

IN RE: PLANNED UNIT DEVELOPMENT	*	BEFORE THE
9 th Election District		
5 th Council District	*	OFFICE OF
(Towson Mews)		
	*	ADMINISTRATIVE HEARINGS
424 VA Towson Limited		
Partnership, <i>Owner</i>	*	FOR
The Evergreene Companies		
<i>Developer</i>	*	BALTIMORE COUNTY
	*	CASE NO. 09-0492

* * * * *

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 § 32-4-245 of the Baltimore County Code (B.C.C.), which governs planned unit developments (“PUD”). In accordance with that regulation, Developer seeks approval of a Development Plan (the "Plan") prepared by Daft, McCune, Walker, Inc., for the Towson Mews (the "subject property"). The proposed development is more particularly described on the four (4) sheet redlined Plan submitted into evidence and marked as Developer's Exhibit 1A-1D.

On July 7, 2014, the Baltimore County Council approved Resolution No. 57-14 finding that the Towson Mews PUD is eligible for Baltimore County review in accordance with § 32-4-242 of the B.C.C. On February 17, 2015, the County Council adopted Resolution No. 10-15, which modified certain aspects of the earlier Resolution to address concerns of the community. The current request seeks approval of a 34-unit single-family attached residential townhome development. The units are proposed to be 18’ wide with rear loaded two-car garages.

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 June 17, 2015. 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 on July 9, 2015.

The property was posted with the Notice of Hearing on June 9, 2015 for 20 working days prior to the hearing, in order to inform all interested citizens of the date and location of the hearing. Appearing at the public hearing on behalf of the Developer was Josh Mastrangelo and Greg Moore with Evergreene Companies, Mitch Kellman, Kristy Bischoff, Tom Repsher, and James Malico, all 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. Several members of the community also attended to obtain additional information about the project.

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): Darryl D. Putty, Project Manager; Dennis A. Kennedy, Development Plans Review (DPR); Joseph C. Merrey, Office of Zoning Review, and Brad Knatz, Real Estate Compliance. Also appearing on behalf of the County were Jenifer Nugent, Department of Planning (DOP), and Jeff Livingston, Department of Environmental Protection and Sustainability (DEPS). All agency representatives indicated that the redlined Development Plan (Exhibit 1) satisfied all Baltimore County rules and regulations, and their agencies recommended approval of the Plan.

DEVELOPER'S CASE

The first witness in Developer's case was Kristy Bischoff, a professional engineer accepted as an expert. Ms. Bischoff explained in general the layout of the development, and testified that the Developer was seeking to modify certain standards for the project. She explained that for the

most part the modifications concerned zoning setback requirements, and that each of the proposed changes were shown on page 32 of the Pattern Book. Exhibit No. 2. Ms. Bischoff opined that the Plan satisfies all requirements set forth in the Baltimore County Zoning Regulations (B.C.Z.R.) and B.C.C.

The next witness was Mitch Kellman, who was accepted as an expert in zoning and land planning. Mr. Kellman described the “neighborhood” as that term is used in the B.C.C., and referenced an aerial photograph on which he outlined the area. Exhibit 4. He testified the townhouse project would be an appropriate transition use between the dense Towson commercial core and the single family homes in the adjoining neighborhoods. As such, he believed the proposed development was compatible with the neighborhood. Mr. Kellman also opined the project was consistent with the goals and objectives of Master Plan 2020, the Towson Community Plan and the Walkable Towson plan. Finally, Mr. Kellman testified Developer satisfied each of the requirements set forth in B.C.C. § 32-4-245(c).

The final two witnesses were both employees of Developer Evergreene Companies. Mr. Moore, a licensed architect, provided testimony concerning the unique design elements used for this project, which will ensure the new homes are compatible with the existing architecture of homes in the historic East Towson area. Mr. Mastrangelo, a principal with Evergreene, described the company and the wealth of experience it has in residential and commercial development projects. Mr. Mastrangelo testified that Evergreene was founded in 2007 and has constructed over 20,000 residential dwelling units, and he indicated the Developer has the experience and wherewithal to complete the Towson Mews project in accordance with the Plan and Pattern Book submitted at the hearing.

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 of agency witnesses, establishes each of these elements. The DOP indicated in its final report that the PUD Development Plan was in conformance with the Master Plan, satisfied the B.C.Z.R. § 260 residential performance standards, B.C.Z.R. § 430, and the compatibility requirements of the B.C.C. Mr. Mastrangelo testified the development would be completed to the full extent of the Plan, so B.C.C. § 32-4-245(c)(3) is satisfied. Finally, Mr. Kellman testified the project satisfied the B.C.Z.R. § 502 special exception requirements, 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)) and B.C.Z.R. In light of this testimony, and the positive recommendation of all County reviewing agencies, the PUD Development Plan shall be approved.

THEREFORE, IT IS ORDERED by this Hearing Officer/Administrative Law Judge this **10th** day of **July, 2015**, that the four (4) sheet redlined Development Plan known as “**TOWSON MEWS**” (Developer’s Exhibit 1A-1D), be and is hereby **APPROVED**, subject to the condition noted below.

- Developer has agreed to name the private road (which as shown on the Plan is situated between Jefferson and Virginia Avenues) “Davage Lane.” This was requested by members of the community and is reflected in Note 39 of the Development Plan. Exhibit 1A. Developer shall attempt to secure Baltimore County approval of this request.

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