

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
W/S Wards Chapel Rd., 1300' N of Liberty Rd.		
(4620 Wards Chapel Road)	*	ZONING COMMISSIONER
(Brady Property)		
	*	OF
2 nd Election District		
4 th Council District	*	BALTIMORE COUNTY
Patricia R. Klein, Legal Owner/Developer	*	Case No. II-735

* * * * *

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 McKee & Associates, Inc. for the proposed subdivision of the subject property by Patricia R. Klein, with nine (9) single-family dwellings. The subject property contains a combined gross area of 61.076 acres, more or less, zoned R.C.4 (Resource Conservation – Watershed Protection), and is located on the west side of Wards Chapel Road, north of Liberty Road (Route 26) just south of the Liberty Reservoir in the Owings Mills area of Baltimore County. The proposed subdivision is more particularly described on the red-lined development plan submitted and marked into evidence as Developer's Exhibit 1.

This proposal has been reviewed in accordance with the development review regulations codified in Article 32 of the Baltimore County Code (B.C.C.). The process described therein is initiated by the filing of a concept plan, which, as the name suggests, is a schematic representation of the proposed development. The concept plan is submitted for review at a conference held by and between representatives of the Developer and the County at a Concept Plan Conference (CPC) which, in this case, was conducted on October 29, 2007. Thereafter, as required, a Community Input Meeting (CIM) is conducted during evening hours at a public facility in the vicinity of the proposed development. The CIM provides an opportunity for residents of the locale to review and offer comment on the proposal. The CIM for this project was held on November 28, 2007 at the

Reisterstown Public Library. Subsequently, a development plan is submitted for review and comment at a conference held again between the Developer and County agency representatives. Often the development plan has been revised to incorporate changes suggested at the CPC and/or CIM. The Development Plan Conference (DPC) in this case was held on December 10, 2008. Following the DPC, a public hearing on the proposal is conducted before the Zoning Commissioner/Deputy Zoning Commissioner. The Hearing Officer's Hearing was conducted before me on January 9, 2009.

Appearing at the public hearing required for this project were Michael F. Klein, on behalf of the property owner/developer Patricia R. Klein, and Howard L. Alderman, Jr., Esquire, and Michael L. Snyder, Esquire, counsel for Ms. Klein. Also appearing was Geoffrey Schultz with McKee & Associates, Inc., the consultants who prepared the development plan. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): John Sullivan, Project Manager; Dennis Kennedy, Development Plans Review; Gigi Hampshire, Land Acquisition; and, Donna Thompson, Zoning Review. Also appearing on behalf of the County were R. Bruce Seeley, Office of Planning (OP); David Lykens, Department of Environmental Protection and Resource Management (DEPRM); and Bruce Gill, Department of Recreation and Parks (R&P). There were no Protestants or other interested persons present.

The subject property is an irregular triangular shaped tract of land consisting of lots identified as Parcels 123, 129 and 130 on Maryland Department of Assessments and Taxation Map No. 66 with frontage on the west side of Wards Chapel Road, just south of the Liberty Reservoir in the Owings Mills area of Baltimore County. When combined, the assemblage of these lots consist of approximately 61.076 acres, more or less, zoned R.C.4. The R.C.4 zoning of the property is

governed by Section 1A03.5 of the Baltimore County Zoning Regulations (B.C.Z.R.) and reinforces the fact that the site contains significant environmental constraints. The property is primarily forested and contains steep slopes, wetlands and a stream. The R.C.4 zoning classification is a “resource conservation” zone and is designed primarily to protect the water resources that serve the Baltimore Metropolitan Area. In this regard, the existing Liberty Reservoir, a public drinking water supply, is located directly to the north and west of the proposed development. A Forest Buffer/Conservation easement of approximately 41.8 acres (in two parts) constrains the 42.75-acre conservancy lot (Lot No. 5). The regulations require that an R.C.4 development set aside a minimum conservancy area which must equal 70% of the property’s acreage. The conservancy area may contain one (1) single-family dwelling (i.e., the conservancy lot), but cannot otherwise be disturbed. The details of the conservancy lot (Lot 5) are more particularly shown on the plan. The proposed development of the subject property will primarily occur on the eastern portion of the tract closest to Wards Chapel Road. As more particularly shown on the plan, there are nine (9) new single-family detached lots proposed on that portion of the property. Eight (8) of these lots will be a minimum of 2.0 acres. Vehicular access to these new lots will be by way of a public drive that will lead into the interior of the site to be known as Tralee Court and terminates in a cul-de-sac.

Pursuant to B.C.C. Sections 32-4-227 and 228, which regulate 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. Howard L. Alderman, Jr., Esquire, attorney for the Developer, indicated that there were no unresolved issues. The redlined plan (Developer's Exhibit 1) addressed all outstanding comments and met all rules and regulations so far as the Developer was concerned. Next, one by one, I called the representatives of the above-noted agencies to identify any unresolved issues or concerns they may have with the redlined plan. Their responses are summarized as follows:

Department of Recreation and Parks – Bruce Gill 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 December 5, 2008 confirming a waiver was introduced and marked as Baltimore County Exhibit 1, evidencing a fee of \$26,100.00 to be paid prior to the recordation of the Record Plat.

