



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

Marsha S. McLaughlin, Director

www.howardcountymd.gov
FAX 410-313-3467
TDD 410-313-2323

June 2, 2011

Thomas and Lucinda Wahl
7110 Flint Court
Middletown, Maryland 21769

RE: WP-11-177/4361 College Avenue
(Wahl Property)

.Dear Mr. and Mrs. Wahl:

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 for waivers to Sections: **16.115 (b)** requiring flood plain be placed on open space land dedicated to Howard County or Homeowners Association; **16.115(c)** prohibiting location of structures or grading in the flood plain; **16.116(a)** prohibiting grading in the wetlands, streams or their buffers and requiring wetlands, streams and their buffers be placed on open space land; **16.116(b)** prohibiting grading and paving on steep slopes; **16.117** requiring forest conservation easements be located on open space land; and, Section **16.1205(a)(7)** prohibiting the removal of specimen trees having a diameter of 30" or larger. Approval is subject to the following conditions:

1. A site development plan shall be required for development of a single family home on Parcel 194 and for construction of a driveway across Parcel 262.
2. The uninhabitable dwelling located on the eastern portion of Parcel 194 shall not be used for residential purposes. The property owner shall provide to this Division a copy of written approval from the Division of Public Service and Zoning Administration to allow the conversion of the existing uninhabitable dwelling to a "studio" with submission of the site development plan.
3. A Cemetery Boundary Documentation and Accommodation Plan shall be submitted to the Department of Planning and Zoning showing the boundaries of the existing cemetery, public access and how the cemetery will be accommodated with the development. This information will be forwarded for review and approval by the Planning Board at a regular scheduled meeting prior to final approval of the site development plan.
4. Application for all permits as may be required by the Maryland Department of the Environment for the disturbance of the wetlands, floodplain and/or stream crossing for construction of a new driveway or upgrades to the existing off-site driveway. In accordance with comments received from the Development Engineering Division, the owner should attempt to follow the previous existing driveway located across Parcels 262 so as to limit the disturbance of the environmental features.
5. Application of any Design Manual Waivers from the Development Engineering Division, Department of Planning and Zoning, as may be necessary for construction of a new driveway or upgrades to the existing off-site driveway with regard to width and driveway grade.
6. Submission of an Environmental Concept Plan to the Development Engineering Division, Department of Planning and Zoning, for review and approval prior to submission of the site development plan.
7. Application of any waiver as required with the Bureau of Engineering, Department of Public Works, to utilize private well and septic for property located within the metropolitan district.

8. Approval from the Health Department for construction of a private well and septic system on Parcel 194.
9. Deeds for the on-site forest conservation easement(s) shall be submitted with the site development plan submission and recorded by the Real Estate Services Division of the Department of Public Works, prior to final approval of the site development plan.
10. Approval for the removal of Specimen Trees G, H, J and K, only as shown on Plan Sheet/Exhibit C-2 of the Waiver Petition Application.
11. All grading and tree clearing within the wetlands, wetlands buffer, stream bank buffer and steep slopes shall be minimized to the extent required to construct the proposed house and driveway.
12. Compliance with all other County and State regulations and requirements as may be applicable for construction of the new dwelling and driveway.

JUSTIFICATION FOR APPROVAL:

1. Extraordinary hardships or practical difficulties will result from strict compliance with the Regulations. The subject site consists of Parcel 262, containing .73 acres of land and Parcel 194, containing 8.24 acres of land, located to the north of College Avenue, Ellicott City. Both parcels are considered "landlocked" and are accessed by a shared driveway which begins at College Avenue and extends northward across other landlocked parcels. A 10' right-of-way easement has been recorded on Plat 3987 of the adjoining Peterson Property Subdivision to allow access to College Avenue. Parcel 194 contains steep slopes, a perennial stream and 75' stream bank buffer. Parcel 262 contains steep slopes, a small portion of wetlands, wetlands buffer and 75' stream bank buffer. The existing shared driveway along the eastern portions of Parcels 194 and 262, crosses over the environmental features and allows for access to homes located on adjoining Parcels 261 and 192. A small abandoned dwelling is located entirely within the 75' stream bank buffer of Parcel 194 and had access to the shared driveway. Although Parcels 194 and 262 are zoned R-ED, the property owner has elected to develop the site in accordance with the R-20 Zoning Regulations. Accordingly, one-single family home and driveway will be constructed on Parcel 194, with a portion of the new driveway continuing across Parcel 262 to connect to the shared driveway. The abandoned house located on Parcel 194 will be converted into a "studio" upon construction of the proposed single-family dwelling. Surrounding homes on parcels not having public road frontage currently utilize private septic and wells, and the abandoned house on Parcel 194 at one time was also connected to a private septic and well systems. The applicant proposes to continue to utilize private well and septic systems for the proposed new house and will petition the Health Department and the Bureau of Engineering, Department of Public Works, for approval to not connect to public water and sewer. A cemetery is also located in the southwest corner of Parcel 194 and is identified as 25-7 on the Cemetery Inventory and is owned by the Genealogical Society. The waiver petition exhibit has shown a minimum 30' Cemetery Buffer from the approximate cemetery boundary to the Limit of Disturbance line on Parcel 194 for the construction of the driveway. The applicant shall be required to process a Cemetery Boundary Documentation and Accommodation Plan with submission of the site development plan for review and approval before the Planning Board. A total disturbance of 11,300 sq.ft. of steep slopes is proposed for construction of the house and driveway on Parcel 194, and continued driveway across Parcel 262, requiring the removal of 33,000 sq.ft. of existing forest. A total of 4 specimen trees will be removed on Parcel 194 and disturbance of a small eastern portion of wetlands, 25' wetlands buffer and 75' stream buffer, totaling 9,000 sq. ft. , will be required to construct the new driveway across Parcel 262 to connect to the existing shared driveway. In accordance with the Forest Conservation Delineation Plan, the remaining northern and eastern stand of existing forest located on steep slopes and within the stream bank buffer shall remain outside the limit of disturbance. This Department recommends that this area of forest be placed in Forest Conservation Easements. The applicant shall submit forest conservation delineation and forest conservation plan sheets with a revised worksheet with the site development plan submission. A determination of the acreage of the easement areas and further obligations will be made under the site plan review. The applicant shall be required to file any necessary Design Manual Waivers with the Development Engineering Division, Department of Planning and Zoning, with submission of the site development plan to continue use of the existing narrow width shared driveway and proposed driveway grade which exceeds 14% (as applicable). In addition, although College Avenue is a Scenic Road, the

