

IN THE MATTER OF
THE APPLICATION OF
STACY ANGELOZZI TRUST -LO/
PETITIONER FOR SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED ON
THE N/S OF DOGWOOD RD, W OF ROLLING
ROAD (7312 DOGWOOD ROAD)

2ND ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 08-262-SPHA

* * * * *

ORDER OF DISMISSAL

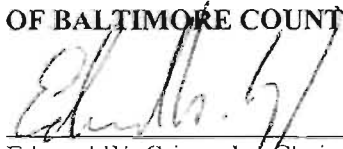
This matter comes to the Board of Appeals by way of a limited appeal filed by Howard L. Alderman, Jr., Esquire, on behalf of Stacy L. Korzenewski and Nicholas J. Angelozzi, Jr., Trustees, Stacy L. Angelozzi Trust, from those portions of a decision of the Deputy Zoning Commissioner dated February 13, 2008, in which the requested special hearing relief was denied.

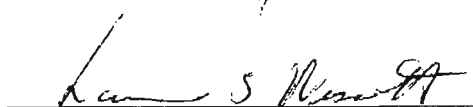
WHEREAS, the Board is in receipt of a letter of withdrawal of limited appeal filed on August 28, 2008, by Hoard L. Alderman, Jr., Esquire, on behalf of the Stacy Angelozzi Trust, Petitioner /Appellant (a copy of which is attached hereto and made a part hereof); and

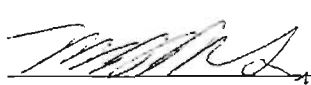
WHEREAS, Counsel for said Petitioner /Appellant requests that the limited appeal taken in this matter be withdrawn and dismissed as of August 28, 2008, for the reasons as stated in the attached letter of withdrawal,

IT IS THEREFORE ORDERED this 11th day of September, 2008 by the County Board of Appeals of Baltimore County that Petitioner's limited appeal taken in Case No. 08-262-SPHA be and the same is hereby **DISMISSED**.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Edward W. Crizer, Jr., Chairman


Lawrence S. Wescott


Wendell H. Grier

**IN RE: PETITIONS FOR SPECIAL HEARING
& VARIANCE, and DEVELOPMENT
PLAN HEARING**

N side of Dogwood Road, W of Rolling
Road
2nd Election District
4th Councilmanic District
(ANGELOZZI PROPERTY)

Stacy L. Angelozzi Trust, by
Stacy L. Korzenewski and
Nicholas J. Angelozzi Jr.
Developer/Petitioner

* BEFORE THE
* HEARING OFFICER
* FOR
* BALTIMORE COUNTY
*
* Case Nos. 08-262-SPHA
* & II-717
*

* * * * *

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND
INTERIM DEVELOPMENT PLAN ORDER**

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County for a public hearing in order to consider the Petitions for Special Hearing and Variance filed pursuant to the Baltimore County Zoning Regulations, and to consider a Development Plan 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 Developer of the property, Stacy L. Korzenewski and Nicholas J. Angelozzi Jr., Trustees on behalf of the Stacy L. Angelozzi Trust (Developer) submitted for approval a Development Plan prepared by Little and Associates, Inc., known as the "Angelozzi Property" located at 7312 Dogwood Road. The Developer is proposing the development of the subject property into 37 single-family attached dwelling units on 12.35 acres, more or less, zoned M.L.R.

The Developer is also requesting certain zoning relief as follows:

- A request for Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve pursuant to Section 248 of the B.C.Z.R. and Section 302.1 of the Zoning Commissioner's Policy Manual (Z.C.P.M.),

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the proposed residences shown on the site plan accompanying the Petition in this predominantly residential area of the County; and

- A request for Variance pursuant to Section 1B01.2.C.1.c of the B.C.Z.R. and the Residential Standards provisions (p. 27) of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit building-to-building setbacks of 20 feet in lieu of the 25 feet required between improvements to be constructed on Lot Nos. 5 and 6; Lot Nos. 17 and 18; and Lot Nos. 23 and 24.

The requested special hearing and variance relief, and the proposed development are more particularly described on the redlined Development Plan, which was marked and accepted into evidence as Developer's Exhibits 1A and 1B.

The property was posted with Notice of Hearing Officer's Hearing on December 21, 2007, for 20 working days prior to the hearing, in order to notify all interested citizens of the date and location of the hearing. In addition, notice of the zoning hearing was timely posted on the property on January 3, 2008 and was published in *The Jeffersonian* beginning the week of January 8, 2008, in accordance with the County Code.

As to the history of the project, a concept plan of the proposed development was prepared and a Concept Plan Conference (CPC) was held on November 20, 2006 at 9:00 AM in the County Office Building. As the name suggests, the concept plan is a schematic representation of the proposed development and is initially reviewed by and between representatives of the Developer and the reviewing County Agencies at the CPC. Thereafter, as is also required in the development review process, notice of a Community Input Meeting (CIM) is posted and scheduled during evening hours at a location near the proposed development to provide residents of the area an opportunity to review and comment firsthand on the plan. In this case, the CIM

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was held on December 18, 2006 at 7:00 PM at the Chadwick Elementary School located at 1918 Winder Road, where representatives of the Developer and the County 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 further review and scrutinize the plan. The Development Plan Conference occurred on January 2, 2008 at 9:00 AM. Both the Hearing Officer's Hearing for this proposed development and the related zoning hearing were then held on January 24, 2008 in Room 106 of the County Office Building. Section 32-4-230 of the B.C.C. allows the Developer to proceed with the hearings on the proposed development and the zoning matters in one combined Hearing Officer's Hearing.

It should be noted at this juncture that the role of each reviewing County agency in the development review and approval process is to independently and thoroughly review the development plan as it pertains to their specific area of concern and expertise. These agencies provide comments to the plan and make determinations where necessary as to whether the plan complies with applicable Federal, State, and/or County laws and regulations pertaining to development and related issues. In addition, these agencies carry out this role throughout the entire development plan review and approval process.

Appearing at the requisite public hearing in support of the Special Hearing and Variance requests, and the Development Plan approval request, was Stacy L. Korzenewski on behalf of Petitioner/Developer Stacy L. Angelozzi Trust, and Howard L. Alderman, Jr., Esquire, the attorney representing Petitioner/Developer. Also appearing was G. Dwight Little, Jr. with Little & Associates, Inc, the professional engineer who prepared the redlined Development Plan in

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support of the proposed development and the zoning petitions. Several nearby property owners also appeared as interested persons including Elizabeth Parham of 7321 Dogwood Road and Duane L. Ritter of 7324 Dogwood Road. Also appearing on behalf of Ms. Parham and Mr. Ritter was Jim Patten with Patton Consultants, Ltd., their land development consultant.

