

<b>IN RE: DEVELOPMENT PLAN HEARING</b>	*	BEFORE THE
7827 Babikow Road		
4 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Councilmanic District		
<b>(McNeal Farm – [resubmittal])</b>	*	ADMINISTRATIVE HEARINGS
George J. & Louise M. McNeal	*	FOR
Owners/Developers		
	*	BALTIMORE COUNTY
	*	<b>HOH Case No. 14-487</b>

\* \* \* \* \*

**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.”). George J. & Louise M. McNeal, the developers of the subject property (hereinafter “the Developer”), submitted for approval a redlined Development Plan prepared by Little & Associates, Inc., known as “McNeal Farm – (resubmittal)”. By Order dated October 4, 2012, the undersigned withheld approval of the Development Plan previously submitted in this case. The sole basis for denial was that the plan was not in compliance with Baltimore County Zoning Regulations (B.C.Z.R.) § 260.2.D, which required a minimum lot width of 75’. The newly submitted Development Plan, as discussed below, has cured this deficiency.

The Developers propose to construct 25 single-family detached units on 9.19 acres of land zoned DR 5.5. The site is located on existing Babikow Road in South Perry Hall. The site is developed with a farmstead consisting of a main structure, a circular drive and many accessory structures that are all proposed to be removed. There are also one or more water wells on the

property, which will be abandoned prior to recordation of a record plat. The site is predominantly open with scattered vegetation.

The undersigned conducted a hearing on September 27, 2012 for approval of the Development Plan for 30 single-family detached units and requesting relief from § 260.2D of the Baltimore County Zoning Regulations (B.C.Z.R.) for the 75' wide lot width requirement in the South Perry Hall-White Marsh Plan Area. The undersigned ruled that the Developers were required to comply with the 75' lot width requirement, and the plan was resubmitted at the Development Plan stage for re-review by County agencies.

Details of the proposed development are more fully depicted on the redlined Development Plan that was marked and accepted into evidence as Developer's Exhibit 1. The property was posted with the Notice of Hearing Officer's Hearing on January 19, 2013 for 20 working days prior to the hearing, in order to inform all interested citizens of the date and location of the hearing.

Appearing at the requisite Hearing Officer's Hearing in support of the Development Plan on behalf of the Developer and property owner was Steven Rosen, Paul Amirault, and G. Dwight Little, Jr., PE and Aaron Kensinger, both with Little & Associates, Inc., the consulting firm that prepared the site plan. Howard L. Alderman, Jr., Esquire with Levin & Gann, P.A. appeared and represented the Developers.

Several citizens from the area also attended the hearing, and their names are reflected on the sign-in sheets and they were represented by Leslie Pittler, Esquire.

Numerous representatives of the various Baltimore County agencies, who reviewed the Development Plan, also attended the hearing, including the following individuals from the Department of Permits and Development Management: Jan M. Cook, Project Manager, Dennis A.

Kennedy (Development Plans Review [DPR]), Bruce Gill (DPR), Brad Knatz, Real Estate Compliance, and Aaron Tsui (Office of Zoning Review). Also appearing on behalf of the County were David Lykens from the Department of Environmental Protection and Sustainability (DEPS), and Jenifer Nugent from the Department of Planning (DOP).

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 §§ 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. At the hearing, each of the Baltimore County agency representatives identified above indicated that the Development Plan (marked as Developer's Exhibit 1) addressed any and all comments submitted by their agency, and they each recommended approval of the plan. Mr. Gill indicated an open space waiver was granted, and the Developers will pay to the County a "fee-in-lieu" in the amount of \$151,750 (Baltimore County Exhibit 1), and these funds will be used to construct a portion of the hiker/biker trail in the vicinity of the project. Ms. Nugent indicated her department reviewed and approved a Pattern Book (Baltimore County Exhibit 2) for

the development, and she also submitted an analysis confirming that Developers satisfied the pertinent regulations concerning the anticipated impact of the project upon schools in the vicinity. Baltimore County Exhibit 3. Finally, Ms. Nugent also confirmed that her department reviewed the resubmitted Development Plan and agreed that Developers satisfied the 75' lot width requirement.

In the “formal” portion of the case, the Developers presented one witness, G. Dwight Little, Jr., PE. Mr. Little, who was accepted as an expert, described in general the proposed development making reference to the Development Plan. The witness testified he prepared the Development Plan in this case, and in response to a question by Mr. Pittler, confirmed that each of the 25 lots shown on the plan satisfied the 75' lot width requirement. Mr. Little opined the Development Plan (Developer’s Exhibit 1) satisfied all rules, regulations and requirements set forth in the B.C.C. and the zoning regulations.

The Baltimore County Code provides that the “Hearing Officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations.” B.C.C. § 32-4-229. 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.

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 McNeal Farm (resubmittal) Development Plan shall be approved.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this 22<sup>nd</sup> day of February, 2013, that the redlined “**McNEAL FARM** –

(resubmittal)” Development Plan, marked and accepted into evidence as Developer’s Exhibit 1,  
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