

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
S End Watts Road, N/S Lathe Road		
(Fable Hill [fka Winterset Woods])	*	ZONING COMMISSIONER
2 nd Election District	*	FOR
4 th Council District		
	*	BALTIMORE COUNTY
Sandy Hook Land, LLC		
<i>Developer</i>	*	Case No. II-651
* * * * *		

HEARING OFFICER’S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for consideration of a development plan prepared by Colbert, Matz & Rosenfelt, Inc. for the proposed development of the subject property by Sandy Hook Land, LLC, Developer, with 35 homes consisting of one (1) single-family, 32 semi-detached and two (2) existing single-family dwellings. The subject property consists of an area of 49,458 gross square feet (12.61 acres), more or less, D.R.5.5 located at the end of Watts Road in Owings Mills. The proposed subdivision is more particularly described on the redlined development plan, which was submitted and accepted into evidence as Developer’s Exhibit 1.

As to the history of this project through the development review process, codified in Article 32, Title 4, of the Baltimore County Code (B.C.C.), concept plan(s) of the proposed development were prepared and conferences held on March 17, 2003 and July 21, 2003. The concept plan is a schematic representation of the proposed subdivision and is reviewed by and between representatives of the Developer and the reviewing County agencies at the Concept Plan Conference (CPC). Thereafter, as required, a Community Input Meeting (CIM) is scheduled during evening hours at a location near the property to provide residents of the area an opportunity to review and comment on the plan. In this case, CIM’s were held on October 1, 2003, January 26, 2004, but cancelled because of inclement weather, and finally on March 3,

2004 at the New Town Elementary School Library. Subsequently, a development plan was prepared based upon the comments received at the CPC and CIM and submitted for further review at a Development Plan Conference (DPC) which is again held between the Developer's consultants and reviewing County agencies. In this case, DPC's were held on December 29, 2004, June 20, 2007 and July 30, 2008. Following review at the DPC, comments were again submitted to the Developer by the appropriate County reviewing agencies, and a revised development plan ("the redlined plan") dated August 22, 2008 incorporating these comments was submitted at the Hearing Officer's Hearing, which in this case was finally held on August 29, 2008.

Appearing at the initial scheduled hearing on January 21, 2005 were Robert Huebschman, Deborah C. Dopkin, Esquire, attorney for Developer, and Walt Smith, project manager, on behalf of Baltimore County Department of Permits and Development Management. At the request of Developer, a continuance was granted and a hearing was scheduled for July 12, 2007. However, at the DPC, a number of important issues were identified and despite best efforts remained unresolved; therefore, at the request of counsel via letter dated June 25, 2007, the hearing scheduled for July 12, 2007 was postponed. On August 29, 2008 Robert Huebschman and Richard M. Yaffee appeared on behalf of Sandy Hook Land, LLC with their attorney, Deborah C. Dopkin, Esquire. The Developer also presented as an expert witness Richard E. Matz, a professional engineer with Colbert Matz Rosenfelt, Inc., the consultants responsible for the preparation of the development plan. Also present were Lawrence Lathe and Mary Lou Teixeira (Lathe) on behalf of Lathe's mother and adjoining property owner, Dorothy Lathe (4600 Lathe Road). Willard G. Somers (4615 Lathe Road) and Randy A. Somers, Sr. (4619 Lathe Road), owners of the two (2) existing single-family homes, were present as well as John Donohue, Esquire, who appeared on behalf of his clients, Neil and Alice Rizzo, owners of

property directly across (west side) of Lathe Road. Joan White-McCain appeared at the hearing as the President of the Winterset Single Family Homes Association. This subdivision borders along the western boundary of the subject property and many of her association members have homes located along Watts Road that will be extended to provide ingress and egress into the Fable Hill subdivision.

Numerous representatives of the various County agencies attended the hearing, reviewed the redlined plan, and agreed that most of their concerns had been addressed. Those attending were namely: John Sullivan, Project Manager; Jan Cook, Recreation and Parks; David Lykens, Department of Environmental Protection and Resource Management (DEPRM); Curtis Murray, Office of Planning; Dennis Kennedy, Permits and Development Management on behalf of the Department of Public Works; Ron Goodwin, Bureau of Land Acquisition; and Aaron Tsui, Zoning Review. Written comments were also received prior to the hearing from the State Highway Administration's Steven Foster, Chief Engineering Access Permits Division and Lieutenant Don Muddiman, Baltimore County Fire Marshall's Office, as well as other reviewing agencies and these are contained in the case file.

