



# 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 22, 2022

Avinash Dewani  
Howard County SWM Division  
9801 Broken Land Pkwy  
Columbia, MD 21046

RE: WP-21-140 Ducks Foot Lane Stream Restoration

Dear Mr. Dewani:

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 3, 2022 and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning and Administrator of the Office of Community Sustainability considered and **approved** your request for alternative compliance with respect to **Section 16.116(a)(2)(iii)** of the Subdivision and Land Development Regulations to stabilize approximately 250 linear feet of a perennial stream along an unnamed tributary of the Little Patuxent River. Please see the attached Final Decision Action Report for more information.

On February 28, 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 the Little Patuxent River and its tributaries and to prevent further loss of private residential property. Project funds can be used more effectively and repairs can occur more expeditiously by providing a swift repair of the bank erosion which is currently posing a hazard to adjacent residences and open space land. All applicable permits will be obtained from the MD Dept. of the Environment (MDE) and Howard Soil Conservation District (HSCD). Approval of the alternative compliance promotes efficiency of the plan review process as the alternative compliance drawings include all relevant information needed for this project's improvements.

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 0.45-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.

The Division of Land Development recommends that **NO ACTION** is required for the request of alternative compliance to **Section 16.115(c)** of the Subdivision and Land Development Regulations. The Regulations allow DPZ, upon the advice of the Department of Inspections, Licenses and Permits, the Department of Public Works, the Department of Recreation and Parks, the Soil Conservation District, or the Maryland Department of the Environment, to permit clearing, excavating, filling, altering drainage, or impervious paving to occur on land located in a floodplain. Any proposed construction of a structure located within a floodplain shall be subject to the requirements of the Howard County Building Code. This request is being sought by the Department of Public Works and DPZ has received advice from the Department of Recreation and Parks and Soil Conservation District, as well as OCS, MDOT, and OOT in support of the request. A separate approval through the alternative compliance process is not necessary.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval and date on all related building and grading 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](mailto:ebuschman@howardcountymd.gov).

Sincerely,  
DocuSigned by:  
  
1EB75478A22B49A...  
Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/eb  
cc: Research  
DLD - Julia Sauer  
Real Estate Services



# 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-21-140 Ducks Foot Lane Stream Restoration**  
*Request for an alternative compliance to Section 16.116(a)(2)(iii) of the Subdivision and Land Development Regulations.*

**Applicant:** Howard County Dept. of Public Works  
Stormwater Management Division  
9801 Broken Land Parkway  
Columbia, MD 21046  
Attn: Avinash Dewani

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning 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)(iii)** of the Subdivision and Land Development Regulations. The purpose is to stabilize approximately 250 linear feet of a perennial stream along an unnamed tributary of the Little Patuxent River. The Directors deliberated the application in a meeting on March 3, 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.**

Strict conformance with the requirements will not allow the stream stabilization project to proceed. The project will restore the stability of the Centennial Lane outfall area and a portion of an unnamed tributary to the Little Patuxent River. Strict conformance with the requirements will deprive the adjacent property owners' rights that consist of flood control, protection from property loss and protection of vegetated and forested buffer between properties. This project will provide flood control by dissipating high flows from the Centennial Lane culvert outfall, restore property lost from bank erosion by realigning the channel and will protect private properties from continued erosion by the installation of a buried imbricated wall. Although some tree removal is required to implement the design, the stream stabilization will protect the remaining trees from being undermined and new native trees will be planted to re-establish the forested buffer.

**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 purpose of the project is to restore an actively eroding stream that is impacting adjacent private properties. This requires grading, installation of boulder stream structures, removal of selected trees and access for large construction equipment. The subject property is unique in the construction access limitations where access is not possible from Ducks Foot Lane, along Centennial Lane or between houses. Strict adherence to the regulations would not allow the stream restoration project to proceed.

**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 goals of the project are to protect an actively eroding stream. 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 erosion threatens to migrate laterally and will result in additional property loss. The variance will not confer a special privilege, but instead will more appropriately match the goals and resources of the project to the overall intent of the regulations.

**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 an actively eroding stream system. The project will have a direct benefit to the adjacent properties and will have benefits downstream through reduced sedimentation and improved water quality. Additionally, the project footprint has been minimized and will be reforested with native plantings after construction is complete. Every effort will be made to selectively remove only those trees which are necessary to accomplish the project and any trees removed will be beneficially used onsite.

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

The purpose of the stream restoration is to create a better condition than the existing. The streambanks will be stabilized which will reduce erosion, protect private properties and improve water quality. All forested areas will be replanted with native riparian vegetation to ensure forest is returned to its existing condition, at a minimum. Erosion and sediment controls will be installed to protect the downstream areas from erosion and sedimentation during construction.

**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. Erosion and sediment controls and stream diversion measures will be utilized to minimize impacts to water quality, fish, wildlife and vegetative habitat. The project area will be replanted with native, riparian vegetation to restore the forest to existing conditions. The planting plan will provide a greater diversity of species and forest layers than currently exist. The streambanks will be stabilized and planted which will provide shade over the water to reduce stream temperatures and improve water quality and wildlife 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.**

All best management practices will be implemented 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 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)(iii) 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 to the stream. 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:

*Joshua Feldmark*

3241B974513F4B7

Joshua Feldmark, Administrator  
Office of Community Sustainability

cc: Research  
OCS, Joshua Feldmark  
DPW, Thomas Meunier

**Certificate Of Completion**

Envelope Id: D64D5D7BDDCD4D3A86896A55AC3BCAB5	Status: Completed
Subject: Please DocuSign: WP-21-140 Approval.docx, WP-21-140 DAR- Approval.docx.pdf	
Source Envelope:	
Document Pages: 5	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Disabled	Envelope Originator:
Enveloped Stamping: Disabled	Anthony Cataldo
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	Ellicott City, MD 21043
	acataldo@howardcountymd.gov
	IP Address: 69.243.46.152

