IN RE: DEVELOPMENT PLAN HEARING and PETITION FOR VARIANCE N/S Clay's Lane at NW Corner Fairbrook Road (Clay's Lane)

2nd Election District

4th Councilmanic District

IB Property Holdings, LLC, Developer

- BEFORE THE
- * ZONING
- * COMMISSIONER OF
- * BALTIMORE COUNTY

Case Nos. IV-713 &

* 07-581-A

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before the Hearing Officer/Zoning Commissioner for a combined public hearing on a 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.). The owner and developer IB Property Holdings, LLC ("Developer") submitted for approval a development plan prepared by Century Engineering, for property located on the north side of Clay's Lane, northwest of the corner of Fairbrook Road, in the Woodlawn area of the County. The subject property contains approximately 3.97 acres more or less, zoned D.R. 10.5, on which Developer proposes a total of 40 single-family attached condominium townhomes.

In addition to development plan approval, Developer has requested pursuant to Section 32-4-230 of the B.C.C. approval of a Petition for Variance, seeking a variance related to the distances between some of the new units and variances related to a required residential transition area on the east side of the property. Specifically, Developer sought the following variances: (1) variance from Baltimore County Zoning Regulations (B.C.Z.R.) Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit clearing, grading, landscaping, and construction within the required 50 foot residential transition area buffer on the eastern side of the property; (2) variance from B.C.Z.R. Sections 1B01.1.B.1.c and 504.2 and CMDP

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(Division II, Section A, pp. 15-18) to permit residential units to be constructed within 55 feet of a tract boundary in lieu of the required 75 foot residential transition area setback to allow for the construction of Unit Nos. 29-40; (3) variance from B.C.Z.R. Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit residential units with a maximum height of 40 feet within the 100 foot residential transition area in lieu of the maximum permitted height of 35 feet for Unit Nos. 29-40; and (4) a variance from B.C.Z.R. Section 1B01.2.C.1.C and 504.2 and CMDP (Division II, Section A, pp. 19-23), to permit a combined front/side yard setback of 30 feet in lieu of the required combined 37½ feet between Units 11, 12, and 13.

The proposed development and requested zoning relief are more particularly described on the red-lined Clay's Lane Development Plan submitted and marked into evidence as Developer's Exhibit 1A-1C.

As to the history of the project, a concept plan of the proposed development was prepared, and a conference was held on July 10, 2006. As the name suggests, the concept plan is a schematic representation of the proposed subdivision and is reviewed by and between representatives of Developer and the reviewing County agencies at the Concept Plan Conference (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 on August 29, 2006, at Randallstown Public Library. Subsequently, a development plan is prepared, based upon the comments received at the CPC and CIM and submitted for further review at a Development Plan Conference (DPC), which, again, is held between the Developer's consultants and the reviewing County agencies. In this case, the DPC was held on August 8, 2007. Following review at the DPC, comments are submitted by the appropriate County reviewing agencies, and a revised

development plan (the redlined development plan) incorporating these comments is submitted at the Hearing Officer's Hearing, in this case scheduled before the undersigned on August 30, 2007.

At the public hearing, Peter LaPointe appeared as representative of IB Holdings, LLC. Robert Hoffman, Esquire and Patricia Malone, Esquire appeared as legal counsel for Developer. Developer presented as expert witnesses Michael Pieranunzi, registered landscape architect, John Ranocchia, licensed professional engineer, and Mitchell Kellman, land planner and zoning expert, all from Century Engineering, the consultants responsible for the preparation of the development plan. Joseph Caloggero, traffic engineer with The Traffic Group, and Donald Taylor, architect with DW Taylor Associates, Inc., also appeared. No protestants or other interested persons appeared at the hearing, although, after the hearing, I received a letter from Henry Ferguson, a nearby property owner, in support of 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 and Development Management: John Sullivan (Project Manager); Dennis Kennedy (Development Plans Review); Gigi Hampshire (Land Acquisition); and Aaron Tsui (Zoning Review Office). Also appearing on behalf of the County were Lloyd Moxley (Office of Planning); Bruce Gill (Department of Recreation and Parks); and David Lykens (Department of Environmental Protection and Resource Management). Finally, written comments were received from Lt. Roland Bosley, Jr. of the Baltimore County Fire Marshal's Office and Steven Foster on behalf of the Maryland State Highway Administration. These and other agency remarks are contained within the case file.

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Pursuant to BCC Sections 32-4-227 and 228, which regulates 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. Mr. Hoffman, counsel for Developer, indicated that there was an unresolved issue involving sanitary sewer and wastewater disposal. This outstanding issue is discussed below. Otherwise, Developer was not aware of any other unresolved issues with regard to the redlined plan.

I then asked the particular agencies to state whether they had any outstanding issues. I have summarized their responses below:

Department of Recreation and Parks (R&P): Bruce Gill appeared on behalf of R&P and confirmed that a waiver of local open space requirements, pursuant to B.C.C. Section 32-6-108(f) for tracts of five areas or less zoned D.R. 10.5 or D.R. 16, was requested for this project and approved by his department director as reflected in an approval letter submitted as County Exhibit 1. Therefore, R&P recommended approval of the plan.

Department of Environmental Protection and Resource Management (DEPRM):

David Lykens appeared on behalf of DEPRM and confirmed that DEPRM's Storm Water

Management, Ground Water Management, and Environmental Impact Review sections had no outstanding issues with regard to the development plan, and approval was, therefore, recommended.

Office of Planning (OP): Lloyd Moxley appeared on behalf of the OP and provided the Hearing Officer with a school impact analysis for the project as County Exhibit 2. Based on the results of that analysis, Mr. Moxley confirmed that this project is in compliance with the provisions of B.C.C. Section 32-4-103. Mr. Moxley also provided the Hearing Officer with a copy of the pattern book for the project, introduced as County Exhibit 3, which was reviewed by

his office for compliance with Section 260 of the B.C.Z.R. and approved. As Mr. Moxley confirmed, based on his office's review of the redlined development plan and the pattern book, the OP determined that these submittals adequately addressed all of his agency's comments, and it recommended approval of the plan.

Zoning Review: Aaron Tsui appeared as the representative of the Zoning Review office and indicated that his agency had no outstanding issue with regard to the development plan with the exception of the pending variance requests.

Bureau of Land Acquisition: Gigi Hampshire appeared on behalf of the Bureau of Land Acquisition and confirmed that all issues were addressed on the redlined plan, and, therefore, approval was recommended.

Plans Review: Dennis Kennedy appeared on behalf of the Bureau of Plans Review. According to Mr. Kennedy, most of his agency's issues had been addressed. On the issue of Fairbrook Road, the Director of Public Works had approved a waiver of Public Works standards whereby Developer would not be required to build Fairbrook Road, but only to provide the required right of way and to grade and provide slope easements after grading.

