



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

May 31, 2022

J2J LLC  
c/o Robert Hartson  
6685 Santa Barbara Ct. Suite E  
Elkridge MD 21075

RE: **WP-22-105 Stonewood 5 Storage (SDP-21-052)**

Dear Mr. Hartson:

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 May 20, 2022 and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, Director of the Department of Public Works and Administrator of the Office of Community Sustainability considered and **approved** your request for alternative compliance with respect to **Section 16.116(a)(1)** and **Section 16.116(a)(2)(i)** of the Subdivision and Land Development Regulations to grade within a wetland, the wetland buffer and an intermittent stream buffer.

Also, on May 20, 2022 and pursuant to Section 16.1216, the Director of the Department of Planning and Zoning, Director of the Department of Recreation and Parks and Administrator of the Office of Community Sustainability considered and **approved** your request for alternative compliance with respect to **Section 16.1209(b)(1)** of the County Code in regards to the required 75-foot minimum forest width from the banks of a perennial and intermittent stream.

Please see the attached Final Decision Action Report for more information.

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/or grading/building permits. This alternative compliance approval will remain valid for one year from the date of this letter.

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

Sincerely,

DocuSigned by:

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Anthony Cataldo, AICP, Chief  
Division of Land Development

AC/dj  
cc: Research  
DLD - Julia Sauer  
Zoning - Annette Merson  
DILP - Permit Review  
Vogel+Timmons



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## ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

DEPARTMENT OF PLANNING AND ZONING  
DEPARTMENT OF PUBLIC WORKS  
DEPARTMENT OF RECREATION AND PARKS  
OFFICE OF COMMUNITY SUSTAINABILITY

**RE:** **WP-22-105 Stonewood 5 Storage**  
*Request for an alternative compliance to Sections 16.116(a)(1), 16.116(a)(2)(i) of the Subdivision and Land Development Regulations and Section 16.1209(b)(1) of the County Code.*

**Applicant:** J2J LLC c/o Robert Hartson

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **approved** the applicant’s request for an alternative compliance with respect to **Section 16.116(a)(1)** and **16.116(a)(2)(i)** of the Subdivision and Land Development Regulations. The purpose is grade within a wetland, the wetland buffer and intermittent stream buffer to construct a 5-story storage building, stormwater management, parking and access driveways.

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 applicant’s request for an alternative compliance with respect to Section 16.1209(b)(1) of Subtitle 12 of the County Code in regards to the required 75-foot minimum forest width from the banks of a perennial and intermittent stream.

The Directors deliberated the application for all Sections in a meeting on May 20, 2022.

Subtitle 1: Sections 16.116(a)(1) and 16.116(a)(2)(i)

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 rights commonly enjoyed by others in similar areas.**

The subject site is part of the Stonewood Business Park. It’s a 1.80-acre area that is primarily woodland and contains a stream and wetlands. An originating headwater exists where a definable stream channel begins. At the northern end of the site the stream is ephemeral but becomes intermittent after a sharp gradient drop. The applicant proposes to impact the current stream, stream buffer, wetland and wetland buffer for the purpose to construct a 5-story storage building, associated parking, stormwater management and access driveway. This 1.80-acre area was incorporated (merged) into the Employment Center-Industrial land use as recorded under FDP-142-A-II to create a 12.17-acre industrial

development to allow development associated with Parcel A-1 (filed under SDP-05-105) for two warehouse buildings, parking spaces, a stormwater management facility and related improvements. The concept for this site included channeling the existing stream in a culvert which was to be mitigated off-site with the creation of wetlands as approved by MDE. Although the channel wasn't constructed, this off-site mitigation was satisfied. Since mitigation is typically only required when relief from a requirement is granted, strict conformance with these requirements at this time will deprive the applicant of rights typically afforded to others.

**2. The uniqueness of the property or topographical conditions would result in practical difficulty, other than economic, or unreasonable hardship from strict adherence to the regulations.**

The existing environmental areas located on site limit the developable area for the proposed improvements as envisioned under FDP-142-A-II, amended and recorded in 2006. The stream, wetlands and their buffers are in the center of this 1.80-acre area. The subject stream and wetland area are located below a culvert which is located under an abandoned CSX railroad spur. The discharge to the culvert originates from the existing warehouse building site located north of the CSX right-of-way. Due to the current site's location adjacent to the railroad impoundment, the location of the existing culvert under that impoundment which feeds and creates the intermittent stream and wetlands on site, and the lower elevation of the site relative to the impoundment, the topographical conditions result in a practical difficulty in adhering to the regulations.

