

IN RE: PLANNED UNIT DEVELOPMENT	*	BEFORE THE
S/S Fitch Avenue, W Fitch Lane		
(Catholic Charities Senior Housing	*	ZONING COMMISSIONER
at the Village Crossroads)		
	*	OF
6 th Council District		
14 th Election District	*	BALTIMORE COUNTY
Associated Catholic Charities, Inc.,	*	Case No. XIV-475
<i>Applicant/Developer</i>		

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HEARING OFFICER’S REVIEW AND APPROVAL ORDER

This matter comes before the Hearing Officer/Zoning Commissioner, pursuant to Section 32-4-246 of the Baltimore County Code (B.C.C.), for review of the Baltimore County Planning Board’s decision to approve a general development planned unit development (PUD), known as Catholic Charities Senior Housing at the Village Crossroads. The approved PUD Concept Plan was prepared by Martin & Phillips Design Associates, Inc. and has been marked as Developer’s Exhibit 1. As reflected on this plan, Applicant/Developer Associated Catholic Charities, Inc. proposes to develop the property with an affordable senior housing community, featuring 180 apartments. The subject property is located on the south side of Fitch Avenue, directly west of Fitch Lane, in the Fullerton area of Baltimore County and consists of 7.39 net acres, more or less, zoned M.L.-I.M. (Manufacturing, Light – Industrial, Major).

This project is being reviewed under the Planned Unit Development (PUD) process as permitted by Baltimore County Code (B.C.C.) Section 32-4-241, *et seq.* Pursuant to B.C.C. Section 32-4-242, the concept plan for this project was authorized for review as a PUD by Baltimore County Council Resolution No. 20-09. As it was authorized to do under B.C.C. Section 32-4-242(c), the Council included in Resolution No. 20-09 a modification of the use/density permitted under the underlying zoning to allow 180 dwelling units on the property.

Without this modification, neither this type of residential use, nor the density requested, would be permitted by the underlying industrial (M.L.-I.M.) zoning classification.

Thereafter, Applicant came before the County for an informational/pre-concept meeting on April 21, 2009. Applicant and its development team then prepared and submitted a PUD Concept Plan for the project and related materials to Baltimore County for review in accordance with the B.C.C. and the Baltimore County Zoning Regulations (B.C.Z.R.). A Concept Plan Conference (CPC) and a Community Input Meeting (CIM) were held on July 20, 2009, and August 20, 2009, respectively, as required by B.C.C. Sections 32-4-243 and 32-4-217. In response to comments made by the reviewing County agencies and by certain members of the community during the required CIM, Applicant further revised the Village Crossroads PUD Concept Plan, and the resulting plan was then submitted to the County. This submittal also included a revised Pattern Book (marked as Developer's Exhibit 2) and other materials.

Having received the revised PUD Concept Plan and Pattern Book, in accordance with B.C.C. Section 32-4-244, the Office of Planning prepared a lengthy report to the Planning Board, dated January 21, 2010, outlining the history of the project, discussing the review of the plan by the County agencies and the State Highway Administration, and addressing the statutory standards by which the project would be assessed. Based on its extensive review of the project, the Office of Planning recommended approval of the Village Crossroads PUD Concept Plan and the requested Modifications of Standards.

In addition to the use/density modification authorized by the Council, Applicant requested only one other Modification of Standards, which related to the maximum building length for one of the two residential buildings. The standards for "Multi-Family Buildings," contained in the Comprehensive Manual of Development Policies (CMDP), permit a building

length of a maximum of 240 feet unless a request for Modification of Standards is approved. *See* B.C.Z.R. Section 504.2 and CMDP, Division II, Section A, Residential Standards, pp. 31-32. Applicant has requested an increase in building length from a maximum of 240 feet to 253 feet for Building A. Pursuant to B.C.C. Section 32-4-245(c)(3), the Planning Board has the authority to modify the zoning and development requirements that would otherwise be applicable to the development of the property.

In its report to the Planning Board, the Office of Planning recommended that the requested modification be approved, finding that the modification as to use/density provides “housing opportunities to an underserved growing segment of the Baltimore County community with little impact to surrounding transportation, utility, school and public safety systems.” With regard to increasing the building length, the Office of Planning commented that this modification “allows a design that takes positive advantage of the features particular to this site.” In particular, the positioning of Building A in a north-south orientation takes advantage of the depth of the site to minimize the bulk of the building. The view from Fitch Avenue, instead, is focused on the 174± foot north side elevation, which visually reduces the size of the building. This design would not be possible if strict adherence to the Baltimore County Zoning Regulations were required.

In addition to recommending the requested modifications, the Planning staff also made one other specific recommendation. The PUD Concept Plan, as filed, shows a total of 190 parking spaces being provided, which is in excess of what is required by Section 409, B.C.Z.R. In its Staff Report, the Office of Planning recommended the entire area as shown be graded to accommodate 190 spaces, but that only 150 of those spaces be paved at the time the buildings are constructed. It was suggested that if, in the future, a need for additional parking beyond the 150

spaces arises, only then will the remaining 40 spaces actually be constructed. The Office of Planning presented its report to the Planning Board at the meeting on January 21, 2010. A public hearing on the PUD Concept Plan was then scheduled, and the property was posted as required by B.C.C. Section 32-4-245(b)(2).

Prior to appearing before the Planning Board for the public hearing, Applicant submitted a Proffer of Testimony and Evidence in Support of PUD Concept Plan to the Board members, demonstrating how the plan meets each of the requirements for a PUD under the Baltimore County Code and the Baltimore County Zoning Regulations. In this written piece, Applicant addressed each of the findings that the Planning Board would need to make in order to approve the PUD Concept Plan and provided a summary of the evidence relating to each finding. The Proffer was made part of the record and included in the Planning Board's file.

