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| IN RE: PLANNED UNIT DEVELOPMENT | * | BEFORE THE OFFICE OF |
| 4 th Election District | | |
| 4 th Council District | * | ADMINISTRATIVE HEARINGS |
| (501, 503, 505 & 507 Quarry View Ct.) | * | FOR |
| QUARRY PLACE PUD AKA | * | |
| DELIGHT QUARRY | * | BALTIMORE COUNTY |
| Beazer Homes Corp., <i>Owner/Developer</i> | * | CASE NO. 04-0700 |

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ADMINISTRATIVE LAW JUDGE’S OPINION AND ORDER
ON PLANNED UNIT DEVELOPMENT (PUD)

This matter comes before the Office of Administrative Hearings (OAH) pursuant to § 32-4-245 of the Baltimore County Code (B.C.C.), which governs planned unit developments (“PUD”). Beazer Homes Corp., *Developer/Applicant* (herein known as “Developer”) seeks approval of a Development Plan (the "Plan") prepared by Daft McCune Walker, Inc., for Quarry Place PUD aka Delight Quarry (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 6, 2015, the Baltimore County Council approved Resolution No. 57-15 (Developer’s Exhibit 2, p. 5) finding that the Quarry Place PUD is eligible for Baltimore County review in accordance with § 32-4-241 et. seq. of the B.C.C. The Developer proposes a 70,000 sq. ft. retail/commercial “village center” with ancillary parking to be situated on 18 acres, more or less, of BM (9.23 acres +/-) and OR 2 (6.05 acres +/-) zoned property. The site was previously approved for office use.

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 May 11, 2016. 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 June 3, 2016.

The property was posted with the Notice of Hearing on May 3, 2016 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 Jim Roberson, landscape architect Richard Hoehn, and professional engineer Jill C. Schopf with Daft McCune Walker, Inc., the firm that prepared the Plan. Patricia A. Malone, Esquire with Venable, LLP, appeared on behalf of the Developer. No community members or interested persons attended the hearing.

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): Jerry S. Chen, Project Manager; Dennis A. Kennedy, Development Plans Review (DPR); Aaron Tsui, Office of Zoning Review, and LaChelle Imwiko, Real Estate Compliance. Also appearing on behalf of the County were Lloyd Moxley, Department of Planning (DOP), and Steve Ford, Department of Environmental Protection and Sustainability (DEPS). All agency representatives indicated that the redlined Development Plan (Exhibit 1A – 1D) 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 landscape architect Richard Hoehn. Mr. Hoehn described his involvement with the project, and submitted a Pattern Book (Developer's Exhibit 2) prepared by his firm which has been reviewed and approved by the DOP. Mr. Hoehn provided some history of the site, which was an active quarry operation through the 1980s. The first plan for the site following the closing of the quarry was known as a reclamation plan. This plan,

approved in 1999, was a “broad based” plan which identified future uses for the site. Thereafter, development plans were subsequently approved for construction of single family housing (both detached and attached units), condominiums and a Class B office building. Mr. Hoehn testified there is an excess of office space in the vicinity, which caused the Developer to seek approval for a retail project or village center instead of the office building.

Mr. Hoehn described the proposed project, which would feature a stand-alone pharmacy building and a grocery store with other retail tenants in a second building. The retail center would be oriented towards the lake area and would feature walking paths and other amenities. Mr. Hoehn opined the Developer satisfied all requirements of the B.C.C. and B.C.Z.R. pertaining to PUDs.

The next witness in Developer’s case was Jill C. Schopf, a professional engineer accepted as an expert. Ms. Schopf described in general the layout of the development and the vehicular access from Nicodemus Road. Ms. Schopf opined that the Plan satisfies all requirements set forth in the B.C.Z.R. and B.C.C.

The final witness in Developer’s case was Mitch Kellman, a land use planner and consultant accepted as an expert. Mr. Kellman’s testimony focused upon the Modifications of Standards sought by Developer, as shown on page 45 of the Pattern Book. The modifications pertained to signage and parking, and Mr. Kellman reviewed each of the proposed signs and provided testimony concerning the Developer’s need for the modifications.

With respect to parking, Mr. Kellman explained the zoning regulations would require 5 spaces per 1,000 sq. ft. of space for retail uses and 16 spaces per 1,000 sq. ft. for restaurants. B.C.Z.R. § 409. As part of the PUD, the Developer seeks a modification to allow parking to be provided at 4.5 spaces per 1,000 sq. ft. of area, regardless of whether the use is retail or restaurant. Mr. Kellman explained a relatively recent amendment to the B.C.Z.R. allows for parking at 5

spaces per 1,000 sq. ft. for shopping centers in excess of 100,000 sq. ft., regardless of the type of tenant (i.e., restaurant or retail). B.C.Z.R. § 409.6. Another provision enacted in 2012 allows the Director of the Department of Permits, Approvals and Inspections (PAI) to reduce the number of required parking spaces by up to 40%. B.C.Z.R. § 409.13. While this center would only be 70,000 sq. ft., the witness believed that these exceptions indicate the requested modification is reasonable and reflective of modern trends and practices. In summary, Mr. Kellman opined the Modifications of Standards were necessary to complete the project and achieve the intent and purpose of the PUD regulations (i.e., to encourage a project with quality materials and higher design standards).

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 dated November 10, 2015 that the PUD Development Plan was in conformance with the Master Plan, satisfied B.C.Z.R. § 430 concerning PUDs and the compatibility requirements of B.C.C. § 32-4-

402. Mr. Hoehn testified Beazer has a successful track record of projects in Baltimore County and that the development would be completed to the full extent of the Plan, so I believe B.C.C. § 32-4-245(c)(3) is satisfied. Both Ms. Schopf and Mr. Kellman also provided expert opinions that the Developer satisfied all requirements of the B.C.C. 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.

Although no community members attended the hearing, the case file contains an e-mail dated May 9, 2016 from Stewart Richardson, President of the Sunnybrook Farms Area Community Association. Therein, Mr. Richardson expresses concerns about inadequate parking at the site. As noted above, shopping centers larger than 100,000 sq. ft. are permitted to provide parking at 5 spaces per 1,000 sq. ft. While Developer seeks approval for a 4.5 ratio, the Plan shows 343 spaces to be provided which is in actuality a ratio of 4.9. As such, I do not believe the number of spaces proposed is inadequate. Concerning the adjacent Kiwanis Field, that will be deeded to Baltimore County and the Plan shows 55 spaces for that facility. Mr. Hoehn explained there is a cleared and graded area at the site where the County could provide an additional 25 spaces if the need arose.

THEREFORE, IT IS ORDERED by this Hearing Officer/Administrative Law Judge this **9th** day of **June, 2016**, that the four (4) sheet redlined Development Plan known as “**QUARRY PLACE PUD AKA DELIGHT QUARRY**” (Developer’s Exhibit 1A-1D), be and is hereby **APPROVED**.

Any appeal of this Order shall be taken in accordance with Baltimore County Code, § 32-4-281.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County