



# 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 30, 2022

Mr. Brian Cleary  
Howard County Department of Public Works, Bureau of Environmental Services  
9801 Broken Land Parkway  
Columbia, MD 21046

RE: WP-22-058 Cardinal Forest Storm Water Management Repair

Dear Mr. Cleary:

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 30, 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)\* and 16.1201(v)** of the Subdivision and Land Development Regulations to complete a County capital project to repair the Cardinal Forest stormwater management (SWM) pond, including repairs to the principal spillway, riser and barrel and the emergency spillway.

*\*the application incorrectly requests relief from Section 16.1216(d) – which specifies mitigation of specimen trees removed under approval of a variance.*

On June 29, 2022 and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and your request for alternative compliance with respect to **Section 16.115(c)** of the Subdivision and Land Development Regulations to and determined **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.

On June 29, 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)(i)(ii)** of the Subdivision and Land Development Regulations allow the WP plan exhibit to serve as a substitute site plan.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.155(a)(i)(ii) 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.**

*The project is needed to address an existing SWM pond within the 100-year floodplain that requires upgrades. 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. Performing this extra work would also lengthen the schedule for this project, allowing degradation to continue to impact downstream waters. Approval of this 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 1.65 acre of disturbance shown on the alternative compliance exhibit unless it can be sufficiently demonstrated by the applicant to be justified.
2. The removal of the 5 specimen trees will be mitigated by planting 10 native trees with a DBH of 3” as shown on the plan exhibit.
3. Prior to the application of building or grading permits, the Department of Public Works shall pay a fee-in-lieu of \$49,005.00 to SAP Account 2060000000-3000-3000000000-PWPZ000000000000-432521. A copy of the transfer receipt and a completed Forest Conservation Summary Chart shall be submitted to DPZ- Division of Land Development once completed.
4. The applicant shall obtain all required authorizations and permits from the Department of Inspections, Licenses and Permits, Maryland Department of the Environment and U.S. Army Corps of Engineers for disturbances within the floodplain, wetlands, streams and their buffers. Reference the applicable MDE or USACOE permits or tracking numbers on the alternative compliance plan exhibit and any County permit applications.

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 Donna Despres at (410) 313-3429 or email at [ddepres@howardcountymd.gov](mailto:ddepres@howardcountymd.gov).

Sincerely,

DocuSigned by:  
  
1EB75478A22B49A...

Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/DD

cc: Research  
DLD - Julia Sauer  
Real Estate Services  
Marian Honecny- DNR  
KCI Technologies



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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 RECREATION AND PARKS  
OFFICE OF COMMUNITY SUSTAINABILITY

**RE:** **WP-22-058 Cardinal Forest Storm Water Management Repair**  
*Request for a variance to Sections 16.1205(a)(3)\* and 16.1201(v) of the Subdivision and Land Development Regulations.*

**Applicant:** Howard County Department of Public Works, Bureau of Environmental Services  
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 16.1205(a)(3)\* and 16.1201(v)** of the Forest Conservation Regulations. The purpose is to complete a County capital project to repair the Cardinal Forest stormwater management (SWM) pond, including repairs to the principal spillway, riser and barrel and the emergency spillway. Improvements include a new outlet, protection aprons and trash racks at the spillway inlet and riser weir. The project goal is to repair the pond to function as designed and meet current design and safety standards. The applicant proposes that the WP exhibit shall serve as a substitute site plan and all temporarily disturbed areas (1,260 SF of WUS, 4,973 SF of wetlands, 4,461 SF of wetland buffers and 96 LF of stream outside the pond) shall be returned to its natural state. It shall be stabilized in accordance with permanent seedbed notes of the 2011 MDE Standards for Erosion and Sediment Control. Vegetative habitat will be restored via the reseeding and restoration of the disturbed area upon completion. The site plans identify 7 specimen trees and 5 trees are proposed to be removed. Ten native trees with a DBH of 3" are proposed as mitigation for the removed trees. The proposal is to use the LOD as the Net tract area for calculating the required forest conservation obligation of 0.9 acres, to be paid by fee-in-lieu. The Directors deliberated the application in a meeting on June 30, 2022.

