

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(#5 Missi Court)		
4 th Election District	*	OFFICE OF
2 nd Council District		
Katrina V. & Wilmington M. Grewe	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
Petitioners	*	FOR BALTIMORE COUNTY
	*	Case No. 2017-0114-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Katrina & Wilmington Grewe, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) for approval of: (1) the third amendment of the Final Development Plan for “Worthington Valley Estates Addition” for the: (a) subdivision of the Storm Water Management Reservation; (B) creation of Lot 34; and (C) to increase the total lots from 33 to 34; (2) any other permission deemed necessary by the Administrative Law Judge; and (3) amend the tract boundary for the property of “Worthington Valley Estates Additions.”

Katrina & Wilmington Grewe and surveyor Bruce Doak appeared in support of the petition. Gary Eidelman, who lives next door to Petitioners, opposed the requests. Mr. Eidelman was represented by Gregory Rapisarda, Esq. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Public Works (DPW), the Department of Environmental Protection and Sustainability (DEPS) and the Bureau of Development Plans Review (DPR).

This case involves a subdivision known as Worthington Valley Estates Addition, which was created by plat recorded in 1981. (Plat Book 47, page 8). The subject property is zoned R.C.5. Petitioners propose to amend the second amended Final Development Plan (FDP) for this subdivision (Petitioners' Ex. No. 1) which would have the effect of increasing from 33 to 34 the number of building lots proposed. Petitioners propose to create the new lot (at least in part) by utilizing approximately one acre of the four acre stormwater management (SWM) reservation parcel shown on the aforementioned plat.

Though shown on the plat, it is undisputed the four acre SWM parcel was never formally conveyed to Baltimore County. Petitioners purchased the four acre SWM parcel in 2006 from Helen Chellis, designated on the 1981 Worthington Valley Estates plat (along with her now deceased husband) as "Owner & Developer." Petitioners' Ex. No. 4A. Petitioners would combine the one acre portion of the SWM pond with another small parcel they currently own (which is contiguous to but not part of the Worthington Valley Estates subdivision) to create a 1.85 +/- acre R.C. 5 parcel known as Lot 34, on which they would construct a single-family dwelling.

As noted above, the FDP for Worthington Valley Estates shows a 4.10 acre +/- "Stormwater Management Reservation" along the eastern boundary of the subdivision. Petitioners would subdivide this lot as shown on the redline FDP (Petitioners' Ex. No. 1), which would result in a 3.22 +/- acre SWM reservation area which would be conveyed to Baltimore County. The applicable regulation is B.C.Z.R. §1B01.3, which permits (as applicable in this case) amendment of an FDP following a public hearing, provided the amendment is "consistent with the spirit and intent of the original plan." B.C.Z.R. §1B01.3.A.7. This then is the pivotal question to be answered in this case.

Devin Leary, a registered landscape architect accepted as an expert, testified he has been involved with this project since 2006. He noted the project was “complicated” and testified the “intent was for the previous developer to convey this storm water pond to Baltimore County.” Based on this testimony alone (which was not contradicted) I do not believe the proposed amendment would be “consistent with the spirit and intent of the original plan.” *Id.* While Petitioners propose to convey a 3.22+/- acre pond to the County, the “original plan” specified the parcel was 4.10 +/- acres. In an email dated December 7, 2015 James A. Markle, P.E. (on behalf of DEPS) informed Petitioners the “existing stormwater management pond must be conveyed in-fee to Baltimore County in a Stormwater Management Reservation. The reservation must include the entire pond and provide access to Missi Court.” See Petitioners’ Ex. No. 10.

In addition, the County Code specifies that subdivision plats must be accompanied by “irrevocable offers of dedication to the public of all public improvements.” BCC §32-4-271(b). This was also the law in 1981 when the Worthington Valley Estates plat was recorded. BCC §§ 26-214(a) (1988) & 22-66 (1978). As such, I do not believe the 2006 Chellis-Grewe conveyance was lawful, and I believe the County would now be entitled to insist upon the conveyance of the entire 4.10 +/- acre SWM parcel. Indeed, an analogous scenario was addressed by Maryland’s highest court in Hackerman v. City of Baltimore, 212 Md. 618 (1957). In that case, the court held the city can accept an offer of dedication (shown on a plat) of real property to be used for a street fifteen years after the same property was purportedly conveyed by deed to a third party.

THEREFORE, IT IS ORDERED this 30th day of December, **2016** by this Administrative Law Judge, that the Petition for Special Hearing to approve: (1) the third amendment of the Final Development Plan for “Worthington Valley Estates Addition” for the: (a) subdivision of the Storm Water Management Reservation; (B) creation of Lot 34; and (C) to increase the total lots from 33

to 34; (2) any other permission deemed necessary by the Administrative Law Judge; and (3) amend the tract boundary for the property of “Worthington Valley Estates Additions,” be and is hereby DENIED.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln