

IN THE MATTER OF	*	BEFORE THE
CR GOLF CLUB, LLC – LEGAL OWNER	*	BOARD OF APPEALS
(CASTANEA – PHASES 1A-3)	*	
11700 FALLS ROAD	*	OF
HOH CASE NO.: 08-0886	*	
8 TH ELECTION DISTRICT	*	BALTIMORE COUNTY
2 ND COUNCILMANIC DISTRICT	*	
Re: Appeal of approval of Development Plan	*	Case No. CBA-18-025

* * * * *

OPINION

The above captioned case comes to the Board of Appeals of Baltimore County on appeal from a decision of the Administrative Law Judge, John E. Beverungen, dated February 20, 2018 wherein the Development Plan for CR Golf Club, LLC was approved with conditions.

The Board convened a hearing in this matter on May 15, 2018 with Patricia A. Malone, Esquire and Christopher D. Mudd, Esquire of Venable, LLP appearing on behalf of Developer, CR Golf Club, LLC and Michael R. McCann, Esquire appearing on behalf of Protestants/Appellants. This matter was publicly deliberated on July 10, 2018.

Background

Petitioners, CR Golf Club, LLC (hereafter “Developer”) proposes 31 single-family dwellings on 183 acres of RC-5 zoned land. The site is currently improved with structures and amenities formerly used by the now abandoned golf course which are planned to be razed.

The current plan at issue is the second phase of the Castanea project. The Developer previously obtained approval of a development plan for an 8-lot subdivision known as Phase 1, lot 40. At the time of Phase 1 of this project the Developer granted to Baltimore County environmental easements (forest buffer and forest conservation) covering 87 acres of the 230-acre overall tract. Due to the fact that the property is designated in Growth Tier III, a public hearing

was required before the Planning Board which was held on July 27, 2017. At that time, the Planning Board supported the request and determined that the project does not present any undue environmental issues.

Standard of Review

The Board's standard for review in development plan cases is clearly defined in §32-4-281(e) of the Baltimore County Code (herein "BCC"):

(e) *Actions by Board of Appeals.*

- (1) In a proceeding under this section, the Board of Appeals may:
 - (i) Remand the case to the Hearing Officer;
 - (ii) Affirm the decision of the Hearing Officer; or
 - (iii) Reverse or modify the decision of the Hearing Officer if the decision:
 1. Exceeds the statutory authority or jurisdiction of the Hearing Officer;
 2. Results from an unlawful procedure;
 3. Is affected by any other error of law;
 4. Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
 5. Is arbitrary or capricious.

In reviewing the factual basis for an ALJ's decision in a development plan, this Board limits its review to whether substantial evidence exists in the record as a whole to support the decision. *Monkton Preservation Assoc'n v. Gaylord Brooks Realty Corp.* 107 Md App 573, 58-81 (1996). Substantial evidence has been defined as such evidence that "a reasonable mind might accept as adequate to support such a conclusion." *Caucus Distributors, Inc. v. Maryland Securities Commissioner* 320 Md 313, 323-329 (1999). Instances where it is alleged that the ALJ's decision resulted from an error of law, the Board makes an independent evaluation. However, the Court of Appeals has found that even with regard to some legal issues, a degree of deference should be accorded to the position of an administrative agency. *Marzullo v. Kahl*, 366 Md 58, 172-73 (2001).

Requirements for approvals of development plans

The requirements for review and approval of a development plan are found in BCC §32-4-201 et seq.. Once a development plan has been submitted, the Code requires that it be reviewed by agency representatives to ensure compliance with the regulations within that agency's area of expertise. BCC §32-4-226(b). Once these agencies have reviewed the development plan, they report their findings in the form of written comments at a development plan conference (DPC), which are then submitted to the ALJ. BCC §§ 32-4-226(c)-(d).

During the hearing before the ALJ if no additional testimony is presented to challenge or contradict the findings and comments of the county agencies, the ALJ is obligated to deem the development plan in compliance with the county regulations. §§ 32-4-226(e)(2); *See also, People's Counsel for Baltimore County v. Elm Street, Inc.* 172 Md App 690, 703 (2007).

Testimony before the ALJ

This matter comes before the Board of Appeals as a record appeal. This Board is obligated to review the evidence that was submitted before the ALJ and review that evidence in conformance with the standards set forth in BCC § 32-4-281. Consequently, no new evidence is presented before this Board and great deference is given to the ALJ matters such as determining weight and deference given to witnesses and evidence.