On the issue of sanitary sewer and wastewater disposal, Public Works had two comments that were still considered outstanding. The first comment related to the mechanism for pumping effluent from the development to the existing sewer system in Rolling Road. Developer had requested to utilize the existing private pumping station, which is how the property is currently connected to public sewer. Public Works, however, favored construction of a public pumping station. Additionally, Public Works was requiring Developer to undertake a reinforcement of sanitary sewers serving the site and downstream as reflected in the August 3, 2007, Bureau of Development Plans Review Development Plan Conference Comment. Developer argued that

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these improvements should not be required because the property is already connected to the public sewer system and the connection was considered sufficient for the former nursing home use and should be sufficient for the proposed townhomes.

It was apparent that no resolution of these issues would be reached at the initial hearing, so it was determined that the hearing would be continued at this point to allow Developer and Public Works to discuss these issues in greater detail.

Moving on to the more formal portion of the hearing, Developer asked Michael Pieranunzi, licensed landscape architect, to present the redlined development plan. Mr. Pieranunzi gave a brief description of the existing conditions of the property and surrounding area, referencing a site constraints map marked as Developer's Exhibit 2 and then introduced the development proposal shown on Developer's Exhibit 1A-1C. As Mr. Pieranunzi explained, Developer proposes a total of 40 condominium townhomes on this approximately 3.97 acre property. Access is proposed from Clay's Lane.

Mr. Pieranunzi then offered his opinion that, with the zoning relief sought, the redlined development plan, Developer's Exhibit 1A-1C, fully complies with the zoning and development regulations contained in the B.C.C. and B.C.Z.R. and all applicable policies, rules, and regulations with the exception of the above-mentioned sewer issue.

Next during the hearing, Developer noted that Joseph Caloggero, expert traffic engineer was present at the hearing and available to testify regarding the impact of this development on the surrounding roads. Because no issues had been raised regarding traffic conditions, rather than have Mr. Caloggero testify, I accepted Mr. Hoffman's proffer that Mr. Caloggero would confirm, based on his investigation and observations, the area roads are adequate to handle the existing traffic and any anticipated increase in volume from this development.

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The hearing then moved on to the Petition for Variance. The requested relief was detailed in the petitions that were filed and also on the Development Plan, (also the Plan to Accompany Variance Petition), accepted into evidence as Developer's Exhibit 1A-1C. Specifically, Developer sought the following variances: (1) variance from B.C.Z.R. Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit clearing, grading, landscaping, and construction within the required 50 foot residential transition area buffer on the eastern side of the property; (2) variance from B.C.Z.R. Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit residential units to be constructed within 55 feet of a tract boundary in lieu of the required 75 foot residential transition area setback to allow for the construction of Unit Nos. 29-40; (3) variance from B.C.Z.R. Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit residential units with a maximum height of 40 feet within the 100 foot residential transition area in lieu of the maximum permitted height of 35 feet for Unit Nos. 29-40; and (4) a variance from B.C.Z.R. Section 1B01.2.C.1.C and 504.2 and CMDP (Division II, Section A, pp. 19-23), to permit a combined front/side yard setback of 30 feet in lieu of the required combined 37½ feet between Units 11, 12, and 13.

Mr. Kellman, accepted as an expert in zoning and land planning, testified regarding the variances and explained where, on the property, the variance relief would be required. As Mr. Kellman explained, this project involves the redevelopment of a property formerly developed with a 120± bed nursing home, which is closed. The nursing home was previously affiliated with Arlington Baptist Church, which adjoins the property to the north. Located immediately to the west is an apartment building currently owned and operated by the Church. To the south is an agricultural field. To the east are single-family homes, which back to this property.

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Fairbrook Road, a Master Plan road, will disregard be extended along the eastern boundary of the property between the property and the single-family homes.

In explaining the requested residential transition area variances, Mr. Kellman stated that this project is designed with neo-traditional principles in mind. Homes front closely on either public greens or streets, encouraging residents to interact in a more intimate environment. With the home fronts being the focal point, the garages are placed at the rear of the homes and are accessed by private streets or alleys with decks over the garages. The architectural renderings found in the Pattern Book, which has been approved by the Planning Office, demonstrate this design, and the result is a higher-quality, more attractive community.

According to Mr. Kellman, pushing the buildings closer to the public roads, including the future Fairbrook Road, however, generates the need for the first three variances relating to building to tract boundary setbacks or impacts within the residential transition area that is generated by the single-family homes to the east. The fourth variance, that relating to the combined front yard/side yard setbacks for Units 11, 12, and 13, is required to allow these units to front closely on the proposed public green space area. As Mr. Kellman explained, this property is uniquely situated to act as a buffer between the existing institutional use and its related multi-family apartment building and those single-family homes to the east. Further, the proposed neo-traditional design will allow the more attractive fronts of the new townhouses to face the rear of the singles across Fairbrook Road and will result in a higher-quality community.

The Zoning Commissioner is permitted to grant variances, pursuant to B.C.Z.R. Section 307, upon finding that special circumstances exist and that requiring strict compliance with the regulations would result in a practical difficulty for the petitioner. Having heard the testimony and considered the requests, I find that sufficient evidence and justification exists to grant the

requested variances. In my judgment, Developer has demonstrated that the requirements of B.C.Z.R. Section 307 are satisfied. Particularly, I find that special circumstances exist based on the property's status as a redevelopment parcel. I also find that a practical difficulty will result if Developer is forced to strictly comply with the requirements applicable to the residential transition area requirements.

The neo-traditional concept envisioned for this development would not be possible without granting the variances. This site, which acts as a transition between the institutional use to the north, the apartment use to the west, and single-family homes to the east, presents a good opportunity to redevelop the property and improve the conditions in the neighborhood. Granting the variance will not result in any adverse impacts to neighboring properties and likely will result in a product that, from the perspective of the owners of the adjacent single-family homes, offers them more privacy in their rear yards. Through the use of neo-traditional design principles and a sensitivity to the surrounding uses, Developer has successfully integrated the new townhomes into the neighborhood. Developer's success in this regards is demonstrated by the lack of opposition from the community. In fact, if Mr. Ferguson's letter is any indication, the community seems pleased at the prospect of the new neighborhood. For these reasons, I will grant the requested variances.

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. Section 32-4-229. Having granted the zoning petition, I must decide whether, based on the cumulative testimony and evidence presented by Developer and the comments of the County agencies, the Development Plan is in compliance with all applicable county, state, and federal regulations. At the close of the hearing on August 30, 2007, there was

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only one remaining issue to be resolved and that was Developer's proposed solution for disposing of sewage and wastewater from the site. In addition to the evidence and testimony introduced at the hearing on this point, I also received correspondence from both Developer's attorneys and from the Department of Public Works on the subject, and these letters are contained in the file. Clearly, there is a difference of opinion as to the best way to provide sewer for this project. I note at the outset that the property does not lie within a deficient sewer area according to the 2007 Basic Services Maps and, nor is it within an "area of special concern." However, the Woodlawn area generally appears to have some issues with sewer capacity.