**3. The variance will not confer on the applicant a special privilege that would be denied to other Applicants**

The relief requested is the minimum necessary to establish the proposed storage facility. The Maryland Department of Environment, Wetlands and Waterways Program has approved and issued the required permits on December 8, 2016 and the property owner has fulfilled the off-site mitigation requirement plans as approved known as the Rhodes Farm Wetland Mitigation Plan, Phase II. There is no other reasonable alternative available within the subject area which can accommodate the proposed use. With the mitigation already constructed and functioning, this action would not confer a special privilege upon the applicant that would be denied to others considering the specific situation.

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

The approval of this alternative compliance is not detrimental to the public health, safety or welfare, or injurious to other properties. The applicant states that the impacts to the stream and wetlands provide for the safe and non-erosive conveyance of discharge from the existing 24" corrugated metal pipe (CMP) to the proposed rip rap channel to maintain velocity to a non-erosive level.

**5. Disturbance is returned to its natural condition to the greatest extent possible**

The grading, removal of vegetative cover and trees and limits of construction (building and parking area) is the minimum required to reasonably develop the site. MDE previously approved the channelization of this stream into a culvert thereby eliminating the natural condition that exists on-site. The applicant was required to recreate a wetland off-site as mitigation for this impact and completed that work known as Rhodes Farm Wetland Mitigation Plan, Phase II. That off-site mitigation returned that portion of land

back to its natural condition to the greatest extent possible since this would not be accomplished within the area to be disturbed on site.

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

The development of the subject area proposes the use of various environmental site design practices, including modular wetlands, permeable surfaces, and a submerged gravel wetland. MDE has granted the applicant/owner authorization to grade/construct within the stream, stream buffer, wetlands, and wetlands buffer (permit no. 14-NT-0088/201460310). In addition, mitigation for the stream and wetlands disturbance has been approved by the MDE- Wetlands and Waterways Program for a wetland mitigation plan approved on December 8, 2016, known as the Rhodes Farm Wetland Mitigation Plan, Phase II. The applicant provided supporting data that includes a Wetland Mitigation Plan approval letter from MDE and a copy of the Wetland Mitigation Plan that shall replace and improve upon the biological, water quality, and hydrological functions of the wetlands that are to be impacted.

**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. In these cases, the least damaging designs shall be required, such as bridges, bottomless culverts or retaining walls, as well as environmental remediation, including the planting of the areas where grading of vegetative cover or trees has taken place, utilizing best practices for ecological restoration and water quality enhancement projects.**

The grading, removal of vegetative cover and trees and limit of construction is the minimum required to reasonably develop the site. The proposed building footprint was reduced from the original 28,000 SF to 24,249 SF to provide adequate area for the safe and non-erosive discharge from the 42" Reinforced Concrete Pipe (RCP) to the existing intermittent stream and to retain a small portion of undisturbed wetlands. The fire lane section specifies permeable materials to further reduce runoff and promote ground recharge. The submerged gravel wetland will further enhance water quality and will treat the building roof.

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

1. Disturbance should be only for the minimum necessary to construct the storage building, parking, bioretention area, utility upgrades, and the necessary grading shown in the limits of disturbance on the exhibit.
2. All disturbances on site within the limits of disturbance must be fully contained and stabilized after the proposed improvements.
3. Full compliance with the requirements and conditions approved under the Wetland Mitigation Plan and permits authorized by the Maryland Department of Environment (MDE) wetlands and waterways program.

- 4. MDE and the Army Corps of Engineer permits must remain valid at the time construction for the storage facility begins and that the wetland mitigation for the Rhodes Farm property remains valid.
- 5. The limits of disturbance (LOD) must be outside of the Green Infrastructure Network boundary line.
- 6. Compliance with all review agency comments for SDP-21-052.