Also in attendance were representatives of the various Baltimore County reviewing agencies, including the following individuals from the Department of Permits and Development Management: Darryl Putty (Project Manager), Dennis Kennedy (Development Plans Review), June Fernando (Zoning Review Office), and William Minor (Bureau of Land Acquisition). Also appearing on behalf of the County were David Lykens from the Department of Environmental Protection and Resource Management (DEPRM); Jenifer German and David Green from the Office of Planning; Bruce Gill from the Department of Recreation & Parks; and Sharon Klots from the Department of Economic Development. In addition, written comments were received from Lt. Roland Bosley, Jr. of the Baltimore County Fire Marshal's Office and Steven D. Foster on behalf of the Maryland State Highway Administration. These and other agency remarks are contained within the case file.

Pursuant to B.C.C. Sections 32-4-227 and 32-4-228, 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. Upon making inquiry to counsel for the Developer, Mr. Alderman indicated that there were several issues in need of resolution, including the petitions requesting zoning relief. Perhaps most importantly, Mr. Alderman indicated that the zoning request for special hearing presents an issue that must be resolved in order for consideration of the Development Plan itself to proceed. Simply put, this issue necessitates a determination by the Undersigned, in my capacity as Deputy Zoning Commissioner, as to whether approval should be

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granted to permit the proposed residential development in an M.L.R. zoning classification.

Mr. Alderman then identified several other issues, including the request for variance for the building-to-building setbacks, as well as a proposed landscape island which normally allows for 12 parking spaces up to the island, but the Developer is proposing 15 spaces, and final review and approval of the storm water management submittals. Another issue relates to review of the Development Plan by the Office of Planning. As to the all-important threshold issue of whether the proposed residential development can proceed in the M.L.R. zone, the Office of Planning has taken the position that such development cannot occur in the M.L.R. zone. As a result of this conclusion, the Office of Planning has chosen not to undertake its critical review of the merits of the Development Plan, including commenting on such issues as school impact, compliance with Residential Performance Standards, and the Pattern Book. In response to the Office of Planning's position in this matter, Mr. Alderman asserts that if the special hearing is granted and consideration of the redlined Development Plan proceeds, the Office of Planning's failure to make any substantive comments effectively cedes any further review or input on their part, and results in approval of the Development Plan by the Office of Planning. Conversely, the Office of Planning desires the opportunity to make substantive comments if consideration of the Development Plan is permitted to go forward.

Having identified a number of issues related to the Development Plan from the Developer's perspective, I then inquired as to the particular County agencies and asked that they state whether there were any outstanding issues applicable to their particular agency. Their responses are summarized below:

Recreation and Parks: Bruce Gill appeared on behalf of the Department of Recreation and Parks and indicated that the required local open space for the development proposal is

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37,000 square feet or approximately .85 acre, more or less, of which 24,050 square feet is active and 12,950 square feet is passive open space. Mr. Gill indicated that Dogwood Run is a recreational greenway and is shown on the redlined Development Plan for hiking, biking, and other activities, and will be dedicated to the County if the Development Plan proceeds. Hence, the Department of Recreation and Parks recommended approval of the redlined Development Plan.

Planning Office: Jenifer German appeared on behalf of the Office of Planning. Ms. German submitted her agency's comments and recommendation dated January 24, 2008, which was marked and accepted into evidence as Baltimore County Exhibit 1. As mentioned above, the Office of Planning does not support the request for special hearing and variance, and hence, does not support proceeding with consideration of the redlined Development Plan. The comments indicate that residential is not listed as a permitted or special exception use in the M.L.R. zone. Moreover, a review of the 2000 Comprehensive Zoning Map Process (C.Z.M.P.) Issue #1-053 indicates the property was previously zoned D.R.5.5 and was changed to its present M.L.R. in 2000. In addition, the Office of Planning pointed to a prior zoning case, Case No. 06-433-A, wherein then-Deputy Zoning Commissioner John V. Murphy commented that "residences are not listed as an allowed use in M.L. zones either by right or by special exception." Therefore, the Office of Planning recommended denial of the redlined Development Plan and offered no further comment unless the Developer is successful in rezoning the property to a category allowing residential use.

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 Development Plan meets all of his department's requirements and comments. As to the

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landscape island issue, Mr. Kennedy indicated that strict compliance with the 12 parking space requirement in lieu of the requested 15 spaces would result in parking being situated farther away from the proposed dwellings than necessary; as such, on behalf of the Director of the Department of Public Works, Mr. Kennedy recommended a waiver of the 12 parking space requirement, in favor of the 15 spaces requested by the Developer. Mr. Kennedy also indicated his department recommended approval of the redlined Development Plan.

Department of Environmental Protection and Resource Management (DEPRM): David Lykens appeared on behalf of DEPRM. As Mr. Alderman mentioned previously, Mr. Lykens indicated that the storm water management submittals had been received and are in the process of being reviewed in cooperation with the Developer's engineer, Mr. Little. He indicated that the submittals had not yet been approved, but anticipated approval in the near future. Mr. Lykens indicated he had no objection to keeping the record open, pending approval of the storm water management submittals.

Office of Zoning Review: June Fernando appeared on behalf of the Zoning Review Office. Mr. Fernando indicated that his office's comments were contingent on a determination of the special hearing issue, and whether or not consideration of the Development Plan would proceed.

Land Acquisition: William Minor appeared on behalf of the Bureau of Land Acquisition. Mr. Minor indicated that the all issues had been satisfied from his agency's perspective, and recommended approval of the redlined Development Plan.

Moving now to the more formal portion of the hearing, as mentioned earlier, an important threshold issue in the review and consideration of the proposed development involves the Developer's request for special hearing. Before the redlined Development Plan can be

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considered by the Undersigned in my capacity as Hearing Officer, I must first determine, as Deputy Zoning Commissioner, whether the proposed residential development is permitted in the M.L.R. zone. 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 their engineer, Dwight Little, to testify all at once -- regarding the special hearing and variance requests, as well as to present the Development Plan.

Mr. Little testified that he is a professional engineer licensed in Maryland and Pennsylvania, and is a principle with the firm of Little and Associates, Inc. Mr. Little has been involved in land development and land surveying in Baltimore County since 1984. He also worked for Baltimore County for four years and opened Little and Associates, Inc. in 2001. He received his Bachelors Degree in 1980 from Penn State University in Water Resources Engineering Technology. He is familiar with the Baltimore County Zoning Regulations and the development regulations contained within the County Code, as well as the Zoning Commissioner's Policy Manual. He has testified as an expert in excess of 100 times before the Baltimore County Planning Board, Zoning Commissioner's Office, and Board of Appeals, and is very familiar with the laws and regulations pertaining to residential and commercial development. Mr. Little 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. Little testified that he was directly involved in developing and preparing the instant Development Plan, and the related requests for zoning relief. He also prepared and sealed the two-page redlined Development Plan marked and accepted into evidence as Developer's Exhibits 1A and 1B, which bears his seal and professional certification. He indicated that the Plan accurately depicts the 37 townhouse and duplex condominium units, open space, and other

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related aspects of the Plan, and that modifications have been made to the Plan consistent with the comments made by reviewing County agencies. These modifications have resulted in the redlined Development Plan.

