

HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
Division of Land Development

DATE: 5/10/04

P&Z File No. WP-04-132

Department of Planning and Zoning

- Transportation Planning
- Historic Preservation
- Comprehensive Planning and Zoning Administration
- Research
- Address Coordinator

- Agricultural Preservation
- Development Engineering Division
- Forest Conservation Planner
- 2 File

Agencies

- Soil Conservation District
- Department of Inspections, Licenses & Permits
- Department of Fire and Rescue Services
- State Highway Administration
- Bureau of Environmental Health
- Board of Education
- Recreation and Parks

- Tax Assessment
- Bell Atlantic Telephone
- BG&E
- Cable TV
- Police
- MTA
- Finance
- DPW, Real Estate Services
- DPW, Construction and Inspection
- DPW, Bureau of Utilities

RE: Masch Property - (See F-04-157)

ENCLOSED FOR YOUR THE ENCLOSED → Signature Approval Review & Comments Files
 → Original

<u>Plans</u>	<u># of Sheets</u>	<u>Supplemental Documents</u>
<input type="checkbox"/> Sketch Plan	<input type="checkbox"/>	<input type="checkbox"/> Wetlands Report
<input type="checkbox"/> Prel Equiv Sketch Plan	<input type="checkbox"/>	<input type="checkbox"/> Soils/Topo Map/Drain Area Map
<input type="checkbox"/> Preliminary Plan	<input type="checkbox"/>	<input type="checkbox"/> FSD/FCP/Worksheet and Application
<input type="checkbox"/> Final Plat	<input type="checkbox"/>	<input type="checkbox"/> Declaration of Intent
<input type="checkbox"/> Final Constr Plans (RDS)	<input type="checkbox"/>	<input type="checkbox"/> Drainage and/or Computation/Pond Safety Comps
<input type="checkbox"/> Final Development Plan	<input type="checkbox"/>	<input type="checkbox"/> Preliminary Road Profiles
<input type="checkbox"/> Site Development Plan	<input type="checkbox"/>	<input type="checkbox"/> APFO Roads Test/Mitigation Plan
<input type="checkbox"/> Landscape Plan	<input type="checkbox"/>	<input type="checkbox"/> Traffic Study/Noise Study
<input type="checkbox"/> Grading Plan	<input type="checkbox"/>	<input type="checkbox"/> Sight Distance Analysis
<input type="checkbox"/> House Type Revision Plan	<input type="checkbox"/>	<input type="checkbox"/> Floodplain Study
<input type="checkbox"/> Water and Sewer Plan	<input type="checkbox"/>	<input type="checkbox"/> Stormwater Management Comps.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Industrial Waste Survey (DPW)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Road Poster Form Letter
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Response Letter
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Perc Plat
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Scenic Road Exhibits

Applications

- 14 Waiver Petition Applic/Exhibit
- Planning Board Applic
- ASDP/CSDP Application
- DED Application/Checklist
- DED Fee Receipt/Deeds/Cost Estimate

WAS: Received Tentatively Approved
 Received and Revised Approved

Recorded On 5/10/04

COMMENTS: _____ SRC/COMMENTS DUE BY: 6/3/04

BB
6/1/04

Check, initial and return to the Department of Planning and Zoning if plan is approved with no comments.

May 10, 2004

Ms. Marsha McLaughlin, Director
Department of Planning and Zoning
3430 Court House Drive
Ellicott City, MD 21043

RE: Gasch Property, T.M. 13, Parcel 247, Parcel 5 (F-04-157)
Waiver Petition

Dear Ms. McLaughlin :

On behalf of our clients, Douglas & Linda Gasch, and in accordance with Section 16.104 of Howard County's Subdivision and Land Development Regulations, we are requesting a waiver to the requirements stipulated within Section 16.120(b)(4)(iii)(b), which prohibits the placement of environmental features on residential lots less than 10 acres in size, and Section 16.120(b)(4)(i), which requires that lots be a regular, generally rectangular lot shape.

As this project is in active processing in your office, we are enclosing the following package for your review and approval:

1. Fourteen (14) copies of the completed Waiver Petition Application.
2. Two (2) copies of the Gasch Property Supplemental, Landscape, & Forest Conservation Plan, which will act as the waiver exhibit.
3. Check made payable to the *Director of Finance* for the applicable fee.

Thank you for your time and effort. Should you have any questions or comments concerning this matter, please do not hesitate to call.

Very truly yours,
Mildenberg, Boender & Associates, Inc.



Mark A. Perry, P.E.
Project Manager

cc: Doug & Linda Gasch, w/enc.

