

<b>IN RE: DEVELOPMENT PLAN HEARING</b>	*	BEFORE THE
SW side of Joppa Road, W of		
Philadelphia Road	*	HEARING OFFICER
11 <sup>th</sup> Election District		
5 <sup>th</sup> Councilmanic District	*	FOR BALTIMORE COUNTY
<b>(5525 EAST JOPPA ROAD)</b>		
	*	
William and Kathleen Rasinski		
<i>Developer</i>	*	<b>Case No. XI-1075</b>

\* \* \* \* \*

**HEARING OFFICER’S OPINION & DEVELOPMENT PLAN ORDER**

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, for a public hearing on a development proposal submitted in accordance with the development review and approval process contained in Article 32, Title 4, of the Baltimore County Code (“B.C.C.”). William and Kathleen Rasinski, the owners and developers of the property (“Developer”), submitted for approval a development plan prepared by J.S. Dallas, Inc. known as “5525 East Joppa Road,” for property located at the southwest side of Joppa Road, west of Route 7 Philadelphia Road and east of Interstate 95 in the White Marsh area of Baltimore County. The Developer proposes two single-family dwellings on approximately 4.4 acres, more or less, zoned D.R.2H. The site is currently improved with one existing dwelling and is primarily an open site with some existing trees and wetlands, and with portions of the site within the 100 year floodplain. Details of the proposed development are more fully depicted on the redlined Development Plan that was presented at the hearing and marked and accepted into evidence as Developer’s Exhibit 1.

As to the history of the project, a concept plan for the proposed development was submitted to the County, and a Concept Plan Conference (“CPC”) was held on April 7, 2008 at 9:00 AM in the County Office Building. As the name suggests, the concept plan is a schematic

representation of the proposed development and is initially reviewed by and between representatives of the Developer and the reviewing County Agencies at the 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, the CIM was held on June 25, 2008 at 7:00 PM at the Perry Hall Community Hall. Members of the development team and the County’s representative attended, and members of the community were invited to attend as well. Subsequently, a development plan is prepared, based upon the comments received at the CPC and the CIM, and the development plan is submitted for further review at a Development Plan Conference (“DPC”), which again, is held between the Developer’s consultants and County agency representatives to further review and scrutinize the plan. The DPC occurred on November 12, 2008 at 10:00 AM. The Hearing Officer’s Hearing for this proposed development was then held on December 5, 2008 in Room 106 of the County Office Building located at 111 West Chesapeake Avenue in Towson.

Certifications contained within the case file indicate that the property was properly posted with a sign on November 1, 2008 providing public notice of the Hearing Officer’s Hearing for at least 20 working days prior to the hearing, in order to notify all interested citizens of the date and location of the hearing.

At the public hearing, the property owners and Developers, William and Kathleen Rasinski, appeared along with their son, Walter Rasinski, and his wife, Danielle Hughes. Also appearing in support of the development plan was J. Scott Dallas, with J.S. Dallas, Inc., the property line surveyor who prepared the development plan, and Michael Sabracos, the Developers’ builder. There were no Protestants or other interested citizens in attendance at the hearing.

Numerous representatives of the various Baltimore County agencies who reviewed the plan also attended the hearing, including the following individuals from the Department of Permits and Development Management: Colleen Kelly (Project Manager), Dennis Kennedy (Development Plans Review), Aaron Tsui (Zoning Review Office), and Brad Knatz (Bureau of Land Acquisition). Also appearing on behalf of the County were David Lykens from the Department of Environmental Protection and Resource Management (DEPRM); Curtis Murray from the Office of Planning; and Bruce Gill from the Department of Recreation & Parks. In addition, written comments were received from Baltimore County Fire Marshal's Office and the Maryland State Highway Administration. These and other agency remarks are contained within the case file.

