

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
S side of Ivy Hill Road and E of		
Falls Road	*	HEARING OFFICER
8 th Election District		
2 nd Councilmanic District	*	FOR BALTIMORE COUNTY
(MEREDITH PROPERTY)		
	*	Case Nos. VIII-836, 2009-0239-SPH,
H. George Meredith, Jr., et al.		2009-0240-SPH, 2009-0241-SPH,
<i>Developers</i>	*	and 2009-0242-SPH

* * * * *

HEARING OFFICER’S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer 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.”). H. George Meredith, Jr., James Meredith, and John Meredith, the owners and developers of the subject property (hereinafter “the Developer”), submitted for approval a development plan prepared by Scott A. Lindgren with Gerhold Cross & Etzel, Ltd. known as the “MEREDITH PROPERTY” for property located on the south side of Ivy Hill Road and east of Falls Road in the Cockeysville area of Baltimore County. The Developer proposes three future and three existing lots for single-family dwellings and the creation of several non-density parcels on a total tract of 26.2 acres. The three future lots and the non-density parcels would comprise the remaining 19.369 acres consisting of 7.333 acres of land zoned R.C.5 and 12.036 acres of land zoned R.C.4. The site is currently improved with three existing home sites set on large parcels featuring a mix of forest, field and stream environments. The project also proposes a Forest Buffer Easement containing 8.629 acres and a Conservancy Area of 8.985 acres of which 8.22 acres, more or less, is zoned R.C.4.

The Developer is also requesting certain zoning relief as follows:

- Case No. 2009-0239-SPH: For a portion of the subject property owned by George Meredith, James Meredith, and John Meredith, Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of 4 non-density parcels to be conveyed to existing lots of the Meredith property and the creation of 1 non-density parcel to be conveyed to an adjoining property owner; and
- Case No. 2009-0240-SPH: For a portion of the subject property owned by George Meredith, James Meredith, and John Meredith, Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a proposed storm water management device (level spreader) in a different zone than the dwelling; and
- Case No. 2009-0241-SPH: For the property located at 1439A Ivy Hill Road owned by John and Gathann Meredith, Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a portion of the existing septic reserve area in a different zone than the dwelling; and
- Case No. 2009-0242-SPH: For the property located at 1407 Ivy Hill Road owned by James and Stephanie Meredith, Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the existing well and a portion of the existing septic reserve area in a different zone than the dwelling.

Details of the proposed development are more fully depicted on the redlined Development Plan that was marked and accepted into evidence as Developer's Exhibit 1. The requested zoning relief is more fully depicted on the site plans pertaining to each property that were marked and accepted into evidence as Developer's Exhibits 2A through 2D, respectively.

As to the history of the project, a concept plan for the proposed development was submitted to the County, and a Concept Plan Conference ("CPC") was held on August 4, 2008 at 9:00 AM in the County Office Building. As the name suggests, the concept plan is a schematic representation of the proposed and is initially reviewed by and between representatives of the Developer and the reviewing County Agencies at the CPC. Thereafter, as required, a Community Input Meeting ("CIM") is scheduled during evening hours at a location near the property to provide residents of the area an opportunity to review and comment on the plan. In this case, the

CIM was held October 6, 2008 at 7:00 PM at the Cockeysville Public Library located at 9833 Greenside Drive in Cockeysville, Maryland. Members of the development team and the County's representative attended, as well as a number of interested persons from the community. Subsequently, a development plan is prepared, based upon the comments received at the CPC and the CIM, and the development plan is submitted for further review at a Development Plan Conference ("DPC"), which again, is held between the Developer's consultants and County agency representatives to review and scrutinize the plan further. The DPC occurred on May 27, 2009 at 10:00 AM. The combined Hearing Officer's Hearing and Zoning Hearing for this proposed development was then scheduled for June 18, 2009 at 9:00 AM in Room 106 of the County Office Building, 105 West Chesapeake Avenue in Towson, Maryland. Certifications contained within the case file indicate that the property was properly posted with signs that provided public notice of the Hearing Officer's Hearing and Zoning Hearing for at least 20 working days prior to the hearing, in order to notify all interested citizens of the date and location of the hearing. A letter dated May 13, 2009 was also sent to individuals who attended the community input meeting, notifying them of the hearing.

