

IN RE: **DEVELOPMENT PLAN HEARING**  
W/Side of Deer Park Road @ end of  
Deer Park Reserve  
2<sup>nd</sup> Election District  
4<sup>th</sup> Councilmanic District  
**(Christian Life Church  
FKA Deer Park Reserve)**

**Christian Life Church**  
*Applicant/Developer*

\* BEFORE THE  
\* OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* FOR BALTIMORE COUNTY  
\* **HOH Case No. 02-705 and  
Zoning Case No. 2011-0311-SPHA**

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**OPINION AND ORDER ON MOTION FOR RECONSIDERATION**

Now pending is a Motion for Reconsideration filed by James Burtis and his wife Theresa Burtis, who live next door to the proposed church on Deer Park Road. An opposition to the Motion for Reconsideration was filed by Developer’s Counsel, and Peoples Counsel, Peter Max Zimmerman, also filed a paper with this Office in which he commented on the Motion for Reconsideration.

I have reviewed the July 1, 2011, Order in the captioned matter, and considered carefully the issues raised by all parties. I will deny the Motion for Reconsideration, and will explain my rationale for doing so below.

In their motion, the Burtises first contend that Lot 74 is zoned residential and is adjacent to their home, and that the proposed church is not an acceptable use of the residential lot. While it is true that the lot in question is zoned DR 3.5, that does not, as Mr. Burtis contends, mean that the lot is inappropriate for development of anything other than a residential dwelling. In fact, the zoning regulations expressly provide that a church is permitted as a matter of right in such a zone, and this assignment of error is without merit.

The next point raised in the Motion for Reconsideration concerns the partially constructed stormwater management facility for the previously-approved Deer Park Reserve project. The

Burtises expressed concern with the large excavation site next to their property line, and seek further details concerning the design, process and methods that will be used to fill in the existing excavation and construct a roadway at the location. The Developer's engineer, David Thaler, testified that the trench will be filled in with acceptable and approved materials, and the details concerning that process are not considered at this stage of the development process. Those issues will be considered in Phase 2 of the Baltimore County development process, when the Developer would submit final plans and apply for building and grading permits.

In the third issue, the Burtises questioned what if any impact the church development will have on their drinking water well. The Burtises complain that the Developer's engineer was not familiar with the particulars concerning their drinking water well or the depth of the groundwater in the area, and are concerned that the development could effect the quantity and quality of the well water. The Developer's engineer in fact testified that he had never heard of an instance where the construction of stormwater management facilities and related infrastructure caused damage or harm to an adjacent drinking water well. In addition, the impervious surface proposed in the Development Plan satisfies County requirements, and the Department of Environmental Protection and Sustainability approved the Plan.

The final issue raised in the Motion for Reconsideration concerns the requirements for privacy fencing set forth in the July 1, 2011, Opinion and Order. Such fencing was requested by the Office of Planning, and for that reason was included as a condition in the Development Plan Order. Certainly the erection of a fence, privacy or otherwise, does not suggest that the use is incompatible with neighboring uses. Were that the case, one would have to find that a homeowner constructing a fence on his property would thereby render his home incompatible with the rest of the neighborhood.

In addition to the Motion for Reconsideration filed by the Burtises, a submission was also received from People's Counsel on July 28, 2011. Therein, Mr. Zimmerman raises certain issues concerning the residential transition area (RTA) on the Development Plan. Specifically, Mr. Zimmerman does not believe a sufficient finding was made concerning whether or not the proposed Plan satisfied the RTA exception set forth in B.C.Z.R. § 1B01.1.B.1.g.

To the extent the July 1, 2011 Order did not do so, I will attempt to explain the rationale for my finding that this exception was satisfied in the case at bar.

Under that regulation, an intrusion into an RTA setback is permitted when the improvements are designed in such a way that will make them "compatible with the character and general welfare of the surrounding residential premises." In this case, which lasted over five hours, both the Developer's architect and engineer provided extensive testimony concerning the design of the proposed church, and considerations that were taken into account to make the structure fit in with the atmosphere of the surrounding community. The Developer submitted detailed architectural elevations which depict the attractive and inviting design for this project, and there was no testimony in the proceedings tending to indicate that the church operations – which would be much more sporadic and less intense than the large housing development previously approved for the site – would endanger the character or general welfare of the community. In addition, the Office of Planning also opined that "the proposed layout and design for the church contribute to the transitional nature of the use and assure the use is compatible with the existing uses in the contiguous RC zone."

In fact, it would seem as if the Baltimore County Council has, in a round about fashion, addressed this issue in legislation. The church structure proposed will be located entirely on property zoned BR and DR 3.5, and churches are permitted as a matter of right in those zones.

Implicitly, the County Council has legislatively determined that churches in these zones would not be injurious to the public health and general welfare of the surrounding communities.

In light of the above, the Motion for Reconsideration will be denied.

THEREFORE, IT IS ORDERED by this Hearing Officer/Administrative Law Judge for Baltimore County this \_\_\_\_11th\_\_\_\_ day of August, 2011 that the aforementioned Motion for Reconsideration be and is hereby DENIED.

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

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:pz