

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE OFFICE OF
(1420 & 1430 Merritt Blvd.)		
7 th Election District	*	ADMINISTRATIVE HEARINGS
12 th Council District		
(Merritt Station)	*	FOR
Town Centre Prop. Partnership, <i>Owner</i>	*	BALTIMORE COUNTY
Pax-Edwards, LLC and Osprey		
Property Companies, <i>Developer</i>	*	HOH Case No. 12-0071

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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 Article 32, Title 4, of the Baltimore County Code (“B.C.C.”). Town Centre Properties Partnership, the owner of the subject property, and Pax-Edwards, LLC and Osprey Property Companies, the developer of the subject property (hereinafter “the Developer”), submitted for approval a redlined Development Plan (“Plan”) prepared by Colbert Matz Rosenfelt, Inc., known as “Merritt Station.”

The project proposes two multi-family apartment buildings having a total of 49 two-bedroom units and 24 three-bedroom units on the upper floors situated over 10,063 sq. ft. of first floor retail with ancillary parking, amenities and open space. Additional details, including floor plans and architectural elevations, are found on the redlined 14-sheet Development Plan that was marked and accepted into evidence as Developer’s Exhibit 1. The property was posted with the Notice of Hearing Officer’s Hearing on July 21, 2016 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 August 19, 2016, 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 were Robert S. Rosenfelt, P.E. and Stuart L. Darley, with Colbert Matz and Rosenfelt, the consulting firm that prepared the site plan. Also appearing were Brian Lopez and Jeff Paxson. Jason Vettori, Esquire represented the Developer. One citizen from the area attended the hearing to obtain additional information regarding the project.

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: Darryl Putty (Project Manager), Dennis A. Kennedy (Development Plans Review [DPR]), LaChelle Imwiko (Real Estate Compliance) and Jeff Perlow (Office of Zoning Review). Also appearing on behalf of the County were Jeff Livingston from the Department of Environmental Protection and Sustainability (DEPS), Lloyd Moxley from the Department of Planning (DOP), and Don Muddiman from the Baltimore County Fire Marshal's Office.

The development regulations require County agencies to review 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.

In this case, with only minor caveats as discussed below, all County agency representatives indicated the Plan addressed all agency comments, and they each recommended approval of the Plan. Mr. Moxley testified his agency determined the project satisfied the compatibility requirements set forth in the B.C.C., and he also presented a school analysis (Baltimore County Exhibit 2) indicating that area schools are not overcrowded using state guidelines. Mr. Kennedy testified the Developer applied for and was granted a waiver of the Local Open Space requirements, and that pursuant to Resolution 90-15 no fee-in-lieu was required (Baltimore County Ex. 1).

Mr. Kennedy also noted (as was confirmed by Developer's engineer) his agency previously approved a schematic landscape plan for this project. Thereafter, at the request of an adjoining property owner, the Developer relocated 32 off-street parking spaces shown along the northern portion of the site. Mr. Kennedy advised this will require Developer to submit a revised schematic landscape plan showing where plantings have been relocated to accommodate the modified parking layout. Mr. Livingston requested Developer to relabel the storm water management easements shown on the Plan, and at the conclusion of the hearing the Developer's engineer confirmed he had made the requested change.

In the "formal" portion of the case the Developer presented one witness: Mr. Rosenfelt, who is a licensed Professional Engineer and was accepted as an expert. Mr. Rosenfelt began by describing each of the redlined changes shown on the Development Plan, and also explained what was shown on each page of the 14-page Plan. The witness testified the site is not located within a deficient infrastructure area shown on the Basic Services Maps, and he also confirmed Developer will provide an ornamental fence and landscaping along the western boundary of the site. These amenities were requested by the Roman Catholic Archbishop of Baltimore, which owns the Sacred

Heart of Mary Cemetery adjacent to the subject property. In conclusion, Mr. Rosenfelt opined the Plan complied with the development regulations and he noted zoning relief was not required or requested.

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 considering 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 23rd day of **August, 2016**, that the “**MERRITT STATION**” redlined Development Plan, marked and accepted into evidence as Developer’s Exhibit 1, be and is hereby **APPROVED**, subject to the conditions noted below.

1. Within 15 days of the date hereof, Developer shall submit for approval by the County’s Landscape Architect a revised conceptual landscape plan.
2. Within 15 days of the date hereof, Developer shall submit to Baltimore County an amended version of sheet 2 of the Development Plan reflecting the existing tree cover along the perimeter of the site will be removed in connection with the project.
3. Developer shall provide to the Office of Zoning Review a signed copy of the approved development Plan.

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