

a. “Summarize any extraordinary hardships or practical difficulties which may result from strict compliance with the Regulations.”

Lot 15 of the Gaither Farm subdivision has a considerable amount of forest contiguous with the adjoining subdivision and its existing forest easement. Although the owner of this property is willing to protect this forest within a forest conservation easement, extraordinary hardships and practical difficulties arise due to the size of this lot being under 10 acres.

It should be noted that the overall Gaither Farm subdivision occurred prior to the Forest Conservation Act enactment with no way to anticipate or balance the need to retain forest on the property, or address retention credit in open space areas.

b. “Verify that the intent of the Regulations will be served to a greater extent through the implementation of the alternative proposal.”

Approval of this Alternative Compliance Application will allow the protection of onsite existing forest resources, which happen to be part of a larger off-site forested easement area. The retention of the mature healthy forest onsite will be of direct benefit to the site's watershed and habitat value of the area, which will serve the intent of the regulations to a greater extent. As in lots/parcels greater than 10 acres in area, this particular lot provides a 35' building setback from environmental features (forest conservation easement) as required by current regulations.

c. “Substantiate that approval of the alternative compliance will not be detrimental to the public interests.”

With the approval of this Alternative Compliance Application, additional area of the existing forest stand can be maintained. The added forest conservation easement will serve as an expansion of the larger easement and is not detrimental to the public interest, but rather serve the public interest to a greater degree. Our firm has obtained similar Alternative Compliance approvals in the past with positive impact to the public interest by providing protected forest easements, on lots under 10 acres with mature forest stands. An example of this can be found on the Renfro Property, (WP-12-174) where forest conservation easements crossed lots under 10 acres and yet contributed to a larger forest conservation easement.

d. “Confirm that approval of the alternative compliance will not nullify the intent of the Regulations.”

As with most projects that require forest conservation to be addressed, where possible, on-site retention is considered the recommended method of meeting forest obligations. Granting the ability to provide on-site forest conservation easement will meet this condition and is not a nullification of the intent of the Regulations.

We strongly believe that approval of this Alternative Compliance Application will provide greater forest protection and serve the regulations to a greater extent, and we look forward to its approval.

However, please note that our office is of the position that the qualified forest located on the property, even though not placed into a recorded forest conservation easement by plat, may be designated as “Retention Credit” for the purposes of Forest Conservation Worksheet obligation to achieve the minimum “Break-Even Point” in accordance with Howard County Department of Planning and Zoning memo dated July 15, 2010, removing the need for a recorded easement.