



Howard County Department Of Planning And Zoning  
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

[www.howardcountymd.gov](http://www.howardcountymd.gov)  
FAX 410-313-3467  
TDD 410-313-2323

March 25, 2010

James Fawcett  
4941 Bonnie Branch Road  
Ellicott City, Maryland 21043

RE: WP 10-111/Fawcett Property  
F-07-193, Lots 1 and 2

Dear Mr. Fawcett:

The Director of the Department of Planning and Zoning considered your request for waivers from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request to waivers of Section 16.144(r)(3) to reactivate the final plan, F-07-193 and to extend the due date by which to submit revised plans; Section 16.120(b)(4)(iii)b. to allow forest conservation easements on lots less than 10 acres in size on Lots 1 and 2 of the Fawcett Property and to Section 16.1205(a) to allow the removal of Specimen Tree Nos. 1 and 5, subject to the following conditions:

1. Reactivation of the final plan, F-07-193, is herewith approved and an extension of time by which to submit revised plans is granted. A revised plan letter for F 07-193 shall be forwarded to the property owner which will grant a 45 day extension from the date of the letter to submit revised plans. Additional comments attached from the Division of Land Development and the Development Engineering Division must be addressed prior to submission of the revised plan.
2. A 35' Building Restriction Line from the Forest Conservation Easements located on both Lots 1 and 2 shall be shown on the final plan for F-07-193, in accordance with Section 16.120(b)(4)(iii)b.
3. Removal of Specimen Tree Nos. 1 and 5 as shown on the Forest Stand Delineation Plan is approved for the construction of the use-in-common driveway as shown on the applicants supplemental exhibit for F-07-193. A note shall be added to the final plan indicating Specimen Tree Nos. 1 and 5 may be removed in conjunction with construction of the shared driveway and that all other Specimen Trees as shown on the Forest Stand Delineation Plan shall be retained.
4. In accordance with Section 16.125(b)(1), tree and vegetative removal and grading along Bonnie Branch Road, a scenic road, shall be the minimum to construct the shared driveway. Any new developments located along a scenic road must maintain at least a 35' buffer of existing forest or wooded area between the road and the new development.
5. Approval of the aforementioned waiver petition requests shall not be construed to allow the construction of any retaining walls within building restriction setbacks as applicable nor negate any further design manual waivers as may be necessary to construct the shared driveway.
6. Please be aware that the 2007 Storm Water Management Regulations are currently in effect but that the new State Regulations will go into effect on May 4, 2010. Any projects not having an approved storm water management plan and sediment and erosion control plan by May 4, 2010, will require revised plans designed to meet current regulations.

**JUSTIFICATION FOR APPROVAL:**

1. Extraordinary hardships or practical difficulties will result from strict compliance with the Regulations. The final plat, F-07-193, was submitted May 9, 2007, for the creation of three building lots, but was ultimately reduced to two lots. Lot 1 will consist of .915 acres and contain an existing house. Lot 2 will consist of 1.409 acres and will be situated behind Lot 1. Due to driveway grading and steep slope issues on the site, revised plans were requested. Waiver Petitions, WP 06-107 and WP 07-115, were subsequently submitted to allow grading on steep slopes having a contiguous area of 20,000 sq.ft. for the construction of a shared driveway; both were denied. A Design Manual waiver request to allow a driveway with a grade greater than 15% and to reduce a UIC driveway to 14' in width was also denied. Since all waiver requests were denied due in part to safety issues regarding construction of the shared driveway on slopes in excess of 60%, the property owner allowed the subdivision plan to go void on September 5, 2007, until a more feasible grading design could be found. The owner has now submitted a new exhibit which shows revised contiguous areas of steep slopes at no greater than 18,727 sq.ft., therefore, waiver to Section 16.116(b)(1) is no longer required. Waiver request is necessary to allow forest conservation easements on lots less than 10 acres in size and to permit the removal of two specimen trees for construction of the shared driveway. A Design Manual waiver to the maximum driveway grade has been submitted. The owner will fulfill forest conservation obligations by placement of existing forest and reforestation into a .27 acre easement along Bonnie Branch Road (Scenic Road) on Lot 1 and a .27 acre retention easement along the rear of Lot 2. Location of these easements is the most logical due to the restrictions of an existing house and placement of the shared driveway which bisects the center of the parcel. This Division would promote placement of forest easements on open space areas when possible. In this case, however, two open space lots would be required resulting in reduction of buildable lot areas and require the formation of a Homeowner's Association for approximately 11,000 sq.ft. open space lots. Creation of a Homeowner's Association for a two lot subdivision would be expensive and impractical and serve no real purpose.