Developer argues that the only reasonable option for providing sewer to this property, at least for the foreseeable future, is to utilize the existing connection to the sewer in Rolling Road, which means that effluent must be pumped, by way of an existing private sewer pumping station, uphill to Rolling Road through the Church's property. The subject property and the adjacent apartment building are currently hooked to the public sewer system in this manner. From what Developer makes evident, the former nursing home was connected to the public sewer system in this manner from the time it opened in the late 1970's until it closed sometime in 2003 or 2004. Developer proposes to reuse the existing sewer mains and to reuse and, if necessary, upgrade the existing private sewer pump station and has agreed to permit upstream/adjacent properties in the same situation to utilize the pump station assuming there is an agreement as to cost-sharing and maintenance responsibilities.

Developer's engineer, John Ranocchia, testified before me that the existing sewer system should be acceptable given that the property is currently served in this manner and the owner would be proposing flows similar to the prior nursing home use. According to an analysis provided by Century Engineering (attached to Ms. Malone's November 28, 2007, letter), the

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anticipated "average flow" from the proposed 40 townhouse development is less than that from a 120 bed nursing home, and the "peak flow" is about the same for both uses. Considering the results of this analysis, Developer proposes simply to continue the historic use of the private pump station and the existing sewer mains that connect the property to the Rolling Road sewer.

The Department of Public Works, on the other hand, does not approve of the use of the existing private pump station for the new development, but, instead, would require Developer to replace the existing private pump station with a public pump station constructed to Baltimore County standards. Apparently, Public Works is concerned about not having adequate recourse in the event there are issues with the maintenance and repair of the pump station. Additionally, despite the property's already being connected into the sewer system, Public Works would require Developer to reinforce the sanitary sewers serving the site and downstream (1,108 feet in total) to accommodate the projected flows from the development. Public Works contends that, regardless of the past discharge from the nursing home, there currently exists no capacity unless the downstream sewer is supplemented.

Developer's position in response is that the nursing home use was abandoned a relatively short time ago, and the flows from this site already should have been factored in for purposes of determining sewer capacity. Developer argues that it should be able to take advantage of, at least, the prior amount of flow and, therefore, should not be required to supplement the sewer or to replace the pump station.

This situation demonstrates the need to distinguish between what is an appropriate development condition, *i.e.*, a requirement substantially related to some problem or need generated by the particular development, and, in the case where such a substantial relationship is lacking, what is an unconstitutional extraction of public benefits from a private owner. *See*

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Nollan v. California Coastal Comm'n, 483 U.S. 825, 836-837 (1987); Howard County v. JJM, Inc., 301 Md. 256, 282 (1984). Having considered the arguments on both sides of this issue and the specific facts of this case, I find the "reasonable nexus" required between what is being required of Developer and the proposed redevelopment to be missing. The problems that exist in the public system do not appear to be related to this proposed townhome development, and it should not be this developer's responsibility to fix them. The subject property, for some time, has been hooked into the public sewer system in this manner without incident or complaint by the County. Developer should be permitted to continue to utilize the private pump station and to use the existing connections to the public sewer system in Rolling Road without additional supplementation of the sewer infrastructure. The current infrastructure was designed to take into account sewer flows from this property based on the prior use, and Developer should be able to discharge a similar amount.

That being said, I will not leave the County without recourse in the event there are problems with the maintenance and repair of the private pump station. Prior to the issuance of any permits, I will require Developer to submit to Baltimore County in the amount of \$50,000 (Fifty thousand dollars) either in the form of cash or an executed irrevocable letter of credit to cover any maintenance or repair costs associated with the private sanitary sewer pump station in the event the condominium owners, Church, or other responsible party fails to maintain the station. Any letter of credit shall be in a format acceptable to the Department of Permits and Development Management and shall be automatically renewed from year to year so long as the private sanitary sewer pump station shall serve this property.

I will also require Developer to notify prospective buyers of the condominium townhomes that the sanitary sewer system connecting the homes to the public sewer system

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requires a private pump station in order to pump effluent through the Arlington Baptist Church property to Rolling Road. This notification shall contain a clear statement that, for so long as this property is served by the private pump station, the condominium owners will bear financial and legal responsibility for their portion of the maintenance and upkeep of the private pump station as opposed to the County's Department of Public Works. In this regard, the notification shall also include a provision indicating that the condominium association, upon the sale of all units, will assess each unit a fee of \$50.00 (Fifty dollars) per year to be set aside for any additional costs related to the private pump station. The required notification shall appear on all development plans and final development plans signed by the County and on any plats recorded in the Land Records of Baltimore County.

After due consideration of the testimony and evidence presented by Developer concerning the development proposal as well as the input of the various County agencies, and having addressed the only outstanding issue, I find that the redlined Clay's Lane Development Plan accepted into evidence as Developer's Exhibit 1A-1C is in compliance with all applicable policies, rules and regulations, and I will approve the plan.

Pursuant to the Zoning and Development Regulations of Baltimore County as contained within the Baltimore County Zoning Regulations and in Article 32, Title 4 of the Baltimore County Code, the advertising and posting of the property, and public hearing held thereon, the redlined Clay's Lane Development Plan, introduced as Developer's Exhibit 1A-1C, shall be approved consistent with the comments contained herein and, for the reasons set forth above, the Petition for Variance shall be granted.

THEREFORE, IT IS ORDERED by the Hearing Officer/Zoning Commissioner of Baltimore County this day of December, 2007, that the revised redlined Clay's Lane

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Development Plan, entered into evidence as Developer's Exhibit 1A-1C, be and is hereby APPROVED.