The subject property is irregular-shaped and located on the north side of Dogwood Road, west of Rolling Road and east of Ridge Road in the Windsor Mill area of Baltimore County, and consists of 12.35 acres zoned M.L.R. Historically, the property was previously zoned D.R.5.5, however, the zoning was changed to M.L.R. in 2000 because the Federal Bureau of Investigation (FBI) was considering the property for its local headquarters at that time. The FBI did not ultimately move its headquarters to that location and the property has remained zoned M.L.R. since that time. Areas to the south and east of the property are zoned D.R.5.5, to the north is zoned primarily O.R.-2, with an area of D.R.10.5. The property to the north of the subject property consists of several multi-story apartment buildings.

The property has a number of environmental constraints including wetlands to the north and west, which limit any development to approximately 50% of the property. The Developer proposes 33 townhouse condominiums and four duplex condominium units. Applying the D.R.5.5 density factor, 67 units would be allowed on the property. The Developer is proposing a total of 37 dwelling units, or approximately 3 dwelling units per acre. Water access will be via public water from Dogwood Road to a private water line into the condominium units. A storm water management facility is proposed at the northwest corner of the developable area of the site, and will provide management in accordance with the applicable storm water regulations. A private pumping station will collect sewerage from the units and pump to a nearby treatment facility. Parking for the proposed development requires two spaces per unit, or 74 spaces, and an additional 12 overflow spaces for a total of 86 spaces. The Developer is proposing 91 spaces.

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As to the zoning request for special hearing relief, the Developer is proposing to place the 37 residential attached dwelling units on property that is zoned M.L.R. The special hearing is to request a finding that a residential development is permitted in the M.L.R. zone. In support of the request, the Developer's counsel, Mr. Alderman, cited a number of sections of the B.C.Z.R., as well as the Zoning Commissioner's Policy Manual (Z.C.P.M.). Mr. Alderman initially pointed out that the Z.C.P.M., in addition to the B.C.Z.R., has the force and effect of law, having been adopted by the County Council on May 21, 1991 and amended on May 13, 1992 as part of the Code of Baltimore County Regulations. Mr. Alderman then proceeded through a sequence of provisions of the zoning regulations and the Z.C.P.M. which will be discussed in more detail below.

At the outset, Section 302 of the B.C.Z.R. sets forth the height and area regulations for new residences in business and manufacturing zones. A copy of this section was marked and accepted into evidence as Developer's Exhibit 2. It states that:

[r]esidences hereafter erected in business and manufacturing zones shall be governed by all height and area regulations for the predominant residence zone which immediately adjoins, or by D.R.5.5 zone regulations if no residence zone immediately adjoins.

The use regulations of Section 248.1 of the B.C.Z.R. allow uses which are permitted in the M.R. zone. A copy of this section was marked and accepted into evidence as Developer's Exhibit 3. The use regulations of the M.R. zoned are contained in Section 241 of the B.C.Z.R. A copy of this section was marked and accepted into evidence as Developer's Exhibit 4. Section 241.2 states that "[t]he following uses are prohibited: Dwellings." According to Mr. Alderman, Section 241.2 of the Z.C.P.M. clarifies the corresponding section of the B.C.Z.R. and states under prohibited uses, "[d]wellings, but see Section 302.1 Z.C.P.M., Page 3-2." A copy of this section was marked and accepted into evidence as Developer's Exhibit 5.

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Section 302.1 of the Z.C.P.M. sets forth the parameters of residences in industrial zones. A copy of this section was marked and accepted into evidence as Developer's Exhibit 6. It states as follows:

- a. No subdivision of industrial land is allowed for residential purposes.
- b. New residences are not allowed on existing lots in industrial zones unless it can be demonstrated that:
 1. that the surrounding properties are predominantly residential and,
 2. that there is little apparent potential for industrial development.

Mr. Alderman then quoted from Section 32-4-101(yy) of the B.C.C. as to the definition of "subdivision," which means "(1) [t]he division of property into two or more lots; or (2) [t]he combination of lots, parcels, tracts, or other units or property previously divided for the purpose, whether immediate or future, of sale, rental, or building development." He then elicited testimony from Mr. Little as to whether the proposed development constituted a "subdivision" within the meaning of Section 32-4-101(yy). Mr. Little indicated the proposed development was not a "subdivision" because there would be no subdividing of the existing lot. It would remain as one existing lot. The new residences on the single, existing lot would be townhouse and duplex condominium units. While there would be ownership of the units, there would be no individual ownership of the lot on which they are constructed. Since the proposed development is not a "subdivision," Mr. Little indicated that Section 302.1(a) of the Z.C.P.M. does not apply. As such, the analysis would then move to Section 302.1(b) of the Z.C.P.M. to determine if (1) the surrounding properties are predominantly residential and (2) if there is little apparent potential for industrial development.

As to those provisions, Mr. Little testified that immediately west of the subject property is also zoned M.L.R., however, the current use of that property is residential. The zones to the

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north (O.R.-2 and D.R.10.5), east (D.R.5.5), and south (D.R.5.5) allow for residential uses and are in fact used as residential. As to the apparent potential for industrial development, Mr. Little believes it is not very likely. He pointed to the failed attempt to attract the FBI in 2000 and the fact that no industrial development of the property has occurred in the eight years since the property was rezoned from D.R.5.5 to M.L.R. He also points out that the subject property and the property immediately to the west (also zoned M.L.R.) are small industrial zoned enclaves within a vast majority of area which is residentially zoned and used. In sum, Mr. Little indicated that the zoning regulations, while prohibiting residential subdivisions, do not prohibit residential development of an existing lot. Moreover, as to the subject lot, under Section 302.1(b) of the Z.C.P.M., the surrounding properties are predominantly residential, and there is little apparent potential for industrial development. Hence, the proposed development in this industrial zone should be considered for the subject property. Mr. Little also rendered his expert opinion that granting the special hearing relief would not be detrimental to the health, safety, and general welfare of the locale, and that it would satisfy all the criteria contained in Section 502.1 of the B.C.Z.R.

As to the requested variance for the areas between units 5 and 6, 17 and 18, and 23 and 24, the Developer requests relief from the building-to-building distance between the units to be 20 feet instead of the required 25 feet. In support of this variance, Mr. Little points to the size of the storm water management facility, which necessitates shrinking the distance between the units, the adjacent environmental constraints including the wetlands, greenways, and County easements, and the fact that 50% of the property is unbuildable. These built-in buffers require reducing the distance between the units. Moreover, the variance is requested only as to interior and side-to-side distances, and as such, no adjacent properties will be affected, nor will there be

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an increase in residential density. Finally, in Mr. Little's view, not granting the variance will prevent a permitted use of the property.

At the conclusion of Mr. Little's testimony, he indicated that the redlined Development Plan has been presented to County agency representatives and has addressed all of those agencies' comments, and is only awaiting storm water management approval from DEPRM. He also offered his opinion that, but for the outstanding final review and approval of the storm water management submittals and the granting of the special hearing and variance petitions, and based on his professional knowledge and experience, the redlined Development Plan marked and accepted into evidence as Developer's Exhibits 1A and 1B fully complies with the development regulations, rules and policies contained in the Baltimore County Zoning Regulations (B.C.Z.R.) and the Baltimore County Code (B.C.C.).

