

IN RE: PLANNED UNIT DEVELOPMENT	*	BEFORE THE
End of Dietz Place,		
E of Belair Road	*	OFFICE OF
(Chapel Springs Senior Apartments)		
11 th Election District	*	ADMINISTRATIVE HEARINGS
5 th Councilmanic District		
	*	FOR BALTIMORE COUNTY
Iron Horse Properties, LLC		
<i>Applicant/Developer</i>	*	Case No. 11- 991

* * * * *

ADMINISTRATIVE LAW JUDGE’S OPINION AND ORDER ON PLANNED UNIT DEVELOPMENT (PUD)

This matter comes before the Office of Administrative Hearings for a hearing pursuant to § 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, the Developer seeks approval of a Development Plan (the “Plan”) prepared by Martin and Phillips Design Associates, Inc., for 129 multi-family senior apartments [104 1-bedroom and 25 2-bedroom] (the “subject property”) on approximately 12.717 acres, more or less, zoned DR 3.5 H.

The subject property is located in the Perry Hall area, and is more particularly described on the redlined Plan submitted into evidence and marked as Developer’s Exhibit 1.

A Development Plan Conference (DPC) was held between the Developer’s consultants and various Baltimore County agencies, to consider the development proposal. In this case, the DPC was held on February 22, 2012. At the DPC, the Baltimore County agencies responsible for the review of the Development Plan submit written comments regarding the project and whether or not it complies with Baltimore County development regulations. The Hearing Officer’s Hearing on this PUD Development Plan was held on March 15, 2012.

Appearing at the public hearing on behalf of the Developer were Doug Eshelman with Iron Horse Properties, LLC, Steven Moore, with the Stavrou Companies, and David L. Martin,

Landscape Architect with Martin & Phillips, the consulting firm that prepared the Plan. G. Scott Barhight, Esquire and Jennifer R. Busse, Esquire with Whiteford, Taylor & Preston, L.L.P. entered their appearance as counsel for the Developer.

An interested citizen, Robert Tanner, appeared at the hearing and posed questions to County representatives and Developer's engineer, but indicated he did not oppose the project.

Representatives of the various Baltimore County agencies who reviewed the Plan attended the hearing, including the following individuals: Joe Merrey, Office of Zoning Review; Dennis A. Kennedy, Development Plans Review; and Brad Knatz, Real Estate Compliance. Also appearing on behalf of the County were Lloyd Moxley, Department of Planning; David Lykens, Department of Environmental Protection and Sustainability (DEPS), and Bruce Gill, Department of Recreation and Parks (R&P)/Development Plans Review (DPR). Don W. Muddiman, Baltimore County Fire Marshal's Office and Steven D. Foster, Chief of Engineering Access Permits Division of the State Highway Administration (SHA), did not attend the hearing, but as is customary they submitted written comments contained within the file.

Each of the Baltimore County agency representatives indicated they had reviewed the Development Plan (Developer's Exhibit 1) and that there were no "open issues" or unresolved comments that needed to be resolved. They each therefore recommended approval of the Development Plan. Of significance, Bruce Gill verified the project met certain State tax law requirements (as an Elderly Housing Facility) and would be granted a waiver of Local Open Space requirements. (Baltimore County Exhibit 1). In addition, Mr. Moxley presented an updated Pattern Book (Baltimore County Exhibit 2) and indicated that a new builder (The Stavrou Companies) was selected for the project, and that the Department of Planning was impressed with the builder's background and reputation, and believed the firm had the wherewithal to complete the project to its full extent, as required under County law. See Baltimore County Code (B.C.C.) § 32-4-245. Mr.