IT IS FURTHER ORDERED, that the Petition for Variance, seeking relief, as shown on the redlined Development Plan/Plan to Accompany Variance Petition, entered into evidence as Developer's Exhibit 1A-1C, from: (1) variance from Baltimore County Zoning Regulations (B.C.Z.R.) Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit clearing, grading, landscaping, and construction within the required 50 foot residential transition area buffer on the eastern side of the property; (2) variance from B.C.Z.R. Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit residential units to be constructed within 55 feet of a tract boundary in lieu of the required 75 foot residential transition area setback to allow for the construction of Unit Nos. 29-40; (3) variance from B.C.Z.R. Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit residential units with a maximum height of 40 feet within the 100 foot residential transition area in lieu of the maximum permitted height of 35 feet for Unit Nos. 29-40; and (4) a variance from B.C.Z.R. Section 1B01.2.C.1.C and 504.2 and CMDP (Division II, Section A, pp. 19-23), to permit a combined front/side yard setback of 30 feet in lieu of the required combined 37½ feet between Units 11, 12, and 13, is hereby GRANTED; all subject to the following conditions which are conditions precedent to the approvals granted:

1. Prior to the issuance of any permits, Developer must submit to Baltimore County \$50,000 (Fifty thousand dollars) in the form of cash or an executed letter of credit to cover any maintenance or repair costs associated with the private sanitary sewer pump station. Any letter of credit shall be in a format acceptable to the Department of Permits and Development Management and shall be automatically renewed from year to year for so long as the private sanitary sewer pump station shall serve this property.

2. Developer is required to notify prospective buyers of the condominium townhomes that the sanitary sewer connecting the homes to the public sewer system requires a private pump station for which they will bear their portion of the financial and legal responsibility to maintain for so long as the property is served by this pump station. In addition, the required notification shall include a provision indicating that the condominium association, upon the sale of all units, will assess each unit a fee of \$50.00 (Fifty dollars) per year to be set aside for any additional costs related to the private pump station. The required notification shall appear on all development plans and final development plans signed by the County and on any plats recorded in the Land Records of Baltimore County.

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

Zoning Commissioner/Hearing Officer

for Baltimore County

IN RE: DEVELOPMENT PLAN HEARING & PETITION FOR VARIANCE	*	BEFORE THE
N/S Clay's Lane at NW Corner Fairbrook Road	*	ZONING COMMISSIONER
(Clay's Lane) 2 nd Election District	*	OF
4 th Council District	*	BALTIMORE COUNTY
IB Property Holdings, LLC Developer	*	Case Nos. II-713 & 07-581-A

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before the Hearing Officer/Zoning Commissioner on a Motion for Reconsideration filed in the above-captioned matter by Assistant County Attorney, Jennifer Frankovich, on behalf of Baltimore County, Maryland, a body corporate and politic, on behalf of its Department of Public Works (DPW). On December 31, 2007, a Hearing Officer's Opinion was issued approving a Development Plan and granting a Petition for Variance subject to certain limiting conditions regarding the private sewer pumping system existing on nearby property and the potential impact of the development on the downstream public sewer line. DPW filed this Motion for Reconsideration arguing that the originally imposed development conditions failed to ensure the safety of the citizens of Baltimore County for two reasons: (1) the existing private sewer pumping station does not contain the necessary safeguards to ensure the safety of the property owners in the proposed community, and (2) the proposed development poses a risk to the surrounding public by increasing the flow of sewage on a 1,108-foot portion of a downstream public sewer line that is already functioning at its maximum capacity. As will be explained in greater detail, after considering the additional evidence presented at the hearing on the Motion

¹ Through a clerical error, this matter was erroneously listed as Case No. IV-713 in the initial Order and Motion for Reconsideration. The error was discovered before the Reconsideration hearing and was corrected to list the actual Case No. II-713.

for Reconsideration, I am persuaded that the originally imposed development conditions should be stricken and replaced with conditions that will better serve the residents of this locale.

In summary, the December 31, 2007 Order granted the property owner, IB Property Holdings, LLC, the necessary zoning relief to convert an existing 120-bed nursing home on the north side of Clay's Lane in the Woodlawn area of the County into 40 single-family At the initial public hearing, representatives from Century condominium townhomes. Engineering, Inc. presented evidence that the proposed development would not have a significant impact on the existing sewer system and proposed simply to continue the historic use of the private pump station and the existing sewer mains that connect the property to the Rolling Road Through written correspondence, DPW expressed an opposition to the developer's proposal and suggested an alternative method of addressing the potential impact of the proposed development on the affected public sewer line. Thus, the December 31, 2007 Order attempted to condition the approval of the requested relief in a manner that would satisfy all interested parties and best serve the needs of the general public. However, after the Order was issued, DPW filed a Motion for Reconsideration requesting that the approval be instead conditioned on the property owner's replacement of the existing private pump station with a public pump station constructed to DPW standards, and the owner's reinforcement of a 1,108-foot portion of a sewer line located northeast of the property along Ripple Road.

On January 30, 2008, the Motion for Reconsideration was properly and timely filed pursuant to requirements of Appendix G, Rule K of the Baltimore County Zoning Regulations (B.C.Z.R.). On February 15, 2008, Notice of this Motions hearing was sent to all interested parties, including Robert Hoffman, Esquire and Patricia Malone, Esquire of Venable, LLP, the attorneys who represented IB Property Holdings, LLC at the public hearing. On March 19,

2008, Ms. Malone informed the Zoning Commissioner that Venable, LLP was striking its appearance in this case and would not be present at the April 16, 2008 Reconsideration Hearing.

Appearing at the public hearing in support of the Motion for Reconsideration was Edward C. Adams, Jr., Director of DPW, Glen A. Keller, Chief of Sewer Design for DPW, Dennis A. Kennedy, P.E., Supervisor, Bureau of Development Plans Review, and John Sullivan, Project Manager, from the Department of Permits and Development Management (DPDM). Jennifer Frankovich, Assistant County Attorney, appeared and represented the Petitioner. There were no Protestants or other interested persons in attendance at the hearing.

I will first address DPW's assertion that the existing private pumping station does not contain the necessary safeguards to properly serve potential unit owners in the proposed condominium community. At the Motions hearing, DPW submitted an aerial photograph of the development site as well as a larger scale aerial photograph that depicts all sewer lines in the surrounding area. The photographs were respectively marked and accepted into evidence as Baltimore County's Exhibits 4A-B.² Mr. Keller, a professional engineer and Chief of Sewer Design for DPW, testified that the existing private pumping system essentially consists of a manhole with a single pump similar to a sump pump that expels sewage a distance of approximately 1,600 feet from the site against the force of gravity until it connects to a public sewer line where the sewage naturally flows downstream. As currently constructed, Mr. Keller maintains that the private pumping station does not contain a backup electrical system. Accordingly, a number of events can contribute to a sewer backup such as a thunderstorm, a pump mechanical failure, a clogged line (or pump) caused by the flushing or inducing of foreign

² Baltimore County had submitted 3 exhibits at the initial public hearing. Thus, the first exhibit submitted at the Motion for Reconsideration hearing was marked as Exhibit 4.

substances into the system. The resultant backup and overflows would pose a significant risk to health, property and costly expense to Clay's Lane unit owners.