There were several witnesses that testified in opposition to the Developer's special hearing request on behalf of various County agencies. These included June Fernando of the Zoning Review Office, Jenifer German with the Office of Planning, and Sharon Klots with the Department of Economic Development. Mr. Fernando and Ms. German testified consistently with their previous testimony during the issue identification stage of the hearing. Ms. Klots then testified on behalf of her department specifically concerning Section 302.1(b)(2) of the Z.C.P.M., and whether there is little apparent potential for industrial development of the subject property. Ms. Klots indicated that the site does have good industrial use potential due to its proximity to the Centers for Medicare and Medicaid (CMS), which generates significant need for adjunct government and private office space. That, combined with the County's very constrained supply of raw land with office/industrial zoning, makes it important that the subject property not be developed for residential use, especially given its M.L.R. zoning classification. Ms. Klots

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submitted a Memorandum dated January 24, 2008 from David S. Iannucci, Executive Director of the Department of Economic Development, to Timothy Kotroco, Director of the Department of Permits and Development Management, which essentially mirrors her testimony. The Memorandum was marked and accepted into evidence as Developer's Exhibit 2.

Section 32-4-229 of the B.C.C. 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." However, it must also be noted that the Developer is moving through the development review and approval process in what amounts to two separate proceedings. One proceeding involves the special hearing and variance requests, which are filed pursuant to the Baltimore County Zoning Regulations. Decisions as to these petitions are made by me sitting as Deputy Zoning Commissioner. An appeal from those decisions is a *de novo* appeal to the Board of Appeals of Baltimore County. Secondly, the Developer is requesting approval of the redlined Development Plan. That approval is made by me sitting as Hearing Officer for Baltimore County. An appeal from that decision is referred to the Board of Appeals pursuant to Section 32-4-281 of the B.C.C. Based on the issue presented in the Petition for Special Hearing, before considering the merits of the Development Plan, I must first consider and determine the threshold issue of whether this proposed residential development consisting of 33 townhouse and four duplex condominium units is permitted in an industrial zone; namely an M.L.R. zone.

The Developer maintains that, although residences are not specifically permitted in an M.L.R. zone, and dwellings are specifically prohibited in an M.R. zone by the zoning regulations, the proposed residential development is nonetheless authorized by Section 302 of the zoning regulations, and is specifically permitted by Section 302.1 of the Z.C.P.M., provided

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certain conditions precedent are met. In a purely academic sense, the Developer makes a persuasive and creative case that residential development can legally occur on the subject site. However, as discussed below, I disagree with the Developer's interpretation.

The Developer relies heavily on the language of Section 302 of the B.C.Z.R., a portion of which refers to "[r]esidences hereinafter erected in business and manufacturing zones ..." The Developer combines that with Section 302.1 of the Z.C.P.M. which first states that no subdivision of industrial land is allowed for residential purposes; it then states that new residences are not allowed *unless* (1) the surrounding properties are primarily residential and (2) there is little apparent potential for industrial development. (emphasis added). Put bluntly, in order to get to its proper conclusion, the Developer proceeds through a maze that begins at point A (the Developer owns land in an M.L.R. zone) and ends at point G (the Developer is permitted residential development in the M.L.R. zone). In between, the Developer proceeds through point B (Section 302 of the B.C.Z.R.), point C (Section 248.1 of the B.C.Z.R.), point D (Section 241.2 of the B.C.Z.R.), point E (Section 241.2 of the Z.C.P.M.), and point F (Section 302.1 of the Z.C.P.M.) to arrive at "Residences in Industrial Zones." Based on these policies and regulations, the Developer contends that "residences" includes a 37 unit residential townhouse and duplex condominium development on 12.35 acres zoned M.L.R.

However, in my view, a full-scale residential development is not what Sections 241.2 and 302.1 of the Z.C.P.M. authorize. Moreover, based on my interpretation of the zoning regulations and the Z.C.P.M., and in the context of the goals these regulations are designed to promote, I do not believe the proposed development is within the spirit and intent of the B.C.Z.R. Section 302.1 of the Z.C.P.M. states that "[n]ew *residences* are not allowed on existing *lots* in industrial zones ..." unless certain conditions are met. (emphasis added). This section obviously allows for

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some new residences to be erected in an industrial zone under certain circumstances, but it is the exception rather than the rule. In my view, "residences" does not authorize the degree of development contemplated by the Developer. The nature and extent of the Plan before me is excessive. In certain situations, Section 302.1 of the Z.C.P.M. allows a property owner in an industrial zone to erect a residence on that existing lot if surrounded by properties primarily residential and if there is little apparent potential for industrial use, but not to the degree of residential development proposed by the Developer. Reviewing the purpose of the M.L.R. zone is instructive. The provisions of the M.L.R. zone, known as the Manufacturing, Light, Restricted zone, are contained in Sections 247 through 252 of the B.C.Z.R. As stated in Section 247 of the B.C.Z.R., the purpose of the M.L.R. zone is:

[t]o permit grouping of high types of industrial plants in industrial subdivisions in locations with convenient access to expressways or other primary motorways so as to minimize the use of residential streets; to fill special locational needs of certain types of light industry; to permit planned dispersal of industrial employment centers so as to be conveniently and satisfactorily related to residential communities; and as transitional bands between residential or institutional areas and M.L. or M.H. Zones.

In that context, the purpose of the M.L.R. zoning classification is not met by allowing a multiple attached dwelling unit development on an existing lot in an industrial zone and, therefore, is not within the spirit and intent of the B.C.Z.R.

Even if I were to find that Section 302.1(b) of the Z.C.P.M. allows a residential development as proposed by the Developer, and that the surrounding properties are predominantly residential, I am not convinced the Developer has met its burden in demonstrating that there is little apparent potential for industrial development as required by Section 302.1(b)(2) of the Z.C.P.M. On this issue, Mr. Little testified that there is not a high likelihood of industrial development based on the failed attempt to attract the FBI in 2000 and because no

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industrial development of the property has occurred in the eight years since the property was rezoned from D.R.5.5 to M.L.R. He also based this finding on the fact that the subject property and the property immediately to the west are small industrial zoned enclaves within a larger residentially zoned and used area. On the other hand, Sharon Klots with the County's Department of Economic Development testified that the site has good potential for future office development given the property's proximity to Medicare and Medicaid offices, and the resultant need for related government and private office space. Ms. Klots also pointed to the County's already limited supply of office/industrial zoned land, and the need to keep that inventory in lieu of residential development.

On this issue, although I find no fault with Mr. Little's general conclusions concerning the property, I also find the uncontroverted testimony and evidence offered by the County's Department of Economic Development to be persuasive. As a result, I cannot conclude that the Developer has met its burden with respect to Section 302.1(b)(2) of the Z.C.P.M. Therefore, having found that the Developer has not met its burden of persuasion, the request for special hearing shall be denied. Procedurally, having denied the Developer's special hearing request, the Developer has the option to file an appeal of this determination to the Board of Appeals. This appeal would be, as stated previously, a *de novo* appeal. Although the denial of the special hearing request renders the variance request moot and requires denial of the request for approval of the Development Plan, for the purpose of providing guidance on these issues for appeal, I will address those issues as well.

