

IN RE: DEVELOPMENT PLAN HEARING & PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE OF
8 th Election District	*	ADMINISTRATIVE HEARINGS
3 rd Council District		
(RESIDENCES AT SPARKS VALLEY	*	FOR
AKA 1ST MATERIAL AMENDMENT		
TO SPARKS CORPORATE CENTER	*	BALTIMORE COUNTY
AKA 14th Refinement to		
SPARKS CORPORATE CENTER)	*	HOH Case No. 08-0722 and
5 Fila Way		Zoning Case No. 2013-0279-SPH
Sparks, LLC, c/o P.F. Obrecht & Sons,	*	
<i>Owner/Developer</i>	*	

* * * * *

ADMINISTRATIVE LAW JUDGE’S COMBINED ZONING AND DEVELOPMENT PLAN OPINION & ORDER

This matter comes before the Office of Administrative Hearings 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.”). The hearing also involves a request for special hearing relief under the Baltimore County Zoning Regulations (B.C.Z.R.). Sparks, LLC, the developer of the subject property (hereinafter “the Developer”), submitted for approval a two-sheet redlined Development Plan prepared by KCI Technologies, Inc., known as “Residences at Sparks Valley aka 1st Material Amendment to Sparks Corporate Center aka 14th Refinement to Sparks Corporate Center.” Developer’s Exhibit 1A & 1B.

The Developer proposes to amend the development plan of Sparks Corporate Center, specifically Lots 8, 9 and 10 shown on that Plan, for 73 single-family attached townhome units on 16.357 +/- acres of land zoned DR 10.5. There are steep slopes greater than 25% and wetlands on the property. This is the 1st material amendment and 14th Refinement to the

Development Plan.

In addition to the Hearing Officer's Hearing (HOH), the Developer is requesting Special Hearing relief pursuant to § 500.7 of the B.C.Z.R., to determine whether the Administrative Law Judge (ALJ) should allow a material amendment to a previously approved development plan.

A history of this project reveals that a Hearing Officer's Hearing (HOH) granted approval in July 1999 for the Sparks Corporate Center. The development plan approved was signed on August 19, 1999. A portion of the property (16+/- acres) was rezoned during the 2012 Comprehensive Zoning Map Process (CZMP) from ML to DR 10.5 which allows high density/urban residential development. The Development Review Committee (DRC) in March 2013 (DRC No. 030513B), determined that the project is a material amendment of the earlier Development Plan, and the Developer was obligated to participate in a DPC and HOH.

The property was posted with the Notice of Hearing Officer's Hearing and Zoning Notice (both on January 23, 2014) for 20 working days prior to the hearing, in order to inform all interested citizens of the date and location of the hearing. The undersigned conducted the hearing on Friday, February 21, 2014, at 10:00 AM, Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland.

Appearing at the requisite Hearing Officer's Hearing in support of the Development Plan on behalf of the Developer and property owner was George Obrecht and Charles Phillips, with KCI Technologies, Inc., the consulting firm that prepared the site plan. Patricia A. Malone, Esquire and Justin Williams, Esquire, with Venable, LLP, appeared and represented the Developer.

Several members of the community attended the hearing, and their names are included on the sign-in-sheets in the file. The only issue raised by the community concerned an environmental cleanup project involving a nearby property, which will be addressed below.

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: Darryl Putty (Project Manager), Dennis Kennedy and Jean M. Tansey, Development Plans Review, Brad Knatz, Real Estate Compliance, and Joseph C. Merrey (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 redlined Development Plan (marked as Developer's Exhibit 1A & 1B) addressed any and all comments submitted by their agency, and they each recommended approval of the plan.

DEVELOPER'S CASE

The Developer presented one witnesses, Charles Phillips, a licensed surveyor whose firm prepared the Development Plan. Mr. Phillips, who was accepted as an expert, explained the project by referring to the two-sheet Development Plan. Mr. Phillips noted that under the DR 10.5 zoning classification, 172 housing units would be permitted, but that the Developer proposed only 73 townhouses (24' x 32') on the 16 acre parcel. Mr. Phillips also explained that the development would be served by numerous state of the art storm water devices required by the new State and County regulations, rather than the large storm water "ponds" with standing water used in prior years. In response to a question raised on behalf of the community, Mr. Phillips stated that units 35-37 (as shown on the Plan) would be visible from York Road, but that the Developer would use landscaping to buffer the view. In conclusion, the witness opined that the development proposal satisfied all Baltimore County rules and regulations.

Carey Hopkins Bosley, a nearby resident, questioned how the project could be approved given that (according to him) the area was listed as a "Superfund" site. After a review of Environmental Protection Agency (EPA) records, it does not appear as if the site (or any neighboring lands) are listed as a Superfund site. State records reflect that the former Bausch & Lomb Diecraft Plant, located at 14600 York Road, was included in the Voluntary Cleanup Program, to remediate contaminants (solvents) discharged in wastewater generated by Diecraft, which produced components for telescopes and other optical equipment. State records also reflect that in 2001 and 2002, only "low levels of solvents and metals" were found at the site. As

such, and given that Mr. Phillips estimated this site was at least one-half mile from the townhouse project (which will be served by municipal sewer and water), this issue does not seem germane to the present case.

The Baltimore County Code clearly 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 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.

ZONING REQUEST

SPECIAL HEARING

In addition to the Development Plan approval, the Developer sought special hearing relief under the B.C.Z.R. This request was described in detail earlier in this Opinion. This is in essence a “housekeeping” measure, which ensures that the previous plans for the site are properly amended. Based upon the testimony and evidence presented in the development case, I will grant the request for special hearing relief.

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 Residences at Sparks Valley aka 1st Material Amendment to Sparks Corporate Center aka 14th Refinement to Sparks Corporate Center Development Plan shall be granted.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this 4th day of March, 2014, that the two-sheet redlined “**RESIDENCES AT SPARKS VALLEY AKA 1st MATERIAL AMENDMENT TO SPARKS CORPORATE CENTER AKA 14th REFINEMENT TO SPARKS CORPORATE CENTER**” Development Plan, marked and accepted into evidence as Developer’s Exhibit 1A & 1B, be and is hereby **APPROVED**.

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking relief pursuant to § 500.7 of the B.C.Z.R., to approve a material amendment of a prior approved development plan, be and is hereby GRANTED.

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