

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
E/S of Jarrettsville Pike (Md. Rte. 146),	*	
1,600' S of Merrymans Mill Road	*	ZONING COMMISSIONER
(Richardson Property)	*	
	*	OF
10 th Election District	*	
3 rd Council District	*	BALTIMORE COUNTY
Joyce V. Richardson, <i>Legal Owner</i>	*	
Gaylord Brooks Realty Company,	*	Case No. 10-455
<i>Contract Purchaser/Developer</i>	*	

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HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before the Hearing Officer/Zoning Commissioner of Baltimore County for a public hearing pursuant to Section 32-4-227 of the Baltimore County Code (B.C.C.), for approval of the development plan filed by Gaylord Brooks Realty Company (Developer). The plan was prepared by Gerhold, Cross & Etzel, Ltd. for the property located at 13629 Jarrettsville Pike in Phoenix. The subject property contains 59.8 acres, more or less, zoned R.C.6, on which the Developer proposes a total of five single-family detached dwellings; four (4) new and one (1) existing.

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 August 31, 2009. As the name suggests, the concept plan is a schematic representation of the proposed development and is initially reviewed by and discussed between representatives of the Developer and the reviewing County agencies at the CPC. Thereafter, as required by Section 32-4-217 of the B.C.C., a Community Input Meeting (CIM) is scheduled during evening hours at a location near the property or in Towson, if no other meeting site can be scheduled, in order to provide residents of the area an opportunity to review and comment on the plan. In this case, the CIM

was held on December 1, 2009, at 7:00 P.M. at the County Office Building, 111 West Chesapeake Avenue, Room 106, Towson, Maryland. In attendance were members of the development team and the County's representatives, as well as a number of interested persons from the community. Subsequently, a development plan was prepared, based upon the comments received at the CPC and CIM, and the development plan was submitted for further review at a Development Plan Conference (DPC), which again, was held between the Developer's representatives and County agency representatives to review and scrutinize the plan further. The DPC was held on April 28, 2010. Following the DPC, a Hearing Officer's Hearing (HOH) for this development was scheduled for May 20, 2010, at which time the Developer introduced the redlined Development Plan.

At the public hearing, Adam D. Baker, Esquire and G. Scott Barhight, Esquire, of Whiteford, Taylor & Preston, LLP, appeared on behalf of the Developer, Gaylord Brooks Realty Company. Stephen R. Smith, President of Gaylord Brooks Realty Company, was also present. Scott Lindgren, a professional land surveyor with Gerhold, Cross & Etzel, Ltd., the consultants responsible for preparation of the development plan, was presented as an expert witness.

Numerous representatives of the various Baltimore County agencies tasked with reviewing the plan attended the public hearing, including the following individuals from the Department of Permits and Development Management: John Sullivan (Project Manager); Dennis Kennedy (Bureau of Development Plans Review); Donna Thompson (Zoning Review Office), and Brad Knatz (Bureau of Land Acquisition). Also appearing on behalf of the County were Jeff Livingston (Department of Environmental Protection and Resource Management), Jenifer Nugent (Office of Planning), and Bruce Gill (Department of Recreation and Parks). Finally, written development plan comments were received from Steven D. Foster, on behalf of the

Maryland State Highway Administration (SHA), and Lt. Roland Bosley, Jr., on behalf of Baltimore County Fire Marshal's Office. These and other agency comments are contained within the case file.

It should be noted 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 comment on whether the plan complies with all applicable Federal, State, and/or County laws and regulations pertaining to development and related issues. The county agencies maintain 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. The Phase II review continues until a plat is recorded in the Land Records of Baltimore County and permits are issued for construction.

Pursuant to B.C.C. Sections 32-4-227 and 32-4-228, which regulate the conduct of the Hearing Officer's Hearing, I am required to identify any unresolved comments or issues as of the date of the hearing. In accordance with this mandate, I questioned the representatives of each of the County agencies who reviewed the plan regarding the existence of any outstanding issues. Their responses are summarized below:

Department of Recreation and Parks: Bruce Gill appeared on behalf of the Department of Recreation and Parks and indicated that the requested Open Space Waiver was granted and, on behalf of the Department of Recreation and Parks, recommended approval of the redlined Development Plan.

Department of Environmental Protection and Resource Management: Jeff Livingston appeared on behalf of the Department of Environmental Protection and Resource Management (DEPRM) and indicated that DEPRM has reviewed the development plan and recommended approval of same.

Office of Planning: Jenifer Nugent appeared on behalf of the Office of Planning and provided the Hearing Officer with a school impact analysis for the project as County Exhibit 1. Based on the results of that analysis, Ms. Nugent confirmed that the project was in compliance with the provisions of B.C.C. Section 32-6-103. In addition, Ms. Nugent indicated that the Development met the Architectural Performance Standard as set forth on the redlined Development Plan.

Zoning Review: Donna Thompson appeared as the representative for the Zoning Review Office and indicated that all zoning comments have been addressed and her agency recommended approval of the redlined Development Plan.

Bureau of Land Acquisition: Brad Knatz appeared on behalf of Land Acquisition and testified that his department had reviewed the redlined Development Plan and recommended approval.

Bureau of Development Plans Review: Dennis Kennedy appeared on behalf of the Bureau of Development Plans Review and recommended approval of the redlined Development Plan.

Following the County agency comments, I asked the individuals attending the public hearing to state briefly what concerns they had about the proposed development. Several neighbors voiced their concerns over the fluctuation in the water table in the Jacksonville area in which the proposed development is located. Several neighbors also noted their belief that a large

portion the ground water in the Jacksonville area is still contaminated due to the Exxon station's gasoline leak in the area several years ago. It should be noted that none of these comments impact the County agency approvals of the proposed development, nor do they impact the proposed development's adherence to the Zoning or Development regulations.

Moving to the formal portion of the hearing, Mr. Baker asked Scott Lindgren to present the redlined Development Plan, which was marked and accepted into evidence as Developer's Exhibit 1. Mr. Lindgren, accepted as an expert in the field of zoning and development, presented a brief history of the property, providing background on the existing conditions, the zoning, the nature and uses of the surrounding area, and the status of the County agency comments with regard to the redlined Development Plan. Mr. Lindgren further testified that the redlined Development Plan met the conservancy area and performance standards of the R.C.6 zone as set forth in Sections 1A07.7 and 1A07.8C of the Baltimore County Zoning Regulations. Mr. Lindgren concluded his remarks by indicating that the redlined Development Plan met all of the applicable Baltimore County development regulations, Baltimore County policies, and all other applicable regulations.

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* B.C.C. Section 32-4-229. 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 redlined 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 unresolved or

outstanding issues that would prevent development plan approval, the Developer has satisfied his burden of proof and, therefore, is entitled to approval of the redlined Development Plan.

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 advertising of the property and public hearing held thereon, the redlined Development Plan, shall be approved.

THEREFORE, IT IS ORDERED by this Hearing Officer/Zoning Commissioner for Baltimore County, this 3rd day of June, 2010, that redlined Development Plan, 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
Hearing Officer/Zoning Commissioner
for Baltimore County