

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
SW/S Windsor Mill Road, 149' E of		
Featherbed Lane	*	ZONING COMMISSIONER
(GONZALES PROPERTY)		
2 nd Election District	*	OF
4 th Council District		
	*	BALTIMORE COUNTY
Eliseo Gonzales		
<i>Owner/Developer</i>	*	Case No. II-742

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 Site Rite Surveying, Inc. for the proposed resubdivision of the subject property by Eliseo Gonzales, with four (4) lots (1 new, 3 existing). The subject property contains a gross area of 1.56 acres, more or less, zoned D.R.5.5 (1.2 acres) and R-O (0.36 acres) and is located on the south side of Windsor Mill Road, between Featherbed Lane and Wells Manor Avenue in Gwynn Oak. The proposed subdivision is more particularly described on the two page, redlined development plan submitted and marked into evidence as Developer's Exhibits 2 and 2A.

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 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 April 7, 2008. 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 June 4, 2008 at the Featherbed Lane Elementary School. 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 October 22, 2008. Following the DPC, a public hearing on the proposal is conducted before the Zoning Commissioner/Deputy Zoning Commissioner. In this case, the Hearing Officer's Hearing was held before me on November 14, 2008.

Appearing at the public hearing required for this project were Maria L. Salcido on behalf of the property Owner/Developer and Vincent J. Moskunas, Sr., President of Site Rite Surveying, 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): Darryl D. Putty, Project Manager; Vishnu Desai, Development Plans Review; Brad Knatz, Land Acquisition; and Leonard Wasilewski, Zoning Review. Also appearing on behalf of the County were Jennifer Nugent, Office of Planning (OP); Jeff Livingston, Department of Environmental Protection and Resource Management (DEPRM); and Bruce Gill, Department of Recreation and Parks (R&P). There were no citizens from the surrounding locale or other interested persons present.

An appreciation of the past history is relevant and briefly outlined. The subject property is an irregular shaped tract of land and is currently comprised of three (3) lots. As shown on Developer's Exhibit 1, this three-lot subdivision occurred in 1991 approving Lot 1 (0.36 acres of R-O land improved with a 2-½ story dwelling built in 1915 containing two (2) apartments known as 6745 Windsor Mill Road), Lot 2 (0.6802 acres of D.R.5.5 land improved with a 2-story single-family dwelling – 6743 A Windsor Mill Road) and Lot 3 (0.4842 acres of D.R.5.5 land also improved with a 2-story single-family dwelling known as 6743 Windsor Mill Road). Lot 1 fronts on and has direct access to Windsor Mill Road. Lots 2 and 3 are located behind Lot 1 and are served by panhandle driveways in accordance with B.C.C. Section 32-4-409. It is noted, however, that Lot 2 also has the requisite 30-foot of frontage abutting on Windsor Mill Road. The Developer, Eliseo Gonzalez, submitted a Concept Plan for the further subdivision of Lot 2 and went before the Development Review Committee (DRC) on May 21, 2007 requesting a Limited Exemption for the resubdivision. He proposed the creation of a new lot to be known as 6743 B Windsor Mill Road

containing 0.339 acres (14,773 square feet) to be improved with a 2-story single-family dwelling. The request was denied and Mr. Gonzalez was instructed to go through the full development process for the creation of four (4) lots.¹

On behalf of the Owner/Developer, Mr. Moskunas presented the plan and indicated that there were no outstanding agency comments or unresolved issues, and that the plan complies with all development plan comments, rules, regulations and standards for development. The County agency representatives who were present corroborated Mr. Moskunas's testimony. Each of the representatives indicated that there were no outstanding issues and that the plan met their respective agency's requirements and regulations. Mr. Bruce Gill from the Department of Recreation and Parks indicated that a waiver of local open space requirements and a fee in lieu thereof had been approved by his agency. A letter confirming this agreement was submitted into evidence as Developer's Exhibit 1 and incorporated into the record of this case. Mr. Livingston, on behalf of DEPRM, testified that his department had no unresolved issues, that the plan is "in compliance" with all applicable regulations and requirements and recommended approval. He noted the prior subdivision approval (December 6, 1991) exempted the current plan from the Forest Conservation and Forest Buffer regulations that came into effect in 1992. On behalf of the Office of Planning, Jennifer Nugent testified that her office determined that the development of one (1) lot would have no adverse impact on school capacity as per the requirements of County Council Bill 24-06 (a copy of this School Impact Analysis was provided and marked into evidence as Developer's Exhibit 4). Likewise, she waived the need for a Pattern Book for the proposed additional lot and after reviewing the "Blue Lined Architectural Drawings" – Developer's Exhibit 2A, stated her approval that Baltimore County Zoning Regulations (B.C.Z.R.) Section 260 Residential Performance Standards were complied with.

¹ The County Development regulations codified in Article 32, Title 4, of the B.C.C. defines minor subdivisions (three lots or less) and major subdivisions (four lots or more) and the regulatory process pertaining to each.

Section 32-4-227 of the Code requires that the Hearing Officer approve any development plan that meets all County requirements and standards. In this case, the overwhelming weight of the testimony presented indicated that the plan is in compliance with these requirements. Moreover, there were no conditions suggested or warranted to be attached to the approval. Thus, the two page development plan for the resubdivision of Lot 2 (Minor Subdivision No. 91-149M) submitted into evidence as Developer's Exhibits 2 and 2A shall be approved.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Article 32, Title 4 of the Baltimore County Code, the development plan shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this 18th day of November 2008 that the development plan for the **GONZALES PROPERTY**, identified herein as Developer's Exhibits 2 and 2A, be and is hereby APPROVED.

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

WJW:dlw

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