

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
N side Ridge Road, W of Perry		
Hall Blvd.	*	HEARING OFFICER
14 th Election District		
6 th Councilmanic District	*	FOR BALTIMORE COUNTY
(SARWAR LANDING)		
	*	
Canam, Inc.		
<i>Developers</i>	*	Case No. XIV-438

* * * * *

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.”). Canam, Inc., the developers of the property (“Developer”), submitted for approval a development plan prepared by George William Stephens, Jr. and Associates, Inc. (GWS) known as the “SARWAR LANDING,” for property located on the north side of Ridge Road and west of Perry Hall Blvd. in the White Marsh area of Baltimore County. The Developer proposes seven single-family detached dwellings on 2.046 acres, more or less, zoned DR 3.5. Details of the proposed development are more fully depicted on the redlined Development Plan that was 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 November 7, 2005 at 9:00 AM in the County Office Building. As the name suggests, the concept plan is a schematic representation of the proposed 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 February 7, 2006 at 7:00 PM at the White Marsh Library located at 8133 Sandpiper Circle. A second CIM meeting was held on March 15, 2006 at 7:00 PM at the Fullerton Elementary School located at 4400 Fullerton Avenue. Members of the development team and the County's representative attended, as well as a number of interested persons from the community. 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 review and scrutinize the plan further. The DPC occurred on July 18, 2007 at 9:00 AM. The Hearing Officer's Hearing for this proposed development was then scheduled for August 9, 2007 at 9:00 AM in Room 106 of the County Office Building, 105 West Chesapeake Avenue in Towson, Maryland. This hearing was convened by Zoning Commissioner William J. Wiseman, III and was continued at the request of Arnold Jablon, Esquire, attorney for the Developer. The Hearing Officer's Hearing was subsequently rescheduled for January 16, 2009 at 9:00 AM in Room 104 of the Jefferson Building, 105 West Chesapeake Avenue in Towson, Maryland. Certifications contained within the case file indicate that the property was properly posted with a sign that provided 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, Qutub Syed appeared on behalf of the Developer, Canam, Inc., along with Arnold Jablon, Esquire attorney for the Developer. Also appearing in support of the proposed development were Bernt C. Peterson with George William Stephens, Jr. and Associates, Inc. (GWS), the landscape architect who prepared the development plan, and James

Markel with GWS, a professional engineer and expert in storm water management issues. 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: John Sullivan (on behalf of Walt Smith, original Project Manager), Dennis Kennedy (Development Plans Review), Aaron Tsui (Zoning Review Office), and Gigi Hampshire (Bureau of Land Acquisition). Also appearing on behalf of the County were David Lykens from the Department of Environmental Protection and Resource Management (DEPRM); Lloyd Moxley 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. Jablon, the Developer's attorney, presented a general overview of the plan and particularly commented on the minor redlined changes that resolved any outstanding issues that were identified at the Development Plan Conference. Mr. Jablon then indicated, based on his understanding that all agency comments had been addressed, that he was not aware of any unresolved issues with regard to the redlined Development Plan.

I then asked the particular agencies 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 indicated that the proposed development is subject to the Adequate Public Facilities Act, Bill No. 110-99. The required local open space for the seven units is 7,000 square feet or 0.16 acre, more or less, with 4,550 square feet active and 2,450 square feet passive. Mr. Gill indicated that proposed developments with less than 20 units should be considered for a waiver and a fee in lieu of open space. He confirmed that the Developer had applied for a waiver of the local open space requirements pursuant to Section 32-6-108(c)(3)(ii) and (d) of the B.C.C. and that this waiver had been granted. A copy of the letter from the Department of Recreation and Parks dated July 27, 2007 granting the waiver was marked and accepted into evidence as Developer's Exhibit 2. The local open space fee of \$36,540.00 is to be paid prior to the recordation of the record plat for the property. On this basis, Mr. Gill testified that the Department of Recreation and Parks recommends approval of the redlined Development Plan.

