

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE OFFICE OF
2 nd Election District		
4 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(3621 Burmont Avenue)		
(WEST GATE, Amended Plan of the	*	FOR
Former Levin Property)		
	*	BALTIMORE COUNTY
3621 Burmont, LLC, <i>Owner/Developer</i>	*	HOH Case No. 02-0688

* * * * *

**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.”). Adam D. Baker, Esquire with Whiteford, Taylor & Preston, LLP, on behalf of 3621 Burmont, LLC, *legal owner/developer* (hereinafter the “Developer”), submitted for approval a one-sheet redlined Development Plan (“Plan”) prepared by Martin & Phillips, known as “West Gate (Amended Plan of the Former Levin Property).”

Developer proposes nine (9) single-family attached dwelling units on 1.735 +/- gross acres of land zoned DR5.5. The lot is currently unimproved and is partially wooded. Details of the proposed development are more fully depicted on the redlined one-sheet Development Plan that was marked and accepted into evidence as Developer’s Exhibit 2.

The property was posted with the Notice of Hearing Officer’s Hearing on October 17, 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 November 13, 2014, 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 and property owner was David L. Martin, with Martin & Phillips, the engineering firm that prepared the site plan. Adam D. Baker, Esquire with Whiteford, Taylor & Preston, LLP, appeared and represented the Developer. There were no protestants or interested citizens in attendance at the hearing.

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, Project Manager, Dennis A. Kennedy and Jean M. Tansey (Development Plans Review [DPR]), LaChelle Imwiko, Real Estate Compliance, and Leonard Wasilewski (Office of Zoning Review). Also appearing on behalf of the County were David Lykens from the Department of Environmental Protection and Sustainability (DEPS), and Lloyd T. Moxley 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. 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 2) addressed any comments submitted by their agency, and they each recommended approval of the Plan. Ms. Tansey, the County's landscape architect, testified that the Developer has obtained the approval of a schematic landscape plan for the site, and that a final landscape plan would be completed in the next phase of review. She also indicated Developer was paying a fee in the amount of \$34,110 in lieu of providing the required 9,000 sq. ft. of Local Open Space. Baltimore County Exhibit 1. Mr. Moxley stated the DOP prepared a school impact analysis (Baltimore County Exhibit 2) which demonstrated that none of the schools in the relevant district exceeded 115% of state rated capacity, as required by state and county law.

DEVELOPER'S CASE

The Developer's sole witness was David L. Martin, with Martin & Phillips, whose firm prepared the Development Plan. Mr. Martin, a professional landscape architect who was accepted as an expert, explained the project by referring to the one-sheet Development Plan. Mr. Martin testified that the Developer would comply with the current storm water management regulations, which require the use of environmental site design. Mr. Martin also explained the layout of the project, and indicated a Pattern Book (Developer's Exhibit 3) had been prepared with details and floor plans of the proposed dwellings, but that minor revisions were still being discussed with DOP representatives.

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 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.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this 14th day of November, 2014, that the **“WEST GATE (Amended Plan of the Former Levin Property) DEVELOPMENT PLAN”**, marked and accepted into evidence as Developer’s Exhibit 2, be and is hereby **APPROVED**, subject to the condition noted below:

- Developer shall within fifteen (15) days of the date hereof obtain from the Department of Planning written approval (with a copy to the undersigned) of a Pattern Book for the project.

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