

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
NE/S of York Road (MD 45), 759' S of		
Old York Road	*	ZONING COMMISSIONER
(Catterson Property)		
7 th Election District	*	FOR
3 rd Council District		
	*	BALTIMORE COUNTY
83 at York, LLC		
<i>Owner/Developer</i>	*	Case No. VII-426

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HEARING OFFICER’S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner 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 combined redlined Development Plan/Final Development Plan (the “Plan”) prepared by McKee & Associates, Inc. for the proposed resubdivision of Lot 1 into two (2) lots – (the “subject property”). The proposed subdivision is more particularly described on the Plan submitted into evidence and marked as Developer’s Exhibit 1.

As to the history of this project through the development review process, a concept plan was prepared and a Concept Plan Conference (CPC) held on September 8, 2009. The concept plan is a schematic representation of the proposed subdivision and is reviewed by and between representatives of the Developer and the reviewing County agencies at the CPC. Thereafter, as required, a Community Input Meeting (CIM) is scheduled during evening hours at a location near the property to provide residents of the area an opportunity to review and comment on the plan. In this case, the CIM was held on October 12, 2009 at the Seventh District Elementary School. 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 November 17, 2010. 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. This revised Development Plan is often called a "redlined Development Plan", because revisions based on comments received are usually shown in red. In any event, whether revised or not (and this plan was revised), the Developer presents a Development Plan at the Hearing Officer's Hearing pursuant to Section 32-4-227. In this case the Hearing Officer's Hearing was held before me on December 10, 2010.

Appearing at the public hearing on behalf of the Developer were James McKee on behalf of 83 at York, LLC, James Grammer of McKee & Associates, Inc., the project manager and consultant who prepared the Development Plan, and 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 and Development Management (DPDM): Darryl D. Putty, Project Manager; Leonard Wasilewski, representative of the Office of Zoning Review; Dennis A. Kennedy, Development Plans Review; and Brad Knatz, Land Acquisition. Also appearing on behalf of the County were Lloyd Moxley, Office of Planning; David Lykens, Department of Environmental Protection and Resource Management (DEPRM), and Bruce Gill, Department of Recreation and Parks (R&P)/Development Plans Review (DPR). Acting Lieutenant Don W. Muddiman, Baltimore

County Fire Marshall's Office and Steven D. Foster, Chief of Engineering Access Permits Division of the State Highway Administration, were represented at the hearing through prior correspondence.

Tammy L. Rivera, an adjacent property owner at 21010 York Road, appeared as an interested person and participated in the proceedings.¹

Testimony and evidence received revealed the "subject property" is located on the northeast side of York Road, south of the intersection of Old York Road, in the Parkton/Maryland line area of the County. The original tract was comprised of approximately 8.99 acres, more or less, all zoned R.C.5. Although the original tract had sufficient density for the creation of four (4) residential lots, it was approved in 2006 for subdivision into two (2) lots pursuant to a Minor Subdivision Plan for the Catterson Property, identified as MSP No. 06-067. In 2008, the Baltimore County Development Review Committee (DRC) approved the 1st Refinement of Minor Subdivision Plan – Catterson Property, further subdividing Lot 1 into Lot Nos. 1 and 3 and Parcel "A" which was to be used for access to other properties. The present proposal is to subdivide Lot No. 1 (the "subject property") into two (2) lots, namely Lot Nos. 1 (2.610 acres) and 4 (1.509 acres), utilizing the remaining density. The common boundary line between existing Lot No. 3 and proposed Lot No. 4 is subject to an existing Private Easement for Ingress, Egress, Maintenance and Utilities, which will remain as a use-in-common panhandle driveway and will also serve as the Baltimore County Access Easement that is required as a condition of development approval. The existing two-story dwelling and barn on Lot 1, known as 21035 York Road, will remain and a new dwelling will be built on Lot 4 that will meet all area and setback requirements.

¹ Manuel and Tammy Rivera are the owners of a landmarked structure (No. 195) known as "Spinster Hill" (Maryland Historical Trust [MHT] No. 02948) that was built in circa 1866.

Section 32-4-228 of the Baltimore County Code (B.C.C.) sets forth the standards by which the Hearing Officer must follow when considering a development plan. At the public hearing, the Hearing Officer is required to determine what, if any, open issues or agency comments remain unresolved. Testimony and evidence received was that all issues raised within the comments submitted by the various County reviewing agencies had been resolved and incorporated within the revised Plan and that the Plan complies with all County regulations. Furthermore, Ms. Rivera, who attended the hearing for purposes of determining how access would be provided to the proposed dwelling on Lot 4 and the current dwelling under construction at 21025 York Road – located further to the east behind the “subject property” and bounded by Interstate I-83 indicated that she had no objections to the Plan. There being no open issues or concerns raised by the Developer, any County agency representatives, or Ms. Rivera, it was not necessary to take any testimony but a brief presentation of the Plan was provided by Mr. Grammer as the project manager with the firm of McKee & Associates, Inc.

I find that the creation of four (4) lots, each lot being greater than 1.5 acres in size, and a non-density Parcel “A” (0.245 acres), complies with the lot area and density control provisions applicable to the R.C.5 zone as set forth in Baltimore County Zoning Regulations (B.C.Z.R.) Section 1A04.3.B.1.a and with the development amendment provisions of B.C.C. Section 32-4-262. It should also be noted that the Office of Planning favorably recommended the School Impact Analysis for the proposed development. Likewise, the Office of Planning was satisfied with the redlined General Note added to the Plan pertaining to the R.C.5 Performance Standards assuring compliance prior to the issuance of building permits. The Department of Recreation and Parks approved a waiver of local open space, which is otherwise required by Baltimore County regulations. The Department of Recreation and Parks’ approval letter regarding the local

open space waiver and School Impact Analysis were admitted as Baltimore County Exhibits 1 and 2.

The Baltimore County Code is clear regarding the standards that must be applied when the Hearing Officer considers a development plan. The Hearing Officer 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 Plan as submitted and amended at the hearing and accepted as Developer's Exhibit 1 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 red lined Development Plan (Developer's Exhibit 1) shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Hearing Officer/ Zoning Commissioner for Baltimore County, this 14th day of December 2010, that the redlined Development Plan for the **CATTERSON PROPERTY** identified herein as Developer's Exhibit 1, be and is hereby **APPROVED**.

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

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