Planning Office: Lloyd Moxley appeared on behalf of the Office of Planning. Mr. Moxley indicated that a School Impact Analysis was prepared by both the Developer and the

Office of Planning and revealed that the relevant elementary, middle, and high schools in the District are below the 115% threshold and meet the Adequate Public Facilities requirements. A copy of the Office of Planning School Impact Analysis was marked and accepted into evidence as Baltimore County Exhibit 1. The Developer's School Impact Analysis was marked and accepted into evidence as Developer's Exhibit 3. Mr. Moxley also noted that a pattern book was submitted by the Developer and reviewed by his Office and indicated that it meets the Performance Standards and all other applicable requirements. A copy of the pattern book was marked and accepted into evidence as Developer's Exhibit 2. Based on the above, as well as the plan meeting all other Office of Planning comments, he 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 indicated that there were issues with storm water management at the originally scheduled Hearing Officers Hearing, related to the subject property's proximity to land to the north and east owned by the City of Baltimore. He also indicated that the Developer has requested a variance pursuant to Section 33-4-113 of the B.C.C. to pay a fee in lieu of providing water quality. A copy of the Variance Notification Entry was marked and accepted into evidence as Baltimore County Exhibit 3. According to Mr. Lykens, DEPRM intends to grant this variance -- the subject property is a relatively small site and the Developer has adjusted the storm drain system and the amount of water outfall that will be

generated on the adjacent City property. It has been determined that the outfall will be the same as exists presently; hence the City has deferred to the County and DEPRM does not view this as an unresolved issue. As such, Mr. Lykens indicated his department recommends approval of the redlined Development Plan.

Office of Zoning Review: Aaron Tsui appeared on behalf of the Zoning Review Office. Mr. Tsui indicated that for the subject 2.04 acres of land, seven density units are permitted and that the Developer has proposed seven units. He also indicated that all of his agency's comments were addressed on the redlined plan. He then indicated that his Department recommends approval of the redlined Development Plan.

Land Acquisition: Gigi Hampshire appeared on behalf of the Bureau of Land Acquisition. Ms. Hampshire indicated that there were no outstanding issues from her agency and recommends approval of the redlined Development Plan.

Moving next to the more formal portion of the hearing, the Developer's attorney, Mr. Jablon, proffered the testimony of Mr. Petersen, the Developer's landscape architect, and presented the redlined Development Plan. Mr. Jablon noted that Mr. Petersen is a professional landscape architect with George William Stephens, Jr. and Associates, Inc. (GWS), and confirmed his familiarity with the laws and regulations pertaining to residential and commercial development, particularly in Baltimore County. Mr. Petersen 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. Jablon explained, Mr. Petersen was directly involved in the evaluation and preparation of the development plan for this project, and he prepared and sealed the redlined Development Plan for the Developer.

As to the plan itself, Mr. Jablon proffered that the property consists of approximately 2.046 acres zoned D.R.3.5. Seven density units are permitted and seven single-family dwellings are proposed. The property is located on the north side of Ridge Road, situated between Rossville Boulevard to the west and Perry Hall Boulevard to the east, in the Perry Hall/White Marsh area of Baltimore County. The property is elongated and rectangular and is presently improved with a single-family dwelling and separate detached garage. Access to the property is via Ridge Road. The property also has access to public water and sewer services, though the proposed development will also be served by grinder pumps and a low pressure sewer system.

The site had been utilized for a number of years previously as a trucking service garage. This use ended approximately three years ago and the dwelling has been residentially occupied by the legal property owner, Saif U. Syed, since that time. At this juncture, Mr. Syed and his father, Qutub Syed with Canam, Inc., desire to redevelop the property by subdividing the property into seven new lots and razing the existing structures and replacing them with new homes. As shown in the pattern book, the new homes will be two-story single family dwelling with attached two-car garages with distinctive window features. The lots will be appropriately landscaped and the existing surrounding foliage and vegetation will remain. It is anticipated that this new development will fit in with existing residential cul-de-sacs to the immediate east and west. Access to this new development will be via the proposed Saif Court. Mr. Jablon also noted that there are no deficient traffic sheds in the area and proffered Mr. Petersen's testimony that the seven proposed lots will result in almost immeasurable impacts to traffic.

Following the presentation of the plan, Mr. Jablon indicated that if called to testify, Petersen would offer 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. Petersen confirmed, the redlined Development Plan had been presented to each of the County agency representatives and each agency likewise confirmed that all issues were addressed and resolved on the redlined plan.

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 and evidence presented by the Developer, 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 redlined Development Plan, marked and accepted into evidence as Developer’s Exhibit 1, 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 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 redlined “SARWAR LANDING” Development Plan, accepted into evidence as Developer’s Exhibit 1, shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Hearing Officer/Deputy Zoning Commissioner for Baltimore County, this 21st day of January, 2009, that the SARWAR LANDING redlined Development Plan, marked and accepted 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
THOMAS H. BOSTWICK
Hearing Officer/Deputy Zoning Commissioner
for Baltimore County

THB:pz