The record from the hearing before the ALJ reflects that representatives of Baltimore County agencies appeared and recommended approval of the development plan. Each County agency representative confirmed that any comment submitted at the DPC had been addressed and that the development plan complied with rules and regulations applicable to that agency's area of review. County representatives who testified before the ALJ in this matter include Jeff Livingston with the Department of Environmental Protection and Sustainability (DEPS); Jun Fernando with

the Office of Zoning; Lloyd Moxley with Department of Planning; Vishnu Desai and Jim Hermann with the Bureau of Development Plans review; and LaChelle Imwiko with Real Estate Compliance.

In addition to the County representatives that appeared at the hearing, the Developer also offered the testimony of professional engineer Matthew Sichel and environmental consultant John Canoles. The Protestants offered the testimony of civil engineer Dan O'Leary an expert in stormwater management. Mr. O'Leary expressed his concerns with the developer's stormwater management plan.

Protestant/Appellants' Issues On Appeal

In the Protestant/Appellant's Petition on Appeal, they have outlined twenty allegations of error for the Board to consider. These allegations include the following:

1. The ALJ erred in excluding the expert testimony of Paul Kazyak and his exhibits.
2. The ALJ erred in ruling that the testimony of Mr. Kazyak is "irrelevant as a matter of law."
3. The ALJ erred in ruling that the Developer was only obligated to prove that its stormwater management plan comply with State and County regulations requiring a 12-hour retention period.
4. The ALJ erred in crediting the opinion of the Developer's stormwater management expert, Mr. Sichel, and concluding based on his testimony that a suitable outfall exists, that channel protect volume (CPV) ponds are not required because the Developer is providing environmental site design to the maximum extent practicable, that stormwater management controls are evaluated on a site-wide basis rather than by individual drainage areas, and that the existing ponds are water resources which are not integral to or evaluated as a part of the stormwater management program.
5. The ALJ erred in ruling that the testimony of Appellants' expert, Dan O'Leary (regarding, *inter alia*, the amount of impervious surface on site, the Developer's consideration of the existing ponds, the suitability of outfalls, the Developer's channel protection volume calculations, the Developer's study points and hydrology calculations, and the Developer's use of level spreaders and bioswales)

did not undermine the validity of Mr. Sichel's testimony and the Developer's stormwater management plan.

6. The ALJ otherwise erred in approving the Developer's stormwater management plan because it fails to meet applicable laws, regulations, and standards.

7. The ALJ erred in excluding the expert testimony of Edward Myers and his exhibits.

8. The ALJ erred in ruling that application of the moratorium on building permits under BCZR §4A02 *et. seq.*, can only be determined by consulting the official transportation maps adopted by the County Council.

9. The ALJ erred in not considering whether the rezoning of the subject property during the 2016 Comprehensive Zoning Map Process constituted illegal contract zoning.

10. The ALJ erred in accepting the recommendation of the Department of Environmental Protection and Sustainability to grant the special variance to remove 24 specimen trees. The basis for the special variance fails to meet the standards in BCC §33-6-116.

11. The ALJ erred in excluding evidence regarding the Developer's history violations on the subject property and on the adjoining property.

12. The ALJ erred in concluding that after the initial phase of the hearing the development plan was presumed to be code-compliant. The ALJ further erred in concluding that the testimony of Protestant's witnesses did not successfully rebut this alleged presumption.

13. The ALJ erred in approving the development plan despite the redline changes made to the plan prior to and during the hearing.

14. The ALJ erred in approving the development plan despite the failure of the Planning Office to submit compatibility findings prior to the hearing and despite the failure of the plan to meet the compatibility standards. BCC §§32-4-226, -401.

15. The ALJ erred in approving the development plan despite the failure of Planning Board to make the requisite findings under Md. Ann. Code, Land Use § 5-104.

16. The ALJ erred in approving the development plan despite the failure of Developer to amend the Final Development Plan or meet the standards applicable to such amendments in BCZR §1B01.3.A.7.

17. The ALJ erred in approving the development plan despite the failure of plan to meet the open space requirements of BCC §§32-6-108 and 32-4-411.

18. The ALJ erred in approving the development plan despite the failure of the plan to meet the residential performance standards in BCZR §1A04.4.