Moxley also indicated that although a school impact analysis was prepared by his department, the senior housing proposed would have zero projected pupil yield. Finally, Mr. Foster's correspondence indicates that he reviewed a "traffic brief" submitted by The Traffic Group, Inc. on behalf of the Developer, and determined that "less than 50 peak hour trips are being generated by this development." *See* Developer's Exhibit 3. As such, the SHA had no objection to the plan, and did not require the Developer to submit a "full traffic study." *Id.*

DEVELOPER'S CASE

The Developer presented its case-in-chief by way of proffer, and called David L. Martin as its first witness. Mr. Martin is a registered landscape architect, and was accepted as an expert witness. (Developer's Exhibit 2). Mr. Martin indicated he was intimately familiar with the Plan, and testified that in his opinion it satisfied all Baltimore County rules and regulations. Mr. Martin indicated that he became involved with the project in approximately December, 2010, and that he was responsible for preparation of the Development Plan. Mr. Martin stressed that the project complies with Maryland's new stormwater regulations, and he also indicated that the Development would have almost no impact on traffic in the vicinity, given that there were no failing intersections in the area, and most of the elderly tenants would not be driving cars in any event.

With respect to the special exception standards, which are applicable in PUD cases pursuant to B.C.C. § 32-4-245, Mr. Martin opined that the project met each of those tests, and would not cause overcrowding or in any way have a negative impact upon the surrounding community. Indeed, Mr. Martin stressed that the site is approximately 12.7 acres in size, but that the "building envelope" was approximately 4 acres, leaving almost 9 acres as undisturbed open space which would serve as a buffer between adjoining dwellings. In addition, Mr. Martin pointed to the attractive design and layout of the project, and opined that it would constitute a "good design, use, and layout of the proposed site," as required under B.C.C. § 32-4-245(c)(2). Mr. Martin also

testified that the project was a general development PUD that complied with § 430 of the B.C.Z.R., and that the PUD Development Plan was also in conformance with the Master Plan and the Perry Hall-White Marsh Plan, which noted the need for senior housing in the Perry Hall area. Finally, with respect to the compatibility objectives set forth at B.C.C. § 32-4-402, Mr. Martin opined that the project was indeed compatible with the surrounding neighborhood, and he stressed that the Pattern Book contained a thorough demonstration of this point. Specifically, Mr. Martin noted that the proposed senior apartments would be located across from a strip shopping center which contains structures of a similar height and design, and that the project would serve as a transitional use between the retail center and the single-family dwellings.

The Developer also called as a witness Steven Moore, with the The Stavrou Companies (“Stavrou”), the builder chosen for the project. Mr. Moore testified that he has been employed by Stavrou for 14 years, and he noted that the company has constructed over 4,000 senior housing units throughout the State of Maryland. Mr. Moore presented color architectural elevations depicting two such projects which were recently completed, and he indicated that the Chapel Springs project would be of a similar design and quality. Mr. Moore indicated that Stavrou’s emphasis was originally in the D.C. suburban area, but he indicated that the company has completed numerous projects throughout the State, and would be capable of completing the project to the full extent of the Plan, as required by County regulations.

In light of the above, the undersigned makes the following conclusions of law with respect to the above-captioned PUD:

1. The proposed senior housing development meets the intent, purpose, conditions and standards of the B.C.Z.R. and the Development regulations;
2. The proposed development will conform with § 502.1 of the B.C.Z.R. and will constitute a 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 plan;
4. The development complies with § 430 of the B.C.Z.R. in that it is a general development PUD located inside the Urban Rural Demarcation Line (URDL). This PUD proposes residential uses, and as reflected in the Pattern Book and the testimony of Messrs. Moxley and Martin, the project meets the compatibility requirements of B.C.Z.R. § 32-4-402. With respect to the density of the project, in the resolution approving further review of this PUD (Resolution No. 37-11), the County Council approved a modification of the permitted density to permit a total of 132 dwelling units on the property, although the Developer in this case is proposing to construct only 129 dwelling units; and
5. The PUD Development Plan is in conformance with the goals, objectives and recommendations of the Master Plan 2020 and area plans, which stress the need for senior housing for an aging County population.

Pursuant to the applicable provisions of the B.C.Z.R. and B.C.C., the Development Plan (Developer's Exhibit 1) shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Hearing Officer/Administrative Law Judge this 19th day of March, 2012, that the Development Plan for **CHAPEL SPRINGS SENIOR APARTMENTS** 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 (B.C.C.)

§ 32-4-281.

JEB/dlw

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