

IN RE: <b>PLANNED UNIT DEVELOPMENT</b>	*	BEFORE THE
W/S Philadelphia Rd., S of Industrial Park Rd.	*	ZONING COMMISSIONER
<b>(Nottingham Ridge)</b>	*	
11 <sup>th</sup> Election District	*	OF
5 <sup>th</sup> Council District	*	BALTIMORE COUNTY
Corporate Office Properties Trust	*	<b>Case No. XI-1091</b>
<i>Applicant/Developer</i>	*	
	*	
	*	
	*	
	*	
	*	
	*	
	*	

**HEARING OFFICER’S REVIEW AND APPROVAL ORDER**

This matter comes before the Hearing Officer/Zoning Commissioner for review of a Planned Unit Development Concept Plan prepared by the civil engineering firm of Matis Warfield and the land planning firm of EDSA, reflecting the proposal of Corporate Office Properties Trust (COPT) to develop a mixed-use project on the subject property. The property is in the White Marsh area of Baltimore County and consists of 88.8 acres, more or less, zoned M.L.-I.M. (Manufacturing, Light - Industrial, Major).

On this property the Developer proposes a mix of Class 'A' Offices, retail, hotels and residences within a pedestrian-friendly streetscape environment. The improvements include the following: 1,250 residential units in multi-family/mixed use buildings with at least 35% being owner-occupied; 1,290,000 square feet of General Offices; 311,000 square feet of retail; 500 hotel rooms in multiple buildings; 82,500 square feet of restaurant space and 10,000 square feet of conference area space. The site will be developed in phases.

The site as it exists today has two (2) single story office buildings and associated parking on the 88.8 acre tract that contains no wooded areas, and improved by public water, sewer and storm water management. Lastly, the site is mass graded and generally slopes to the north and south.

The site is bordered by various different land uses and roadways including I-95 to the west, MD Route 43 to the north, MD Route 7 to the east (the Allison Transmission Plant is on the east side of MD Route 7) and White Marsh Run lying to the south (The Nottingham Square Shopping Center is south of White Marsh Run along Campbell Boulevard).

The proposed mixed-use development is more particularly described on a three-page Concept Plan, referred to here as Developer's Exhibit 1. The Concept Plan, as was initially submitted, is found on page 11 of the Developer's Pattern Book submittal to Baltimore County, which is referred to as Developer's Exhibit 2, and dated March 11, 2009. The Developer later submitted an Appendix to the Pattern Book dated October 7, 2009 and made a part hereof as Developer's Exhibit 3. The Concept Plan (Exhibit 1) as finally approved by the Planning Board is also found on page 6 of the Appendix submittal (Exhibit 3).

This project is being reviewed under the optional Planned Unit Development (PUD) process as permitted by Baltimore County Code (B.C.C.) Section 32-4-241, *et seq.* The Planned Unit Development process does not establish new zoning, but is intended to create a development "in which residential and/or commercial uses are approved subject to defined restrictions calculated to achieve the compatible and efficient use of land, including the consideration of any detrimental impact upon adjacent residential communities." Baltimore County Zoning Regulations (B.C.Z.R.), Section 430.1.A.

A preliminary note regarding the applicable law is appropriate, since confusion may otherwise arise in the minds of some readers. Baltimore County Council Bill 5-10, which was enacted into law on February 16, 2010, has substantially revised the PUD process. Section 5 of Bill 5-10, however, provided projects for which the County Council had already passed a resolution the option of proceeding under the law in effect at the time their resolution was

passed. The Nottingham Ridge PUD's initial resolution was passed on December 1, 2008. As evidenced by the fact that the Planning Board held public hearings and issued its approval for this PUD on June 23, 2010, this Developer elected, per the right afforded to it via Section 5 of Bill 5-10, to continue to proceed with the PUD process in effect prior to the effective date of Bill 5-10. Therefore, the laws governing my review are similarly those regulations in effect prior to the effective date of Bill 5-10.

