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| IN RE: DEVELOPMENT PLAN HEARING | * | BEFORE THE |
| 4334 Chapel Road | | |
| 11 th Election District | * | OFFICE OF |
| 5 th Councilmanic District | | |
| (4334 Chapel Road) | * | ADMINISTRATIVE HEARINGS |
| | | |
| Kenneth L. Hash, <i>Owner</i> | * | FOR |
| Koch Associates, Inc., <i>Developer</i> | | |
| | * | BALTIMORE COUNTY |
| | | |
| | * | HOH Case No. 11-1116 |

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**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.”). Kenneth L. Hash, the owner of the subject property, and Koch Associates, Inc., the developer of the subject property (hereinafter “the Developer”), submitted for approval a four-sheet Development Plan prepared by Morris & Ritchie Associates, Inc., known as “4334 Chapel Road.”

The Developer proposes 11 single-family detached dwelling units on 9.96 +/- acres of land zoned DR 3.5H (Honeygo Overlay). The site is currently improved with a single-family dwelling and out-buildings that will be razed. The Developer is not seeking variance or other zoning relief, but two (2) Waiver of Standards are being requested as follows: (1) to provide 28' of paving in lieu of 30', and (2) to pay a fee-in-lieu of providing Local Open Space. The use of grinder pumps for the four (4) single-family dwellings situated along Chapel Road was approved by the Department of Public Works (DPW) on April 25, 2013.

Details of the proposed development are more fully depicted on the redlined four-sheet Development Plan that was marked and accepted into evidence as Developer's Exhibit 3A - 3D. The property was posted with the Notice of Hearing Officer's Hearing on July 31, 2013 for 20 working days prior to the hearing, in order to inform all interested citizens of the date and location of the hearing.

In attendance at the Hearing Officer's Hearing in support of the Development Plan on behalf of the Developer and property owner was Mark Koch, Developer, Toni Richardson, and Matthew A. Bishop, Professional Landscape Architect, with Morris & Ritchie Associates, Inc., the consulting firm that prepared the site plan. Jennifer R. Busse, Esquire and John B. Gontrum, Esquire, both with Whiteford, Taylor & Preston, LLP, appeared and represented the Developer.

There were no Protestants or interested citizens in attendance at the hearing.

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 Cook, Project Manager, Dennis A. Kennedy (Development Plans Review [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 Curtis Murray 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. With one exception (discussed below), each of the Baltimore County agency representatives identified above indicated that the Development Plan (marked as Developer's Exhibit 3A - 3D) addressed any and all comments submitted by their agency, and they each recommended approval of the plan. Mr. Murray provided a Pattern Book for the development (Baltimore County Exhibit 3), which he indicated satisfied the residential performance standards in Baltimore County Zoning Regulations (B.C.Z.R.) § 260. He also presented a school analysis (Baltimore County Exhibit 2) indicating that the area schools are not overcrowded using state guidelines. Finally, Mr. Kennedy (on behalf of Bruce Gill, also from DPR) submitted a letter (Baltimore County Exhibit 1) indicating the Developer will pay a "fee in lieu" of \$37,840 to satisfy the Local Open Space regulations.

Mr. Lykens, on behalf of DEPS, indicated that the stormwater management bureau of his agency had not yet completed its review of the project. At the time of the hearing, the reviewer, Tony Okechukwu, was on vacation, and the record in this case was left open pending that review. On September 9, 2013, representatives from DEPS informed the undersigned that the Development Plan satisfied all concerns and comments generated by DEPS, including the Bureau of Stormwater Management.

In the “formal” portion of the case, the Developer presented two witnesses. First was Mark Koch, who indicated his family has been in the real estate development business for over 50 years, mainly in Anne Arundel County. Mr. Koch testified he located this property through a real estate broker, and he indicated that the proposed single-family dwellings shown in the Pattern Book would most likely be constructed by D.R. Horton, a home builder that is currently constructing a residential project just to the north of the subject property (known as the “Reserve at Camp Chapel,” PAI No. 11-963).

Matthew A. Bishop, who is a licensed landscape architect, and was accepted as an expert, was the next witness in the case. Mr. Bishop described in general the proposed development making reference to all sheets of the Development Plan. The witness testified he prepared the four-sheet Development Plan in this case, and noted the Developer satisfied all of the Honeygo Overlay regulations.

Mr. Bishop indicated the site contains a pond (which will remain) and other environmental features that generate large swaths of forest buffer and forest conservation lands. This explains, according to the witness, why only 11 single-family dwellings are proposed on nearly 10 acres of property. Mr. Bishop also described the utilities and roadway network that will serve the project. He noted that the seven (7) homes on Burnside Court (Lot Nos. 1 - 7 on Development Plan) would be connected to the County’s sanitary sewer system, while the four (4) homes (Lot Nos. 8 - 11 on Development Plan) on Chapel Road would employ sanitary grinder pumps to access the public sewer to the north of these lots.

Mr. Bishop opined the Development Plan (Developer’s Exhibit 3A - 3D) 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 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 “4334 Chapel Road” Development Plan shall be approved.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this 9th day of September, 2013, that the “**4334 CHAPEL ROAD**” redlined Development Plan, marked and accepted into evidence as Developer’s Exhibit 3A - 3D, 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