired for, nor needed.
Section 16.134(a)(1)(ii) Provide sidewalks on one side of local streets of single-family subdivision	The construction of sidewalk would not provide any public benefit as there is no existing sidewalk or pedestrian destinations. The neighborhood has been completed without sidewalks and there are no commercial or institutional uses, schools, parks, transit service, or other public facilities in immediate vicinity to which pedestrian connections are needed. The current Howard County Pedestrian Master Plan also does not reflect any commitment or intention for introduction of sidewalks in this neighborhood. Waterloo Road is already developed as a closed section, with curb and gutter and storm drain system. The property frontage along Waterloo Road is developed as an open section, with no closed storm drain system. Roads with open section provide water quality benefit through infiltration of stormwater runoff through grass swales alongside the road. Addition of curb and gutter here would be inconsistent with the existing roadway conditions, and may concentrate flows downstream of the site and create potential erosion problems on the neighboring property.

Section Reference No.	Brief Summary of Request
Section 16.135(a) – Provide street lighting	Since there are no existing street lights on Waterloo Road, the installation of street lights would be inconsistent with the character of the neighborhood and thus deemed unnecessary.
Section 16.136 – Provide street trees, in accordance with the Landscape Manual	There are no existing street trees along Waterloo Road, and planting of street trees will be inconsistent with the character of the neighborhood. We are submitting photographs depicting views along Waterloo Road adjoining the property. As exhibited by the photos, the streetscape shows lush vegetation and mature tree canopy on one side and scattered trees other side. There are existing trees within the property close to the road right-of-way that provide the same function as street trees
	Given that the provision of sidewalks, street lights and trees would be impractical and inappropriate in such isolated manners, the intent of the regulations and the public interest would be better served to a greater extent by allowing their omission. Approval of this waiver will not be detrimental to the public as no hardship to public is created. Approval of the waiver will not nullify the intent of the Subdivision Regulations as described above.

**Signature of Property Owner:** *Keren Zhu* **Date:** 12/16/2020

**Signature of Petitioner Preparer:** *Kui Lin* **Date:** 12/16/2020

**Name of Property Owner:** TRANSCENDUSA LLC **Name of Petition Preparer:** Kui Lin

**Address:** 8205 AMOS HUNTER WAY **Address:** 8221 Ruxton Crossing Ct

**City, State, Zip:** Ellicott City, MD-21043 **City, State, Zip:** Towson, MD-21204

**E-Mail:** kerezhu0108@gmail.com **E-Mail:** kuilin641@gmail.com

**Phone No.:** 410-733-0108 **Phone No.:** 4109487948

**Contact Person:** Keren Zhu **Contact Person:** Kui Lin



**Owner's Authorization Attached**

Section Reference No.	Brief Summary of Request
<p>Section 16.1205 (a) (10), requires retention of specimen trees (30" dbh or greater) that are not contained within other priority forest retention areas as outlined in Section 16.1205 (a)(1-9)</p>	<p>The construction activity will cause felling of two specimen trees (Specimen #1 and 2). One of them (marked #1 on the accompanying exhibit) is close to the existing house. Demolition of the existing house will damage the roots of the tree and it will be impacted during demolition. The limit of disturbance, existing driveway and proposed grading unavoidably extends into the Critical Root Zone (CRZ) of Specimen Tree #2 and it will be impacted during the construction.</p> <p>Specimen Tree #3 - Only 25% of the Critical Root Zone (CRZ) is considered o be impacted by grading, and all precautions will be taken during construction activity in an attempt to protect and save this tree. Specimen Trees #1 and 2 are in fair condition and unavoidably will be impacted during construction. We therefore, are petitioning for a waiver to Section 16.1205 (a) (10) so specimen tree #1 and 2 may be removed prior to/during construction.</p>
<p>Section 16.120.c.2.1</p>	<p>Single-family detached. All lots, preservation parcels, or bulk parcels for single-family detached dwellings shall have minimum lot frontages on approved streets within a public right-of-way which provides access to the property as follows:</p> <p>(i) Twenty feet for single pipestem and non pipestem lots and preservation parcels which cannot be further divided under current zoning</p>