

<b>IN RE: DEVELOPMENT PLAN HEARING</b>	*	BEFORE THE
N/S Red Run Boulevard @ NE Corner		
West Cherry Hill – 325 W. Cherry Hill Ct.	*	HEARING OFFICER
<b>(Robert Moser &amp; Sons Property)</b>		
	*	FOR
4 <sup>th</sup> Election District		
4 <sup>th</sup> Council District	*	BALTIMORE COUNTY
West Cherry Hill Court, LLC, <i>Owner</i>	*	
The Sterling Land Companies VII, LLC,		
<i>Developer</i>	*	<b>CASE NO. 04-643</b>

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

This matter comes before the Hearing Officer/Zoning Commissioner for consideration of a development plan prepared by DeMario Design Consultants, Inc. for the proposed development of the subject property by West Cherry Hill, Court, LLC, and The Sterling Land Companies, VII, LLC, with a three-story commercial office building to be located at the northeast corner of Red Run Boulevard and West Cherry Hill Court in Owings Mills. The subject property and proposed development are more particularly described on the redlined 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.). Those regulations establish a process by which development is reviewed through a series of steps and stages. In this regard, an appreciation of the property’s past history and use is relevant and briefly outlined. As evidenced by my Order of February 2, 2007, the Robert Moser & Sons Property received prior approval for the development of this 2.65-acre site with six (6) single-family homes. Despite approval, a record plat for residential development was never recorded nor were any building permits issued. During the 2008 Baltimore County Comprehensive Zoning Map

Process (CZMP), an application to change the zoning on the property from R.C.5 (0.86 acres) and OR-1 (1.79 acres) was filed to change the zoning to entirely OR-2 (Office Building – Residential). After learning of the community’s concern with the residential development that could occur with such a change, the Owner/Developer amended the request for rezoning to O-3 (Office Park), a zone that does not provide for residential development. That request, docketed as CZMP Issue No. 4-017, was recommended by the Office of Planning and the Baltimore County Planning Board. The County Council, as part of Bill 88-08, changed the zoning on the subject property to O-3. Not having vested the prior approval before the effective date of the O-3 classification on the property, in accordance with the provisions of B.C.C. Section 32-4-273, the Owner/Developer were required to re-submit a Concept Plan for commercial development proposal for review at a conference held by and between representatives of the Developer and the County at a Concept Plan Conference (CPC), which was conducted on May 19, 2008. The process then requires a Community Input Meeting (CIM), to be conducted in the evening hours in the vicinity of the proposed development to provide an opportunity for the residents of the locale to review and offer comments on the proposal. The CIM for this project was held on November 24, 2008 at the Cedarmere Elementary School. Subsequently, the 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 7, 2009, the fourth and final phase of the review process for the three-story office building (two-story with one-story parking below) requires a Hearing Officer’s Hearing (HOH) which is a public hearing on the proposal before the Zoning Commissioner/Deputy Zoning Commissioner, and is conducted in accordance with the rules

governing administrative hearings in this State. In this case, the HOH was held before the undersigned Zoning Commissioner on October 29, 2009.

Appearing in support of this project were Mark J. Padeletti and Sterling Leppo on behalf of the Owner and The Sterling Land Companies, VII, LLC/Developer. The Developer produced as expert witnesses Richard Williams and Andrew J. Stine, a landscape architect, both with DeMario Design Consultants, Inc., the engineering firm who prepared the development plan, and Howard L. Alderman, Jr., Esquire. Numerous representatives of the various Baltimore County agencies who reviewed the plan and attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Colleen Kelly (Project Manager); Dennis Kennedy (Development Plans Review); Ron Goodwin (Land Acquisition); and Joe Merrey (Zoning Review Office). Also appearing on behalf of the County were Lloyd Moxley (Office of Planning); Bruce Gill (Department of Recreation and Parks); David Lykens (Department of Environmental Protection and Resource Management - DEPRM); and Lt. Roland Bosley, Jr. of the Baltimore County Fire Marshal's Office. Steven D. Foster, on behalf of the Maryland State Highway Administration, submitted written comments which are contained within the case file.

Although not a County reviewing agency contemplated within B.C.C. Section 32-4-226, it is of note that Richard A. Colbert with the Baltimore County Department of Economic Development appeared and presented testimony supporting the project. He gave a brief statement and overview of the area and property stating that the Red Run Boulevard corridor was developed in the late 1990's to be a job creation corridor dedicated to office, manufacturing and new technology businesses during the "tech boom". Some "accessory retail" was to be permitted. Successful recent expansions in the area include the T. Rowe Price business campus

which embrace two new multi-story offices and garages with a capital investment of some \$180 million. T. Rowe anticipates hiring 1,200 new workers over the next five (5) years. Similarly, Legg Mason and ADP have also committed to facilities that will create new growth. He explained why new zoning and uses have developed on some of the smaller parcels such as the subject property. Both Planning and Economic Development continue to seek higher and better uses for undeveloped parcels to maintain consistent quality growth. He stated the Moser property office building will provide an excellent opportunity for office and employee support for the corridor by providing opportunities for pharmacy, medical, legal, accounting or other professional service uses. These enhancements in the immediate area provide job creation and increase the tax base.

Appearing from the neighboring area were adjacent property owners Frederick N. and Sharon A. Koenig and Lawrence E. Shock. Samantha Manganaro, a student in law school, attended as an interested person for educational purposes.

