

IN RE: <b>DEVELOPMENT PLAN HEARING</b>	*	BEFORE THE
S/Side of New Cut Road, East of		
Harford Road	*	OFFICE OF
11 <sup>th</sup> Election District		
3 <sup>rd</sup> Councilmanic District	*	ADMINISTRATIVE HEARINGS
( <b>Medley at New Cut Road fka</b>		
<b>Class Property</b> )	*	FOR BALTIMORE COUNTY
<b>James Ralph Medley, Sr.</b>	*	<b>HOH Case No. 11-390</b>
<i>Applicant/Developer</i>		

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

This matter comes before this Administrative Law Judge for a hearing pursuant to Section 32-4-227 of the Baltimore County Code (B.C.C.). In accordance with the development regulations codified in B.C.C. Article 32, Title 4, thereof, the Owner/Developer seeks approval of a redlined Development Plan (the "Plan") prepared by Wilson, Deegan & Associates, Inc., for the proposed development of one, additional single family dwelling (the "subject property"). The proposed subdivision is more particularly described on the redlined Plan submitted into evidence and marked as Developer's Exhibits 1A, 1B and 1C.

The subject property is a proposed re-subdivision of Lot No. 6 as shown on that certain plat entitled “SUBDIVISION PLAT, Lots 3, 4, 5 & 6, LAND OF JOHN G. & ANNA M. CLASS”, which plat is recorded among the Land Records of Baltimore County in Plat Book SM No. 67, folio 118. A concept plan was prepared and a Concept Plan Conference (CPC) was held on August 4, 2009. The concept plan is a schematic representation of the proposed re-subdivision and is reviewed by and between representatives of the Developer and the reviewing County agencies at the CPC. Subsequently, a Development Plan is prepared in accordance with B.C.C. Section 32-4-221 and submitted for further review and approval. A Development Plan Conference (DPC) is held between the Developer's consultants and various Baltimore County agencies with responsibility over certain

aspects of the development proposal. In this case, the DPC was held on April 13, 2011. At the DPC, the Baltimore County agencies responsible for the review of the Development Plan submit written comments regarding the compliance of the Development Plan with the various Baltimore County regulations governing land development in the County. Thereafter, the Developer may revise the Development Plan in accordance with the DPC comments. In this case the Hearing Officer's Hearing was held before the Office of Administrative Hearings on May 5, 2011.

Appearing at the public hearing on behalf of the Developer were Jeffrey J. Deegan, of Wilson, Deegan & Associates, Inc., the professional engineer who prepared the Development Plan, and J. Ralph Medley, the Developer/Applicant. Howard L. Alderman, Jr., Esquire entered his appearance as counsel for the Developer.

Representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals with the Department of Permits, Approvals and Inspections (PAD: Darrell Putty, Project Manager; Joseph Merrey, representative of the Office of Zoning Review; Dennis A. Kennedy, Development Plans Review; and LaChelle Imwiko, Real Estate Compliance. Also appearing on behalf of the County were Lloyd Moxley, Office of Planning; Dave Lykens, Department of Environmental Protection and Sustainability (DEPS), and Bruce Gill, Department of Recreation and Parks (R&P)/Development Plans Review (DPR).

Testimony and evidence received revealed the "subject property" is located on the south side of New Cut Road, east of Harford Road. The property is 27.5 acres, more or less, in size and is zoned RC 5, permitting a total of 13 dwellings, however only 1 additional dwelling is proposed. As depicted on Developer's Exhibit 1A, the proposal is to re-subdivide Lot 6 into two lots. Thereafter Lot 6 would be approximately 22.6 acres in size and the new Lot 7 would be approximately 2.63 acres in size.

Section 32-4-228 of the Baltimore County Code (B.C.C.) sets forth the standards the Administrative Law Judge must follow when considering a development plan. At the public hearing, the Administrative Law Judge is required to determine what, if any, open issues or agency comments remain unresolved. Testimony and evidence revealed that all issues raised by the various County reviewing agencies had been resolved and incorporated within the redlined Development Plan and that the Plan complies with all County regulations. The testimony of Jeffrey Deegan, an engineer with the firm of Wilson, Deegan & Associates, Inc., was proffered by Mr. Alderman and, thereafter, attested to under oath by Mr. Deegan. Mr. Deegan, accepted as an expert in land use and Baltimore County zoning and development regulations, opined that the Plan complied with all County zoning and development regulations.

In addition to recommending approval of the Plan, the Office of Planning presented a revised School Impact Analysis for the proposed development, and this was received and marked as Developer's Exhibit 2. The analysis revealed that the development would not overcrowd or overburden the surrounding school districts, and that the project was in compliance with the Adequate Public Facilities Ordinance.

Given that only 1 additional lot is proposed, the required open space under Baltimore County regulations would be 1,000 square feet. Mr. Gill indicated the County prefers to acquire at least 20,000 square feet of contiguous open space, so as to provide a meaningful recreation amenity. As such, the Department of Recreation and Parks approved a fee-in-lieu payment to Baltimore County in the amount of \$3,430. The Department of Recreation and Parks' letter regarding the local open space fee-in-lieu agreement was admitted as Developer's Exhibit 2.

The Baltimore County Code is clear regarding the standards that must be applied when the Administrative Law Judge considers a development plan. The Administrative Law Judge must

approve a plan that satisfies the rules, regulations and policies adopted by Baltimore County regarding development.

Based upon the testimony and evidence presented, I find that the redlined Plan as submitted at the hearing and accepted as Developer's Exhibit 1A-C meets all County rules, regulations and standards for development in Baltimore County and, therefore, must be approved.

Pursuant to the zoning and development regulations of Baltimore County and Article 32, Section 4 of the B.C.C., the Development Plan (Developer's Exhibit 1A,1B & 1C) shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Administrative Law Judge this \_\_24<sup>th</sup>\_\_ day of May, 2011, that the redlined Development Plan for Medley at New Cut Road identified herein as Developer's Exhibit 1A-C, be and is hereby APPROVED.

Any appeal of this Order shall be taken in accordance with Baltimore County Code, Section 32-4-281.

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Signed  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz