

IN RE: PLANNED UNIT DEVELOPMENT	*	BEFORE THE
(PUD)		
(850 South Rolling Road)	*	OFFICE OF
1 st Election District		
1 st Councilmanic District	*	ADMINISTRATIVE HEARINGS
Shelter Development, LLC and		
YMCA of Central Maryland, Inc.	*	FOR
<i>Developers</i>		
	*	BALTIMORE COUNTY
	*	CASE NO. 01-571

* * * * *

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

This matter comes before the Office of Administrative Hearings (OAH) 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 Developers seek approval of a Development Plan (the "Plan") prepared by Bohler Engineering, for the proposed development of 850 South Rolling Road (the "subject property"). The proposed development is more particularly described on the six (6) sheet redlined Plan submitted into evidence and marked as Developers’ Exhibits 1A-F.

The Applicants propose a Senior Housing General Development Planned Unit Development (PUD) of 140 total dwelling units containing market rate independent senior living apartments, assisted living beds with associated parking and an expansion and upgrade of the existing Y of Central Maryland facility. The site (20.32 +/- acres of land zoned DR 2) is situated at 850 South Rolling Road, 800' more or less to the northeast of the intersection of South Rolling Road and Wilkens Avenue. It is currently improved and occupied by the Catonsville Family Center Y (to remain and be expanded and upgraded as part of the PUD). The site has no known

cultural or historical features. Except for the area where the site is improved, the site is mostly wooded and there is an intermittent stream at the north end of the property.

A Development Plan Conference (DPC) was held between the Developers' consultants and various Baltimore County agencies, to consider the project. In this case, the DPC was held on October 17, 2012. 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. The Hearing Officer's Hearing was held before me on November 8, 2012.

Appearing at the public hearing on behalf of the Developer were A. Eugene (Gene) Oaksmith, YMCA, Joseph Ucciferro, and Eric McWilliams, both with Bohler Engineering, Inc., Andrew Teeters, Shelter Development, Inc., Cynthia Shonaiya, with Hord, Coplan, Macht, Faith Hawks, Magda Westerhost, Jill Black, YMCA, and Mickey Cornelius, Traffic Group, Inc. Robert A. Hoffman, Esquire and Patricia A. Malone, III, Esquire, both with Venable, LLC, appeared as counsel for the Developer. Also appearing were community members Mary Tilghman, Tracey Stuart-Paul, Matt Roberson, and Tom Sullivan, who were all in support of the project.

Representatives of the various Baltimore County agencies who reviewed the Plan attended the hearing, including the following individuals from the Department of Permits, Approvals and Inspections (PAI): Darryl Putty, Project Manager; Jeff Perlow for Leonard Wasilewski, representative of the Office of Zoning Review; Dennis Kennedy, Jean Tansey, and Bruce Gill, Development Plans Review (DPR); and LaChelle Imwiko, Real Estate Compliance. Also appearing on behalf of the County were Jenifer Nugent, Department of Planning (DOP), and David Lykens, Department of Environmental Protection and Sustainability (DEPS). Also in

attendance was Cathy Engers, Aide for Councilman Tom Quirk. All Baltimore County representatives (with one exception, noted below) indicated – during the “informal” phase of the case – that the redlined Development Plan (Exhibits 1A-F) satisfied all Baltimore County rules and regulations, and their agencies recommended approval of the Plan.

Mr. Lykens indicated at the hearing that the stormwater management section of DEPS was still reviewing certain plans and drawings submitted by the Developer. The record in this case was kept open to allow DEPS to continue its environmental review of the project. By memorandum dated December 20, 2012, Mr. Lykens has indicated that DEPS has completed its review and “can now recommend that the Development Plan be approved.”

Given the primary role played by the Department of Planning, Ms. Nugent’s comments were more extensive than those provided by other County reviewers. Specifically, Ms. Nugent discussed each of the aspects reviewed by her agency, and concluded as follows:

1. School Impact Analysis (waived, given this is an age-restricted community);
2. Performance standards under B.C.Z.R. § 260 (Plan is consistent with these regulations);
3. Modification of standards (the Department of Planning does not oppose the modifications sought by the Developer);
4. Open space (While some is provided on the site, the Department of Planning does not oppose the open space waiver, marked as Baltimore County Exhibit 1);
5. Pattern Book (Department of Planning has reviewed and approved the Developers’ Pattern Book, admitted and marked as Baltimore County Exhibit 2, and

6. Master Plan (Department of Planning concurs with the “neighborhood” defined by Developers, and that agency advised the Plan is consistent with the 2020 Master Plan and compatible with the neighborhood).