Mr. Keller then provided a book of photographs detailing the mechanics of a public sewer system that meets DPW standards. The photographs revealed a much more elaborate electrical system with a generator that would prevent backups in the event of a power failure. Mr. Keller testified that there are 116 public pumping stations in Baltimore County, each containing a backup electrical system that is lacking in the existing private system currently serving the subject property. On behalf of DPW, Mr. Keller suggested that an upgrade to a public system meeting DPW standards was necessary prior to the issuance of any use and occupancy permits.

The testimony of Edward C. Adams, Jr., Director of DPW, furthered the argument that the existing private pumping station lacks the technology to ensure the safety of the future condominium homeowners on the subject property. Mr. Adams testified that DPW has an obligation to ensure that all citizens of Baltimore County receive sewer service in a safe and effective manner. When developers are permitted to maintain private pumping stations, Mr. Adams testified that past experience has shown that the financial burdens of sewer maintenance often unfairly fall on resident property owners. DPW submitted a copy of an email summarizing a similar problem that arose when a private pumping station failed in the Putnam Green Town Home Community. The email was marked and accepted into evidence as Baltimore County's Exhibit 5. DPW also submitted a report illustrating the principle that owning and operating a private sewage pumping station can prove costly to the homeowners in the surrounding community. The report was marked and accepted into evidence as Baltimore County's Exhibit 6. Considering the additional evidence presented at the hearing on the Motion for

Reconsideration, I am now convinced that the potential homeowners of the proposed condominium community would be better served if the developer were required to upgrade the existing sewer system to a public system meeting DPW standards prior to the completion of the proposed development.

I will turn next to DPW's assertion that the conversion of the subject property from a nursing home to condominiums would have a significant impact on a portion of the downstream public sewer line. The additional testimony and evidence presented at the Motions hearing demonstrated that a 1,108-foot section of the sewer line under Ripple Road, as indicated between the red X's marked on Baltimore County's Exhibit 4B, is currently functioning at its maximum capacity throughout certain portions of each day. The prior existence of a nursing home on the subject property had not unduly stressed this portion of the public sewer line since a study from John Hopkins University, which Mr. Keller proffered is widely accepted as authority in the industry, revealed that nursing homes generally produce the majority of waste water sewage flow at approximately noon time each day. Condominiums, however, tend to produce the majority of their sewage at "peak flows" at two times daily. The first of which occurs between the hours of 6:00 A.M. and 8:00 A.M. and the second at 5:00 P.M. to 7:00 P.M. It is during these time periods that the affected portion of the downstream public sewer line is already functioning at its maximum capacity. Mr. Keller testified that the additional flow that will result from the proposed development would create overflows with attendant environmental and public safety hazards unless the affected portion of the public sewer line along Ripple Road was reinforced prior to the completion of the proposed development.

Further evidence presented at the Motions hearing revealed that the proposed development could also cause a significant increase in the overall waste water and sewer usage

on the subject property. In contrast to the evidence presented at the original hearing, Mr. Keller and Mr. Adams each testified that DPW observed that an average of approximately 11,500 gallons/day of water were used on the subject property between 1999 - 2000. Following the close of the nursing home, this volume was reduced to 6,500 gallons per day. The evidence demonstrated that the proposed development could increase water and sewer usage by as much as 10,800 additional gallons/day, so that the total usage would increase from 6,500 to above 16,000 gallons/day. The evidence revealed that the current public sewer line would not be able to carry the additional flow during peak hours. Mr. Adams testified that DPW typically models proposed development on a computer system and provides comments to developers to address any additional strains that proposed developments would have on existing infrastructure. When, as in this case, the new developments cause potential infrastructure deficiencies, DPW typically holds the developer responsible for reinforcing or upgrading to compensate for the impact of the proposed development. Thus, based on the additional evidence presented at the public hearing, I am now convinced that DPW is correct in maintaining that a 1,108-foot portion of the sewer line under Ripple Road must be reinforced (or an alternative means found to re-direct waste water away from Dead Run sewer shed to the Gwynns Falls sewer shed) prior to the completion of the proposed development.

As I previously mentioned in the December 31, 2007 Order, the sewer debate in this case demonstrates the need to distinguish between what is an appropriate development condition, *i.e.*, a requirement substantially related to some problem or need generated by the particular development, and in the case where such a substantial relationship is lacking, what is an unconstitutional extraction of public benefits from a private owner. *See Nollan v. California Coastal Comm'n*, 483 U.S. 825, 836-837 (1987); *Howard County v. JJM, Inc.*, 301 Md. 256, 282

(1984). Prior to observing the testimony and evidence presented at the Motions hearing, I did not believe that a "reasonable nexus" existed between the proposed development and the upgrading/reinforcing requested by DPW. Thus, the development conditions originally imposed in the December 30, 2007 Order laid out the financial responsibilities of the affected parties but permitted the developer to continue to use the private pumping system without upgrading to a public system or reinforcing any of the downstream public line(s).

The additional evidence demonstrated that the existing private sewage pumping station does not adequately protect the 40 future potential unit owners and their families from sewer backups and resulting health risks. Moreover, the proposed development will directly impact the general public placing lower-tiered property owners at risk by allowing increased flow on a portion of a downstream public line that is already functioning at maximum capacity. Upon further consideration of the testimony and evidence presented by these public officials, I am convinced that the conditions imposed in the Order of December 30, 2007 will not adequately address the impact of the proposed development on the affected sewer system, and that a reasonable nexus does exist to require the developer to perform the actions requested by DPW prior to approval and obtaining building permits.

THEREFORE, IT IS ORDERED by the Hearing Officer/Zoning Commissioner of Baltimore County this ______ day of April 2008, that the two conditions imposed in the December 17, 2007 Order are hereby STRICKEN from the record.

IT IS FURTHER ORDERED, that the Development Plan and Petition for Variance are hereby GRANTED as stated in the December 17, 2007 Order. However, all requested relief is granted subject to the following new conditions which are conditions precedent to the approvals:

- 1. Prior to the recording of a plat for this site, the developer must enter into a Public Works Agreement which includes provisions for the following conditions and all offsite rights-of-way needed to fulfill those conditions must be acquired at the developer's expense.
- 2. Prior to the issuance of building permits for this development, the property owner must convert the existing private sewer system to a public facility that meets the standards of the Baltimore County Department of Public Works.
- 3. Prior to the issuance of any permits for development, the property owner must receive DPW approval for alternative means of waste water disposal or reinforce the 1,108-foot portion of the downstream public sewer line in Ripple Road as indicated on the Aerial Photograph admitted into evidence as Baltimore County's Exhibit 4B.

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

Baltimore County Code.

Zoning Commissioner/Hearing Officer

for Baltimore County



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7600 Clay's Lane which is presently zoned DR 10.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

See Attached

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be determined at the hearing.