The owner proposes to construct a shared driveway within the pipestem area of Lot 2 which will wrap around to the rear of Lot 1. After numerous revisions to the driveway construction details, the owner has reached the best possible design and location. Consideration has been given to protecting the steep slopes, saving existing forest and vegetation and retaining specimen trees. It will be necessary, however, to remove two specimen trees for construction of the driveway: Specimen Tree No. 1; a 37" Black Oak, and Specimen Tree No. 5; a 30" Chestnut Oak. Specimen Tree No. 5 is located in the middle of where the proposed driveway will be constructed, and Specimen Tree No. 1 is unhealthy and will interfere with priority storm water management. The owner has undergone years in processing this subdivision and has endured considerable delay and financial hardship in proposing a safe and conforming design. To deny the waivers would cause further undue hardship and render this property undevelopable. The better solution is to approve the waiver requests with conditions which will protect the environmental features and prohibit future subdivision.

2. The requested waivers will not be detrimental to the interest of the public. The owner is not circumventing the intent of the Subdivision or Zoning Regulations but is only attempting to reach a safe compromise to create one new lot. Existing forest located along Bonnie Branch Road and to the rear of Lot 2 will be retained and be better protected by placement in forest conservation easements. Creation of the easements will also serve to restrict further resubdivision of either lot. In addition, a 35' building restriction line will be required from the easement located on Lot 1 for placement of any future house should the existing home be removed, as well, as from the easement to be located on Lot 2. Removal of Specimen Tree Nos. 1 and 5 shall be for construction of the shared driveway only. All other specimen trees and existing vegetation shall remain and grading will be the minimum to afford relief.

3. The intent of the Regulations will still be served to a greater extent through implementation of an alternative proposal and approval of the waiver request(s) will not nullify the intent of the Regulations. After years in the process and encountering numerous design problems, the applicant has decided to continue processing of the subdivision, F-07-193. Reactivation of the final plan will be the better alternative than voiding the plan and requiring resubmission. The final plan layout has not significantly changed in design and no new roadways or additional lots are proposed. Delay of this subdivision has only occurred until processing of Subdivision and Design Manual waivers were considered. Alternative proposals to the waiver requests have been considered. Creation of open space lots owned by a Homeowner's Association to contain forest conservation easements is not practical and the Department of Recreation and Parks did not accept land into the park land program. The owner considered several driveway locations to save specimen trees. Access from adjacent properties was not suitable. Property to the north and south consisted of similar steep slopes and property to the east has been developed as the Crestwood Subdivision. The only solution is to construct a shared driveway from Bonnie Branch Road along the southern property line and down the center of the parcel. The proposed new driveway will be in the best possible location so as to allow easy ingress/egress to the existing garage on Lot 1 and for shared access to the proposed house on Lot 2. The driveway grade will be compliant to allow for safe access by emergency vehicles and is proposed at a maximum grade due to existing slope constraints and grading restrictions along a scenic road. The owner is attempting to reduce disturbance by the use of retaining walls and will replant vegetation where applicable. Retaining walls shall not be over 3' in height within the setback areas or a variance will be required. The driveway located along the northern property line to the existing house will be removed and replanted with native vegetation to enhance the scenic character of Bonnie Branch Road.

Indicate this waiver petition file number, request, section of the regulations, action taken, date and conditions of approval on all related plats, site development plans and building permits. This requested waiver petition application will remain active for as long as the subdivision is in process. Should you have any questions regarding this matter, please contact Brenda Barth at (410) 313-2350 or email: [bbarth@howardcountymd.gov](mailto:bbarth@howardcountymd.gov).

Sincerely,



Kent Sheubrooks, Acting Chief  
Division of Land Development



:btb

cc: Research/DED  
Louis Bernstein, PE  
F-07-193