At the Planning Board hearing on February 18, 2010, Applicant's representatives then presented the PUD Concept Plan. Applicant engaged a court reporter to attend each of the Planning Board meetings and to provide transcripts of the proceedings before the Planning Board. To introduce the project, Patricia Malone, Esquire, attorney for the Applicant, provided the Board with some background information on the property and the development proposal. As Ms. Malone explained, this project involves the removal of an aging commercial greenhouse operation and the associated buildings and paving on site, and redevelopment of the site with a well-designed, low-impact senior housing project, serving seniors 62 years of age and older with limited income.

The presentation was then turned over to Architect Magda Westerhout, who discussed in detail the layout of the site and the proposed placement of the two residential buildings, which allows for the creation of a nicely landscaped courtyard with views opening to Stemmers Run on

the southwest corner of the property. Then, Ms. Westerhout presented the architectural elevations for the proposed buildings and also discussed the materials and other site design elements. Once Ms. Westerhout completed her presentation, Ms. Malone brought to the Board's attention the Office of Planning staff's recommendation with regard to the parking spaces. As Ms. Malone confirmed, Applicant is satisfied with the recommendation of the Office of Planning that only 150 spaces be constructed at the time of development.

Next, during the public hearing, Leslie M. Pittler, Esquire, attorney for the South Perry Hall Boulevard Improvement Association, expressed the association's support for the PUD proposal. As no one else signed up to speak on the project, the public hearing was then concluded.

At the next scheduled meeting on March 4, 2010, the Planning Board invited deliberation and comment on the proposal. Without further question or comment coming from the Board, a motion was made and seconded for the Board to consider the draft Baltimore County Planning Board Planned Unit Development Approval document and to conduct a vote on the proposal. After having reviewed a draft Approval document, the Planning Board voted unanimously to approve the Village Crossroads PUD Concept Plan and the requested Modification of Standards as addressed in the Approval document.

The Chairman of the Planning Board signed the Approval document on March 9, 2010, evidencing the Board's approval of the PUD Concept Plan. On that same date, the Secretary to the Baltimore County Planning Board, Arnold F. "Pat" Keller, forwarded the file to me for my review pursuant to B.C.C. Section 32-4-246.

Review of Planning Board's Approval

According to B.C.C. Section 32-4-246, the Hearing Officer's role in the review and approval of a PUD Concept Plan is to review the plan as approved by the Planning Board and, 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, approve the plan.

Pursuant to B.C.C. Section 32-4-245, the Planning Board may approve a Planned Unit Development Concept Plan if it makes the following findings:

1. The proposed development meets the intent, purpose, conditions, and standards of B.C.C. Section 32-4-245, and any modifications of standards are necessary and are in the public interest;
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.

In reviewing the Planning Board's decision to approve the Village Crossroads PUD Concept Plan, I have before me Mr. Keller's referral letter, which included the Baltimore County Planning Board's March 9, 2010 Planned Unit Development Approval document, and Department of Permits and Development Management File No. XIV-475. The file includes the usual County documentation involved in processing a PUD Concept Plan, such as the PUD

Concept Plan, as filed, comments from each of the reviewing County agencies and the State Highway Administration, the revised Concept Plan considered and approved by the Planning Board, the Pattern Book, and other related documentation. The PUD Concept Plan and Pattern Book together describe the existing condition of the property; demonstrate the character of the neighborhood; provide details of the proposed site design and architecture for the project; and include several illustrative exhibits, including character elevations/sections and design elements. The Pattern Book also includes statements regarding compatibility and the anticipated impacts of the development on the surrounding neighborhood. The file also includes the written Proffer submitted by Applicant with supporting documentation. Attached to Mr. Keller's referral letter is a Document List, which references all items included in the file and available for consideration by the Planning Board.

Pursuant to the authority granted by B.C.C. Section 32-4-246, after a thorough review of this matter and upon consideration of the decision of the Planning Board evidencing its approval of the Catholic Charities Senior Housing at the Village Crossroads PUD Concept Plan, I find that the Planning Board clearly understood the standard upon which its decision was to be based. The statutory requirements for approval were stated clearly by the Office of Planning in its report, by the Applicant in its Proffer and its presentation, and, most importantly, by the Planning Board in its Approval document. The Board has clearly demonstrated that it understands its role and authority under the relevant Code provisions to approve a PUD.

Having considered the record provided to me, including, the Planning Board's Baltimore County Planned Unit Development Approval document, I find that the Planning Board's decision in approving this PUD Concept Plan is supported by the documentation and evidence presented to the Board and does not constitute an abuse of discretion. The proposed

development meets all of the intent, purposes, and standards contained in B.C.Z.R. and Section 32-4-241, *et seq.* of the B.C.C. Therefore, I approve the Catholic Charities Senior Housing at the Village Crossroads PUD Concept Plan.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this _____ day of March, 2010, that the Catholic Charities Senior Housing at the Village Crossroads PUD Concept Plan, marked as Developer's Exhibit 1, be and is hereby APPROVED, pursuant to Baltimore County Code (B.C.C.) Section 32-4-246, subject to Applicant's compliance with any conditions imposed by the Planning Board as set forth in the Planning Board's Baltimore County Planned Unit Development Approval document, signed March 9, 2010.

IT IS FURTHER ORDERED that any proposed changes to the PUD Concept Plan that do not materially alter the PUD 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 (B.C.C.).

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner/Hearing Officer
for Baltimore County