First as to the variance, if the special hearing had been granted and the proposed development was permitted to go forward, based on the testimony and evidence, I would be persuaded to grant the variance relief. The Developer has demonstrated there are characteristics

ORDER RESERVED FOR PLANNING

2-13-08

13

inherent to the property that make it unique in a zoning sense. Moreover, the evidence indicates the Developer would suffer practical difficulty and undue hardship if the variance relief were not granted. In addition, it appears granting the variance relief would not be detrimental to the health, safety or general welfare of the community.

As to the Development Plan, because of the combined hearings, I have heard evidence as part of the Hearing Officer's Hearing concerning the merits of the Development Plan. Given the denial of the special hearing request, though on purely procedural grounds, the redlined Development Plan must be denied as well. However, it should be understood that this denial is not based upon any substantive aspects of the Development Plan itself, but rather on the fact that the redlined Development Plan fails to comply with the "development regulations and applicable policies, rules and regulations" indicated in Section 32-4-229 of the B.C.C., which includes the special hearing provisions of the B.C.Z.R. and the Z.C.P.M. Because this denial of the redlined Development Plan is technical, based on the denial of the special hearing, it shall not be considered a final Development Plan Order, that is unless the related zoning cases are not appealed. If there is no appeal of the zoning cases, then this Order shall constitute a final Development Plan Order.

In the event the denial of the special hearing request is appealed and remanded back to the Undersigned with a finding that this residential development can occur on the subject property in an M.L.R. zone, I will then issue a final Development Plan Order based on the merits of the Plan, which would then subject the Order to the appeal provisions of Section 32-4-281 of the B.C.C.

In conclusion, 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

ORDER RECEIVED FOR FILE

2-13-08

B

County Code, and after considering the testimony and evidence offered at the hearing, the request for special hearing relief shall be denied. The related request for variance shall be dismissed as moot. The request for approval of the redlined Development Plan shall be denied based on the denial of the special hearing request.

THEREFORE, IT IS ORDERED by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this 13th day of February, 2008, that the request for Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve, pursuant to Section 248 of the B.C.Z.R. and Section 302.1 of the Zoning Commissioner's Policy Manual (Z.C.P.M.), the proposed residences shown on the site plan accompanying the Petition in this predominantly residential area of the County be and is hereby DENIED; and

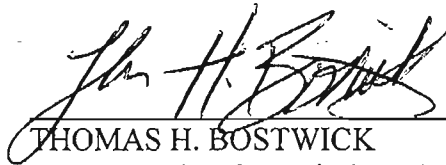
IT IS FURTHER ORDERED that the request for Variance pursuant to Section 1B01.2.C.1.c of the B.C.Z.R. and the Residential Standards provisions (p. 27) of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit building-to-building setbacks of 20 feet in lieu of the 25 feet required between improvements to be constructed on Lot Nos. 5 and 6; Lot Nos. 17 and 18; and Lot Nos. 23 and 24 be and is hereby DISMISSED AS MOOT; and

IT IS FURTHER ORDERED that the request for approval of the redlined Development Plan marked and accepted into evidence as Petitioner's Exhibits 1A and 1B for the property known as the "Angeloizzi Property," for the procedural reasons previously cited in the body of this Order and for the reason that the Plan fails to satisfy the underlying requirements of the B.C.Z.R. based on the denial of the related special hearing request, be and is hereby DENIED. This denial, however, shall not be a final Development Plan Order subjecting it to appeal

RECEIVED FOR FILE
2-13-08
107

pursuant to Section 32-4-281 of the B.C.C., unless an appeal is not taken as to the denial of the Special Hearing request.

Any appeal of this decision must be taken within thirty (30) days from the date of this Order. If an appeal of this decision is not taken within the time prescribed, then this decision shall constitute a final Development Plan Order and shall be subject to the appeal provisions contained in Section 32-4-281 of the Baltimore County Code.



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

THB:pz

APPROX RECEIVED FOR FILING

2-13-08



Flood



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 7312 Dogwood Road

which is presently zoned MLR

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

NONE

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire

Name - Type or Print

Signature

Levin & Gann, PA Nottingham Centre, 8th Floor

Company

502 Washington Avenue 410-321-0600

Address

Telephone No.

City

State

Zip Code

Towson, MD 21204

Legal Owner(s):

STACY L. ANGELOZZI TRUST

Name - Type or Print

By:

Signature *Nicholas J. Angelozzi, Jr. Trustee*

By:

Name - Type or Print

Signature *Stacy L. Angelozzi Trustee*

62 GWYNNS MILLS CT

(410) 363-6650

Address

Telephone No.

Owings Mills

MD

21117

State

Zip Code

Representative to be Contacted:

Mr. Chris Hanson Little & Associates, Inc.

Name

1055 Taylor Avenue, Suite 307

410-296-1636

Address

Towson

MD

Telephone No.

21286

City

State

Zip Code

OFFICE USE ONLY

Case No. 08-262-SPHA

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

ST/BR

Date

12/19/07

REV 9/15/98

SPRING PRESERVED FOR PLANS

2-13-08

m

ATTACHMENT
PETITION FOR SPECIAL HEARING

CASE NO: 08-262-SPHA

Address: 7312 Dogwood Road

Legal Owners: Stacy L. Angelozzi, Trust – Nicholas J. Angelozzi, Jr., Trustee and
Stacy L. Angelozzi, Trustee

Present Zoning: MLR

REQUESTED RELIEF:

“why the Zoning Commissioner should,” [1] approve, pursuant to Section 248 of the *Baltimore County Zoning Regulations* and Section 302.1 of the *Zoning Commissioner’s Policy Manual* the proposed residences shown on the Plan to Accompany this Petition in this predominantly residential area of the County; **and** [2] grant such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR to permit the proposed uses.

For Additional Information Contact:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
Nottingham Centre
502 Washington Avenue
8th Floor
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7312 DOGWOOD ROAD
which is presently zoned MLR

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)

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

NONE

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire

Name - Type or Print

Signature

Levin & Gann, PA Nottingham Centre, 8th Floor

Company

502 Washington Avenue

410-321-0600

Address

Telephone No.

City

Towson, MD 21204

State

Zip Code

Legal Owner(s):

STACY L. ANGELOZZI TRUST

Name - Type or Print

By:

Signature *Stacy L. Angelozzi, Jr. Trustee*

By:

Name - Type or Print

Signature *Stacy L. Angelozzi, Trustee*

62 GWYNNS MILL CT

(410) 363-6650

Address

Telephone No.

Owings Mills

MD

21117

State

Zip Code

Representative to be Contacted:

Mr. Chris Hanson

Little & Associates, Inc.