Howard County Department of Planning and Zoning
 Division of Land Development

WAIVER PETITION APPLICATION

Date Submitted/Accepted _____ DPZ File Number _____

I. **Site Description**

Subdivision Name/Property Identification: GASCH PROPERTY, T.M. 13, P. 5
 Location of property: 3120 CABIN RUN WOODBINE, MD 21797
(Street Address and/or Road Name)

<u>RESIDENTIAL - SFD</u> <small>(Existing Use)</small>	<u>13</u> <small>(Tax Map No.)</small>	<u>13</u> <small>(Grid/Block No.)</small>	<u>SAME</u> <small>(Proposed Use)</small>	<u>P. 247, P. 5</u> <small>(Parcel No.)</small>	<u>4TH</u> <small>(Election District)</small>
<u>RC-DEO</u> <small>(Zoning District)</small>			<u>12.22 AC</u> <small>(Total Site Area)</small>		

Provide a brief site history including reference to all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, waiver petitions, etc.)

MINOR SUBDIVISION FINAL PLAT & SUPPLEMENTAL PLAN
SUBMITTED TO HOWARD CO. DPZ ON APRIL, 28, 2004.

II. **Waiver Request**

In accordance with Section 16.104 of the Howard County Subdivision and Land Development Regulations, the Department of Planning and Zoning, in conjunction with the Subdivision Review Committee **may grant waivers or modifications to the minimum requirements stipulated within the Regulations if it is determined that extraordinary hardships or practical difficulties may result from strict compliance with the regulations, or if it is determined that the regulations may be served to a greater extent by an alternative proposal.**

In the area below, the petitioner shall enumerate the specific numerical section(s) from the Subdivision and Land Development Regulations for which a waiver is being requested and provide a brief summary of the regulation. Attach a separate sheet if additional information is appropriate.

<u>Section Reference No.</u>	<u>Summary of Regulation</u>
1. <u>16.120(b)(4)(iii)(b)</u>	<u>PROHIBITS ENVIRONMENTALLY SENSITIVE FEATURES FROM ENCUMBERING A RESIDENTIAL LOT UNLESS THE LOT AREA IS 10 ACRES OR GREATER.</u>
2. <u>16.120(b)(4)(i)</u>	<u>REQUIRES THAT LOTS BE REGULAR, GENERALLY RECTANGULAR IN SHAPE IN ORDER TO PROVIDE USABLE LOTS.</u>
4. _____	_____
5. _____	_____

V. Plan Exhibit

A. Number of Copies Required

The waiver petition application must be accompanied by copies of a detailed plot plan, subdivision plat or site development plan (**14 sets of the completed waiver application and plan exhibit if the subject property adjoins a County road; 18 sets for properties adjoining a State road**). In instances where the waiver request concerns an approval extension or if an associated plan is in active processing, only 2 sets of plans are required along with 14 or 18 copies of the application form. **Plans must be folded to a size no larger than 7-1/2" x 12". The pre-packaging of plans and supplemental reports by SRC agency will be permitted by DPZ provided that each package contains a cover letter which itemizes all plans, reports and documents included in the package.**

Please be advised that all plan application submissions are ACCEPTED BY APPOINTMENT ONLY. All plan submission appointments must be scheduled with the Division of Land Development at (410) 313-2350.

B. Plan Requirement Checklist

The detailed waiver petition exhibit, plot plan, subdivision plan or site development plan must indicate the following required information relevant to the waiver request to ensure acceptance of the waiver petition application for processing.

Legend:	<input checked="" type="checkbox"/> NA	Information Provided Not Applicable	<input checked="" type="checkbox"/> X	Information Not Provided, Justification Attached
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1. Vicinity map scale 1" = 2,000' indicating and identifying the total boundary of the property, exact site location, vicinity roads and north arrow.
2. Bearings and distances of property boundary lines for the entire tract and size of tract area.
3. North arrow and scale of plan.
4. Location, extent, boundary lines and area of any proposed lots.
5. Any existing or proposed building(s), structures, points of access, driveways, topography, natural features and other objects and/or uses on the subject and adjacent properties which may be relevant to the petition; i.e. historic structures, cemeteries or environmentally sensitive areas.
6. Delineation of building setback lines.
7. Delineation of all existing public road and/or proposed street systems.
8. Identification and location of all easements.
9. Approximate delineation of floodplain, wetland and forested areas, if applicable.
- N/A 10. Road profile to evaluate sight distance, if the application includes a request for direct access to a major collector or more restrictive roadway classification.
- N/A 11. Any additional information to allow proper evaluation (e.g. for waivers to wetland buffers an alternative analysis and mitigation proposal are needed; for waivers to SDP requirements where there is no subdivision of land, an APFO Roads Test evaluation may be needed).
- N/A 12. Photographs, perspective sketches or cross-sections as necessary to adequately portray the waiver request.
13. The exhibit plans should be highlighted to accurately illustrate the requested waiver(s) to allow proper evaluation (i.e. proposed grading, tree clearing or other disturbances within environmentally sensitive areas or buffers).
- SUBMITTED UNDER F-04-157. 14. Submit 2 sets of photographs for all existing on-site structures.