Property is to be po	sted and advertised expenses of above V	as prescribed by the z ariance, advertising, post	oning regulations.	aree to and are to be h	ounded by the zoning
regulations and restri	ctions of Baltimore Co	unty adopted pursuant to	the zoning law for Ba	Itimore County.	ounded by the bonning
; ; ;			IWe do solemniy	declare and affirm, under are the legal owner(s) of	er the penalties of the property which
Contract Purcha	ser/Lessee:		Legal Owner(s	<u>5):</u>	
; •	•		See atta	ched	
Name - Type or Print			Name - Type or Prin	t	
Signature ;	 _		Signature		<u></u>
Address	<u> </u>	Telephone No.	Name - Type or Print	<u> </u>	_
City	State	Zip Code	Signature		
Attorney For Pet	itioner:				
Robert A. Ho			Address		Telephone No.
Name ype or Print			City	State	Zip Code
M			Representativ	e to be Contacted	•
Signature	•				£
Venable LLP	·		Robert A.	Hoffman	
Company 210 Allegher	ar Aronno	410-494-6262	Name 210 Alleg	heny Avenue 4	10-494-6262
Address	1y Avenue	Telephone No.	Address		Telephone No.
Towson	MD	21204	Towson	MD	21204
City	State	Zip Code	City	State	Zip Code
			<u> </u>	OFFICE USE ONLY	•
Case No.	7-581-A	• •	ESTIMATED LE	ENGTH OF HEARIN	NG
Case Mo.	1-081-H	•	UNAVAILABLE	FOR HEARING	
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REV 9115198	ONDER! RECA	SVED FOR PILING			t t
	Date	31-07	•		

Petition for Variance

7600 Clay's Lane

- 1. Variance from BCZR Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit clearing, grading, landscaping, and construction within the required 50 foot residential transition area buffer on the eastern side of the property.
- 2. Variance from BCZR Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit residential units to be constructed within 55 feet of a tract boundary in lieu of the required 75 foot residential transition area setback to allow for the construction of Unit Nos. 29-40.
- 3. Variance from BCZR Sections 1B01.1.B.1.c and 504.2 and CMDP (Division II, Section A, pp. 15-18) to permit residential units with a maximum height of 40 feet within the 100 foot residential transition area in lieu of the maximum permitted height of 35 feet for Unit Nos. 29-40.
- 4. Variance from BCZR Section 1B01.2.C.1.C and 504.2 and CMDP (Division II, Section A, pp. 19-23), to permit a combined front/side yard setback of 30 feet in lieu of the required combined 37½ feet between Units 11, 12, and 13.

Petition for Variance

7600 Clay's Lane

Legal Owner:

IB Property Holdings, LLC

a Delaware Limited Liability Company

by:

Peter LaPointe, Vice President c/o Bayview Loan Servicing LLC 4425 Ponce De Leon Boulevard 5th Floor Coral Gables, Florida 33146

Coral Gables, Florida 33146 (305) 341-5603

METES AND BOUNDS DESCRIPTION PROPERTY OF IB PROPERTY HOLDINGS, LLC 7600 CLAYS LANE BALTIMORE COUNTY, MARYLAND

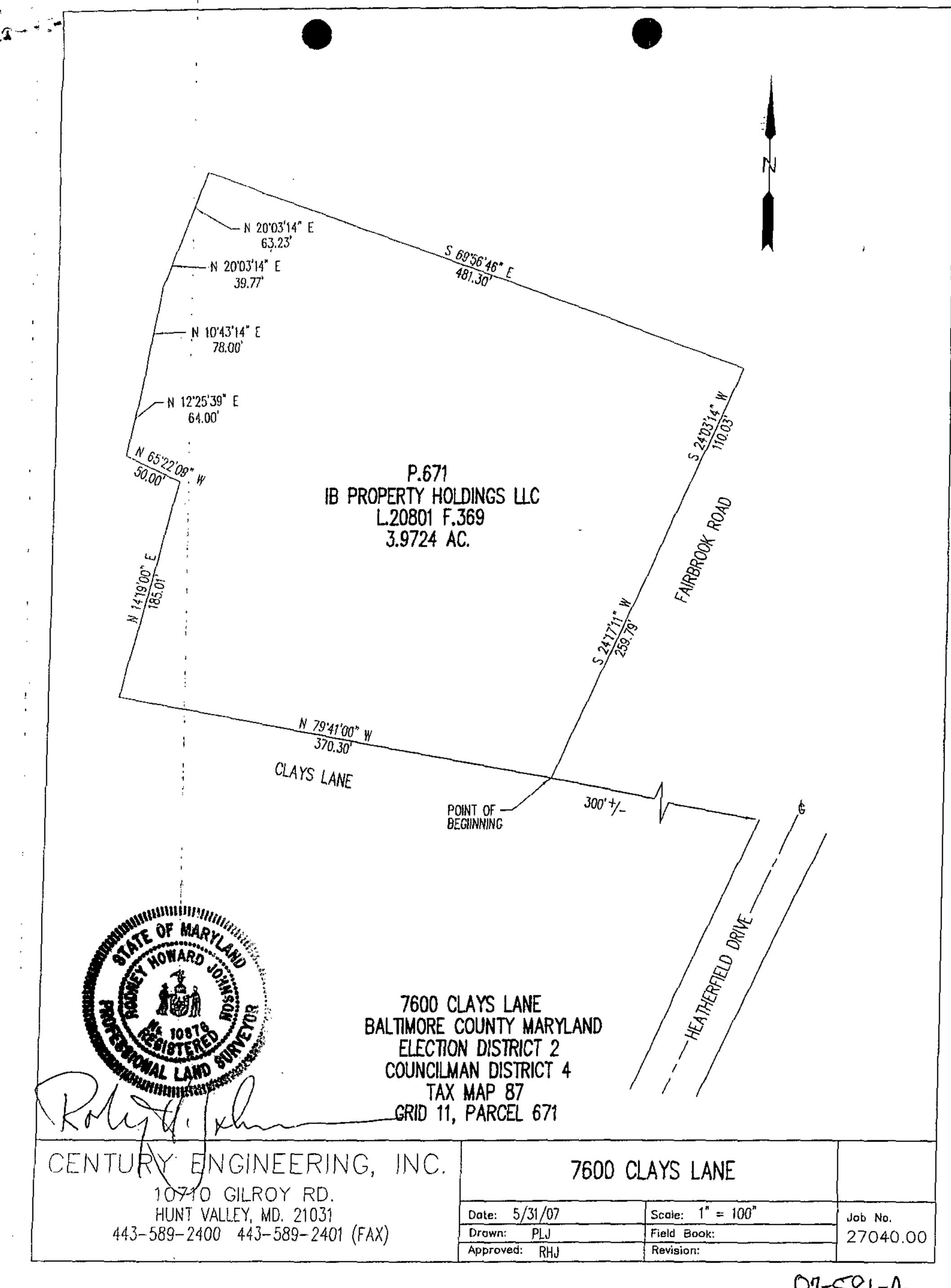
Beginning for the same on the west side of Fairbrook Road at the intersection of Clay's Lane, 300 feet west of Heatherfield Drive. Thence the following courses

- 1) North 79° 41' 00" West, 370.30 feet
- 2) North 14° 19' 00" East, 185.01 feet
- 3) North 65° 22' 09" West, 50.00 feet
- 4) North 12° 25' 39" East, 64.00 feet
- 5) North 10° 43' 14" East, 78.00 feet
- 6) North 20° 03' 14" East, 39.77 feet
- 7) North 20° 03' 14" East, 63.23 feet
- 8) South 69° 56' 46" East, 481.30 feet
- 9) South 24° 03' 14" West, 110.03 feet
- 10) South 24° 17' 11" West, 259.79 feet to the point of beginning as recorded in liber 20801, folio 369.