19. The ALJ otherwise erred in approving the development plan for reasons supported by the evidence at the hearing.

20. The development plan otherwise fails to comply with applicable laws, regulations and standards.

Protestant/Appellants' Petition in Support of Appeal
Paragraphs 9, 10 and 12 to 20

The Developer contends that the Board should reject the allegations of error made in the Petition in paragraphs 9, 10, and 12-20 alleging that the Protestant/Appellants have failed to preserve these arguments before the ALJ. The Developer notes that at the conclusion of the presentation of evidence before the ALJ, neither party requested to make closing arguments or submit post-hearing memorandum. The Developer notes that a careful review of the record demonstrates that, while questions on certain issues may have been asked of witnesses, the Protestant/Appellants failed to identify deficiencies in the development plan itself pertaining to such issues and alleged no errors with regard to review of the development plan by the county agencies or the ALJ.

In review of the record, the Board agrees that by failing to seize the opportunity to make such arguments, the Protestants/Appellants have failed to preserve these issues. Consequently, this Board will not review issues found in paragraphs 9, 10, and 12 through 20 in the Protestant/Appellants' Petition In Support of Appeal and deem them to be waived. As noted by the Developer, under Maryland law a party who has the opportunity to raise an issue before an administrative agency, but fails to do so, may not raise the objection the first time during an "on

the record review.” *Cicala v. Disability Review Board of Prince George’s County* 288 Md 254, 261-262 (1980).

While the arguments found in paragraphs, 10, and 12 through 20 were not specifically argued by the Protestant/Appellants before the ALJ, the allegations found in paragraph 9 were raised belatedly. The record reflects that after the record before the ALJ was closed, the Protestants/Appellants sent a letter to the ALJ alleging that the 2016 CZMP rezoning the property at issue constituted “illegal contract zoning.” The Developer objected to the admission of this letter to the record. The ALJ ruled that he would not consider the issue “since it was made for the first time more than one week after the conclusion of the hearing in the case.” ALJ Order, p.7. This Board finds that since the record in this matter was closed before the ALJ at the time the Protestants/Appellants’ letter was submitted, the ALJ was well within his discretion to exclude it. In reviewing this matter as a record appeal pursuant to BCC §32-4-281(e), this Board defers to the ALJ’s discretion on this matter and finds no error.

Additionally, the Board finds that paragraphs 3 to 6 of the Protestant/Appellants’ Petition in Support of Appeal deals with the areas of disagreement between the Developer’s expert, Matthew Sichel, and the Protestant/Appellants’ expert, Dan O’Leary. It is clear from the review of the record that the ALJ heard testimony from both of these experts and was within his discretion as fact finder to decide whose testimony he chose to give more weight. As this Board cannot supplant its judgment for that of the ALJ on such matters, the Board finds no error on the ALJ’s part in regards to the allegations of paragraphs 3 thru 6 of the Protestant/Appellants’ Petition in Support of Appeal.

Developer argues that Protestant/Appellants have failed to articulate with reasonable particularity errors alleged in paragraphs 6, and 15 to 20 in their Petition for appeal. BCC §32-4-

281(b)(2) requires the Appellant, within 10 days of the Notice of Appeal, to file a Petition setting forth with reasonable particularity the grounds for appeal, including the error committed by the ALJ in taking the final action. Additionally, the Appellant must set forth the relief sought and the reasons the final action appealed, should be reversed or remanded. As stated in BCC§32-4-281(b)(3)(ii), failure to comply with this provision is grounds for dismissal of the appeal.

Reviewing the Protestant/Appellant's Petition on Appeal, the Board concurs with the developers assessments of paragraphs 6 and 15 to 20 that they are not stated with reasonable particularity which would afford the Developer the proper information with which to respond. Consequently, the Board will not address these allegations in these paragraphs of the Protestant/Appellant's appeal on these grounds as well.

ALJ exclusion of the testimony of Paul Kazyak

In paragraphs 1 and 2 of Protestants/Appellants' Petition in Support of Appeal, they assert that the ALJ erred in not permitting an expert stream ecologist and stream surveyor, Paul Kazyak, to present testimony in its entirety about alleged impacts of the proposed 31-lot development on a Use III trout stream near the property at issue ("Dipping Pond Run"). As this is a record appeal, this Board affords the ALJ broad discretion in deciding the relevance of such proposed expert testimony.

The ALJ accepted Mr. Kazyak as an expert in stream ecology and stream surveys. The Developer notes that in Mr. Kazyak's *voir dire* prior to being offered as an expert, no mention was made of Mr. Kazyak ever being to the property, having reviewed the development plan, or being knowledgeable about Baltimore County's development regulations. Nonetheless, the ALJ allowed Mr. Kazyak to be accepted as an expert and to begin his testimony. During his testimony, Mr. Kazyak began to comment on studies conducted in Gwen Falls and Red Run watersheds. After

objection by the Developer's Counsel, the ALJ instructed Mr. Kazyak to limit his testimony to the Jones Falls watershed.