N/A 15. **Route 1 Manual**

Compliance with the Route 1 Manual is required for new development and some alterations or enlargements located in the CE, TOD and CAC zoning districts and for other zoning districts located within the Route 1 corridor. All plan submissions, beginning with the initial subdivision or site development plan, shall show all applicable streetscape, site and building designs responding to the Route 1 Manual's requirements and recommendations. All plan submissions shall provide a written summary of how the proposed design achieves the objectives of the Route 1 Manual. Also, building design and schematic architectural elevation details must be included with the initial subdivision or site development plan submission.

VI. **Fees**

The Waiver Petition application fee shall be in accordance with the adopted fee schedule. All checks shall be made payable to the *Director of Finance*. **The petition will not be accepted for processing until the fee has been paid. Incomplete, incorrect or missing information may result in the rejection of the application** and could cause additional time to be required to revise the petition for resubmittal and re-review. For more information or questions, contact DPZ at (410) 313-2350.

VII. **Owner's/Petitioner's Certification**

I/WE the undersigned fee simple owner(s) hereby make application to the Howard County Department of Planning and Zoning to relax the minimum requirements of the Howard County Subdivision and Land Development Regulations. The undersigned hereby certifies the information supplied herewith is correct and complete, confirms that the regulations and policies as referred to in the attached are understood, and authorizes periodic on-site inspections by the Howard County Subdivision Review Committee agencies. ***If the applicant is the owner's agent, written documentation from owner granting that authority is required.**

Owner's authorization attached *

Douglas B. Gasch 4.22.04
(Signature of Property Owner) (Date)
(Fee Simple Owner Only)

DOUGLAS GASCH
(Name of Property Owner)

3120 CABIN RUN
(Address)

WOODBINE, MD 21797
(City, State, Zip Code)

(E-mail) _____

(Telephone) _____ (Fax) _____

Contact Person: _____

[Signature] 5/6/04
(Signature of Petition Preparer) * (Date)

MALDENBERG BOENDER & ASSOCS.
(Name of Petition Preparer, Surveyor/Engineer or Agent/Developer)

5072 DORSEY HALL DR. SUITE 202
(Address)

ELLKOTT COY, MD 21042
(City, State, Zip Code)

(E-mail) mperry@mba-eng.com

410-997-0296 / 0298
(Telephone) (Fax)

Contact Person: MARK PERRY

Howard County Department of Planning and Zoning
Division of Land Development

**INITIAL SUBMISSION
WAIVER PETITION WORKSHEET**
(For DPZ Use Only)

Project Name GASCH PROPERTY DPZ File No. _____
DPZ Plan Reviewer _____ Submission Date _____
Plan Consultant Representative _____ Time _____

- I. **Application Requirements** *Indicate Yes, No or N/A*
- a. Application is complete
 - b. Required number of plans and applications are provided
 - ___ Plans (14 sets on County Road or
 - ___ Applications 18 sets on State Road)
 - c. Supplemental Information is provided
 - d. Certification of pre-submission HDC advisory meeting for new projects in
Historic District or listed in Historic Sites Inventory
 - e. Photographs of existing structures (for Historic Preservation Review)
 - f. MAA Approval Letter (if applicable)

II. **Fee Computation**

Number of waivers requested	Fee
* Base Fee for first two waiver sections (\$450)	<u>2</u>
Fee for each additional waiver section (___ additional waivers x \$50 each)	<u>450.</u>
* (Maximum fee of \$350 for Agricultural Preservation parcels)	<u>N/A</u>
TOTAL	<u>450.</u>

III. **Certification**

Cash Receipt No. _____ Account #011-005-4201 Amount _____

Check issued by _____

___ Waiver petition application is accepted for processing.

___ Scheduled SRC meeting date.

___ Waiver petition application is rejected.

Reason: _____

___ Resubmission is accepted. Date _____ Staff initials _____

Comments/Notes _____

Waiver Justification – Gasch Property

Section 16.120(b)(4)(iii)(b)

The purpose of this waiver is to allow wetlands, streams, and their buffers to be placed on Lot 2, which is less than 10 acres in size.

Gasch Property is 12.22 acres. The proposed subdivision consists of only one additional lot (2 total lots), to be used for the purpose of building a retirement home for the current owner. Lot 1 is 3.00 acres and contains no environmental features. Lot 2 is 9.22 acres and does contain environmental features. Obviously, this lot is very close (0.78 ac) from meeting the 10 ac minimum requirement.