Appearing at the requisite public hearing in support of the Special Hearings and the Development Plan were the property owners and developers George Meredith, John Meredith, and James Meredith. Also appearing in support of the development plan and the requested zoning relief was Scott A. Lindgren, a professional land surveyor with Gerhold, Cross & Etzel, Ltd. There were no Protestants or other interested citizens in attendance at the hearing.

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 and Development Management: John Sullivan (Project Manager), Dennis Kennedy (Development

Plans Review), Len Wasilewski (Zoning Review Office), and Brad Knatz (Bureau of Land Acquisition). Also appearing on behalf of the County were David Lykens from the Department of Environmental Protection and Resource Management (DEPRM); Lynn Lanham from the Office of Planning; and Jan Cook from the Department of Recreation & Parks. In addition, written comments were received from the Baltimore County Fire Marshal's Office and the Maryland State Highway Administration. These and other agency remarks are contained within the case file.

It should be noted at this juncture that 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 area of concern and expertise. The agencies specifically comment on whether the plan complies with all applicable Federal, State, and/or County laws, regulations, and policies pertaining to development and related issues. In addition, these agencies carry out this role throughout the entire development plan and approval process, which includes providing input to the Hearing Officer either in writing or in person at the hearing. It should also be noted that 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 Sections 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. Upon inquiry of Mr. Lindgren, the Developer's professional land surveyor, he indicated it was his understanding that all agency comments had been addressed on the redlined Development Plan, with the exception of DEPRM's storm water management review and approval. He indicated that since the Development Plan Conference, revised submittals had been forwarded to DEPRM but had not yet been approved. Mr. Lindgren also reiterated that

several related zoning requests for special hearing relief had been filed pertaining to portions of the proposed development as well as existing conditions. Finally, Mr. Lindgren indicated that several Waivers of Public Works Standards have been requested pursuant to Section 32-4-107 of the Baltimore County Code (“B.C.C.”). First, the Developer is requesting a waiver of Section 32-4-409(b)(2)(11) for Lots 1 and 4 to allow one existing and one proposed panhandle strips to each be 10 feet in width in lieu of the required 12 feet in width. Second, the Developer is requesting a waiver to allow the use-in-common “panhandle” driveways to be less than 16 feet wide. Mr. Lindgren indicated the reasons and support for these requests would be expounded on during his presentation of the development plan.

There were no Protestants or other interested citizens in attendance at the hearing, in which case I then asked the particular agencies to state whether they had any outstanding issues. I have summarized their responses below:

Recreation and Parks: Jan Cook appeared on behalf of the Department of Recreation and Parks and indicated that the required local open space for the 3 units is 3,000 square feet or 0.07 acre, more or less, with 1,950 square feet active and 1,050 square feet passive. Mr. Cook then indicated that his office originally received a request for a waiver of Local Open Space; however, based on a provision of the Baltimore County Local Open Space Manual, an exemption was requested by the Developer for an Intra-Family Transfer. Pursuant to a letter dated June 15, 2009 from the Department of Recreation and Parks to the Developer’s consultant, Mr. Lindgren, the request for exemption from Local Open Space was approved. A copy of the letter was marked and accepted into evidence as Baltimore County Exhibit 1. Hence, Mr. Cook’s department recommended approval of the redlined Development Plan.

Planning Office: Lynn Lanham appeared on behalf of the Office of Planning. Ms. Lanham indicated that a School Impact Analysis was prepared by both the Developer and the Office of Planning and revealed that the projected enrollment for the elementary, middle, and high schools was below the percentage of State Rated Capacity (SRC) threshold of 115%, indicating compliance with the state's adequate public facilities law. A copy of the School Impact Analysis prepared by both the County and the Developer were marked and accepted into evidence as Baltimore County Exhibit 2 and Developer's Exhibit 3, respectively.