Next, Mr. Kazyak was asked to opine as to whether the water system had a level of sensitivity to development. This question was objected to by Developer's Counsel who argued that the Developer was not requesting a special exception requiring the examination of adverse impacts on the proposed use at the particular location. As a result of this objection, the ALJ asked the Protestant/Appellants' Counsel to identify any regulation or policy in either the Baltimore County Code or otherwise that would require the denial of a development plan that was otherwise in compliance with all applicable laws and regulations due to having a negative impact on Dipping Pond Run. The ALJ noted that two other experts had already testified regarding stormwater management and confirmed that the design would conform to regulations designed to protect the Use III trout stream. Counsel for the Protestant/Appellants further argued that Mr. Kazyak's testimony would be germane to Art. 33 title 3 of the BCC relating to the protection of water quality, streams and wetlands. These code provisions provide for the delineation and establishment of forest buffers around water resources. The ALJ again noted that these areas had already been dedicated for this property and were not subject to scrutiny during the development plan process.

Additionally, Counsel for Protestants/Appellants attempted to argue for the relevance of Mr. Kazyak's testimony citing code provisions containing general "intent language" such as that found in BCC §32-4-102, and 32-4-416. The ALJ acknowledged these provisions but ruled that they were aspirational and "feel good policies" and that other provisions of the code dealt with those policies with specific regulatory actions. Counsel for Protestants/Appellants proffered that Mr. Kazyak was prepared to testify that "development has specific impacts on streams and stream systems." Ultimately, the ALJ excluded this testimony finding that the testimony would not assist

him in the evaluation of the development plan as required by BCC § 32-4-229, noting that the Board and the Circuit Court have determined “stormwater management and forest buffer/forest conservation plans are the means chosen by the State of Maryland and Baltimore County to address and prevent adverse effects upon streams and other environmental features.” In short, the ALJ found that even if he agreed with Mr. Kazyak’s testimony, the ALJ did not have the authority to deny a development plan for those reasons if the plan complied with all applicable regulations found in BCC § 32-4-229.

While this Board may have preferred to allow Mr. Kazyak to complete his testimony, we again, are not permitted to supplant our judgment for that of the ALJ during such a hearing when the ALJ possesses broad discretion in determining which experts are germane as to the issues before him and which ones would be helpful in assisting him in making his final decision. It is worth noting, that in this instance, the ALJ did not choose to preclude the testimony of Mr. Kazyak, until after he was qualified as an expert, and after a proffer from Counsel allowed him to ascertain that the proffered testimony would have no bearing on the task that he was required to undertake as a fact-finder pursuant to BCC § 32-4-229(d). Consequently, this Board will defer to the discretion of the ALJ in this matter, and finds no error in the exclusion of testimony of Mr. Kazyak.

ALJ’s exclusion of the testimony of Edward Myers

In Paragraphs 7 and 8 of the Protestant/Appellants’ Petition for Appeal they contend that the ALJ erred in not allowing the testimony of Edward Myers, a traffic engineer. Counsel for the Protestants/Appellants made the following proffer regarding the opinions that Mr. Myers would have expressed if he had been permitted to testify:

1) Based on the County's own findings, the intersections of Green Spring Station (mainly Falls Road/Seminary Avenue, Falls Road/Green Spring Valley Road, and Falls Road/Joppa Road) each are "F"-rated (or failing) intersections;

2) Mr. Myers would have testified that he was asked to determine whether the subject property was within the traffic shed of the failing intersections, based on the methodology employed by the County;

3) In order to make that determination, Mr. Myers' firm took traffic counts at the intersection of Falls Road and Chestnut Ridge (across the street from the subject property) and the proposed entrance to the subject property. He also used counts taken by the County and the State Highway Administration;

4) Using these counts, Mr. Myers determined the direction in which vehicles under current conditions, were heading and the percentage of those vehicles that were heading toward the failing intersections of Green Spring Station;

5) Using a trip generation update from the ITE manual, Mr. Myers determined the number of vehicles that would be generated by the proposed development and then, using the percentages described above, projected the percentage of the vehicles from the proposed development that would be heading towards the failed intersections; and

6) Mr. Myers concluded that applying the County's methodology, the subject property is within the traffic shed of the failing intersections because of the percentage of vehicles from the development would be contributing to those intersections.