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*Amy Gowan*

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Amy Gowan, Director  
Department of Planning and Zoning

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*Thomas Meunier*

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Thomas Meunier, Director  
Department of Public Works

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*Joshua Feldmark*

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Joshua Feldmark, Administrator  
Office of Community Sustainability

**Subtitle 12: Section 16.1209(b)(1)**

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unwarranted hardship. This determination is made with consideration of the variance application and the seven (7) items the applicant was required to address, pursuant to Section 16.1216(c)(1)-(7):

**1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship.**

The subject site is part of the Stonewood Business Park. It's a 1.80-acre area that is primarily woodland and contains a stream and wetlands. An originating headwater exists where a definable stream channel begins. At the northern end of the site the stream is ephemeral but becomes intermittent after a sharp gradient drop. The applicant proposes to impact the stream, stream buffer, wetland and wetland buffer for the purpose to construct a 5-story storage building, associated parking, stormwater management and access driveway. This 1.80-acre area was incorporated (merged) into the Employment Center-Industrial land use as recorded under FDP-142-A-II to create a 12.17-acre industrial development. The reason for its incorporation was to facilitate the development associated with Parcel A-1 (filed under SDP-05-105) for two warehouse buildings, parking spaces, a stormwater management facility and related improvements.

This property was not subject to the Section 16.1200 (Forest Conservation Act) of the Code when the SDP was initially filed on June 30, 2021, because it was exempt per Section 16.1202(b) for a planned unit development that had preliminary development plan approval prior to December 31, 1992 (NT Zoning). However, as of January 3, 2022, the property has become subject to forest conservation, per Council Bill 66-2021. The site design and engineering for this project was initially planned without consideration of the forest conservation regulations. The subject stream and wetland area are located below a culvert which is located under an abandoned CSX railroad spur. The discharge to the culvert originates from the existing warehouse building north of the CSX right-of-way, and due the lack of stormwater management provided by the existing industrial area, created the incised intermittent channel and wetland on the subject property. To stabilize the existing culvert outfall and develop the site, the applicant proposes to convey the equivalent of a 100-year storm event into a 42" RCP and discharge into the intermittent stream channel south of the property. Given the stream channel was previously approved to be piped in order to develop the property, the applicant cannot comply with the required creation of a nonresidential development requirement to create a Forest Conservation easement with a minimum 75-foot width to protect the existing wetland and stream buffers that exist on-site. The applicant does intend to address this project's forest conservation requirement by purchasing credits from an off-site forest mitigation bank.

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

The subject property was not initially subject to the Forest Conservation Act when the SDP was filed for review. However, as of January 3, 2022, the property became subject to the Act and must now comply. The previously approved concept for this site included MDE approval to channel the existing stream in a culvert which was to be mitigated off-site with the creation of wetlands. Although the channel wasn't constructed, this off-site mitigation was satisfied. Since mitigation is typically only required when relief from a requirement is granted strict conformance with these requirements at this time will deprive the applicant of rights typically afforded to others.

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

There is no evidence that the granting of a variance will adversely affect water quality. The development is subject to the current Environmental Site Design criteria that include a combination of water treatment practices to address water quality. The proposed design will provide a controlled, non-erosive discharge to the existing intermittent stream and the submerged gravel wetland will further enhance water quality. Stormwater management and soil erosion and sediment control measures will be implemented under the grading permit.

**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 relief requested is the minimum necessary to establish the proposed storage facility. The Maryland Department of Environment has approved and issued the required permits. Mitigation for the stream and wetlands disturbance has been approved by the Maryland Department of Environment (MDE), Wetlands and Waterways Program for a wetland mitigation plan approved on December 8, 2016, known as the Rhodes Farm Wetland Mitigation Plan, Phase II. There is no other reasonable alternative available within the subject area which can accommodate the proposed use. Therefore, the County would not be

conferring a special privilege upon the applicant that would be denied to others considering this site specific situation.

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

The unique conditions of the property, the stream and wetlands, are not conditions or circumstances which is the result of actions by the applicant. The previous owner (Howard Research and Development) had incorporated this 1.8-acre property into this FDP land use in 2006 with the intent to develop this site with a permitted industrial use and off-site mitigation was created to address the regulations in effect at that time. CB66-2021 removed the site's previous exemption requiring the applicant to now address forest conservation which they are proposing to accomplish to extent possible on this challenging site.

**6. Verify that the condition did not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.**

The intent of the regulation is to protect the riparian area by planting or retaining forest within 75 feet of the stream bank. Although the intermittent stream channel on-site was created from drainage north of the property, the 2006 plan included piping this stream channel with off-site mitigation required. Had that work been complete at that time to develop the property as previously planned and intended, the riparian area associated with this site would have been eliminated with the environmental impacts fully mitigated as per MDE's approved off-site plan which provided a net positive environmental benefit than protection of this small section of intermittent stream.