The overall parcel has approximately 8 acres outside of all environmental areas. However, a stream divides the 8 acres into approximately 5 acres in the front and 3 acres in the rear. Developing the rear 3-acres would require crossing the stream with a road and culvert/bridge. As such, the 8 acres is divided in such a way that it is not desirable to create two (2) three (3) acre lots outside of environmental areas. Neither is clustering a desirable option. Due to the location of the existing house, the 60,000 sqft maximum lot size would be exceeded for the front lot. Compliance with the clustering requirement would require demolition of the existing house in order to create two lots at less than 60,000 sqft each.

The following address the justification criteria established on page 2 of the waiver petition application:

- (a) An extraordinary hardship would be created by strict compliance with the subdivision regulations. The regulations would prevent any reasonable subdivision of this 12.22 acre parcel that has approximately 8 acres outside of all environmental areas. As stated above, subdivision would require a stream crossing for access to the rear of the property or demolition of the existing house in order to do clustering.
- (b) The intent of the regulations will be better served through the proposed lot layout. The intent of the regulations is to create useable residential lots. The front lot is 3-acre lot and contains no environmental areas. The rear lot is 9.22-acre lot and contains approximately 5 acres of land outside of environmental areas; however, the 5 acres is divided by a stream and wetlands. The stream and wetland area is usable for recreation purposes and is adjacent to Howard County Recreation and Parks property (to the south of the property).

In addition, the subdivision regulations contain the intent of preserving environmental features. The current lot configuration does not propose any disturbance to environmental areas. While there is sufficient area in the rear of the property to create a lot, access would require crossing the stream with a road and culvert/bridge. The intent to preserve environmental areas is better served with our proposed lot configuration.

- (c) This waiver, if granted, will not be detrimental to public interests. The creation of usable residential lots is in the public interest, and while this 9.22 acre lot is encumbered by environmental areas, we note that it is very close (0.78 ac) to the 10 acre threshold allowed by the regulations. Both of the proposed lots are very usable, with Lot 2 provided approximately 5 acres of usable land outside of environmental areas.

In addition, it is in the public interest to preserve wetlands, streams and floodplains. We understand that and have placed all environmental features in a Stormwater Management Credit & Utility Easement for a Natural Area Stormwater Management Credit in accordance with the MDE's 2000 Maryland Stormwater Design Manual. This easement, along with existing State and County environmental regulations will ensure protection of the environmental features and the public interest.

- (d) This waiver, if granted, will not nullify the intent of the Subdivision Regulations. The intent of this regulation is to create usable residential lots. We have demonstrated that the proposed Lots 1 and 2 are useable and that while Lot 2 contains environmental features, it also contains approximately 5 acres outside of the features. Lot 2 is usable and provides a very desirable rural and pristine lot to the residents of Howard County.

Section 16.120(b)(4)(i)

The purpose of this waiver is to allow Gasch Property, Lot 1, to exhibit an irregular, non-rectangular shape. To start, the Gasch Property is an irregularly shaped parcel. Likewise, subdivision of the parcel into regularly shaped 3-acre lots is difficult. However, the primary reason for the irregularly shaped rear lot line for Lot 1 is the requirement for a 10,000 sqft sewage disposal area for each lot. Our client worked with Howard County Health Department for approximately six (6) months and ultimately did twenty (20) percolation test pits. The site exhibited very difficult soils, Glenelg and Mt. Airy loams with shallow, fractured rock. After extensive subsurface investigations and many redesigns, suitable sewage disposal areas were approved by the Health Department, as shown on the enclosed Supplemental Plan (and on the approved Percolation Certification Plat provided to your office with the initial submission of F-04-157).

The following address the justification criteria established on page 2 of the waiver petition application:

- (a) Strict compliance with the regulations would prevent subdivision of this 12.22 acre parcel, as extensive investigation showed that there are no suitable alternative sewage disposal areas.
- (b) The intent of the regulations is to provide regular, usable lots. The proposed lot configuration better serves the intent of the regulations in that it is usable for a sewage disposal area. A more regular shaped Lot 1, which maintains the 3-acre minimum area and meets all other zoning and subdivision requirements, would not allow suitable area for the 10,000 sqft sewage disposal area. As such, strict compliance with the regulations would make the lots *non*-usable. The 10,000 sqft sewage disposal area is required under Maryland law.
- (c) This waiver, if granted, will not be detrimental to the public interest. There is a public interest in maintaining regular, usable lots in the County. However, there is also a public interest in providing adequate sewage treatment. The County Health Department emphasizes that this is a public health issue and supercedes non-health related issues. The public interest is better served with the current lot configuration, which allows the best possible location of the sewage disposal areas.
- (d) This waiver, if granted, will not nullify the intent of the Subdivision Regulations. The intent of the regulations is to provide useable lots. The current lot layout provides a very usable Lot 1 and

Lot 2. The irregular shape of the lots is at the far rear corner of Lot 1 and is required in order to draw the lot line around the required sewage disposal area for Lot 2. Providing the required and best sewage disposal area is of paramount importance and ultimately makes the lots usable.