In summary, Protestant/Appellants proffered that Mr. Myers testimony would focus on challenging the way in which areas of deficiency are determined under Baltimore County's adequate public facilities law, which is codified in Article 4A of the Baltimore County Zoning

Regulations. Protestants/Appellants argued that a certain area outside of the Urban-Rural Demarcation Line (“URDL”), which they say should include the Property, has not been – but should be – designated as being within a deficient traffic shed for the “F- level (i.e., “failing”)” intersections located along Falls Road (which are located between 1.75 – 2.5 ± miles south of the Property), and, thus, Developer should be restricted from obtaining plan approval or building permits.

Protestant/Appellants’ contend that the question before the ALJ as to this issue is not whether the area in question is located on the map as a deficient traffic shed, but rather whether it should be. Protestants/Appellants argue that while the site of the proposed Development Plan is not within any deficient traffic shed shown on County Maps, traffic generated from the proposed development would ultimately travel through, and compound the failing intersection at Falls Road and Greenspring Valley Rd.

While it is clear that the area at issue is not delineated in the County maps as within the traffic shed of a failing intersection, Protestants/Appellants argue that the ALJ has the authority to determine and to establish that deficient area on his own and, thereby, to prevent this Development Plan from being approved unless Developer requests and obtains a reserve capacity use certificate under BCZR §4A02.3.G. (2/06/18, T. 50-96). The ALJ did not agree with this assessment.

BCZR Article 4A sets forth the authority to establish and to amend the deficient service areas, through adoption of the Basic Services Maps, to the Baltimore County Council, through legislative enactment. Consequently, the task of rating intersections and the establishment of deficient areas or “traffic sheds” has been assigned to the Baltimore County Council, in consultation with the relevant agencies having such expertise and the Baltimore County Planning

Board. Such decisions are made by Council during the annual review of the Basic Services Transportation Map, which culminates in the annual legislative adoption of that map.

The relevant portions of Article 4A are outlined below:

§4A02.3. Adoption of Basic Services Maps.

A. The following Basic Services Maps, which shall be in the custody of the Zoning Commissioner for Baltimore County and posted on the County's Internet website, are hereby adopted and made a part of this article:

...

3. 2017 Basic Services Transportation Map. [See Bill No. 15-17.]

...

B. The three Basic Services Maps shall be prepared annually in accordance with the schedule set forth below, which maps shall incorporate a delineation of adequacy and availability of water supply, sewerage, transportation services and facilities according to the standards and requirements set forth in this section.

C. The individual Sewer, Water Supply and Transportation Basic Services Maps shall be adopted by the County Council in accordance with the procedures and requirements of this article, contrary provision of Article 32 of the Baltimore County Code notwithstanding.

...

E. Amendments.

1. On or before February 28 of each year, the Planning Board shall recommend to the County Council any proposed annual revisions to the Basic Services Maps....

...

2. On or before May 31 of each year, the County Council shall take action on said maps after consideration of the recommendations of the Planning Board. The County Council shall hold one public hearing prior to adoption of said maps, which hearing shall be advertised and held in accordance with §32-3-221 of the Baltimore County Code.

3. The Basic Services Maps may be amended only under the annual revision procedures set forth above, except [if the County Council finds that an error has been made or if a deficiency has been corrected by actual construction.]

...

F. Basic Services Maps are not intended to permanently establish either areas of service deficiencies or areas of services availability and adequacy. Such maps will be reviewed annually, as it is the intent of the

County Council that existing service deficiencies will be corrected in accordance with the Master Plan and capital improvements program....

...

G.1. Except as otherwise provided in this article, no building permit, pursuant to Subsection 500.1 of Article 5 of these Zoning Regulations and no final subdivision approval shall be issued or granted after the effective date of this Article within a Basic Services Mapped area, unless the Director of the Department of Planning has issued, upon appropriate application on forms prepared by the Director, a reserve capacity use certificate for that development in accordance with the following [procedures].

...

§4A02.4. Basic Services Mapping Standards.

A. Generally. The standards contained herein are intended to form the basis for the delineation of areas on the Basic Services Maps as well as for the evaluation of development applications in accordance with the requirements of this article.

...

D. Transportation.

1. Intent. The transportation standards and maps are intended to regulate nonindustrial development where it has been determined that the capacity of arterial and arterial collector intersections is less than the capacity necessary to accommodate traffic both from established uses and from uses likely to be built pursuant to this article. Such development is not intended to be restricted unless there is a substantial probability that an arterial and arterial collector intersection situated within the mapped area will, on the date the map becomes effective, be rated at level-of-service E or F....

