

IN RE: DEVELOPMENT PLAN HEARING

Just N of I-695, S of Seminary Avenue
1433 - 1439 Bellona Avenue
9th Election District
3rd Council District
(Haile Property)

The Estate of Leroy Y. Haile, Jr.,
c/o Leroy Y. Haile, 3rd
Owner/Developer

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **HOH Case No. 09-825**

* * * * *

**ADMINISTRATIVE LAW JUDGE’S
DEVELOPMENT PLAN OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for Baltimore County for a public hearing on a development proposal submitted in accordance with the development review and approval process contained in Article 32, Title 4, of the Baltimore County Code (“B.C.C.”). The Estate of Leroy Y. Haile, Jr., c/o Leroy Y. Haile, 3rd, the developer of the subject property (hereinafter “the Developer”), submitted for approval a redlined Development Plan prepared by Gerhold, Cross & Etzel, Ltd., known as “Haile Property.”

This is an uncomplicated matter, and in reality involves “development” only to the extent that four individual lots (each containing a modest dwelling constructed sometime in the 1950s) are being created from the original parcel, which is 0.834 acres +/- in size. Each of the four lots to be created will be approximately 0.2 acres in size, and this density is supported by the DR 5.5 zoning, as shown on the density calculation chart on the redlined Development Plan (Developer’s Exhibit 1). No new houses are being constructed, and the Developer proposes to disturb only 2,483 square feet of ground, to reconfigure the parking areas for each of the homes. As such, the development is exempt from Baltimore County’s stormwater management regulations, as noted on the Plan.

The property was posted with the Notice of Hearing Officer's Hearing on June 19, 2012 for 20 working days prior to the hearing, in order to inform all interested citizens of the date and location of the hearing.

Appearing at the requisite Hearing Officer's Hearing in support of the Development Plan on behalf of the Developer and property owner were Leroy Haile 3rd and Scott A. Lindgren, with Gerhold, Cross & Etzel, Ltd., the professional land surveyors that prepared the site plan.

Numerous representatives of the various Baltimore County agencies, who reviewed the Development Plan, also attended the hearing, including the following individuals from the Department of Permits and Development Management: Jan Cook (Project Manager), Vishnu Desai (Development Plans Review [DPR]), and Bruno Rudaitis (Office of Zoning Review). Also appearing on behalf of the County were David Lykens from the Department of Environmental Protection and Sustainability (DEPS), and Jenifer Nugent from the Department of Planning. In addition, written comments were received from the Baltimore County Fire Marshal's Office and the Maryland State Highway Administration. These and other agency remarks are contained within the case file.

The role of the reviewing County agencies in the development review and approval process is to perform an independent and thorough review of the Development Plan as it pertains to their specific areas of concern and expertise. The agencies specifically comment on whether the plan complies with all applicable Federal, State, and/or County laws, policies, rules and regulations pertaining to development and related issues. In addition, these agencies carry out this role throughout the entire development plan review 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. This continues until a plat is recorded in the Land Records of Baltimore County and permits are issued for construction.

Pursuant to §§ 32-4-227 and 32-4-228 of the B.C.C., which regulate the conduct of the Hearing Officer's Hearing, I am required first to identify any unresolved comments or issues as of the date of the hearing.

Each of the Baltimore County agency representatives identified above indicated that the redlined Development Plan (marked as Developer's Exhibit 1) addressed any and all comments submitted by their agency, and they each recommended approval of the plan. Bruce Gill, from DPR, indicated that the development was not subject to the Baltimore County open space requirements.

Scott A. Lindgren, a licensed professional land surveyor presented the Developer's case. Mr. Lindgren noted that the redlined notations on the Plan addressed each of the comments submitted at the DPC by County representatives. He explained that a request has been submitted to Baltimore City for a fire flow test, and the results of that test will be forwarded directly to Baltimore County. See Developer's Exhibit 1, note 25. Mr. Lindgren also explained that a dedication table was added to the Plan, reflecting that a 20' wide drainage and utility easement (located between Lot 3 (1437 Bellona Avenue) and Lot 4 (1439 Bellona Avenue) was being conveyed to Baltimore County. In conclusion, Mr. Lindgren testified that in his opinion, the plan (Developer's Exhibit 1) complied with all applicable provisions of the B.C.C. and development 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." B.C.C. § 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 development plan satisfies those agencies' requirements, I find that the Developer has satisfied its burden of proof and, therefore, is entitled to approval of the Redlined Development Plan.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, the requirements of which are contained in Article 32, Title 4, of the Baltimore County Code, the Haile Property Development Plan shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this 20 day of July, 2012, that the redlined "**HAILE PROPERTY**" Development Plan, marked and accepted into evidence as Developer's Exhibit 1, be and is hereby **APPROVED**.

This Development Plan approval is expressly conditioned upon the Developer submitting to DPR a satisfactory fire flow test to be conducted by Baltimore City, and conveying to Baltimore County that 20' wide drainage and utility easement described in the dedication table on the redlined Development Plan.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/pz