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

The applicant provided supporting data that includes a Wetland Mitigation Plan approval letter from MDE and a copy of the Wetland Mitigation Plan that shall replace and improve upon the biological, water quality, and hydrological functions of the wetlands that are to be impacted. This information is pertinent to this request because it part of an off-site mitigation plan approval for the wetland impact to the subject property where forest conservation would had been provided.

**Directors Action:** Approval of this alternative compliance is subject to the following conditions:

1. Credits from an established forest mitigation bank must be purchased for the minimum amount required to fulfill this project's (SDP-21-052) forest conservation requirement.
2. A redline revision to the forest mitigation bank SDP must be completed prior to the approval of the SDP for the proposed storage building project (SDP-21-052).
3. A note added to SDP-21-052 with this alternative compliance request, file number, date of approval, and conditions of approval.
4. Compliance with all review agency comments for SDP-21-052.

WP-22-105 Stonewood Storage 5

Page 7

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*Amy Gowan*

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Amy Gowan, Director  
Department of Planning and Zoning

DocuSigned by:

*Raul Delorme*

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Raul Delorme, Director  
Department of Recreation and Parks

DocuSigned by:

*Joshua Feldmark*

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Joshua Feldmark, Administrator  
Office of Community Sustainability

cc: Research  
DED  
OCS, Joshua Feldmark  
DPW, Thomas Meunier



**Certificate Of Completion**

Envelope Id: 91B79820464C424680089E2A21E63CC6	Status: Completed
Subject: Please DocuSign: Stonewood 5 Storage - Alternative Compliance - Approval Letter.docx, Stonewood...	
Source Envelope:	
Document Pages: 8	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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Anthony Cataldo  
 acataldo@howardcountymd.gov  
 Division Chief  
 Howard County Government  
 Security Level: Email, Account Authentication (None)

**Signature**

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 Signature Adoption: Uploaded Signature Image  
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Sent: 5/27/2022 4:37:10 PM  
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 Signed: 5/27/2022 4:37:29 PM  
 Freeform Signing

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

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/27/2022 4:37:10 PM
Certified Delivered	Security Checked	5/27/2022 4:37:18 PM
Signing Complete	Security Checked	5/27/2022 4:37:29 PM
Completed	Security Checked	5/27/2022 4:37:29 PM
Payment Events	Status	Timestamps



**Howard County Maryland**  
**Department of Planning and Zoning**

3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:

File No. WP-22-105

Date Filed 4/4/22

**ALTERNATIVE COMPLIANCE APPLICATION**

Site Description: Stonewood Storage (Stonewood Business Center)  
 Subdivision Name/Property Identification: EGU Subdivision Parcel A-2 Section 2, Area 6  
 Location of property: 7205 Oakland Mills Road  
 Existing Use: Vacant Proposed Use: Self Storage  
 Tax Map: 42 Grid: 11 Parcel No: 528 Election District: 6th  
 Zoning District: NT Total site area: 1.79 AC.

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-12-030; WP-13-023; FDP-142-A-II; SDP-21-052

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
<u>16.116(a)(1)</u>	<u>Grading, removal of vegetative cover and trees not permitted within 25' of a wetland</u>
<u>16.116(a)(2)(i)</u>	<u>Grading, removal of vegetative cover and trees not permitted within 50' of an intermittent stream bank.</u>

Section Reference No.	Brief Summary of Request
16.1209(b)(1)	NONRESIDENTIAL PROJECTS • ESTABLISH FOREST CONSERVATION EASEMENTS WITH RETAINED OR PLANTED FOREST IN ALL ON-SITE SENSITIVE AREAS • 75' BWIDTH FOREST CONSERVATION EASEMENT FROM BANK OF INTERMITTENT STREAM.

Signature of Property Owner: Robert Harton Date: 9-7-21

Signature of Petitioner Preparer: [Signature] Date: 12/20/21

Name of Property Owner: J25 LLC Name of Petition Preparer: Vogel Engineering + Timmons Group

Address: 6685 Santa Barbara Court, Suite E Address: 3300 North Ridge Road, Suite 110

City, State, Zip: Elkridge, MD 21075 City, State, Zip: Ellicott City, MD 21043

E-Mail: [Redacted] E-Mail: rob.vogel@timmons.com

Phone No.: 443-459-5080 Phone No.: 410-461-7666

Contact Person: Robert Harton Contact Person: Robert H. Vogel

Owner's Authorization Attached