*\*the application incorrectly requests relief from Section 16.1216(d) – which specifies mitigation of specimen trees removed under approval of a variance.*

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 project is needed to address an existing SWM pond within the 100-year floodplain that requires upgrades. Strict compliance to the Sections noted above would require a large amount of land outside of the LOD that is in no way affected by the proposed project, to be calculated within the Forest Conservation area. Additionally, specimen tree removal cannot be avoided as grading and construction access is necessary to complete the project and fulfill the project purpose. Retaining the specimen trees would result in an unwarranted hardship as the SWM facility exists and upgrades

to the dam and outfall are required. Planting is proposed to mitigate for the specimen trees removed. Should removal not be necessary, every effort will be made to save the trees.

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

The existing SWM facility requires upgrades to ensure it continues to provide water quality benefits to the watershed. The project goals are to repair the existing stormwater pond so that the pond will function as per the original design. Project goals also include ensuring that the pond meets design and safety standards. Due to the need for this project, the applicant and community would be at risk from a failing facility and deprived of improved water quality and treatment of stormwater.

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

The very nature of this project is to protect the environment by improving water quality and providing a stable facility. Project benefits will be realized both within the project area and downstream through a more stable facility and improved water quality after the project is implemented. Additionally, the project footprint has been minimized and every effort will be made to only selectively remove those trees necessary to accomplish the project. Erosion and sediment controls will be put in place to protect the area around the limits of disturbance.

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

The existing SWM facility requires upgrades to ensure it continues to provide water quality benefits to the watershed. The project goals are to repair the existing stormwater pond so that the pond will function as per the original design. Project goals also include ensuring that the pond meets design and safety standards. Due to the need for this project, a variance to perform this work will not confer a special privilege denied to other applicants petitioning to do similar work but instead will more appropriately match the goals and resources of the project to the overall intent of the regulations.

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

The existing SWM pond was constructed in the early 1980s and is no longer functioning as designed. The circumstances are not the result of applicant actions. These repairs are necessary over time despite regular maintenance. The project goals are to repair the existing stormwater pond so that the pond will function as per the original design.

**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; and**

There is no evidence that the conditions arose from a condition relating to land or building use, either permitted or nonconforming on a neighboring property.

**Directors Action:** Approval of alternative compliance of Section 16.1205(a)(3)\* and 16.1201(v) 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 1.65 acre of disturbance shown on the alternative compliance exhibit unless it can be sufficiently demonstrated by the applicant to be justified.
2. The removal of the 5 specimen trees will be mitigated by planting 10 native trees with a DBH of 3" as shown on the plan exhibit.
3. Prior to the application of building or grading permits, the Department of Public Works shall pay a fee-in-lieu of \$49,005.00 to SAP Account 2060000000-3000-3000000000-PWPZ000000000000-432521. A copy of the transfer

receipt and a completed Forest Conservation Summary Chart shall be submitted to DPZ- Division of Land Development once completed.

4. The applicant shall obtain all required authorizations and permits from the Department of Inspections, Licenses and Permits, Maryland Department of the Environment and U.S. Army Corps of Engineers for disturbances within the floodplain, wetlands, streams and their buffers. Reference the applicable MDE or USACOE permits or tracking numbers on the alternative compliance plan exhibit and any County permit applications.

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

**Certificate Of Completion**

Envelope Id: 3DF89961229F45F3AB636390FE8B7780	Status: Completed
Subject: Please DocuSign: WP-22-058 Cardinal Forest WP, appr ltr.docx, WP-22-058 Cardinal Forest DAR.doc...	
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: 167.102.191.18

**Record Tracking**

Status: Original	Holder: Anthony Cataldo	Location: DocuSign
6/30/2022 4:05:04 PM	acataldo@howardcountymd.gov	

**Signer Events**

Anthony Cataldo  
 acataldo@howardcountymd.gov  
 Division Chief  
 Howard County Government  
 Security Level: Email, Account Authentication (None)

**Signature**

DocuSigned by:  
  