Containing 3.9724 acres of land more or less.



Manual Harris



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES-FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Adver	rtising:	
Item Number or Case I	Number: <u>07-881-A</u>	
Petitioner:	1B PROPERTY HOLDINGS, LLC	
Address or Location: _	7600 CHAY'S LANE	 ,,
· ;		
PLEASE FORWARD A	ADVERTISING BILL TO:	
Name:	MS AMY DONTELL	
Address:	VENABLE LLP	
	210 ALLEGHENY AVE	
· · · · · · · · · · · · · · · · · · ·	TOWSON MO 21204	
Telephone Number:	410-494-6244	

	25			Carried ATS. (II)	*							VALIDATION	
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NOTICE OF ZOMING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 07-581-A

7600 Clays Lane
W/side of Fairbrook Road, 300 feet west of Heatherfield Drive

2nd Election District — 4th Councilmanic District

2nd Election District — 4th Councilmanic District
Legal Owner(s): 1B Property Holdings, LLC
Variance: to permit clearing, grading, landscaping and
construction within the required 50 foot residential transition area buffer on the eastern side of the property and to
permit residential units to be constructed within 55 feet of
a tract boundary in lieu of the required 75 foot residential
transition area setback to allow for the construction of
Unit Nos. 29-40 and to permit residential units with a
maximum helght of 40 feet within the 100 foot residential
transition area in lieu of the maximum permitted helght of
35 feet for Unit Nos. 29-40 and to permit a combined
front/side yard setback of 30 feet in lieu of the required
combined 37.5 feet between Units 11, 12 and 13.

Hearing: Thursday, August 30, 2007 at 9:00 a.m.in
Room 106 County Office Building, 111 West Chesapeake Avenue, Towson 21204

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

OF PUBLICATION

_ 20CJ

Y, that the annexed advertisement was published successive weeks, the first publication appearing ewspaper published in Baltimore County, Md., in the following weekly n THIS IS TO CERTIF once in each of O