Name

1055 Taylor Avenue, Suite 307

410-296-1636

Address

Towson

MD

Telephone No.

21286

City

State

Zip Code

OFFICE USE ONLY

Case No.

08-262-SPHA

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

[Signature]

Date

12/13/07

REV 9/15/98

2008 RECEIVED FOR FILING
2-13-08
[Signature]

ATTACHMENT

PETITION FOR VARIANCE

CASE NO: 08-262-SPHA

Address: 7312 Dogwood Road

Legal Owners: Stacy L. Angelozzi, Trust – Nicholas J. Angelozzi, Jr., Trustee and
Stacy L. Angelozzi, Trustee

Present Zoning: MLR

REQUESTED RELIEF:

“why the Zoning Commissioner should,” [1] pursuant to BCZR Section 1B01.2C.1.c and applicable provisions of the CMDP (if any), grant variances to permit building to building setbacks of 20 feet in lieu of the 25 feet required between improvements to be constructed on Lot Nos.: (a) 6 & 7; (b) 17 & 18; and (c) 23 & 24; and [2] grant such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR to permit the proposed uses.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

DESCRIPTION TO ACCOMPANY
PETITION FOR ZONING VARIANCE
NORTH SIDE OF DOGWOOD ROAD
WEST OF ROLLING ROAD
SECOND ELECTION DISTRICT
FOURTH COUNCILMANTIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Beginning for the same at the end of the following course and distance measured from the intersection of the centerline of Rolling Road with the centerline of Dogwood Road, (1) Westerly 2680 feet, more or less to the point of beginning, thence running in or along the centerline of said Dogwood Road (1) North 76 degrees 43 minutes 33 seconds West 540.53 feet, thence leaving Dogwood Road and running for the nine following courses and distances, (2) North 11 degrees 09 minutes 24 seconds East 608.41 feet, thence (3) South 89 degrees 50 minutes 36 seconds East 495.00 feet, thence (4) South 84 degrees 01 minutes 56 seconds East 313.95 feet thence (5) South 70 degrees 31 minutes 56 seconds East 157.77 feet, thence (6) South 19 degrees 01 minutes 27 seconds West 451.83 feet, thence (7) North 76 degrees 43 minutes 33 seconds West 185.80 feet, thence (8) North 76 degrees 43 minutes 33 seconds West 156.26 feet, thence (9) South 13 degrees 16 minutes 27 seconds West 278.69 feet and thence (10) South 13 degrees 16 minutes 27 seconds West 15.00 feet to the point of beginning; containing 12.348 acres of land, more or less.



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 79303

Date: 12/19/07

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				325.00

Total: 325.00

Rec

From: ANGELICCI PROPERTY

For:

Public L. Special Lic

ITEM # 04-262-SPH A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
VALIDATION**

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: #08-262-SPHA

7312 Dogwood Road

N/side of Dogwood Road, 2305 feet east of centerline of Ridge Road

2nd Election District - 4th Councilmanic District

Legal Owner(s): Stacy Angelozzi Trust, Nicholas Angelozzi, Jr., Trustee

Special Hearing: to approve the proposed residences shown on the plan to accompany this petition in this predominantly residential area of the County. **Variance:** pursuant to the BCZR and applicable provisions of the CMDP (if any), to permit building to building setbacks of 20 feet in lieu of the 25 feet required between improvements to be constructed on Lots (a) 6, 7 (b) 17, 18 and (c) 23 & 24; and (2) grant such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR to permit the proposed uses.

Hearing: Thursday, January 24, 2008 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

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.

JT 1/6/79 Jan 8

159917

CERTIFICATE OF PUBLICATION

1/10/2008

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/8/2008.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkins

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **00746**

Date: **12/13/07**

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
								\$ 390.00

Total: **390.00**

Rec

From:

For:

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 12/13/2007 12/13/2007 09:24:28 4
 506 WALKIN HIGH RSH
 RECEIPT # 610519 12/13/2007 OFLN
 5 528 ZONTAG VERIFICATION
 000746
 Recpt tot \$390.00
 \$390.00 CK \$,00 CA
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

Item # 267

ZONING NOTICE

CASE # 08-262-SPHA

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

ROOM 106, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE
TOWSON, MD. 21204

DATE:

THURSDAY, JANUARY 24, 2008

TIME AND TIME:

AT 9:00 A.M.

REQUEST:

TO GRANT VARIANCES, PURSUANT TO BCZR SECTION
1801.2C.1C AND APPLICABLE PROVISIONS OF THE CMDP
(IF ANY), TO PERMIT BUILDING TO BUILDING SETBACKS
20 FEET IN LIEU OF THE 25 FEET REQUIRED BETWEEN IMPROVE-
MENTS TO BE CONSTRUCTED ON LOT NOS (A) 6 & 7; (B) 17 & 18 AND
23 & 24.

SPECIAL HEARING TO APPROVE, PURSUANT TO SECTION 24B OF
THE BALTIMORE COUNTY ZONING REGULATIONS AND SECTION 302.1
OF THE ZONING COMMISSIONER'S POLICY MANUAL, THE PROPOSED
RESIDENCES SHOWN ON THE PLAN TO ACCOMPANY THIS PETITION
IN THIS PREDOMINANTLY RESIDENTIAL AREA OF THE
COUNTY.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

CERTIFICATE OF POSTING

RE: Case No.: 08-262-SP4A

Petitioner/Developer: ANGELOZZI

Date of Hearing/Closing: JAN. 24, 2008

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: **Christen Matthews**

Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s)

required by law were posted conspicuously on the property located at _____

N. SIDE OF DOGWOOD ROAD IN THE 7300 BLOCK

The sign(s) were posted on JAN. 3, 2008
(Month, Day, Year)

Sincerely,

Garland E. Moore
(Signature of Sign Poster and Date)

GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 8, 2008 Issue - Jeffersonian

Please forward billing to:

Stacy & Nicholas Angelozzi
62 Gwynns Mills Court
Owings Mills, MD 21117

410-363-6650

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: 08-262-SPHA

7312 Dogwood Road

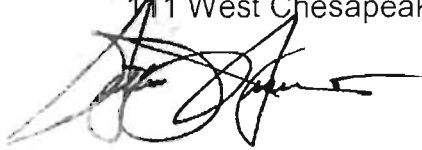
N/side of Dogwood Road, 2305 feet east of centerline of Ridge Road

2nd Election District – 4th Councilmanic District

Legal Owners: Stacy Angelozzi Trust, Nicholas Angelozzi, Jr., Trustee

Special Hearing to approve the proposed residences shown on the plan to accompany this petition in this predominantly residential area of the County. Variance pursuant to the BCZR and applicable provisions of the CMDP (if any), to permit building to building setbacks of 20 feet in lieu of the 25 feet required between improvements to be constructed on Lots (a) 6,7 (b) 17, 18 and (c) 23 & 24; and {2} grant such additional relief as the nature of this case as presented at the time of the hearing on this Petition may required, within the spirit and intent of the BCZR to permit the proposed uses.