 1EB75478A22B49A...  
 Signature Adoption: Uploaded Signature Image  
 Signed by link sent to  
 acataldo@howardcountymd.gov  
 Using IP Address: 167.102.191.18

**Timestamp**

Sent: 6/30/2022 4:05:27 PM  
 Viewed: 6/30/2022 4:05:34 PM  
 Signed: 6/30/2022 4:06:44 PM  
 Freeform Signing

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
<b>Editor Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Agent Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Intermediary Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
Envelope Sent	Hashed/Encrypted	6/30/2022 4:05:28 PM
Certified Delivered	Security Checked	6/30/2022 4:05:34 PM
Signing Complete	Security Checked	6/30/2022 4:06:44 PM
Completed	Security Checked	6/30/2022 4:06:44 PM
<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>



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Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

December 15, 2021

Mr. Brian Cleary, PE
Storm Water Management Division
Howard County Department of Public Works, Bureau of Environmental Services
9801 Broken Land Parkway
Columbia, MD 21046

RE: WP-22-058 Cardinal Forest SWM Pond Repair
Deferred for required justification

Dear Mr. Cleary:

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 revised justification should be submitted to this Division for distribution in the following manner:

Agency: DLD #Copies: 1

The requested information and revised plans must be submitted within 45 days of the date of this letter (on or before January 28, 2022\*), 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.

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.

Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 21043 or dropped in the bin labeled 'DLD' at the Department of Planning and Zoning Public Service Counter located on the first floor of the George Howard Building. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Donna Despres at (410) 313-3429 or email at ddespres@howardcountymd.gov.

Sincerely, DocuSigned by:

[Signature]

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/DD
Attachments (3): comments from DLD, OCS, HCSCD
cc: Research
DED
DLD - Julia Sauer
Real Estate Services



**WP-22-058 Cardinal Forest SWM Pond Repair**

**Division of Land Development Comments**

**Donna Despres, December 15, 2021**

Plan Exhibits:

1. Please clearly label all specimen trees and show their critical root zone on the plans. SP-5 appears to not have a label.
2. Please show on the plans the proposed mitigation for the removal of the specimen trees.
3. Add a General Note to the Forest Conservation Plan summarizing how the project complies with the Forest Conservation regulations in the Subdivision and Land Development Regulations. Fee in lieu cannot be approved for an obligation over 1 acre.
4. Please add a General Note to the Forest Conservation Plan summarizing the Essential and Necessary disturbance approval letter issued by DPZ October 8, 2001.

Written Justification:

Justification for relief of Section 16.1216(d) and Section 16.1201(v) must address the following 7 criteria:

1. **Describe the special conditions peculiar to the property which would cause the unwarranted hardship.**
2. **Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas.**
3. **Verify that the granting of a variance will not adversely affect water quality.**
4. **Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants.**
5. **Verify that 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.**
7. **Provide any other information appropriate to support the request.**

Justification for relief of Section 16.155(a)(i)(ii) must address the one following criteria:

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





HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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■ 410-313-2350

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Amy Gowan, Director

FAX 410-313-3467

Justification for relief of Section 16.115(c) must address the following 4 criteria:

- 1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas;**
- 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;**
- 3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants and;**
- 4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.**



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

(410) 313-2350

**DPZ Office Use only:**  
 Case No WP-22-058  
 Date Filed 12/2/21

**ALTERNATIVE COMPLIANCE COMMENT FORM**

**Date: 12/2/21**

**Comment Due Date: 12/16/21**

**DPZ File No: WP-22-058**

**Cardinal Forest SWM Pond Repair**

**This request for comments has been distributed to the following Departments.**

<b>DPZ – Comprehensive &amp; Community Planning</b>	<b>DPZ – Development Engineering Division</b>
<b>DPZ – Research Division</b>	<b>DPZ – Resource Conservation Division</b>
<b>Department of Fire and Rescue Services</b>	<b>Recreation and Parks</b>
<b>Department of Inspections, Licenses &amp; Permits</b>	<b>Office of Transportation</b>
<b>DPW, Real Estate Services &amp; Directors Office</b>	<b>Office of Community Sustainability</b>
<b>Health Department</b>	<b>Soil Conservation District</b>
<b>Public School System</b>	<b>State Highway Administration</b>

**COMMENTS:**

The applicant needs to supply appropriate information as indicated in the Forest Conservation Act, section 16.1216 – Variances, in order for the County to approve the removal of specimen trees.