Protestants/Appellants interpret the language of §4A02.4.(A) that states, “the standards contained herein are intended to form the basis for the delineation of areas on the Basic Services Maps as well as for the evaluation of development applications in accordance with the requirements of this article,” to mean that these standards are not only the basis for the delineation of areas on the Basic Service Maps, but also are to be utilized in the evaluation of development applications independent from the maps themselves. Accordingly, Protestants/Appellants argued that an expert, in this case Mr. Myers, should be permitted to opine on his interpretation of a particular proposed development plan rates in regards to the same mapping standards. In short,

Protestants/Appellants pretend that the actual Basic Service Maps are not the end of such an analysis, rather the same standards used for the development of such maps should be applied to development plans and applications themselves. Conversely, the Developer argues that in reading §4A02.4 in conjunction with other relevant statutes, the Developer is only required to ensure that the location of its proposed development does not appear in an area delineated as a deficient traffic shed on the maps provided by the County and adopted by the County Council.

In reading these related statutes, as a whole, this Board agrees with the Developer. This Board finds that the purpose of such basic services maps is to put developers on notices as traffic areas which have been delineated as deficient. In this case, the Developer has made such investigation and it is clear that the proposed development is not located in such an area. The Board agrees that there is no statutory support for the argument that would have been opined by Mr. Myers that the Developer must take into account that traffic from its proposed development might ultimately find its way into a deficient traffic shed. Consequently, the Board agrees, and defers to the discretion of the ALJ who found that on this basis the proffered testimony of Mr. Myers would have been irrelevant to his consideration on whether the Developer had met its burden for an approval of a development plan. The Board finds no error in the ALJ decision on this matter.

Presumption of Code Compliance

The ALJ cites *People's Counsel for Baltimore County v. Elm Street Dev, Inc.* 172 Md. App. 690, 703 (2007) to support his statement that “[a]t the conclusion of the initial phase of the hearing – at which point all agency witnesses recommended approval of the Plan – the Plan was presumed to be code-compliant.” Counsel for the Protestants/Appellants contend that the ALJ has shifted the burden for proving development plan compliance on to the Protestant/Appellants. This

Board does not agree and finds that the ALJ was merely stating that his findings at that point in the hearing were consistent with the holding in *Elm Street*. Additionally, the approval of the required County agencies of the development plan in this matter, was also bolstered by the Developer's expert, Mr. Sichel. Although the Protestants/Appellants provided the testimony of Mr. O'Leary, who offered conflicting opinions to that of Mr. Sichel, the ALJ employed his discretion and chose to agree with Mr. Sichel. Based on this fact, the Board does not find that the ALJ either changed or misapplied the applicable burden of proof in this matter.

Conclusion

The Baltimore County Code provides that "the Hearing Officer shall grant approval of a Development Plan that complies with these development regulations and applicable policies, rules and regulations..." BCC §32-4-229(1). In reviewing the ALJ's approval of the development plan, this Board employs the standard of review clearly defined in Baltimore County Code Section 32-4-281(e). Based on the review stated above, this Board finds that the ALJ's decision in this matter was not effected by any error of law, is supported by competent, material and substantial evidence in light of the entire records as submitted, and is not arbitrary or capricious. Based on this review, the Board affirms the approval of the Development Plan.

ORDER


THEREFORE, IT IS THIS 25th day of July, 2018 by the
Board of Appeals of Baltimore County

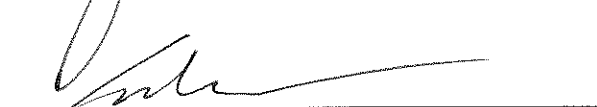
ORDERED that the decision of the Administrative Law Judge dated February 20, 2018 approving the Development with conditions is hereby **AFFIRMED**.


In the matter of: CR Golf, LLC.
Case No: CBA-18-025

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Jason S. Garber, Chairman

Andrew M. Belt

Joseph L. Evans



Board of Appeals of Baltimore County

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July 25, 2018

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RE: In the Matter of: *CR Golf Club, LLC – Legal Owner*
(Castanea – Phases 1A-3)
Case No.: CBA-18-025

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Daniel Hirschfield, Manager/CR Golf Club, LLC
Matthew S. Sichel, P.E./KCI Technologies, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Vincent J. Gardina, Director/DEPS
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