The DOP concluded its final PUD report (Baltimore County Exhibit 3) by noting that the project was a “welcomed and needed addition” to the community, and it recommended approval of the Plan.

DEVELOPER’S CASE

The first witness in Developer’s case was Joseph Ucciferro, a licensed professional engineer employed by Bohler Engineering, Inc. Mr. Ucciferro explained that he was the project manager at Bohler responsible for reviewing and handling this project, and he indicated that the 140-unit Brightview West was designed as a campus with synergy and walkability. Mr. Ucciferro explained that those goals created the need for several modifications of standards, so that the project would retain a walkable and campus-like feel. Mr. Ucciferro also explained that although the subject property is approximately 20 acres in size, less than 10 acres of that area would be disturbed for the project, and he also explained that the senior housing will be oriented on the site to face the YMCA, rather than Rolling Road. After providing this overview of the project and its significant features, Mr. Ucciferro (who was accepted as an expert witness) opined that the six-sheet redlined Development Plan (Developers’ Exhibits 1A-F) meets all Baltimore County rules and regulations.

The next witness was Eric McWilliams, a licensed landscape architect employed with Bohler Engineering, Inc. Mr. McWilliams explained that he has been involved with many land use and development projects in Baltimore County, and that he assisted with the preparation of the Pattern Book for this project. Mr. McWilliams explained the new planning concepts found in

Master Plan 2020, which employs “transects,” a concept that attempts to blend commercial and residential uses in any given community. Mr. McWilliams said that the PUD would do exactly that, and he also noted that the Master Plan 2020 cites the need for additional senior housing in the area. Thereafter, Mr. McWilliams referenced and reviewed the compatibility analysis (found at page 44 of the Pattern Book) and the Modifications of Standards requested by the Developer, found at page 40 of the Pattern Book. Mr. McWilliams, who was accepted as an expert, opined that this PUD project was compatible with the neighborhood, that the Modifications of Standards requested by the Developer were modest, reasonable and necessary, and that the project also satisfied the special exception standards set forth at B.C.Z.R. § 502.1.

Cynthia Shonaiya, a licensed architect, was the next witness in the Developer’s case. Ms. Shonaiya is a senior housing specialist, and she stressed that her firm does not like to design “cookie cutter” buildings. To the contrary, she explained that she designs each project so that it is compatible with the neighborhood, and in this case she designed the structures to look like the old Victorian and historic homes found in Catonsville. In explaining certain design elements, Ms. Shonaiya explained that she broke up the massing of the building by using a gambrell and mansard roof on the structure, and she also explained that the length of the building (330 feet) is “staggered, so as not to present the appearance of a long and uninterrupted wall.”

The next witness in Developer’s case was Magda Westerhost, also a licensed architect. Ms. Westerhost explained that she has 29 years of experience as an architect, and was hired by the YMCA to assist in its Phase II expansion, which is being planned concomitantly with the senior housing PUD. Ms. Westerhost’s testimony was brief, and she explained that her design of the YMCA expansion would use more windows and a lobby-like entrance to the building, which

could serve as a meeting place and would be consistent with the campus-like layout emphasized earlier by Mr. Ucciferro.

Jill Black, the district executive director for the YMCA, was the next witness presented in Developer's case. Ms. Black explained the operations at the Catonsville YMCA. Ms. Black's testimony focused mainly on the available parking at the YMCA, and she began by noting that her facility uses 9' wide parking spaces, rather than the 8½' permitted by the B.C.Z.R., to accommodate their members with disabilities. Ms. Black explained that in her estimation, and only during the peak use hours of the facility, 20 additional parking spaces would be needed for the YMCA facility. Ms. Black also explained that the YMCA has entered into a shared use parking agreement with Shelter Development Corporation, which would allow club members to park on the Brightview property. Having this available for any potential overflow at peak hours, Ms. Black indicated that the parking provided on site was more than adequate.

