

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE OFFICE
(Old Hanover Road)		
4 th Election District	*	OF ADMINISTRATIVE
3 rd Councilmanic District		
	*	HEARINGS FOR
(BLUM PROPERTY)		
	*	BALTIMORE COUNTY
James D. and Gayle M. Blum		
<i>Owner/Developer</i>	*	HOH Case No. 04-0737

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**ADMINISTRATIVE LAW JUDGE’S
DEVELOPMENT PLAN OPINION AND 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.”). James D. and Gayle M. Blum, the owner/developer (hereinafter “the Developer”), submitted for approval a two-sheet Development Plan (“Plan”) prepared by Polaris Land Consultants, known as the “Blum Property”.

The Developer proposes five (5) single family dwelling units on the 18.75 acre site. In its current condition, the site is mostly an open field with forested areas around most of the perimeter.

The site was the subject of a rezoning issue during the last cycle rezoning process in 2012, Issue #3-060, in which the property was rezoned from RC 2 to RC 3. Developer’s Exhibit 2. In addition, the Developer submitted to Baltimore County on September 21, 2012 a preliminary plan for the project (Developer’s Exhibit 11) thus allowing a major subdivision in the Tier 4 classification under the provisions of Section 9-206(b)(2) of the Environmental Article. Developer’s Exhibit 11.

Details of the proposed development are more fully depicted on the two-sheet Development Plan that was marked and accepted into evidence as Developer’s Exhibit 1A and 1B.

The property was posted with the Notice of Hearing Officer's Hearing on April 28, 2015 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 a hearing on May 29, 2015, at 10:00 AM, Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland.

In attendance at the Hearing Officer's Hearing (HOH) in support of the Plan on behalf of the Developer was James D. Blum, Gayle Blum, Sam Blum, Devin M. Leary, with Human and Rohde, Inc., and Geoffrey C. Schultz, with Polaris Land Consultants, the land surveying firm that prepared the Plan. David H. Karceski, Esquire with Venable, LLP, appeared as counsel for the Developer. Several citizens from the area also attended the hearing and opposed the project; their names are reflected on the sign-in sheets.

Numerous representatives of the various Baltimore County agencies who reviewed the Plan also attended the hearing, including the following individuals from the Department of Permits, Approvals and Inspections (PAI): Darryl Putty, (Division of Development Processing); Dennis Kennedy and Jean Tansey, Development Plans Review [DPR], Gigi Hampshire, Real Estate Compliance, and Jason Seidelman from the Office of Zoning Review. Also appearing on behalf of the County were Jeff Livingston from the Department of Environmental Protection and Sustainability (DEPS), and Matt Diana, 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 rules and regulations pertaining to development and related issues. 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. All County agency representatives indicated the Plan addressed all comments submitted at the Development Plan Conference (DPC) by their agency, and they each recommended approval of the Plan. At this stage of the proceedings, the "development plan is deemed Code-compliant in the absence of evidence to the contrary." People's Counsel v. Elm Street Dev., Inc., 172 Md. App. 690, 703 (2007).

Three (3) witnesses testified in the "formal" portion of the case. First was Geoffrey C. Schultz, a professional surveyor accepted as an expert. Mr. Schultz described in general terms the nature of the project by reference to the Development Plan (Developer's Exhibit 1A and 1B) which depicted the proposed improvements at the site. The witness stated that the project will comply with current stormwater regulations, and that the runoff from the site would decrease after the project is completed. Mr. Schultz testified that the site is approximately 18.75 acres, and that the five (5) lots would range in size from 1.5 to 7 acres.

Devin M. Leary, a professional landscape architect, was the next witness to testify. He described his work on the project, which included the preparation of a schematic landscape plan for the site (Developer's Exhibit 10) which was approved by Baltimore County.

The final witness was James D. Blum, one of the property owners. Mr. Blum testified that he is a real estate broker, and lives a short distance from the subject property. He indicated that he is a strong supporter of the community (i.e., he restored the Boring post office building, where he also maintains an office, Developer's Exhibits 10A and 10B) and plans to construct attractive dwellings that will improve the community.

Several area residents testified and expressed concerns with the project. Neighbors explained that a large portion of the surrounding lands are contained within perpetual environmental easements, and they lamented the loss of open space and agriculturally productive property. Residents also identified the increased traffic as a concern, and several neighbors complained that the centralized trash collection for the community along Old Hanover Road would be unsightly and problematic.

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. Based on the testimony and evidence presented by the Developer, the exhibits offered at the hearing, and confirmation from the various County agencies that the 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.

It is understandable that the neighbors would prefer the property to remain in its undeveloped state. This area of the County is rural and bucolic, and many large parcels are actively farmed and/or preserved from future development. But, at the same time, the Developer is entitled to maximize the return from his property, and Mr. Blum noted that there is a great deal of demand for housing in this area. The property was rezoned in 2012 to allow for more intense development, and it is surprising that the community was not aware the owner requested the “upzoning.” The current R.C. 3 zoning permits five (5) single family dwellings at the site, and the community has failed to identify any way in which the Plan fails to satisfy the requirements set forth in the Baltimore County Code (B.C.C.) and the Baltimore County Zoning Regulations (B.C.Z.R). As such, I am required by law to approve the Development Plan.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this 5th day of **June, 2015**, that the “**BLUM PROPERTY**” Development Plan, marked and accepted into evidence as Developer’s Exhibit 1A and 1B, be and is hereby **APPROVED**, subject to the conditions noted below.

- Developer shall use all reasonable efforts to secure Baltimore County approval of reconfiguring the access to the site so as to not interfere with or intrude upon property owned by Betty Coghill, 13941 Old Hanover Road.

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