

IN RE: PLANNED UNIT DEVELOPMENT	*	BEFORE THE
(4001-4009 North Point Blvd. – Lot 3)		
15 th Election District	*	OFFICE OF
7 th Councilmanic District		
	*	ADMINISTRATIVE HEARINGS
(The Townes at North Point)		
	*	FOR
4001 North Point Business Trust, <i>Owner</i>		
Craftsmen Developers, <i>Developer</i>	*	BALTIMORE COUNTY
	*	CASE NO. 15-954

* * * * *

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 Developer seeks approval of a Development Plan (the "Plan") prepared by Daft McCune Walker, Inc., for the proposed development of The Townes at North Point (the "subject property"). The proposed development is more particularly described on the 4-sheet redlined Plan submitted into evidence and marked as Developer's Exhibits 1A-1D.

The Baltimore County Council adopted Resolution 7-12 on February 6, 2012 stating that the proposed PUD site is eligible for County review in accordance with § 32-4-241, et. seq. of the B.C.C. In that resolution, the council also approved the community benefit under the PUD regulations, and modified the density to permit 108 dwelling units.

The Developer proposes to construct 108 single-family attached (i.e., townhomes) dwellings with attendant parking and drive aisles on 10.45+/- acres of land zoned BL (8.55+/- acres) and BL-AS (1.38+/- acres) with smaller amounts of BM-AS (0.51 acre) and DR 5.5 (0.013 acre). The site is currently vacant although much of the site remains covered with the parking

areas/drive aisles from its past uses as a drive-in movie theatre and, more recently, a flea market. A telecommunications tower does exist on the site and is in current use.

A Development Plan Conference (DPC) was held between the Developer's consultants and various Baltimore County agencies, to consider the project. In this case, the DPC was held on December 19, 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 January 17, 2013.

Appearing at the public hearing on behalf of the Developer was Ken Schmid, Conor O. Gilligan, W. Dennis Gilligan, Thomas Pilon, Mitchell J. Kellman and Kristy Bischoff, P.E., with Daft McCune Walker, Inc., the engineering firm that prepared the Plan. Patricia A. Malone, Esquire with Venable, LLP, appeared as counsel for the Developer.

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): Jan Cook, Project Manager; Dennis Kennedy, Development Plans Review (DPR); and Brad Knatz, Real Estate Compliance. Also appearing on behalf of the County were Jenifer Nugent, Department of Planning (DOP); David Lykens, Department of Environmental Protection and Sustainability (DEPS), and Bruce Gill, Department of Recreation and Parks (R&P)/Development Plans Review (DPR). All Baltimore County representatives indicated that the redlined Development Plan (Exhibit 1A-1D) satisfied all Baltimore County rules and regulations, and their agencies recommended approval of the Plan.

A member of the community (David Patro) also attended the hearing and expressed strong support for the project.

DEVELOPER'S CASE

The first witness in Developer's case was Kristy Bischoff a licensed P.E. who was accepted as an expert in zoning and land use matters. Ms. Bischoff testified she prepared the 4 sheet development plan, and she explained in general detail the scope of and plans for the development. The witness reviewed each of the requested modifications of standards (pattern book, p. 30, Baltimore County exhibit #1) and opined that each was necessary to achieve the intent of the PUD, and that the modifications would not in any way negatively impact the development or neighboring residential properties. Ms. Bischoff then reviewed the special exception standards contained in B.C.Z.R. § 502.1, and she opined the Developer satisfied each of the requirements and all Baltimore County rules and regulations applicable to the project.

The next witness was Mitchell Kellman, a former Baltimore County employee with an expertise in zoning matters. Mr. Kellman was admitted as an expert and his resume was marked as Developer Exhibit #3. Mr. Kellman stated initially the project was a prime example of "smart growth," and that the Developer was turning an "eyesore" into an attractive housing development. Mr. Kellman reviewed each of the requirements for a PUD set forth in B.C.Z.R. § 430, and he opined the Developer satisfied each: the site was inside the URDL, residential uses were proposed, and the density was approved by the Council in the PUD Resolution. Mr. Kellman next addressed the compatibility requirements of B.C.C. § 32-4-402, which he opined were satisfied. The witness described the applicable "neighborhood" as including the peninsula of land bounded by Bear Creek and North Point Boulevard, which are the same boundaries used by the North Point Village Civic Association and the Department of Planning (pattern book, p.8). Mr. Kellman testified the neighborhood consisted of parks and residential dwellings (both townhomes and single family dwellings), and that the proposed homes would be compatible with

those existing uses. The witness also opined the plan was compatible with Master Plan 2020, which includes the subject property in a community enhancement area. Mr. Kellman explained a redevelopment for sustainable housing would be consistent with the subject property's designation in the Master Plan.

The Developer's next witness was Ken Schmid, a traffic engineer whose resume was marked as Developer's Exhibit #5. Mr. Schmid, who was accepted as an expert, explained that he prepared a traffic analysis for the project (Developer's Exhibit #6), and determined that the two signalized intersections closest to the subject property functioned presently at an "A" level of service, and would continue to do so after the development is completed. Though not required to remedy any deficiency, Mr. Schmid testified the Developer has agreed to construct certain roadway improvements to Battle Grove Road to streamline the flow of traffic onto North Point Boulevard. See Traffic Plan, Developer's Exhibit #7.

The final witness was Connor Gilligan, a vice president with Craftsman Homes. Mr. Gilligan testified he has been involved with this project for 2+ years, during which time he and his colleagues have conducted extensive community outreach (documented in a timeline admitted as Developer's Exhibit #8). Mr. Gilligan described the project in general terms, and noted that the Developer would be reducing impervious surfaces at the site by at least 20%. Mr. Gilligan believed the proposed homes would be ideally situated next to parks and within walking distance of schools. The witness described the community infrastructure benefits the Developer will provide (a fishing pier and a concession facility at the recreation field), which will cost over \$150,000.00. Finally, Mr. Gilligan stated the Developer has constructed over 2,000 homes in Maryland over the last 15 years, and that Craftsman has never started a project it did not finish. As such, he believed there was indeed a likelihood the project would be completed as planned.

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, the Developer presented evidence which, when coupled with the findings in the DOP's final report, establishes each of these elements. The DOP and Mr. Kellman indicated the PUD Development Plan was in conformance with the Master Plan and that it also satisfied the Baltimore County Zoning Regulations (B.C.Z.R.) § 260 performance standards and the compatibility requirements of the B.C.C. Mr. Gilligan testified that he was very familiar with the Developer's projects in the State and County, and believed the development would be completed to the full extent of the Plan, so B.C.C. § 32-4-245(c) (3) is satisfied. Ms. Bischoff testified the project satisfied the B.C.Z.R. § 502 special exception requirements. Mr. Kellman

testified the project complied with B.C.Z.R. § 430 (governing PUDs) and met the intent and standards set forth in the B.C.C. (including but not limited to B.C.C. § 32-4-245(c) (1)-(5)). Mr. Patro testified that the project is well suited for the site, and that the community is “highly supportive” of the PUD. In light of this testimony and the exhibits admitted at the hearing, 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 **25th** day of January, 2013, that the Development Plan identified herein as **THE TOWNES AT NORTH POINT** (Developer’s Exhibits 1A-1D), 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/sln