

<b>IN RE: DEVELOPMENT PLAN HEARING</b>	*	BEFORE THE
NW side of Cross Road @ NE side		
of Honeygo Boulevard	*	OFFICE OF
<b>(Bishops Meadow)</b>		
	*	ADMINISTRATIVE HEARINGS
11 <sup>th</sup> Election District		
5 <sup>th</sup> Councilmanic District	*	FOR BALTIMORE COUNTY
Arch OP, LLC	*	<b>HOH Case No. 11-1112</b>
<i>Applicant/Developer</i>		

\* \* \* \* \*

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

This matter comes before the Office of Administrative Hearings (OAH) 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.”). Arch OP, LLC, the developer of the subject property (hereinafter “the Developer”), submitted for approval a Development Plan prepared by Richardson Engineering, LLC, known as “Bishops Meadow.”

In the instant matter, the Developer proposes to construct 50 single-family dwellings on 25.59 acres of land, more or less, zoned DR 3.5H. The site is currently undeveloped with a wooded area and wetlands in one half of the property and an open field on the other half closest to Honeygo Boulevard. A portion of the property closest to the library will be deeded to Baltimore County for community/recreational use.

The property was posted with the Notice of Hearing Officer’s Hearing on March 4, 2012 for at least 20 working days prior to the hearing, in order to inform all interested citizens of the date and location of the hearing.

As to the history of the project, a concept plan of the proposed development was prepared and a Concept Plan Conference (“CPC”) was held on November 8, 2011 at 10:00 AM in the County Office Building. As the name suggests, the concept plan is a schematic representation of the proposed development and was initially reviewed by representatives of the Developer and the reviewing County Agencies at the CPC. Thereafter, as is also required in the development review process, notice of a Community Input Meeting (“CIM”) was posted and scheduled during evening hours at a location near the proposed development. The CIM provides residents of the area an opportunity to review and comment firsthand on the Concept Plan. In this case, the CIM was held on December 8, 2011 at 7:00 PM at the Perry Hall Public Library located at 9685 Honeygo Boulevard, where representatives of the Developer and the County attended, as well as a number of interested persons from the community. Subsequently, a Development Plan was prepared based upon the comments received at the CPC and the CIM, and the Development Plan was submitted for further review at a Development Plan Conference (“DPC”). At the DPC, the Developer’s consultants and County agency representatives further reviewed and scrutinized the plan. The DPC occurred on March 14, 2012 at 9:00 AM in the County Office Building. Thereafter, a Hearing Officer’s Hearing was scheduled and convened on April 5, 2012 in Room 205 of the Jefferson Building located at 105 West Chesapeake Avenue in Towson.

Appearing at the requisite Hearing Officer’s Hearing in support of the Development Plan and on behalf of the Developer of the property was Scott Rouk and Jonathan Mayers, representing Arch OP, LLC.

Appearing as counsel to the Developer was David H. Karceski and Christopher Mudd, attorneys at law. Also appearing in support of the requested development plan approval was Donald N. Mitten, with Richardson Engineering, LLC, the professional engineering firm that

prepared the site plan, and Glenn Cook with the Traffic Group. In addition, a number of interested citizens attended the hearing, namely Mary Miller, Judy Stoney, Paul Amirault and Bill Paulshock, whose names appear on the Citizen's Sign-In Sheet.

Numerous representatives of the various Baltimore County agencies, who reviewed the Development Plan and zoning Petition, also attended the hearing, including the following individuals from the Department of Permits and Development Management: Jan M. Cook (Project Manager), Dennis Kennedy (Development Plans Review), Aaron Tsui (Office of Zoning Review), and Brad Knatz (Real Estate Compliance). Also appearing on behalf of the County were Jeff Livingston 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.

It should be noted at this juncture that 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 Sections 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.

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: Comments were received from the State Highway Administration (SHA) dated March 1, 2012, and that agency has no objection to the development plan approval as the proposed access to the site will be from County roads; however, indicated they would like the opportunity to review a traffic impact analysis to determine the developmental traffic impacts to the surrounding road network. In addition, SHA indicated that should an off-site improvement to a state road or intersection be required to mitigate the impact of this development, that improvement would be subject to SHA review/approval and an access permit would be required.

