

IN RE: PLANNED UNIT DEVELOPMENT (PUD) *	BEFORE THE
(5005 E. Joppa Rd.)	
11 th Election District *	OFFICE OF
5 th Councilmanic District *	ADMINISTRATIVE HEARINGS
(Strawbridge Commons	
FKA McDaniel Orchards) *	FOR
Glenda Faye Wareheim (Parcel 67), *	BALTIMORE COUNTY
<i>Owner</i>	
Joppa-Chapel Investments, LLC *	CASE NO. 11-1133
(Parcel 614), <i>Owner/Developer</i>	

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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) for a hearing pursuant to § 32-4-227 of the Baltimore County Code (B.C.C.). In accordance with the development regulations codified in B.C.C. Article 32, Title 4, the Developer seeks approval of a Development Plan (the "Plan") prepared by Matis Warfield, Inc., for the proposed development of Strawbridge Commons (the "subject property"). The project is more particularly described on the two-sheet redlined Plan submitted into evidence and marked as Developer's Exhibit 1.

The Baltimore County Council adopted Resolution 114-14 on December 15, 2014 (Developer’s Exhibit 7) stating that the proposed PUD site is eligible for County review in accordance with § 32-4-241 et. seq. of the B.C.C. In recognition of the community and land use benefits provided, the County Council modified the density for this PUD by their resolution, permitting a total of 59 townhouses on the site. *See* Developer’s Exhibit 7, p. 5.

The Developer proposes 58 single-family attached dwellings (i.e., townhouses) on two parcels of land totaling approximately 12 acres. An approximate 8 acre parcel zoned DR 3.5H1

will be designated as the “PUD authorization area” and will contain all of the dwellings and related infrastructure. This parcel is presently improved with two single-family dwellings, which will be razed prior to construction of this project. An approximate 4 acre parcel zoned DR 3.5 H is located to the south of the PUD parcel, and it contains a pond, community gardens and other environmental features. The only improvement proposed on this parcel is a portion of a walking path which will encircle the community.

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 August 17, 2016. At the DPC, the Baltimore County agencies responsible for the review of the Development Plan submit written comments regarding whether the plan complies with the various Baltimore County regulations governing land development. The Hearing Officer’s Hearing was held before me on September 8, 2016.

Appearing at the public hearing on behalf of the Developer was Stephen Ferrandi with Maryland Land Advisors, Carl R. Wilson, P.E., Traffic Group, Sally A. Malena, Landscape Architect with Human & Rodhe, Inc., Henry A. Leskinen with Eco Science Professionals, Inc., Scott C. Scarfone with Oasis Design Group, Bill Paulshock, and James E. Matis, P.E., and Salvatore C. Crupi, P.E. with Matis-Warfield, Inc., the engineering firm that prepared the Plan. David K. Gildea, Esquire, Lawrence E. Schmidt, Esquire and Christopher W. Corey, Esquire with Smith, Gildea & Schmidt appeared as counsel for the Developer. Francis X. Borgerding, Jr., Esquire entered his appearance on behalf of the Glenside Farms Homeowners Association (HOA). Counsel indicated that the HOA does not oppose the project and that in consideration of its support Developer has agreed to make a financial contribution to the local PTA, and a condition to that effect will be included in the Order below.

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; Leonard Wasilewski, Zoning Review, Jim Hermann, Baltimore County Landscape Architect, Dennis A. Kennedy & Michael Viscarra, Development Plans Review (DPR); and LaChelle Imwiko, Real Estate Compliance. Also appearing on behalf of the County were Brett M. Williams, Department of Planning (DOP) and Stephen Ford, Department of Environmental Protection and Sustainability (DEPS). All Baltimore County representatives indicated that the redlined Development Plan (Exhibit 1) satisfied all Baltimore County rules and regulations, and their agencies recommended approval of the Plan.

Mr. Ford confirmed Developer has obtained approval of a development stormwater management plan (County Exhibit 5, p. 4), as required in PUD cases. Mr. Hermann noted under the law Developer is required to provide 58,000 sq. ft. of open space. The Developer will provide on site 16,400 sq. ft. of active open space and will pay a fee of \$143,104.00 in lieu of providing the remaining 41,600 sq. ft. (Baltimore County Exhibit 1). A school analysis was submitted (County Exhibit 2) and Mr. Williams stated it had been approved by the DOP. It reveals that while Chapel Hill Elementary School exceeds the 115% of state related capacity, sufficient spare capacity exists at neighboring schools.

DEVELOPER'S CASE

Developer presented one witness in its case: Professional Engineer James Matis, who was accepted as an expert. Mr. Matis reviewed each of the sheets of the Development Plan and described the requested Modifications of Standards. The witness referenced the Pattern Book (Developer's Exhibit 8) and indicated the houses would have a traditional Georgian design

featuring brick exteriors. Mr. Matis emphasized the project was adjacent to a County park and that the walking trail to be constructed by the Developer would provide pedestrian connectivity, a point stressed in the Master Plan and Honeygo plan. In conclusion, Mr. Matis opined Developer satisfied all requirements for PUD approval as set forth in the B.C.C. and B.C.Z.R.

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 in the DOP's final report (Baltimore County Exhibit 3) establishes each of these elements. The DOP indicated the PUD Development Plan meets the compatibility objectives found in B.C.C. § 32-4-402, was in compliance with B.C.Z.R. § 430 and that the Plan was in conformance with that agency's goals and recommendations. Baltimore County Exhibit 3. Mr. Matis testified that he was very familiar with the Developer's projects over the last 15 years, and he believed 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. Matis 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.

The DOP's final report also indicated the requested Modifications of Standards (shown on a chart on the first sheet of the Development Plan) are necessary to achieve the desired use and layout of the site. The modifications are, as noted by Mr. Matis, primarily "internal" to the site; i.e., rear property line setbacks, parking standards and private yard area. The only modification that would arguably be external would be the request for one "block" of houses (Nos. 52-58) to have 7 units rather than 6. I have considered the potential impact of this modification upon "surrounding uses" and find that granting the request would have little or no impact upon the community. As noted by the DOP the homes will feature "high-end Federal-style architecture," and the approved schematic landscape plan (Developer's Exhibit 6) reflects street trees will screen the view from Joppa Road.

The County file indicates Developer held four community input meetings to discuss this project with area residents. If not unprecedented, this certainly is evidence of Developer's efforts to reach some consensus with the community, which has no doubt improved the plans for this project. In light of this testimony and the exhibits presented, the PUD Development Plan shall be approved.

THEREFORE, IT IS ORDERED by this Hearing Officer/Administrative Law Judge this **12th** day of **September, 2016**, that the Development Plan identified herein as **STRAWBRIDGE COMMONS FKA McDANIEL ORCHARDS** (Developer's Exhibit 1), be and is hereby **APPROVED**, subject to the conditions noted below.

1. Prior to recordation of a plat for the development, the Developer shall make a one-time donation of \$5,000 to the Perry Hall Middle School PTA.

2. Prior to issuance of building permits, Developer must submit for approval by the DOP final elevation drawings of the single-family attached dwellings, to be added to the approved Pattern Book.
3. Prior to plat recordation, Developer shall complete all community, land use and capital improvement benefits set forth in Resolution 114-14.
4. Prior to plat recordation, Developer shall pay a fee in the amount of \$143,104.00 in lieu of providing the requisite open space.

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