Y The Jeffersonian

Arbutus Times

Catonsville Times

Towson Times

Owings Mills Times

North County News

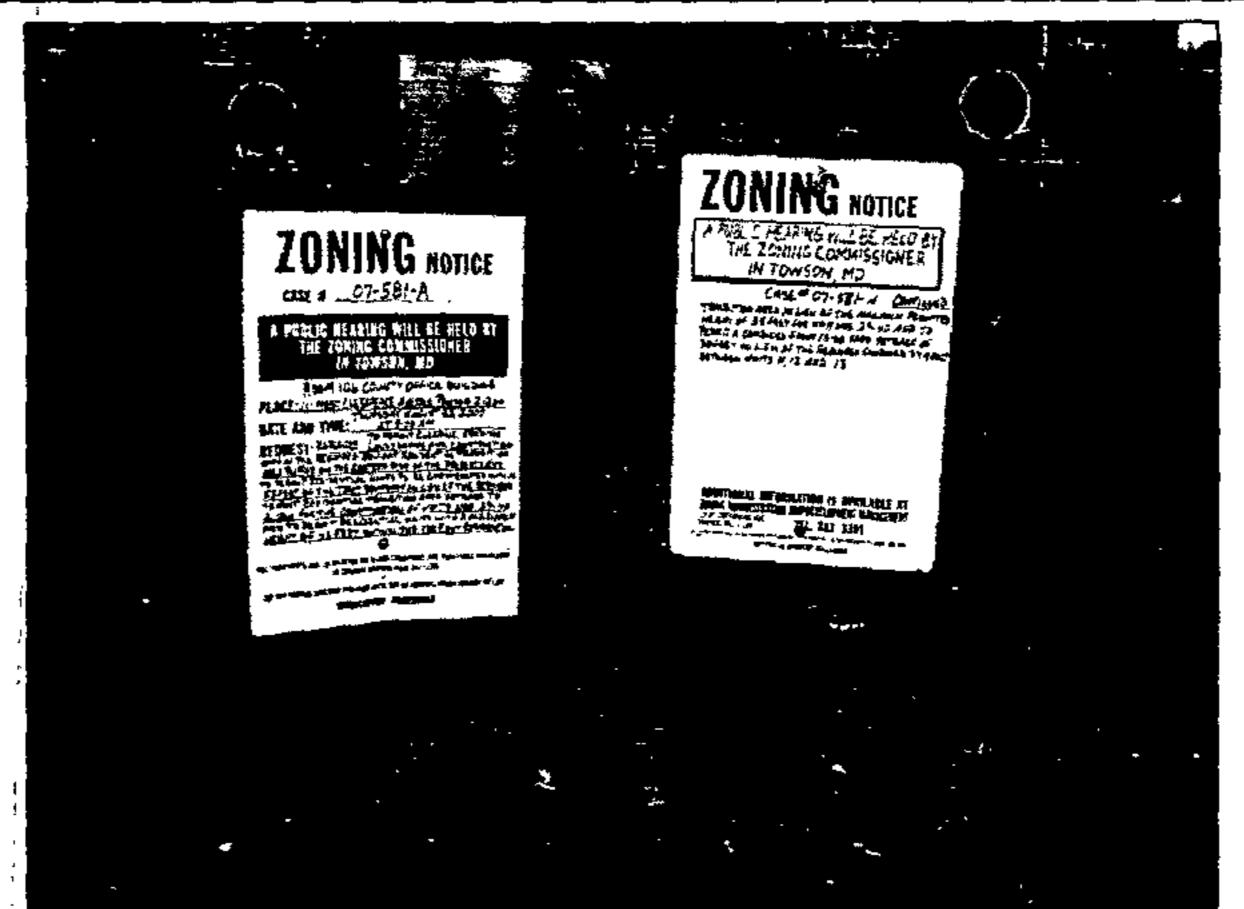
NE Booster/Reporter

Wullush

LEGAL ADVERTISING

CERTIFICATE OF POSTING

; ;	RE: Case No: 07-581-A
1	Petitioner/Developer: 13 PROPERTY HOLDINGS LLE
:	1B PROPERTY HOLDINGS LCC
-	Date Of Hearing/Closing: 8/33/07
Permits a County C	e County Department of nd Development Management Office Building,Room 111 Chesapeake Avenue
Attention	
i	
Ladies ar	d Gentlemen:
This lett	er is to certify under the penalties of perjury that the necessary
sign(s) re	quired by law were posted conspicuously on the property
at !	7600 CLAYS LAWE
1	
, i	
This sign	(s) were posted on Aucust 14, 2007.
1	(Month, Day, Year)
i .	Cinconstr
•	(Signature of sign Poster and Date)
•	(Signature of sign Poster and Date)
	Martin Ogle
	Sign Poster
	16 Salix Court
	Address
	Balto. Md 21220
:	<u>(443-629 3411)</u>
•	\ \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\



martin Oglo 8/14/07



July 12, 2007

JAMES T. SMITH, JR. County Executive

NOTICE OF ZONING HEARING TIMOTHY M. KOTROCO, Director Department of Permits and

The Zoning Commissioner of Baltimore County, by authority of the Zoning Activerd Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-581-A

7600 Clays Lane

W/side of Fairbrook Road, 300 feet west of Heatherfield Drive

2nd Election District – 4th Councilmanic District

Legal Owners: IB Property Holdings, LLC

Variance to permit clearing, grading, landscaping and construction within the required 50 foot residential transition area buffer on the eastern side of the property and to permit residential units to be constructed within 55 feet of a tract boundary in lieu of the required 75 foot residential transition area setback to allow for the construction of Unit Nos. 29-40 and to permit residential units with a maximum height of 40 feet within the 100 foot residential transition area in lieu of the maximum permitted height of 35 feet for Unit Nos. 29-40 and to permit a combined front/side yard setback of 30 feet in lieu of the required combined 37.5 feet between Units 11, 12 and 13.

Hearing: Thursday, August 30, 2007 at 9:00 a.m. in Room 106, County Office Building,

111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Robert Hoffman, Venable, 210 Allegheny Avenue, Towson 21204
Peter LaPointe, c/o Bayview Loan Servicing, 4425 Ponce de Leon Blvd., 5th Fl., Coral Gables FL 33146

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, AUGUST 15, 2007.
 - (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
 - (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 14, 2007 Issue - Jeffersonian

Please forward billing to:

Amy Dontell Venable, LLP 210 Allegheny Avenue Towson, MD 21204

410-494-6244

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-581-A

7600 Clays Lane

W/side of Fairbrook Road, 300 feet west of Heatherfield Drive

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Hearing: Thursday, August 30, 2007 at 9:00 a.m. in Room 106, County Office Building,

11/West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

August 22, 2007

Robert A. Hoffman Venable LLP 210 Allegheny Avenue Towson, Maryland 21204

Dear Mr. Hoffman:

RE: Case Number: 07-581-A, 7600 Clay's Lane

The above referenced petition was accepted for processing ONLY by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 25, 2007. This letter is not an approval, but only a NOTIFICATION.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours, U. Calling Richall

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf Enclosures

c: People's Counsel

18 Property Holdings, LLC Peter LaPointe, Vice President c/o Bayview Loan Servicing LLC 4425 Ponce De Leon Boulevard 5th Floor Coral Gables, Florida 33146

ALLNOTED

EXHIBITSARE

CONTAINEDIN

PDM FILE NO. II-

713 - CLAYS LANE

Case No.: CLAYS LANE II-713 07-581-A

Exhibit Sheet

Petitioner/Developer

₹

Protestant

No. 1	1A - COVER SHEET 1B - DEV. PLAN 1C - LAND SCAFE PLAN
	1C - LANDSCATE PLAN
No. 2	Existence CONDITIONS (Concept Plan)
	(Concept (Ilan)
No. 3	COLORIZED DEN. PLAN IN ZONING CASE ILLUSTRATING RTA SET BACKS
	IN ZONING THE
	ILLUSTRATING ISTA STARIS
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Case No.: Clays Lane II-713 07-581-A

County Exhibits

No. 1	Recreation and Parts Ware
No. 2	SCHOOL IMPACT ANALYSIS
No. 3	PAHERN BOOK
No. 4	
No. 5	
No. 6	
No. 7	
No. 8	
No. 9	
No. 10	
No. 11	
No. 12	

CASE NAME CLASS LANE CASE NUMBER 102-713

ETITIONER'S SIGN-IN SHEET

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NAME	Robert Forman	Same of Alera	TENE LA Pointé	Se CALOSGERO	Michael Michanismy	DONALD ATLOR	John Rainochia	Math Killman	15cr	Sennifor Vassil	Dan Flanhor							

CASE NAME CLAUS LANK CASE NUMBER 02-713

SIGN-IN SHEE COUNTY REPRESENTATIVE'S

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NAME	RANCE CLILL	MANG WENNS	YUNDYOUN	DENMIS KEMNEDY	AARON TSUI	Gi Gi Hamonda							

RE: PETITION FOR VARIANCE

7600 Clay's Lane; W/S Fairbrook Rd,

300' W Heatherfield Drive

2nd Election & 4th Councilmanic Districts

Legal Owner(s): IB Property Holdings, LLC *

Petitioner(s)

BEFORE THE BOARD

OF APPEALS

FOR

BALTIMORE COUNTY

07-581-A

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of July, 2007, a copy of the foregoing Entry of Appearance was mailed to, Robert A Hoffman, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

JUL 1 6 2007

Per-----

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Fire Department

700 East Joppa Road Towson, Maryland 21286-5500 Tel: 410-887-4500



Baltimore County

James T. Smith, Jr., County Executive John J. Hohman, Chief

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 July 3, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: July 2, 2007

581

Item Number: 573 through 578 and 580 through 594

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C)443-829-2946 MS-1102F

cc: File



Visit the County's Website at www.baltimorecountyonline.info

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: July 5, 2007

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For July 9, 2007

Item Nos. 07-456, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, and 594

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-07052007.doc



Martin O'Malley, Governor Anthony G. Brown, Lt. Governor

John D. Porcari, Secretary Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: July 2,2007

Ms. Kristen Matthews **Baltimore County Office Of** Permits and Development Management County Office Building, Room 109 Towson, Maryland 21204

RE:

Baltimore County

Item No. 7-981-A

7600 CLAY'S LANE

IB PROPERTY HOLDINGS, LLC

VARI ANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-581-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

A Steven D. Foster, Chief
Engineering Access Permits

Division