Sections 32-4-227 and 228 of the Baltimore County Code set forth the standards which regulate the conduct at the Hearing Officer's Hearing. I am first required to identify open or unresolved issues or agency comments. Testimony and evidence received was that all issues raised within the comments submitted by the various County reviewing agencies have been resolved and incorporated within the revised development plan and that the plan complies with all County regulations. Furthermore, the neighboring property owners who attended the hearing indicated that they had no objection to the development plan. There being no open issues or concerns raised by either the Developer, any County agency representative, or the citizens in attendance, it was not necessary to take any testimony, but a brief presentation of the

development plan was provided by Messrs. Williams and Stine, with the firm of DeMario Design Consultants, Inc.

Testimony and evidence offered revealed that the subject rectangular shaped parcel with frontage on the north side of Red Run Boulevard will be improved with a proposed 33,600 square foot Class A Commercial Office Building with its attendant 16,800 square foot lower level parking/mechanical enclosures as illustrated in the approved Pattern Book (Baltimore County Exhibit 1A. *See* Pages 5 through 8.). The building, when completed, will be known as 11640 Red Run Boulevard and be located centrally on the northern portion of the 2.65-acre site. Ingress and egress will be from Red Run Boulevard at the property's southeastern corner. Vehicles will then circulate through a landscaped exterior surface parking field that will hold 75 parking spaces for vehicles before entering the building on the western side where some additional 36 parking spaces are provided. The storm water management facilities approved by the Department of Environmental Protection and Resource Management (DEPRM) is positioned along the front portion of the site and in the southwest corner adjacent to the intersecting West Cherry Hill Court and Red Run Boulevard. Mr. Williams explained that presently there are a few mature trees on the site and a residential structure is to be removed as part of the development of the property. That residential structure, known as the "Schock House" is listed on the Maryland Historical Trust Inventory of Historic Properties. Therefore, pursuant to Baltimore County Code Section 32-7-301(b)(1), that structure is also on the County Inventory and is identified as Structure No. 2726. Regarding all structures on the County Inventory, the Baltimore County Buildings Engineer is required, pursuant to Baltimore County Code Section 32-7-301(g), to forward to the County Landmark Preservation Commission for its approval, all applications for demolition permits and plans and specifications related thereto. No demolition

permit can be issued for a structure on the County Inventory unless approved by that Commission. The Commission is required to provide public notice and consider the demolition permit application during a public hearing before rendering its decision to approve or disapprove the application.

Mr. Stine discussed the compatibility objectives in designing the site and the generous landscaping to be provided for this site. It should be noted that the approval of the prior, residential development plan discussed above was conditioned on the Developer planting a line of Leyland Cypress trees on the Koenig property (assuming the Koenig's gave their permission) parallel to the eastern property line of the subject property. That condition was requested by the Koenigs and agreed to by the Developer to provide a landscape buffer from the proposed homes and car headlights associated with the residential development as both properties are at the same, relative grade. The commercial plan presently under review includes grading that places the proposed parking areas 6-8 feet below the grade of the Koenig property, thereby eliminating the headlight issue. A mixture of deciduous and evergreen trees to be planted at the top of that grade as shown on the Developer's Schematic Landscape Plan (Baltimore County Exhibit 1B) will provide buffering of the commercial building from the Koenig property. The Baltimore County Development Regulations, Zoning Regulations, and Comprehensive Manual of Development Policies (CMDP) require the Director of Planning to make compatibility recommendations to the Hearing Officer. The Developer submitted to the Office of Planning, a Compatibility Report, dated May 8, 2009, in accordance with B.C.C. Section 32-4-402 which was approved and marked and accepted as Baltimore County Exhibit 1A through D.

Finally, in addressing the interests of the adjoining property owners, Messrs. Williams and Stine explained that in 2007, the subject property was split-zoned, R.C.5 and OR-1. The

single-family, detached homes proposed at that time were to be provided with public water and sewerage facilities by the construction of new public water and sewerage lines in the right-of-way of the then proposed Cherryside Drive, connecting to public utilities in West Cherry Hill Court running across the property in a west to east direction, terminating at eastern property line so that the Koenig property to the east could obtain access to those utilities for future development. The current Plan being reviewed requires the Developer to extend public sewerage facilities from West Cherry Hill Court, in the right-of-way of Red Run Boulevard to a point east of the subject property. A public water line already exists in Red Run Boulevard. The location of the sewerage line in Red Run Boulevard will permit sewage service to the entire Koenig property via gravity flow. Access to both public utilities located under Red Run Boulevard presents a better situation for the Koenig's than the previously approved extension of utilities. This satisfactorily addressed their concerns.

The Baltimore County Code clearly provides that the "Hearing Officer shall grant approval of a development plan that complies with the development regulations and applicable policies, rules, and regulations". *See* B.C.C. 32-4-229. With the testimony of Messrs. Williams and Stine, and the concurrence of the various County agencies, I find that the redlined development plan is in accordance with all applicable policies, rules and regulations. Therefore, having identified no unresolved or outstanding issues that would prevent plan approval, Developer has satisfied its burden of proof and, therefore, is entitled to approval of the 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 development plan for Robert Moser and Sons Property, introduced as Developer's Exhibit 1, shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by the Hearing Officer/Zoning Commissioner of Baltimore County this 4<sup>th</sup> day of November 2009, that the redlined development plan for a Commercial Office Building on the **ROBERT MOSER AND SONS PROPERTY**, 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