Pursuant to B.C.C. Sections 32-4-227 and 228, which regulates the conduct of the Hearing Officer's Hearing, I am required, first, to identify any unresolved comments or issues as of the date of the hearing. Deborah Dopkin, attorney for the Developer, indicated that there were two (2) potential unresolved issues. Briefly, a small triangular sliver of land along the eastern property line appears to overlap land shown within the plat for the adjoining subdivisions (Cascades Overlook). The developer of Cascades Overlook deeded that land (among other) to Baltimore County as part of that development. This creates a title issue over who is actually the owner of this sliver of land. The second issue is a request by the Office of Planning to revise the Pattern Book to reflect design matters that have been discussed and agreed upon by the

Developer. I next asked the particular agencies to comment. Their responses are summarized as follows:

Department of Recreation and Parks – Jan Cook appeared on behalf of his department and indicated that the Developer had requested a waiver of local open space requirements which had been reviewed and approved. A letter dated July 17, 2008 confirming a waiver was introduced and marked as Baltimore County Exhibit 3, evidencing a fee of \$240,372.00 to be paid prior to the recordation of the Record Plat, which fee is subject to adjustment based on the amendment to the plan rather than the originally proposed 36 lots.

Zoning Review – Aaron Tsui appeared as representative of the Zoning Review Office and stated that there were no unresolved issues.

Plans Review - Dennis Kennedy of the Bureau of Plans Review, of the Department of Permits and Development Management, on behalf of the Department of Public Works (DPW), stated that some off-site right-of-ways needed to be acquired before recordation of Record Plat but other than that he recommended approval.

Department of Environmental Protection and Resource Management (DEPRM) - David Lykens appeared on behalf of DEPRM and stated that the reviewing sections within DEPRM had reviewed both the development and landscape plan (Developer's Exhibit 2) and noted several existing well and septic systems would need to be pumped and backfilled when the existing homes were connected to public water and sewer.

Office of Planning – Curtis Murray appeared at the hearing on behalf of the Office of Planning. Mr. Murray indicated that all of his department's comments had been addressed on the redlined plan with the exception of the Pattern Book. As noted above, the approved revised pattern book was subsequently received after the hearing and marked as Baltimore County Exhibit 1. In addition, a School Impact Analysis was prepared and showed sufficient capacity in

accordance with the adequate public facilities requirements. (B.C.C. Section 32-6-103) Mr. Murray submitted the School Impact Analysis as Baltimore County Exhibit 2. Finally, he stated that the project meets the Baltimore County Zoning Regulations (B.C.Z.R.) performance standards as required in Section 260 and recommended plan approval.

Bureau of Land Acquisition - Ron Goodwin appeared on behalf of the Bureau of Land Acquisition. Mr. Goodwin stated that the redlined plan does in fact show an overlap of ownership, and before the Bureau could recommend approval, that ownership would have to be resolved. The Developer and its representatives have since met with the Bureau of Land Acquisition and have determined that exchanging quit claim deeds to the overlap area will provide a satisfactory resolution so as to render clear title to each of the involved properties. The development plan to be submitted for signature shall reflect this resolution and the effect of these deeds.

I then asked the individuals attending the hearing to state briefly what concerns they had about the proposed development. Larry Lathe's primary concern was about his mother's property and the Developer's respecting her privacy and well-being. As detailed on the site plan and landscaping plan (Developer's Exhibit 2), landscaping with evergreen trees is planned at the end of the cul-de-sac as well as a privacy fence separating the properties. He asked that the six (6) foot board-on-board fence be offset to the extent possible onto Developer's property rather than his mother's property. He questioned his mother's rights to be connected to fire hydrants for fire protection and public sewer. Mr. Willard G. Somers expressed interest in the storm water management pond and whether it would have any adverse affects on his property as well as the road improvements planned at the end of Lathe Road, which provides access to his home. Similarly, Randy A. Somers, whose parcel is not part of, but surrounded by, the subdivision wanted assurances that his property would be benefited by public utilities and wanted further

assurances that he was not surrendering any rights of ownership that he would otherwise possess absent this proposed development. Ms. McCain, who indicated the Winterset community consisted of 296 single-family homes, stated that she has resided in the area for seven (7) years and was concerned with school overcrowding. She wanted room for children to play and indicated that this was promised but not provided when the Villages of Winterset was built. She asked that the greenway easement that runs along the northern portion of the tract be discussed and whether this would provide active open space for children. She expressed further concern with the connectivity of Watts Road and the additional traffic and number of speeding cars that might result and wanted traffic-calming measures employed.