As to the relevant performance standards, Ms. Lanham indicated the portion of the proposed development located in the R.C.4 Zone complies with the R.C.4 Performance Standards. As to the remainder of the proposed development located in the R.C.5 Zone, Ms. Lanham indicated the Developer had made appropriate submittals, including elevations, for proposed Lot 6, which complied with the R.C.5 Performance Standards. For future Lots 4 and 5, Ms. Lanham indicated it was her understanding that appropriate submittals would be provided for review and approval prior to the issuance of permits for those lots. Based on the above, Ms. Lanham indicated her Office recommends approval of the redlined Development Plan.

Development Plans Review (Public Works): Dennis Kennedy appeared on behalf of the Bureau of Development Plans Review. Mr. Kennedy confirmed that the Developer's redlined plan met all of his department's requirements and comments. He also indicated on behalf of the Director of the Department of Public Works that there was no objection to the Developer's waiver requests concerning the panhandle and driveway widths, and that his department recommends approval of the redlined Development Plan.

Department of Environmental Protection and Resource Management (DEPRM): David Lykens appeared on behalf of DEPRM. As indicated by Mr. Lindgren, Mr. Lykens confirmed that

following the DPC, revised submittals were provided by the Developer regarding storm water management, and that those submittals had not yet been reviewed or approved by DEPRM. Mr. Lykens suggested that the record of the case be kept open in order to allow DEPRM sufficient time to review the submittals for potential approval. The undersigned agreed to hold the record of the case open on that basis and directed Mr. Lykens and Mr. Lindgren to keep me apprised of the progress of DEPRM's evaluation and/or to notify me if/when the storm water management submittals were approved. In addition to the Development Plan comments, DEPRM, as part of the Zoning Advisory Committee (ZAC), also provided written comments regarding the special hearing cases. For Case Nos. 2009-0239-SPH and 2009-0242-SPH, development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. Development of the property must also comply with the Forest Conservation Regulations. For Case No. 2009-0241-SPH, in order to meet COMAR requirements, the septic area must remain in its current location.

Office of Zoning Review: Len Wasilewski appeared on behalf of the Zoning Review Office. He also indicated that, but for the pending special hearing requests, all of his agency's comments were addressed on the redlined plan. He then indicated that should the undersigned grant the special hearing requests, his Department recommends approval of the redlined Development Plan as well.

Land Acquisition: Brad Knatz appeared on behalf of the Bureau of Land Acquisition. Mr. Knatz indicated that there were no outstanding issues from his agency and recommends approval of the redlined Development Plan, subject to the Developer's submission of appropriate documents from the Right-of-Way Manual. These documents were identified in an Inter-Office Correspondence dated June 18, 2009 and include the following: Document A – Drainage and

Utility Easement, Document B1 – Conservancy Easement, Document D – Stormwater Management Easement, Document K – Forest Buffer Easement, Document R – Highway Widening Area, and Document W – Access Easement.

Because the Developer has combined the hearings on the proposed development and the zoning matters in one Hearing Officer’s Hearing pursuant to Section 32-4-230 of the B.C.C., the Developer called on Mr. Lindgren to testify all at once -- in support of the special hearing requests as well as to present the Development Plan. Mr. Lindgren confirmed his familiarity with the laws and regulations pertaining to residential and commercial development, particularly in Baltimore County. As Mr. Lindgren explained, he was directly involved in the evaluation and preparation of the development plan for this project, and he prepared and sealed the redlined Development Plan marked and accepted into evidence as Developer’s Exhibit 1, as well as the site plans for the special hearing requests marked and accepted into evidence as Developer’s Exhibits 2A through 2D. Mr. Lindgren was offered and accepted as an expert in the areas of planning, zoning, land use, development, and the necessary zoning and land use requirements in Baltimore County.