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**Signer Events**

Anthony Cataldo  
acataldo@howardcountymd.gov  
Division Chief  
Howard County Government  
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**Signature**

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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
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Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/22/2022 1:35:14 PM
Certified Delivered	Security Checked	6/22/2022 1:35:21 PM
Signing Complete	Security Checked	6/22/2022 1:35:29 PM
Completed	Security Checked	6/22/2022 1:35:29 PM
Payment Events	Status	Timestamps



# 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 13, 2021

Avinash Dewani  
Howard County SWM Division  
9801 Broken Land Pkwy  
Columbia, MD 21046

RE: WP-21-140 Ducks Foot Lane Stream Restoration

Dear Mr. Dewani:

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 August 27, 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 21043 or dropped into the bin labeled 'DPZ' in the George Howard Building lobby. Submission materials can also be emailed to [planning@howardcountymd.gov](mailto:planning@howardcountymd.gov) for processing.*

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

Sincerely,

DocuSigned by:  
  
1EB75478A22B49A...

Anthony Cataldo, AICP, Chief  
Division of Land Development

Attachments: DLD comments

cc: Research  
DED  
DLD - Julia Sauer  
Real Estate Services

DEPARTMENT OF PLANNING AND ZONING  
Division of Land Development

Date: July 13, 2021

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

Re: WP-21-140 Ducks Foot Lane Stream Restoration  
Alternative Compliance request for Sections 16.155(a)(1) 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) 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, including Alternative Compliance for specimen tree removal. Include a note on Sheet 1 identifying how the forest conservation obligation will be addressed. Include a completed Forest Conservation Worksheet with the resubmission. Has a Forest Stand Delineation been completed? If so, please include with the resubmission.

- The entire area of the parcels/lots (4.65 acres) will be used to determine the forest conservation obligation. If the Limit of Disturbance is to be used for determining the forest conservation obligation for the project, Section 16.1201(v) must be included in the application and justification.
  - The application incorrectly lists “Section 16.1216(d)” in the request for the removal of specimen trees. Please revise to “Section 16.1205(a)(3)” in the application and justification. Be sure to provide justification for the seven (7) criteria listed in Section 16.1216(c). Provide a Specimen Tree Chart on the plan identifying the species, size, condition, critical root zone and whether the trees are to be removed or to remain. Please include color photos for all specimen trees to be removed.
  - The Plant List will need to include mitigation plantings for the removal of specimen trees. In accordance with Section 16.1216(d), any native specimen tree removed shall be replaced onsite by at least two native trees with a DBH (diameter at breast height) of at least 3 inches. Revise the Plant List accordingly and show the proposed locations of the mitigation trees on the plan with a unique symbol.
  - Label the critical root zone for all specimen trees on the plan (measured as 1.5 x DBH). Label the impacts to the critical root zone (%) for all specimen trees which are proposed to remain. Include tree protection details on the plan exhibit.
- 2) This stream restoration project does not meet the criteria for ‘necessary disturbance’ in accordance with Section 16.116(c), since it is not necessary for the construction of roads, driveways, utilities, trails, pathways or SWM facilities. Include the following Section in the Alternative Compliance application and justification:
- Section 16.116(a)(2)(iii)- grading, removal of vegetative cover and trees, paving and new structures are not permitted within 100’ of a perennial stream bank for Use IV streams.
- 3) Is 100-year floodplain located within the Limit of Disturbance? The Site Data indicates “0 acres” of floodplain, but a floodplain is labeled on the plan and the FEMA map appears to show 100-year floodplain onsite. If the project will impact the 100-year floodplain, include Section 16.115(c) in the Alternative Compliance application and justification.
- 4) 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.



## ALTERNATIVE COMPLIANCE APPLICATION

**Site Description:** Ducks Foot Stream Restoration

**Subdivision Name/Property Identification:** Centennial Lane, North of Ducks Foot Lane

**Location of property:** Centennial Lane, Ellicott City, MD

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

**Tax Map:** 24      **Grid:** 13      **Parcel No:** 1151      **Election District:** 2

**Zoning District:** R-20      **Total site area:** 0.45 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 perform an approximate 250-LF stream restoration along a degraded tributary of the Little Patuxent River. Project goals consist of providing suitable long-term stabilization measures that will reduce shear stress on the channel bed and banks in an effort to prevent additional future property loss and address safety concerns of residents.

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 16.1216(d) Section 16.1205(a)(3)	Removal of specimen trees - Three specimen trees will likely need to be removed to safely lay back the streambanks and stabilize the channel. Impacts to specimen trees will be avoided and minimized to the maximum extent possible during construction.

Section Reference No.	Brief Summary of Request

Signature of Property Owner:  *Avinash Dewani* Date: 06/10/2021

Signature of Petitioner Preparer:  Date: 

Name of Property Owner: Howard County Gov. Name of Petition Preparer: Howard County SWM Division

Address: 9801 Broken Land Parkway Address: 9801 Broken Land Parkway

City, State, Zip:  City, State, Zip: Columbia, MD 21046

E-Mail:  E-Mail: adewani@howardcountymd.gov

Phone No.:  Phone No.: 410-313-6417

Contact Person:  Contact Person: Avinash Dewani

Owner's Authorization Attached