



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

8/27/2024

Mr. Corey Faustin
6100 Daylong Lane
Clarksville, MD 21029

RE: WP-24-120 Faustin Estate
Alternative Compliance Approved

Dear Mr. Faustin:

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 August 22, 2024 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)** of the Subdivision and Land Development Regulations to remove 1 specimen tree, ST-67 30" Tulip Poplar, and mitigate with the planting of 2 native shade trees with a DBH of 3". **Please see the attached Final Decision Action Report for more information and conditions of approval.**

On August 20, 2024 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 120(b)(4)(iii)(b)** of the Subdivision and Land Development Regulations to to subdivide a 10.23 acre parcel into 2 smaller buildable lots and provide 100% of the forest conservation with on-site easements. The result would be two lots of less than 10 acres with forest conservation easements on the lots.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 120(b)(4)(iii)(b) would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the [four (4) items OR one (1) item] you were required to address, pursuant to Section 16.104(a)(1):

1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas;

Granting the applicants request to allow environmental features on lots smaller than 10 acres would result in preservation of the existing forest and afforestation of an area of open canopy. The size of the lots will be 3 acres and 6.9 acres. The plans also provide the 35' environmental setback required by the regulations. To deny the request would require the applicant to satisfy the forest conservation offsite in order to subdivide the parcel into two buildable lots. The County has permitted other property owners and developers to place forest conservation easements on individual lots on similar zoned properties in instances where the resultant easement is located on the site in a way that provides future owners reasonable use of their backyard while

limiting opportunities for encroachments. Further, the intent of the regulations is better served by preserving much of the original parcel in forest conservation easements.

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;

The property is almost entirely forested and has a change in elevation of 50 feet. The usable area of the property is located at the high point closer to Brighton Dam Road. By locating the proposed dwellings closer to Brighton Dam, the project avoids the areas of steep slope, minimizes clearing necessary for driveway access and building envelopes. The regulations would permit one dwelling to be built and placement of the remaining parcel in forest conservation. Allowing the easements on lots smaller than 10 acres permits the addition of a second dwelling on its own lot, with very similar area placed in forest conservation. The topography of the parcel and the buildable area close to Brighton Dam make this property ideally suited for two residential lots that can provide on-site forest conservation. To limit the owners to one buildable lot due to the existing forest conservation obligation would be an unreasonable hardship.

3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants and;

It is not a special privilege to subdivide a large lot into two lots and previous subdivisions have created buildable lots with environmental features on the lots including forest conservation easements. The resultant lots provide reasonable, usable yard space for the future owners while protecting sufficient, existing forest on site.

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

It is to the public's benefit to preserve existing forest resources on-site rather than offsite. Disturbance to the site will be limited to the areas outside the proposed forest conservation easement.

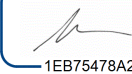
Approval of this Alternative Compliance to Section 120(b)(4)(iii)(b) is subject to the following conditions:

1. Include a note on all plan submissions that describe this application, WP-24-120, the request, the date reviewed by the Director of the Department of Planning and Zoning, their decision and the list of approval conditions.

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.

Sincerely, DocuSigned by:



1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/DD

cc: Research
DLD - Julia Sauer
Real Estate Services
DNR – fca.dnr@maryland.gov (if waiver to forest conservation sections)
FCC



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

Lynda D. Eisenberg, AICP, 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-24-120 Faustin Estate**
Request for a variance to Section 16.1205(a)(3) of the Howard County Code.

Applicant: Mr. Corey Faustin
6100 Daylong Lane
Clarksville, MD 21029

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)** of the Forest Conservation Regulations. The purpose is to remove 1 specimen tree, ST-67 30" Tulip Poplar, and mitigate with the planting of 2 native shade trees with a DBH of 3". The Directors deliberated the application in a meeting on August 22, 2024.