Hearing: Thursday, January 24, 2008 at 9:00 a.m. in Room 106, County Office Building,
111 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.

**APPLICANT
REQUESTS A
COMBINED
HEARING
WITH THE
HOH.**

**PLEASE
SCHEDULE
TO COMPLY
WITH THEIR
REQUEST.**

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (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 Advertising:

Item Number or Case Number: 08-262-SP4A

Petitioner: STACY L. ANGELOZZI & NICHOLAS J. ANGELOZZI

Address or Location: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: STACY L. ANGELOZZI & NICHOLAS J. ANGELOZZI

Address: 62 GWYNNS MILLS COURT
OWINGS MILLS 21117

Telephone Number: 410-363-0192



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

August 11, 2008

*W/O by
Appellant
8-28-08*

NOTICE OF ASSIGNMENT

CASE #: 08-262-SPHA

IN THE MATTER OF: STACY ANGELOZZI TRUST -LO /Petitioner
7312 Dogwood Road /Angellozzi Property 2nd E; 4th C

2/13/2008 - D.Z.C.'s decision in which requested zoning relief was **DENIED**
(Appeal taken from the denial of the requested zoning relief /special hearing portion of decision ONLY.)

ASSIGNED FOR:

WEDNESDAY, NOVEMBER 5, 2008, at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

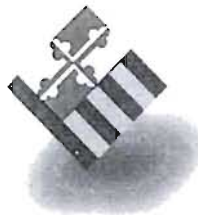
c: Counsel for Appellant /Petitioner
Appellant /Petitioner

: Howard Alderman, Jr., Esquire
: Stacy L. Korzenewski and Nicholas J.
Angellozzi, Jr., Trustees /
Stacy L. Angellozzi Trust /Developer

G. Dwight Little, Jr. /Little & Associates, Inc.

Elizabeth Parham
Duane L. Ritter
Jim Patton /Patton Consultants, Ltd.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

January 16, 2008

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, Maryland 21204

Dear Mr. Alderman:

RE: Case Number: 08-262-SPHA, 7312 Dogwood Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 19, 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,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf
Enclosures

c: People's Counsel

Stacy L. Angelozzi Trust Stacy L. and Nicholas J. Angelozzi, Jr., Trustees 62 Gwynns
Mill Court Owings Mills 21117

Mr. Chris Hanson Little & Associates, Inc. 1055 Taylor Avenue, Suite 307 Towson 21286

TB
1-24-08

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



BY:.....

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination *JWL*

DATE: January 15, 2008

SUBJECT: Zoning Item # 08-262-SPHA
Address 7312 Dogwood Road
(Angelozzi Property)

Zoning Advisory Committee Meeting of December 17, 2007

- _____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.
- X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
- X 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).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
- _____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer: John Russo

Date: 1/11/08



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

State Highway
Administration

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

Maryland Department of Transportation

Date: JANUARY 3, 2008

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

RE: Baltimore County
Item No. 8-262-SPHA
7312 DOGWOOD ROAD
ANGELOZZI TRUST
SPECIAL HEARING
VARIANCE

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. 8-262-SPHA

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,

for ¹ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

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

December 28, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: December 17, 2007

Item Number: 261, 262, 263, 264

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.

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4880 (C) 443-829-2946
MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



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on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

DATE: January 3, 2008

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 24, 2007
Item Nos. 08-257, 259, 260, 261, 262, 263,
265, 266, 267, 268, 269, 270, 271, 272, and 274

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- 01032008.doc



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
April 30, 2008
*Department of Permits and
Development Management*

Howard Alderman, Jr.
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, MD 21204

Dear Mr. Alderman:

RE: Case: 08-262-SPHA, 7312 Dogwood Road, Angelozzi Property

Please be advised that your appeal of the above-referenced case was received in this office on March 14, 2008 on behalf of your client Stacy Angelozzi. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
G. Dwight Little, Jr., 1055 Taylor Avenue, Ste. 307, Towson 21286
Stacy Korzenewski, 1235 Wine Spring Lane, Towson 21204
Elizabeth Parham, 7321 Dogwood Road, Baltimore 21244
Duane Ritter, 7324 Dogwood Road, Baltimore 21244
Jim Patton, 780 Elkridge Road, Linthicum 21090

CASE #: 08-262-SPHA

IN THE MATTER OF: STACY ANGELOZZI TRUST -LO /Petitioner
7312 Dogwood Road /Angelozzi Property 2nd E; 4th C

SPH – To approve proposed residences shown on plan accompanying Petition;
VAR – To permit bldg to bldg setbacks of 20' ilo req'd 25' between
improvements to be constructed on Lot Nos. 5 and 6; Lot Nos. 17 and 18; and
Lots Nos. 23 and 24.

2/13/2008 – D.Z.C.'s decision in which requested zoning relief was **DENIED**.

8/11/08 - Notice of Assignment sent to following; assigned for hearing on Wednesday, October 29, 2008, at
10:00 a.m.:

Howard Alderman, Jr., Esquire
Stacy L. Korzenewski and Nicholas J.
Angelozzi, Jr., Trustees /
Stacy L. Angelozzi Trust /Developer
G. Dwight Little, Jr. /Little & Associates, Inc.
Elizabeth Parham
Duane L. Ritter
Jim Patton /Patton Consultants, Ltd.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

8/28/08 – Letter of withdrawal of limited appeal filed this date by Howard L. Alderman, Jr., Esquire, on behalf of
The Stacy Angelozzi Trust, Petitioner /Appellant; withdrawn as the direct result of the Council's action in
passing Council Bill #88-08 as it relates to Issue No. 4-032. Order of Dismissal of appeal to be issued.
Hearing in this matter pulled from 11/05/08 schedule.

* * * * *

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/ documentation filed in the case.

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

I HEREBY CERTIFY that on this 2nd day of January, 2008, a copy of the foregoing Entry of Appearance was mailed Chris Hanson, c/o Little & Associates, Inc, 1055 Taylor Avenue, Suite 305, Towson, Md 21286, and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204 Attorney for Petitioner(s).

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

March 14, 2008

HAND DELIVERED

Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 111
Towson, Maryland 21204

RE: Angelozzi Property
North Side Dogwood Road,
West of Rolling Road
Case No. 08-262-SPHA
Notice of Limited Appeal

**Stamp here and initial indicating date
appeal was filed and received:**

RECEIVED

MAR 14 2008

Per...*[Signature]*...