Counsel for the Developer introduced Richard Matz to present the redlined development plan. Mr. Matz gave a brief description of the property and surrounding area, introduced as Exhibit 1, explaining the many changes to the plan as originally proposed. Mr. Matz testified that he is a professional engineer licensed in Maryland and a principle with the firm of Colbert Matz Rosenfelt, Inc. He is a member of the American Society of Civil Engineers and has been practicing in Maryland for the past 28 years. He indicated he is familiar with Baltimore County zoning and development regulations and procedures and has been offered and accepted as an expert in Baltimore County in numerous residential and commercial development projects over the years. Ms. Dopkin then offered Mr. Matz as an expert in the area of civil engineering, land development, and the necessary zoning and land use requirements in Baltimore County, and Mr. Matz was accepted as such without objection.

Mr. Matz testified that the subject property is irregularly shaped and subject to steep slopes and is traversed by two streams. The proposed development consists of 32 semi-detached homes, 1 new detached home, and two existing single family detached homes which are to remain. The property, as zoned, supports 69 dwellings. Mr. Matz described the homes as having brick veneers in

front, with siding on the sides and rear. Each house includes a garage. The configuration of the driveways and garages reflect changes requested by the Office of Planning. Mr. Matz indicated that his office had worked closely with the Planning Office to resolve issues involving the Pattern Book, and further, that a landscape plan was prepared and accepted.

Mr. Matz also addressed community concerns, regarding the sharp curvature of proposed Watts Road and how that alignment was determined based on environmental constraints. He indicated that traffic calming measures can be implemented to prevent excessive vehicle speed on the road, but explained that the sharp curve at the end of the road and the natural curvature and grade of the proposed extension of Watts Road discourage excessive speed. The community could request that the Bureau of Traffic Engineering install other traffic calming devices to further minimize the opportunity to speed on this road if needed.

Mr. Matz offered his opinion based on his professional knowledge and experience, that but for the final approval of the Office of Planning as to the pattern book and the resolution of the mis-drawn property line on the plat for the adjoining property, the redlined Development Plan marked and accepted into evidence as Developer's Exhibit 1 fully complies with the development regulations, rules and policies contained in the Baltimore County Zoning Regulations (B.C.Z.R.) and the B.C.C. Following the Hearing on August 29, 2008, and with the record having been kept open, the undersigned subsequently received email notifications from Mr. Murray of the Planning Office and Patrick Daly, Esquire of the Bureau of Land Acquisition that all issues had been addressed to date and that Office recommended approval of the redlined Development Plan.

Section 32-4-229 of the Baltimore County Code clearly provides that the "Hearing Officer shall grant approval of a Development Plan that complies with these development regulations and applicable policies, rules and regulations." Based upon the testimony and evidence presented by Mr. Matz and with the concurrence of the County agencies charged with

the responsibility of reviewing development plans, I find that the amended redlined Development Plan and Schematic Landscape Plan are in compliance with all applicable County, State and Federal regulations. Therefore, having identified no remaining unresolved or outstanding issues, the Developer has satisfied its burden of proof and is entitled to approval of its Development Plan.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, the zoning and development regulations as contained within the B.C.Z.R. and Article 32, Title 4 of the Baltimore County Code, the revised redlined Fable Hill fka Winterset Woods Development Plan, introduced as Developer's Exhibit 1, shall be approved.

THEREFORE, IT IS ORDERED by this Hearing Officer/Zoning Commissioner for Baltimore County this 23rd day of December, 2008, that the redlined **Fable Hill Development Plan**, entered into evidence as Developer's Exhibit 1, be and is hereby APPROVED.

Any appeal of this decision must be taken in accordance with Section 32-4-281 of the Baltimore County Code.

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner/Hearing Officer
for Baltimore County