subject property is approximately 331' off of College Avenue. Accordingly, this Department has determined that no Scenic Road Exhibit will be required for development on Parcels 194 and 262 since construction will not significantly affect vegetative or tree removal along College Avenue. Any improvements as may be required by the Development Engineering Division along College Avenue upon review of the site development plan, shall comply with regulations of the Design Manual as applicable. The applicant shall also be required to submit an Environmental Concept Plan for review and approval prior to submission of the site development plan.

2. 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. The property owner is not subdividing, but only intends to construct one single family dwelling on Parcel 194 and associated driveway across Parcel 262. These parcels have been created by deeds prior to adoption of the Subdivision and Land Development Regulations and are considered buildable. The proposed new driveway will cross a small portion of steep slopes, wetlands, wetlands buffer and 75' stream bank buffer along the eastern portion of Parcel 262. This area of environmental grading is considered by this Department to be "essential disturbance" since no other access to the house site is available without extensive grading of other portions of steep slopes. In connection with proposed grading to construct the new house and driveway, a total of four specimen trees identified as: G-30" Tulip Poplar, H-35" White Oak, J-30" American Sycamore and K-36" American Sycamore shall be removed. The area of disturbance has been reduced to the minimum possible to allow for construction of a driveway to safety standards, consideration of house orientation and protection of the cemetery boundary. The owner is not able to save these four trees, however, seven other specimen trees will be preserved. The property owner shall place existing forest into forest conservation easements as applicable and record Deeds of Forest Conservation which shall prevent any future development. These easements will be provided on Parcel 194 which is a 8.24 acre parcel. Although the parcel is not the minimum 10 acres in size to allow for Forest Conservation Easements, the site consists of high priority areas for conservation, and no further development can occur on this parcel due to steep slopes. The owner has additionally requested that the area of flood plain requiring easements, limiting improvements and showing elevations or bearings and distances on the site development plan be waived. Since the Development Engineering Division has no objection to this waiver, this Division has determined that the showing of any flood plain is not critical to the proposed development nor critical to calculation of forest conservation obligations. The owner, shall, however, be required to obtain permits from the Maryland Department of the Environment for disturbance of the wetlands, wetland buffer, and stream bank buffer as applicable. A note shall be added to the site development plan indicating permit number and approval date.

3. Approval of this waiver request will not adversely affect the interests of the public nor nullify the intent of the Regulations. The owner is not creating any new lots, changing any property lines or proposing any new roadways, but is only constructing one single family dwelling in accordance with the R-20 Zoning Regulations. A dwelling had been previously constructed on Parcel 194 but was abandoned and is uninhabitable at this time. This structure will be converted to a studio and will be aesthetically improved and upgraded. Although this structure is located entirely in the stream bank buffer, it is grandfathered to requirements prohibiting structures in environmental areas since it was built in 1900. The owner shall comply with all requirements of the Department of Inspections and Permits and the Division of Public Service and Zoning Administration with regard to any improvements to this structure. This property is located within the Metropolitan District but the previous dwelling was connected to private water and sewer. The owner intends to continue to be served by private well and septic systems and shall obtain any waivers as necessary from the Bureau of Engineering, Department of Public Works, to not connect to public water and sewer. Perc Certification from the Health Department must be submitted with the site plan submission. No detailed flood plain study has been performed for the stream segment located off-site and no 100 Year Flood Plain is indicated on the FEMA map for this stream. Requiring a full flood plain study and description would not encompass the area of disturbance and so would not have any significant application towards proposed development. Given the physical conditions of the site, impacts to the environmental features are unavoidable but will be the minimum necessary to construct a house and driveway. The owner will be required to place all existing forest not impacted by the limit of

disturbance into easement areas and thus continuously preserve the natural setting of this site. Parcel 262 also contains a small cemetery on the southwestern corner, identified as No. 25-7 of the Cemetery Inventory List. A Cemetery Boundary Documentation and Accommodation Plan shall be submitted to the Department of Planning and Zoning showing the boundaries of the existing cemetery, public access and how the cemetery will be accommodated with the development. This information will be forwarded for review and approval by the Planning Board at a regular scheduled meeting prior to final approval of the site development plan. All other County and state regulations will apply as applicable with review of the site development plan submission.

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

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development



cc: Research/DED
Tesseract Sites, Inc.
Cindy Hamilton
Forest Conservation Coordinator
Marion Honecny, DNR