

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
E side of Back River Neck Road, N of		
Cape May Road	*	OFFICE OF
15 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(521 Back River Neck Road)		
	*	FOR BALTIMORE COUNTY
John F. Owings Enterprises, <i>Owner</i>		
<i>and Developer</i>	*	HOH Case No. 15-820

* * * * *

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 Development Plan (the "Plan") prepared by Tesseract Sites, Inc., for the proposed development of 18 semi-detached dwelling units (the "subject property") on approximately 10.24 acres of land zoned DR 3.5. The proposed subdivision is more particularly described on a 2 page redlined Plan submitted into evidence and marked as Developer's Exhibit 1A & 1B.

The file reveals that the subject property was timely posted with the notice of hearing as required by the Baltimore County Code, and thus the procedural prerequisites have been satisfied.

As to the history of this project it should be noted that this property was previously approved for a Development of 15 dwelling units, 5 of which were single family homes and 10 of which were semi-detached. The previous Development Plan was approved by Commissioner William J. Wiseman by Order dated March 7, 2007. The Developer now wishes to amend that prior plan and change the number of homes to 18 semi-detached dwellings. Since any increase in the number of dwelling units is considered a material change a new Hearing Officer’s Hearing was scheduled and a new hearing was held on December 8, 2011. A 1st Amended Development Plan was filed with the County and went directly to a Development Plan Conference, which was held on November 16,

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 December 8, 2011, in Room 205 of the Jefferson Building.

Appearing at the public hearing on behalf of the Developer were John Trueschler of Tesseract Sites, Inc., the professional engineers who prepared the Development Plan, and John Owings, the Developer/Applicant. Lawrence Hammond, Esquire of Hammond & Hammond 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 (PAI): Colleen Kelly, Project Manager; Jun Fernando, representative of the Office of Zoning Review; Dennis Kennedy, Development Plans Review; and Ron Goodwin, Real Estate Compliance. Also appearing on behalf of the County were Jenifer Nugent, Office of Planning; Jeff Livingston, Department of Environmental Protection and Sustainability (DEPS), and Bruce Gill, Department of Recreation and Parks (R&P)/Development Plans Review (DPR). There were no Protestants or other persons in attendance.

Testimony and evidence revealed that the subject property is a rectangular shaped tract of land located with frontage on the east side of Back River Neck Road near its intersection with Cape May Road in eastern Baltimore County. The existing site is mostly wooded with wetlands and steep slopes and towards the rear of the property, where at the northwest corner, it borders on Norman Creek. It contains a combined gross area of 10.24 acres, more or less, zoned D.R.3.5. The majority of the site (8.72 acres located in the Chesapeake Bay Critical Area) will not be developed

and will be left as forest. The proposed homes will be semi-detached duplex dwelling as noted in the Pattern Book which was received into evidence as Baltimore County Exhibit 3. The size of the property given its zoning classification would allow development with up to 35 dwelling units. As shown on the plan, access will be by way of a new public road, with a cul-de-sac dead-end leading into the property from Back River Neck Road, to be known as Norman Creek Court. Parking will be adequate as each unit will be accessed by private driveway. The homes will be served by public water and sewer.

Further testimony revealed that there were no outstanding agency comments or unresolved issues, and that the plan complies with all development plan comments, rules, regulations and standards for development. Each of the County agency representatives who were present corroborated his testimony and indicated that the plan met their respective agency's requirements and regulations. Mrs. Nugent from the Office of Planning indicated the School Impact Analysis Report (County Exhibit 2) and Performance Standards of Section 260 of the B.C.Z.R. had been reviewed and determined to be in compliance. Mr. Ron Goodwin, speaking on behalf of the Bureau of Land Acquisition, confirmed that, all his comments had been addressed and noted on the development plan. Mr. Kennedy, on behalf of the Bureau of Development Plans Review, indicated that the redlined development plan addressed all of his Department's comments and requirements. Mr. Gill who reviews for the Department of Recreation and parks testified that the plan as submitted meets all of their requirements. Mr. Livingston, representing from the Department of Environmental Protection and Sustainability (DEPS), indicated that there were no open issues, and that the plan met their approval. Mr. Jun Fernando from Zoning Review indicated that in lieu of a Special Hearing, the applicant could seek an administrative approval for modifying the last approved plan. The Developer agreed to follow Mr. Fernando's suggestion and proceed with seeking an administrative approval.

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 had been resolved to the satisfaction of the County reviewing agencies and all agencies recommended approval of the Development Plan.

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 & 1B 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) shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Administrative Law Judge this ___13th___ day of December, 2011 that the redlined Development Plan for the **COTTAGES AT NORMAN CREEK-1ST AMENDMENT** herein as Developer's Exhibit 1A & 1B, be and is hereby APPROVED.

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

Signed
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/sma