Particular County agencies were then asked to state whether they had any outstanding issues, and the responses are summarized below:

Planning Office: Jenifer Nugent appeared on behalf of the Department of Planning. She indicated that her Department had no opposition to the Plan and recommended approval of same. The Pattern Book (Developer's Exhibit 2) was reviewed and accepted by her Department and the School Impact Analysis (Developer's Exhibit 3) was also acceptable. She also stated that her department supported the requested deviation of standards to allow the cul-de-sacs without landscaping and traffic circles.

DEPS: Jeff Livingston appeared on behalf of DEPS, indicating that the Plan met all of their requirements and he recommended approval of same.

Recreation and Parks: Bruce Gill appeared on behalf of the Department of Recreation and Parks and indicated that the local open space requirements have been met. With no other open issues, Mr. Gill's Department recommended approval of the Development Plan.

Development Plans Review (Public Works): Dennis Kennedy appeared on behalf of the Bureau of Development Plans Review. Mr. Kennedy confirmed that the Developer's plan met all of his department's requirements and comments, and that his department recommended approval of the redlined Development Plan.

Office of Zoning Review: Aaron Tsui appeared on behalf of the Office of Zoning Review. Mr. Tsui stated that his Office had no outstanding issues with the Plan, and recommended approval of same.

Real Estate Compliance: Brad Knatz appeared on behalf of Real Estate Compliance. Mr. Knatz indicated that all dedications have been listed on the Dedication Table as shown on the Plan and the Plan is recommended for approval.

As stated previously, several residents from the surrounding community appeared at the hearing before me. These citizens did not have any specific objections to the manner in which the Developer proposes to develop this property. However, Paul Amirault and Bill Paulshock both offered testimony regarding a land swap that is to occur between this Developer and Baltimore County. As shown on the Development Plan accepted into evidence as Developer's Exhibit 1A-1D, the Developer proposes to convey to Baltimore County Recreation and Parks two parcels of property located on the southwest corner of the site adjacent to Honeygo Blvd. and also located behind Lots 16-26. These two parcels of land known as Parcel A and Parcel B are to be conveyed to Recreation and Parks for the use of the community as the community desires. The second part of the swap involves parcels that are currently owned by Baltimore County that are going to be

conveyed to the Developer. Those parcels are shown on a schematic depicted on Developer's Exhibit 1A and are specifically identified as Parcels 24, 452, 41, 581 and of tax map 63 grids 23 and 22. Again, those particular parcels are more accurately shown on page 1 of the Development Plan marked as Developer's Exhibit 1A. This swap of land is critical to the development of the property in that the Developer proposes to construct houses on the parcels acquired from Baltimore County and the community intends to utilize the second part of the swap which is the parcels to be dedicated to Recreation and Parks. As was discussed at the hearing, this swap of land is scheduled to occur some time after the approval of the Development Plan. It is not an issue before me, but is a matter that has to be completed if these houses are to be constructed at some point in the future.

Mr. Amirault and Mr. Paulshock and the rest of the community all support the swap of land in question. This swap is mutually beneficial to the Developer and the community. However, the citizens were concerned over the timing of the land swap in that they are anxious to get started on the project that they wish to construct on Parcels A and B. They simply asked that the Developer be required to convey Parcels A and B to Baltimore County specifically the Department of Recreation and Parks as soon as is possible and not at the time of closeout of this Development.

This swap of land is further complicated in that it involves lands that are part of the public open space program. As such, the State of Maryland gets involved in the swap. The parties made it clear that there are many hoops through which they have to navigate in order for the swap of land to be consummated. However, they are confident that it will occur and have agreed to convey Parcels A and B to Baltimore County for use by the Perry Hall community as soon as is practicable. As stated previously, this issue does not affect the approval of this Development Plan,

but will require the imposition of a condition and restriction that the Developer convey Parcels A and B to Baltimore County Recreation and Parks within 90 days from the time which the swap of land is completed.

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.” *See*, Section 32-4-229 of the B.C.C. 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. The Development Plan as submitted contains cul-de-sacs. The Developer has requested, and the Planning Department supports, a deviation of standards relative to those cul-de-sacs. I find, based on the testimony presented at the hearing that a deviation may occur, based on the fact that the design of the cul-de-sacs will achieve the best possible development design.

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 Bishops Meadow 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 16 day of April, 2012, that the “**BISHOPS MEADOW PROPERTY**” Development Plan, marked and accepted into evidence as Developer’s Exhibits 1A-1D, be and is hereby **APPROVED**.

The aforementioned approval and relief granted herein shall be subject to the following as conditions precedent:

1. The Developer shall be required to convey Parcels A and B to Baltimore County within 90 days from the time that the land swap is completed.

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