Following the law therefore applicable to this PUD and upon receipt of a qualifying application, the Baltimore County Council conducted its initial review of the PUD proposal. The Councilman representing this district, in this case the Honorable Vincent J. Gardina, reviewed the application to determine whether the application met the objectives and requirements and, thus, eligible for continued review under B.C.C. Section 32-4-241, *et seq.* Developer submitted an application pursuant to B.C.C. Section 32-4-242, and, the Council, by adoption of Resolution 105-08 on December 1, 2008, authorized the continued review of this PUD proposal. That resolution was later amended by Resolution 59-09, passed on September 8, 2009, which limited the permitted density of the PUD from 1,500 residential units to 1,250 residential units, of which at least 35% shall be owner occupied units. Additionally, Resolution 33-10, passed on May 3, 2010, clarified and specified the community benefit requirements for this specific PUD by identifying minimum requirements related to the LEED Certifications.

The Developer came before the County for an informational/pre-concept meeting on January 27, 2009. Developer submitted a Concept Plan and related materials to Baltimore County for review in accordance with the Code and B.C.Z.R. A Concept Plan Conference (CPC) and a Community Input Meeting (CIM) were held on March 23, 2009 and April 30, 2009, respectively, as required by B.C.C. Sections 32-4-243 and 32-4-217.

Having considered the CPC comments and comments received from the community at the CIM, Developer prepared and submitted the Concept Plan, Pattern Book and Appendix to the Pattern Book (Developer's Exhibits 1-3). The Concept Plan proposed some Modifications of Standards, which are outlined below.

In accordance with B.C.C. Section 32-4-244, the Office of Planning prepared a report to the Planning Board, dated November 5, 2009, recommending approval of the Concept Plan and the requested Modifications of Standards. The Office of Planning's report was presented to the Planning Board on November 5, 2009. Developer's representatives made presentations to the Board for consideration at the Board's November 19, 2009 public hearing. Further consideration and deliberations occurred at the January 7, 2010 meeting, culminating in a final vote held by the Board on June 17, 2010. The testimony of the few citizens who spoke at the public hearings revealed that there was no opposition to the PUD proposal.

Pursuant to Section 32-4-245(d), the Planning Board may approve a PUD Concept Plan only upon finding that:

1. The proposed development meets the intent, purposes, conditions, and standards of B.C.C. Section 32-4-245;
2. The proposed development will conform with B.C.Z.R. Section 502.1.A, B, C, D, E, and F and will constitute good design, use and layout of the proposed site;
3. There is a reasonable expectation that the proposed development will be developed to the full extent of the Concept Plan;
4. The development is in compliance with B.C.Z.R. Section 430; and,
5. The Concept Plan is in conformance with the goals, objectives, and recommendations of the Master Plan or area plans.

As evidenced by the Concept Plan and Pattern Books, the PUD proposal is for a mix of LEED offices, retail, hotels and residences within an approximately 88 acre tract of land. The Pattern Book and Addendum extensively reviewed both the criteria and findings required of the Planning Board and also the compatibility of the project.

In order to develop the property in this manner, the following Modifications of Standards were requested:

*Density:*

Limited to a 30.1-acre residential density calculation area having maximum of 1,250 residential units with varying bedroom counts of which at least 35% will be owner-occupied in lieu of 1,204 pursuant to Section 430.3.c.3 of the Baltimore County Zoning Regulations.

This modification has been authorized by the Baltimore County Council, through Resolution 59-09, pursuant to Section 32-4-242 (c)(2) of the Baltimore County Code.

*Alteration of Standards:*

1. To allow a front yard set back of 0' in lieu of the required 25' or greater (B.C.Z.R. Sections 255.1, 255.2 and Section 504.2 CMDP, Page 31).
2. To allow a side yard setback of 0' in lieu of the required 30' or greater (B.C.Z.R. Sections 255.1, 255.2 and Section 504.2 CMDP, Page 31).
3. To allow a rear yard setback of 0' in lieu of the required 30' or greater (B.C.Z.R. Sections 255.1, 255.2 and Section 504.2 CMDP, Page 31).
4. To allow a building face to edge of paving of a private residential street to be 0' in lieu of the required 35' (Section 504.2 CMDP, Page 31).
5. To allow a setback for an attached residential garage to have no limitation on an extension in lieu of not extending more than 3' into a street front setback (Section 504.2 CMDP, Page 32).
6. To allow a residential building height of unlimited height in lieu of the maximum 50' (Section 504.2 CMDP, Page 31).