Mr. Lindgren testified that the subject property originally consisted of 26.2 acres and was purchased by Henry and Alice Meredith in approximately 1939 or 1940. As shown on the redlined Development Plan, in 1986 a surveying firm, Raphael & Associates, created Lot 1 consisting of 1.526 acres conveyed to James and Stephanie Meredith. That lot is currently improved with a single-family dwelling. In 1990, Mr. Lindgren’s firm prepared a minor subdivision plan for Lot 2 consisting of 3.02 acres conveyed to George and Catherine Meredith, and Lot 3 consisting of 2.24 acres conveyed to John and Gathann Meredith. These lots were also improved with single-family dwellings. The remainder of the tract remained undeveloped.

At this juncture, the Developer desires to create three additional buildable lots that would be conveyed to each of the three Meredith brothers, with the plan to later convey those three lots to their children. The remaining acreage would be created as specific parcels and conveyed to existing Lots 1, 2, and 3, as well as an adjacent improved property on Ivy Hill Road owned by Michael and Helen Meredith. Specifically, as shown on the redlined Development Plan, Parcel "A" consisting of 1.227 acres would be conveyed to James Meredith, Parcel "B" consisting of 0.333 acre would be conveyed to Michael Meredith, Parcel "C" consisting of 2.381 acres would be conveyed to George Meredith, Parcel "D" consisting of 0.529 acre would be conveyed to George Meredith, and Parcel "E" consisting of 1.246 acres would be conveyed to John Meredith. Lot 4 would be located to the rear of the tract and by far be the largest of the lots and consist of approximately 9.186 acres. This would include a large conservancy area and forest buffer easement. Lot 5 would consist of approximately 1.985 acres and have frontage and driveway access on Ivy Hill Road. Lot 6 would also be located toward the rear of the tract and consist of approximately 2.424 acres.

As to the special hearing requests, Mr. Lindgren indicated that for Case No. 2009-239-SPH, the relief is in order to create non-density parcels out of the remaining land and attach them to existing lots as indicated above. In Case No. 2009-240-SPH, the relief is to allow a level spreader storm water management device for Lot 6 to be located in a different zone than the planned dwelling. As indicated by Mr. Lindgren and Mr. Lykens, a level spreader is an erosion control device designed to reduce water effluence by mitigating the impact of high velocity storm water surface runoff. The device reduces the energy level in high-velocity flow by converting it into sheet flow, and disperses the discharged water so that it may be infiltrated into soil more easily. During the 2000 Comprehensive Zoning Map Process ("C.Z.M.P."), portions of the

subject property were downzoned to R.C.4 due to their 300 foot proximity with nearby streams. As a result of the zoning line running through Lot 6, the proposed dwelling for this lot would be located in the R.C.5 Zone and the level spreader would be in the R.C.4 Zone. Similarly, in Case Nos. 2009-241-SPH and 2009-242-SPH, the relief is to allow the well for Lot 1 and septic reserve areas for Lots 1 and 3 in a different zone than the dwellings. These requests are to legitimize existing conditions and are also necessitated by the change in zoning in 2000.

Following his presentation of the plan, Mr. Lindgren indicated that based on his professional knowledge and experience, and but for the outstanding storm water management issue that he anticipates will be resolved shortly, the redlined Development Plan marked and accepted into evidence as Developer's Exhibit 1 fully complies with the development regulations contained in the Baltimore County Code and all applicable policies, rules, and regulations. As Mr. Lindgren confirmed, the redlined Development Plan had been presented to each of the County agency representatives and each agency likewise confirmed that all issues were addressed and resolved on the redlined plan.

Following the Hearing Officer's Hearing, the undersigned received an Inter-Office Correspondence dated July 17, 2009 from David Lykens, Development Coordinator with DEPRM. The correspondence indicated that DEPRM has completed its review of the environmental information submitted by the Developer and can now recommend that the redlined Development Plan be approved. A copy of this correspondence shall be marked and accepted into evidence as Baltimore County Exhibit 3.