It should be noted at this juncture that the role of each reviewing County agency in the development review and approval process is to perform an independent and thorough review of the development plan as it pertains to its specific area of concern and expertise. The agencies specifically comments on whether the plan complies with all applicable Federal, State, and/or County laws and regulations pertaining to development and related issues. In addition, these agencies carry out this role throughout the entire development plan and approval process, which includes providing input to the Hearing Officer either in writing or in person at the hearing. It should also be noted that continued review of the plan is undertaken after the Hearing Officer's Hearing during the Phase II review of the project. This continues until a plat is recorded in the Land Records of Baltimore County and permits are issued for construction.

Pursuant to Sections 32-4-227 and 32-4-228 of the B.C.C., 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. Mr. Dallas, the Developer's consultant, presented a general overview

of the plan and particularly commented on the minor redlined changes that substantially resolved the outstanding issues that were identified at the Development Plan Conference. Mr. Dallas then indicated that there were forest buffer and forest conservation issues that needed to be resolved, but that he did not believe these minor issues would ultimately prevent plan approval. He also indicated it was his understanding that all other agency comments had been addressed.

There being no interested citizens in attendance at the hearing, I then asked the particular County agency representatives to state whether they had any outstanding issues. I have summarized their responses below:

Recreation and Parks: Bruce Gill appeared on behalf of the Department of Recreation and Parks and stated that there were no outstanding issues with regard to local open space. He presented a letter dated December 1, 2008 from his department indicating that the Department of Recreation and Parks had approved the Developers' request for an exemption of Local Open Space and associated payment in lieu for the subject property. This letter was marked and accepted into evidence as Baltimore County Exhibit 1. As such, he indicated his department recommends approval of the redlined Development Plan.

Planning Office: Curtis Murray appeared on behalf of the Office of Planning. Mr. Murray indicated that the proposed development was subject to the Residential Performance Standards set forth in Section 260 of the B.C.Z.R., but that a pattern book was not necessary in this case with the addition of only a single lot; rather, in this case, the submission of elevation drawings, which had been received from the Developer and were marked and accepted into evidence as Baltimore County Exhibit 2, would be sufficient for the Planning Office to make its determination as to compliance with the Performance Standards prior to permits being issued. Mr. Murray also indicated that a School Impact Analysis had been prepared and showed that there were adequate

public facilities for this proposed development. A copy of the School Impact Analysis was marked and accepted into evidence as Developer's Exhibit 3. In light of these findings, Mr. Murray indicated that his Office recommends approval of the redlined Development Plan.

Development Plans Review (Public Works): Dennis Kennedy appeared on behalf of the Bureau of Development Plans Review. Mr. Kennedy confirmed that the Developer's redlined plan met all of his department's requirements and comments and that his department recommends approval of the redlined Development Plan.

Department of Environmental Protection and Resource Management (DEPRM): David Lykens appeared on behalf of DEPRM. Mr. Lykens confirmed that there were still outstanding issues with regard to the plan's forest buffer and/or forest conservation area that needed to be resolved prior to plan approval. He also indicated that the Developers' planned conveyance of land to their son and daughter-in-law might resolve the forest conservation requirements. He recommended that the record of the case be kept open for a brief period so these issues could potentially be addressed and resolved.

Office of Zoning Review: Aaron Tsui appeared on behalf of the Zoning Review Office. He indicated that all of his agency's comments were addressed on the redlined plan and then indicated that his department recommends approval of the redlined Development Plan.

Land Acquisition: Brad Knatz appeared on behalf of the Bureau of Land Acquisition. He indicated that there were no outstanding issues from his agency and that his department recommends approval of the redlined Development Plan.

Moving next to the more formal portion of the hearing, Mr. Dallas presented the redlined Development Plan. Mr. Dallas, a registered property line surveyor with J.S. Dallas, Inc., confirmed his familiarity with the laws and regulations pertaining to residential and commercial

development, particularly in Baltimore County, and was offered and accepted as an expert in land development and the necessary zoning and land use regulations and policies in Baltimore County. As Mr. Dallas explained, he was directly involved in the evaluation and preparation of the development plan for this project, and he prepared the redlined Development Plan.