7. To allow yard space required for a commercial building or use to be considered as yard space for another building or use, in lieu of no yard space required for a building or use being considered as yard space for another building or use (B.C.Z.R. Section 102.2).
8. To allow a residential building separation to be 0' in lieu of the required 30' or greater (Section 504.2 CMDP, Page 31).
9. To allow the commercial floor area ratio to be 2.0 maximum aggregate FAR for the nonresidential remainder of overall tract and unlimited FAR for individual lots in lieu of the 2.0 maximum (B.C.Z.R. Section 255.1).
10. To allow a residential building length to be unlimited in lieu of the required 240' maximum (Section 504.2 CMDP, Page 32).\
11. To allow offsite parking locations to be within 1,500' of walking distance of building entrance in lieu of 500' commercial building walking distance [B.C.Z.R. Section 409.7(b)].
12. To allow offsite parking locations to be within 1,500' of walking distance of building entrance in lieu of the required 300' residential building walking distance [B.C.Z.R. Section 409.7(a)].
13. To allow to the extent that the proposed sign does not meet the requirements of B.C.Z.R. Section 450, modifications of standards to be approved by the Director of the Office of Planning, in lieu of the requirements of the signage regulations, provided that the style, theme, character, material and lighting are consistent with page 25 of the approved Nottingham Ridge PUD PDM 11-1091 Pattern Book regarding conceptual signage. Further, that the term "highway" shall include 1-95, Route 43, Route 7 and Campbell Boulevard and that all interior roads are private (B.C.Z.R. Section 450).

A waiver from the requirements to provide local open space in accordance with the Local Open Space Manual was granted by the Director of Recreation and Parks and recommended to the Planning Board as part of its approval by letter from the Director. The fee (\$230,000.00)<sup>1</sup> in lieu of is required of the Developer to satisfy the open space requirements. The applicant and the

---

<sup>1</sup> This amount was later increased by \$75,000.00 as part of an additional community benefit outlined in Chairman Edward J. Gillis's approval of the Concept Plan.

County have agreed that the funding (waiver fee) will be spent on Gough Park and/or Asbury Park.

Having considered the comments, the recommendations of the Office of Planning, and the input from the public hearing, the Planning Board approved the PUD Concept Plan and the proposed Modification of Standards at its June 17, 2010 meeting. In doing so, the Planning Board largely adopted the recommendations of the Office of Planning, which included approving the Modifications of Standards.

The Director of Planning referred the approved PUD Concept Plan to this Hearing Officer for review and approval in accordance with B.C.C. Section 32-4-246. Pursuant to Section 32-4-246, this Hearing Officer's role in the review and approval of a PUD Concept Plan is to approve the plan as approved by the Planning Board absent a finding that the decision of the Planning Board under B.C.C. Section 32-4-245 constitutes an abuse of the Planning Board's discretion or is unsupported by the documentation and evidence presented to the Board. In that regard, I have before me Mr. Keller's referral letter of June 23, 2010, and the Department of Permits and Development Management File No. IX-1091, which contains, among other items, the PUD Concept Plan as filed, comments from numerous County agencies reviewing the PUD application including the Office of Planning, minutes from the CIM, the Pattern Book and the Appendix to the Pattern Book, transcripts, and correspondence to the Planning Board. All of these items, except Mr. Keller's subsequent letter, were before the Planning Board at the time of the public hearing and their determination on the issue. Consequently, the findings required of the Planning Board by B.C.C. Section 32-4-245 (d) have substantial basis in the record.

After a thorough review of this matter and in consideration of the decision of the Planning Board on June 17, 2010, and Mr. Keller's letter, dated June 23, 2010, evidencing this

decision, I find that the decision of the Planning Board is supported by the documentation and evidence presented to the Board, is within the scope of the Planning Board's authority, and is not an abuse of discretion. Therefore, I approve the Concept Plan for Nottingham Ridge. The proposed development meets all of the intended purposes and standards contained in B.C.Z.R. and Section 32-4-241, *et seq.* of the B.C.C. Thus, the plan is approved.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County, sitting as Hearing Officer, this 13<sup>th</sup> day of July, 2010, that the PUD Concept Plan for **Nottingham Ridge**, marked as Developer's Exhibit 1, be and is hereby APPROVED, pursuant to Baltimore County Code Section 32-4-246, subject to the Developer's compliance with the conditions imposed by the Planning Board as set forth in the Planning Board's report to this Hearing Officer, dated June 17, 2010.

IT IS FURTHER ORDERED that any proposed changes to the Concept Plan, other than those referenced herein, that do not materially alter the Concept Plan shall be approved by the Director of Planning, if appropriate.

Any appeal from this Order 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