The Baltimore County Code clearly provides that the "Hearing Officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations." *See*, Section 32-4-229 of the B.C.C. 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 development plan satisfies those agencies' requirements, I find that the redlined Development Plan, marked and accepted into evidence as Developer's Exhibit 1, is in compliance with the Baltimore County Code and all applicable policies, rules, and regulations. Therefore, having identified no remaining unresolved or outstanding issues that would prevent development plan approval, the Developer has satisfied its burden of proof and, therefore, is entitled to approval of the redlined Development Plan.

As to the requested waivers, based on the concurrence of the relevant County agency representatives and the testimony and evidence presented by the Developer, I am persuaded to grant the waivers related to panhandle strip widths and panhandle driveway widths. As to the related special hearing requests, I am likewise persuaded to grant this relief. The creation of the non-density parcels will allow the remaining acreage of the tract to be attached to the existing lots without any corresponding change in overall density. In addition, the request to allow well, septic, and storm water management appurtenances to be located in a different zone than the dwellings located on Lots 1 and 3 and planned for Lot 6 is driven by the change in zoning of the tract during the 2000 C.Z.M.P. through no fault of the Developer. In my judgment, the granting of the relief in each case is appropriate and will not have any detrimental impacts on the health, safety, or general welfare of the locale.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, the requirements of which are contained in Article 32, Title 4, of the Baltimore County Code, the redlined "MEREDITH PROPERTY" Development Plan, accepted into evidence as Developer's Exhibit 1, shall be approved consistent with the comments contained herein, the requested waivers shall be granted, and the requested special hearing relief shall be granted.

THEREFORE, IT IS ORDERED, this 21st day of July, 2009 by this Deputy Zoning Commissioner that the Special Hearing relief for properties set forth as follows:

- Case No. 2009-0239-SPH: For a portion of the subject property owned by George Meredith, James Meredith, and John Meredith, Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of 4 non-density parcels to be conveyed to existing lots of the Meredith property and the creation of 1 non-density parcel to be conveyed to an adjoining property owner; and
- Case No. 2009-0240-SPH: For a portion of the subject property owned by George Meredith, James Meredith, and John Meredith, Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a proposed storm water management device (level spreader) in a different zone than the dwelling; and
- Case No. 2009-0241-SPH: For the property located at 1439A Ivy Hill Road owned by John and Gathann Meredith, Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a portion of the existing septic reserve area in a different zone than the dwelling; and
- Case No. 2009-0242-SPH: For the property located at 1407 Ivy Hill Road owned by James and Stephanie Meredith, Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the existing well and a portion of the existing septic reserve area in a different zone than the dwelling.

be and are hereby GRANTED; and

IT IS FURTHER ORDERED by this Hearing Officer/Deputy Zoning Commissioner for Baltimore County that the request for Waiver of Public Works Standards as follows: a waiver of Section 32-4-409(b)(2)(11) for Lots 1 and 4 to allow one existing and one proposed panhandle strips to each be 10 feet in width in lieu of the required 12 feet in width, and a waiver to allow the use-in-common “panhandle” driveways to be less than 16 feet wide, be and are hereby GRANTED; and

IT IS FURTHER ORDERED by this Hearing Officer/Deputy Zoning Commissioner for Baltimore County that the “MEREDITH PROPERTY” redlined Development Plan, marked and

accepted into evidence as Developer's Exhibit 1, be and is hereby APPROVED, subject to the following:

1. In Case Nos. 2009-0239-SPH and 2009-242-SPH, development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code). Development of the property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
2. In Case No. 2009-0241-SPH, in order to meet COMAR requirements, the septic area must remain in its current location.

Any appeal of this decision must be taken in accordance with Section 32-4-281 of the Baltimore County Code.

SIGNED
THOMAS H. BOSTWICK
Hearing Officer/Deputy Zoning Commissioner
for Baltimore County

THB:pz