Mr. Dallas testified that this property was once part of a three lot minor subdivision approximately 20 years ago. At this juncture, the owners and Developer, Mr. and Mrs. Rasinski, desire to subdivide their lot to make what would ultimately be the fourth lot in this subdivision. As such, the project has proceeded through the major subdivision process. Mr. Dallas indicated that the subject property consists of approximately 4.4 acres, more or less, zoned D.R.2H. The "H" identifies that the subject property is located within the Honeygo Overlay District, which requires certain regulations and standards such as lot width and compatibility standards. He also explained that, as shown on the redlined Development Plan, the existing lot and dwelling to remain -- Lot 2 -- would consist of approximately 2.853 acres. The newly created lot -- Lot 1 -- would consist of approximately 1.183 acres. Although there is an existing dwelling on proposed Lot 1, it is planned that this dwelling would be razed. As shown on the elevation drawings previously accepted into evidence as Baltimore County Exhibit 2, a new rancher style dwelling would be built on the property. According to Mr. Dallas, Mr. and Mrs. Rasinski intend to convey the newly created Lot 1 to their son and daughter-in-law as an inter-family transfer, which they believe will exempt them from the forest conservation regulations.

Following his presentation of the plan, Mr. Dallas offered his opinion that, based on his professional knowledge and experience, the redlined Development Plan marked and accepted into evidence as Developer's Exhibit 1 fully complies with the development regulations contained in the Baltimore County Code and all applicable policies, rules, and regulations. As Mr. Dallas

confirmed, the redlined Development Plan had been presented to each of the County agency representatives and, but for the pending forest conservation/forest buffer issue with DEPRM, each agency likewise confirmed that all issues were addressed and resolved on the redlined plan.

Following the hearing on December 5, 2008, the undersigned received email communications from the Developer's consultant, Mr. Dallas, indicating he was in contact with DEPRM, and in particular Glenn Shaffer with the Environmental Impact Review section of DEPRM, attempting to work through the forest buffer issues. On January 21, 2009, the undersigned received an email from Mr. Dallas indicating he had submitted a revised redlined plan directly to Mr. Shaffer at DEPRM in accordance with Mr. Shaffer's most recent comments. Thereafter, on February 2, 2009, the undersigned received an email from Mr. Shaffer indicating he had reviewed the revised redlined Development Plan and approved that plan. He indicated "it shows the Forest Buffer Easement per the variance conditions and contains the necessary notes." He also attached an Interoffice Correspondence of the same date formally approving the submission. Finally, on February 3, 2009, Mr. Dallas delivered to the undersigned a copy of the revised redlined Development Plan that incorporated the forest buffer requirements. This revised redlined Development Plan was marked and accepted into evidence as Developer's Exhibit 2.

Turning now to the request for development plan approval, 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." *See*, Section 32-4-229 of the B.C.C. After due consideration of the testimony presented by Mr. Dallas, the exhibits offered at the hearing, and confirmation from the various County agencies that the development plan satisfies those agencies' requirements, I find that the revised redlined Development Plan accepted into evidence as Developer's Exhibit 2 is in compliance with the

Baltimore County Code and all applicable policies, rules, and regulations. Therefore, having identified no remaining unresolved or outstanding issues that would prevent development plan approval, the Developer has satisfied its burden of proof and, therefore, is entitled to approval of the revised redlined Development Plan.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, the requirements of which are contained in Article 32, Title 4, of the Baltimore County Code, the revised redlined "5525 East Joppa Road" Development Plan accepted into evidence as Developer's Exhibit 2 shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Hearing Officer/Deputy Zoning Commissioner for Baltimore County this 5<sup>th</sup> day of February, 2009, that the 5525 EAST JOPPA ROAD revised redlined Development Plan accepted into evidence as Developer's Exhibit 2, 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  
THOMAS H. BOSTWICK  
Hearing Officer/Deputy Zoning Commissioner  
for Baltimore County

THB:pz