The next witness in the Developer's case was Mickey Cornelius, a licensed engineer who is employed by the Traffic Group, Inc. Mr. Cornelius, who was accepted as an expert, undertook a traffic study in this case (*See Developers' Exhibit 9*) which looked at the two nearest signalized intersections (Wilkins Avenue and Valley Road), and he took traffic counts at the peak times between 7:00 and 9:00 AM and 4:00 to 6:00 PM. Mr. Cornelius indicated that both intersections receive a "B" grade from Baltimore County, although at the Wilkins and Rolling intersection in the evening, the State Highway Administration (SHA) assigns a failing grade.

In completing his traffic impact analysis, Mr. Cornelius explained that he assumed a 50% increase in membership at the YMCA, and noted that the senior housing project would be a low generator of vehicle trips. Taking these assumptions into consideration, Mr. Cornelius opined that morning traffic at the two above described intersections would function at a "A-B" level of

service, while the Valley Road intersection would function at a “C” level in the evening. Mr. Cornelius explained that the Rolling Road and Wilkens Avenue intersection would receive “F” level of service in the evening, but he described the infrastructure and roadway improvements planned by the Developer, which he explained would create a “C” level of service. In concluding, Mr. Cornelius opined that the roadway improvements proposed by the Developer would benefit the entire community, and he did not believe that the project would have an adverse impact upon the area’s roadway network.

The next witness was Andrew Teeters, who is employed by the Shelter Development Corporation. Mr. Teeters explained that he has worked for the Developer for six years, and has during his career focused on the Brightview facilities, 25 of which are located in the northeast. Mr. Teeters explained in general the nature of the Brightview projects, and with respect to parking needs noted that approximately 15% of the independent living residents at the facility would have cars. He also noted that this facility would have approximately 35 employees on a peak shift, though only 30% of those would drive to work, while the remainder would use public transportation which is available along Rolling Road. In concluding, Mr. Teeters emphasized that Shelter Development is a reputable firm that always finishes its projects, and he indicated that the project under consideration in this case, if approved, would no doubt be completed as planned.

The final witness in the case was Gene Oaksmith, a vice president of strategic development for the YMCA. Mr. Oaksmith explained that the average age of a Catonsville YMCA member is higher when compared to other facilities in this area, and he discussed the current and future improvements planned for the Catonsville facility. In concluding, Mr. Oaksmith noted that the YMCA is an upstanding and valuable member of the Baltimore County

community, and that it would complete the project as planned if the requisite approvals were received.

The Hearing Officer can approve a PUD Development Plan only upon finding:

- (1) The proposed development meets the intent, purpose, conditions, and standards of this section;
- (2) The proposed development will conform with § 502.1.A, B, C, D, E and F of the Baltimore County Zoning Regulations and will constitute a good design, use, and layout of the proposed site;
- (3) There is a reasonable expectation that the proposed development, including development schedules contained in the PUD development plan, will be developed to the full extent of the plan;
- (4) Subject to the provisions of § 32-4-242(c)(2), the development is in compliance with § 430 of the Baltimore County Zoning Regulations; and
- (5) The PUD development plan is in conformance with the goals, objectives, and recommendations of the Master Plan, area plans, or the Department of Planning.

B.C.C. § 32-4-245(c)(1)-(5).

In this case, as set forth above, the Developers presented uncontroverted evidence establishing each of these elements. The Department of Planning presented a final report (introduced by Ms. Nugent) indicating the PUD Development Plan was in conformance with the Master Plan and that it also satisfied the compatibility requirements of the County Code. Messrs. Teeters and Oaksmith testified that Shelter Development and the YMCA (respectively) have a documented track record of successful projects in the County (and State) and that this

development would be completed to the full extent of the Plan, so B.C.C. § 32-4-245(c)(3) is satisfied. In addition, Mr. McWilliams testified the project satisfied the B.C.Z.R. § 502 special exception requirements, complied with B.C.Z.R. § 430 (governing PUDs) and met the intent and standards set forth in the B.C.C. and B.C.Z.R. In light of this testimony, and given the strong support of the community, the PUD Development Plan shall be approved.

THEREFORE, IT IS ORDERED by this Hearing Officer/Administrative Law Judge this 27th day of December 2012, that the six (6) sheet redlined “**850 SOUTH ROLLING ROAD**” Development Plan, marked and accepted into evidence as Developers’ Exhibits 1A-F, be and is hereby **APPROVED**.

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:dlw