Zoning Review – Donna Thompson appeared as representative of the Zoning Review Office and stated that there were no unresolved issues and recommended approval.

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), raised a concern that there is already a public road known as “Tralee”¹ in the Mays Chapel North Development that may cause confusion but other than that he recommended plan 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 the development plan (Developer’s Exhibit 1) and noted that the red-lined plan now addresses the additional forest conservation/forest buffer easement, in excess of County requirements that collectively, will constrain the majority of the conservancy lot. Mr. Lykens noted that since the conservancy lot will contain a single dwelling, as permitted by B.C.Z.R. Section 1A03.4B.1.b.(1), the conservancy area easement agreement required by B.C.Z.R. 1A03.5D, will need to exclude the standard provision for a tenant house before being submitted to the County for review, approval and recordation. Mr. Lykens referred to General Note No. 63 as shown on the redlined plan which requires the conservancy lot to be under unified ownership and/or control. As such, and considering areas protected and the other modifications made to the forest buffer/forest

¹ As pointed out on Developer’s Exhibit 1, the roadway providing ingress and egress to this development is labeled as “Tralee Court”. The road in Lutherville/Timonium is “Tralee Road” and is located in a different election district and zip code. Nevertheless, approval from the United States Postal Service *to reserve this new road name is therefore required*. Failing receipt of this requisite approval, “Tralee Court” will be renamed and this process will need to be done before submittal of the record plat.

conservation easement, Mr. Lykens indicated that the conservancy area meets the requirements of the B.C.Z.R. and the standards of the Comprehensive Manual of Development Policies.

With respect to stormwater management, Mr. Lykens described the proposed facility as being a completely fenced, “two chamber dry pond”, one chamber for water quality and the other for quantity management. The stone-lined outfall will be located more than 100 feet above and beyond the unnamed stream on the property, more than meeting the County’s requirements.

Office of Planning – R. Bruce Seeley appeared at the hearing on behalf of the Office of Planning. He indicated that the conservancy area (Lot No. 5) as now designed and constrained, includes the features required and meets the standards governing conservancy areas as set forth in B.C.Z.R. 1A03.5A. Moreover, ownership of the conservancy area by the owner of Lot 5 is acceptable to his Office pursuant to Section 1A03.5C.1 of the B.C.Z.R. subject to approval of the County’s Office of Law as to legal form and sufficiency [of the conservancy area agreement, required to be executed and delivered to the County prior to recordation of the plat for this development]. Mr. Seeley stated that all of his department's comments had been addressed on the redlined plan with the exception of the landscape buffer for Lots 1 and 9, which were addressed by Mr. Schultz placing red-lined revisions to General Notes 54 and 68 on the site plan. In addition, a School Impact Analysis was prepared and evidenced sufficient capacity in accordance with the adequate public facilities requirements. (B.C.C. Section 32-6-103) Mr. Seeley 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 – Gigi Hampshire appeared on behalf of the Bureau of Land Acquisition and recommended approval.

Geoffrey C. Schultz, President of McKee & Associates, Inc. and a Professional Land Surveyor, licensed in Maryland, was sworn and testified on behalf of the Owner/Developer. Mr. Schultz's expertise in land development and zoning matters are well known to this Hearing Examiner and he was accepted as an expert in those areas. Mr. Schultz described the details of the proposed development, which have been reiterated above, and then described the redline changes made to the development plan submitted for County and State agency review. Mr. Schultz indicated that the redline changes were based on agency comments received at the Development Plan Conference and that all agency comments had been addressed. With respect to the Liberty Reservoir, one of the Baltimore Metropolitan drinking water reservoirs, Mr. Schultz opined that the proposed development met all County requirements, as well as all requirements of the Maryland Department of the Environment as promulgated in the Code of Maryland Regulations.

Mr. Schultz next described how the forest buffer and forest conservancy easement on the conservancy lot (Lot No. 5) had been reconfigured at the request of DEPRM to enlarge the easement thereby protecting permanently over 97% of the conservancy lot.

Finally, Mr. Schultz testified that in his professional opinion, the redlined development plan complies with the Baltimore County Development Regulations, the applicable provisions of the B.C.Z.R. and applicable policies, rules and regulations adopted pursuant to each. The redlined development plan was offered and accepted into evidence as Petitioner's Exhibit No. 1.

Based upon the uncontradicted testimony and evidence offered, it is clear that there are no outstanding issues and that the plan complies with all Development Plan requirements contained in Article 32, Title 4 of the B.C.C. I am persuaded, based upon the overwhelming evidence offered in this case, that the Development Plan complies with all State and County standards, rules and requirements for development and therefore should be approved.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Article 32 of the Baltimore County Code, the development plan shall be approved.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this 22nd day of January 2009 that the red-lined development plan for the **BRADY PROPERTY**, identified herein 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.

WJW:dlw

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