[https://library.municode.com/md/howard\\_county/codes/code\\_of\\_ordinances?nodeId=HOCOCO\\_TIT16PLZOSULADERE\\_SUBTITLE\\_12FOCO\\_S16.1216VA](https://library.municode.com/md/howard_county/codes/code_of_ordinances?nodeId=HOCOCO_TIT16PLZOSULADERE_SUBTITLE_12FOCO_S16.1216VA)

Bill Mahoney 12.15.21  
 \_\_\_\_\_  
**Print Name Date**



Howard County  
DPZ, Howard County  
Ellicott City, MD

Date: December 13, 2021  
Re: Cardinal Forest  
SWM Pond Improvements  
**WP-22-058**

The above referenced plan has been reviewed by the Howard Soil Conservation District for compliance with sediment control, pond safety, temporary stormwater management, and sensitive area protection requirements. Results of the review are as follows:

- ( X ) Howard SCD approval is not required. However, the following recommendations and requests are being made to the Department of Planning & Zoning.
- ( ) The plan is approved, subject to signatures being placed on the original(s). Any alterations to the plan shall void approval.
- ( ) Address all comments which, due to their minor nature, may be addressed directly on the original(s) at the time of formal signature approval. There is no need to resubmit the plan.
- ( ) Address all comments as noted below and resubmit the plan for further review.

**REVIEW COMMENTS:**

1. 16.155(a)(1)(ii)- Waiver of site plan: No objection to waiver subject to plan approval (EP-17-006) through our office.
2. 16.155©- 100 Year Floodplain: No objection to waiver subject to plan approval (EP-17-006) through our office.
3. 16.1216(d)- Specimen Trees: No mitigation was presented. We have no objection to Removal of Specimen Trees, subject to replacement of specimen tree removal meeting the Howard County Forest Conservation Manual, Sec 3.11 (e.g. at least two Maryland native trees with a DBH of at least three inches, per tree removed.)
4. 16.1201(v)- Definition of net tract for forest conservation computations: No objection to waiver.

**Warning:** All soils have limitations, ranging from slight to severe, for building homes, constructing roads and ponds, and various other uses. Please consult the *Soil Survey of Howard County* for determining soil types and their suitability for development, engineering and building.

Technical Review by:   
Geoffrey W. Schoming, P.E.



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

(410) 313-2350

<b>DPZ Office Use only:</b> File No. Date Filed
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**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:**

**Subdivision Name/Property Identification:**

**Location of property:**

**Existing Use:**

**Proposed Use:**

**Tax Map:**

**Grid:**

**Parcel No:**

**Election District:**

**Zoning District:**

**Total site area:**

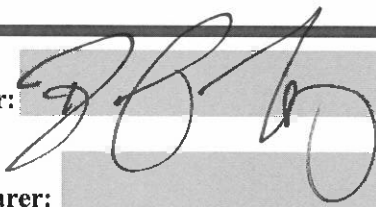
Please list all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.). If no previous plans have been submitted, please provide a brief history of the site and related information to the request:

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 Reference No.	Brief Summary of Request
Section 16.1216(d)	Removal of specimen trees - Six specimen trees will likely need to be removed to perform the necessary grading for the SWM pond repairs.
2.Section 16.1201(v)	HODPW requests a waiver to use the LOD as the net tract area.

Signature of Property Owner:



Date:

11 / 30 / 2021

Signature of Petitioner Preparer:



Date:



Name of Property Owner:



Name of Petition Preparer:

Howard County SWM Division

Address:



Address:

9801 Broken Land Parkway

City, State, Zip:



City, State, Zip:

Columbia, MD 21046

E-Mail:



E-Mail:

bcleary@howardcountymd.gov

Phone No.:



Phone No.:

410-313-6455

Contact Person:



Contact Person:

Brian Cleary

Owner's Authorization Attached