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 10-acre site is mostly forested, and the forest contains 75 specimen and significant trees throughout the site. The property also has areas of steep slopes. The highpoints near Brighton Dam Road are best suited for development and minimize grading and clearing further into the property. The property lines of the deeded parcel more or less follow the existing paving of Brighton Dam Road. The regulations require frontage dedication to the ultimate ROW as part of the subdivision process. The 0.66-acre area of dedication further reduces the developable area. The proposed development area has 2 of the 25 specimen trees, ST-23 and ST-67. ST-23 is in the center of the proposed circular driveway and is to remain. One specimen tree, ST-67 is located within the LOD necessary for grading the buildable area and impacts greater than 30% to the root zone are anticipated. Shifting the building envelopes to the east or west results in impacts to more specimen trees than the current proposal. Shifting the building envelopes to the south encroaches onto the steep slopes. Reducing the buildable area to preserve one specimen tree on a project proposal that preserves all but one specimen tree and provides 100% of the forest conservation obligation on-site would be considered an unwarranted hardship and beyond the intent of the regulations.
- 2. Describe how enforcement of the regulations would deprive the landowner of rights commonly enjoyed by others in similar areas.**

Strict enforcement would deprive the owners from developing the site and building the home of their design. The proposal yields less than the zoning would provide and proposes development within the most accessible portion of the site.

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, which include small filtering processes to address 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 ability to subdivide and build a custom home is not a special privilege. It would not be considered a special privilege to remove one specimen tree to construct 2 homes on a site that has the potential to subdivide for more under Zoning than what is proposed.

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

The applicant did not create the existing conditions that constrain the buildable area of the parcel.

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.

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) is subject to the following conditions:

1. Include a note on all plan submissions that describe this application, WP-24-120, the request, reviewed by the Director of the Department of Planning and Zoning, the Administrator of the Office of Community Sustainability, and the Director of the Department of Recreation and Parks, decision, decision date and list conditions of approval.
2. Approval is for removal of Specimen Tree 67 only and shall be mitigated with the planting of 2 native shade trees meeting 3" DBH. The mitigation trees shall be placed in the proposed forest conservation easements and clearly be shown on the plans.
3. Plans shall include pre-construction, construction and post construction tree protection details to protect ST-23 and improve its health and ultimate survivability. Protection methods and details shall be prepared by a licensed arborist or landscape architect.

DocuSigned by:

Lynda Eisenberg

4220B635863942E

Lynda Eisenberg, AICP, Director
Department of Planning and Zoning

Signed by:

Nicholas Mooneyhan

8226CB2A8164F1

Nicholas Mooneyhan, Director
Department of Recreation and Parks

DocuSigned by:

Timothy Lattimer

AEB6003A8F04A0...

Timothy Lattimer, Administrator
Office of Community Sustainability

cc: Research
OCS
DRP
FCC



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: 13815 Brighton Dam Road, Highland MD 20777

Subdivision Name/Property Identification: Faustin Estates

Location of property: Brighton Dam Road

Existing Use: Unimproved **Proposed Use:** SFD

Tax Map: 34 **Grid:** 13 **Parcel No:** 96 **Election District:** 5th

Zoning District: RR-DEO **Total site area:** 9.9

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-24-010, F-24-040

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 16.120(b)(4)(iii)(b)	ACA is requested to permit the recording of forest conservation easements on proposed Lots 1 & 2. Both lots are smaller than 10 acres.
Section 16.1205(a)(3)	ACA is requested to permit the removal of specimen tree ST-67 having a diameter greater than 30" DBH

Section Reference No.	Brief Summary of Request

Signature of Property Owner:

Corey Faustin

Date:

6/6/24

Signature of Petitioner Preparer:

Paul G. Cavanaugh

Date:

JUNE 6, 2024

Name of Property Owner:

Corey Faustin

Name of Petition Preparer:

Paul G. Cavanaugh

Address:

[Redacted]

Address:

10272 Baltimore National Pike

City, State, Zip:

[Redacted]

City, State, Zip:

Ellicott City

E-Mail:

cfaustin@ardorgrp.com

E-Mail:

paulc@fcc-eng.com

Phone No.:

240-444-3502

Phone No.:

410-461-2855

Contact Person:

Corey Faustin

Contact Person:

Paul Cavanaugh

Owner's Authorization Attached