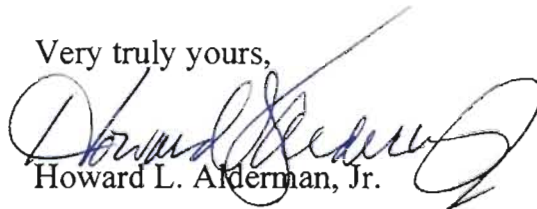
Dear Mr. Kotroco:

On behalf of my client, the Stacy L. Angelozzi Trust, Petitioner in the above-referenced Case, an appeal of those portions of the February 13, 2008 *Findings of Fact and Conclusions of Law and Interim Development Plan Order* ("Zoning Order") issued by the Deputy Zoning Commissioner for Baltimore County **DENYING SPECIAL HEARING RELIEF** to the Petitioner is hereby noted to the County Board of Appeals for Baltimore County. This appeal does not include the non-ruling on the Development Plan in Case No. II-717. At pages 19-20 of the Zoning Order, the Deputy Zoning Commissioner states that the denial of the requested zoning special hearing relief "**shall not be a final Development Plan Order subjecting it to appeal pursuant to Section 32-4-281 . . .**" Therefore, this is an appeal of a denial of zoning special hearing relief only, as if the Development Plan was never considered. My client is both aggrieved and a [trust] person feeling aggrieved by the Commissioner's decision. This appeal of **denial of zoning special hearing relief** is authorized by *Baltimore County Code* §32-3-401 and I have enclosed this firm's check in the amount of \$400 as the requisite filing fee that representatives of your department advised would be charged. If the enclosed fee is incorrect, please contact my office immediately so that the correct amount can be submitted.

Timothy M. Kotroco, Director
March 14, 2008
Page 2

Upon the docketing of this appeal, please transmit all required papers, exhibits and other evidence to the Board of Appeals. Should you or your staff need additional information to enable the prompt processing of this appeal, as always, do not hesitate to contact me at your convenience.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk

Enclosure

c: Stacy L. Angelozzi Trust
County Board of Appeals [w/copy of Zoning Order appealed]

SITE AREA CALCULATION
NET TRACT AREA: 12.35 ACRES
ALLOWANCE FOR ROAD FRONTAGE [(0' X 0')/43560]: 0.00 ACRES
GROSS AREA: 12.35 ACRES

SITE DATA

EXISTING ZONING AND MAXIMUM DENSITY PERMITTED

ZONE	ACRES	UNITS ALLOWED	UNITS PROPOSED
M.L.R.	12.35	67 *	39
TOTAL	12.35	67 *	39

* AT A DR 5.5 RATE

SITE DEVELOPMENT PROPOSAL

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROPOSED	PHASE	DEVELOPMENT SCHEDULE
TOWNHOUSE CONDOMINIUM	35	70	70		12/08
DUPLEX CONDOMINIUM	4	8	8		
OVERFLOW PARKING	—	13	13		
TOTAL	39	91	91		12/08

OPEN SPACE PROPOSAL

OPEN SPACE TYPE	ACRES
LOCAL OPEN SPACE	0.91 AC.±
BALTIMORE COUNTY GREENWAY/EASEMENT	5.83 AC.±
STORMWATER MANAGEMENT	1.21 AC.±
TOTAL PROVIDED	7.95 AC.±

ADDITIONAL INFORMATION

ANTICIPATED ACTIONS:

VARIANCES

A VARIANCE FROM SECTION 1801.2.C.1.C OF THE BCZR TO ALLOW FOR A BUILDING TO BUILDING SETBACK OF 20' IN LEIU OF THE REQUIRED 25' BETWEEN UNITS 6 & 7, 17 & 18 AND 23 & 24.

WAIVERS

SPECIAL EXCEPTIONS

OTHER

NONE
NONE
SPECIAL HEARING TO ALLOW FOR RESIDENTIAL USE IN A MANUFACTURING (MLR) ZONE, PER ZONING COMMISSIONER'S POLICY MANUAL SECTION 302.1.

CONSISTENCY WITH DESIGN MANUALS YES

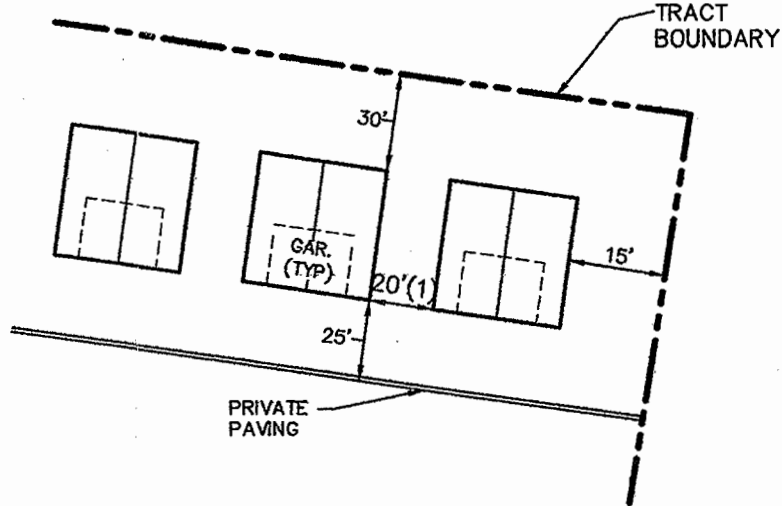
OPEN SPACE NOTES

OPEN SPACE REQUIRED: 25,350 SF ACTIVE
13,650 SF PASSIVE
OPEN SPACE PROVIDED: 25,890 SF ACTIVE
13,675 SF PASSIVE

ACTIVE  PASSIVE 

NOTES:

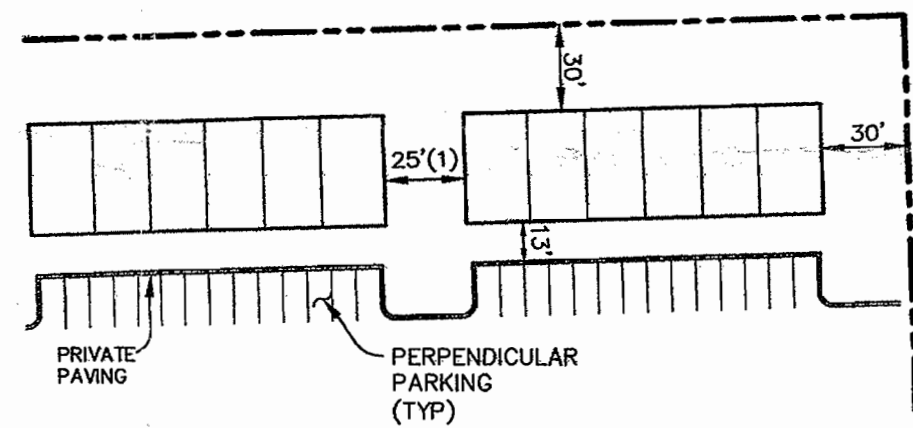
- ALL LOCAL OPEN SPACE SHALL BE IN COMPLIANCE WITH THE LOCAL OPEN SPACE MANUAL, LATEST EDITION.
- TEMPORARY OPEN SPACE BOUNDARY MARKERS, TREE PROTECTION DEVICES AND FOUR FOOT HIGH SNOW FENCING OR APPROVED EQUIVALENT SHALL BE INSTALLED PRIOR TO ANY CLEARING OR GRADING.
- WITHIN THE AREA SHOWN AS OPEN SPACE, DISTURBANCE BEYOND THAT WHICH IS SHOWN ON THE DEVELOPMENT PLAN SHALL NOT BE ALLOWED WITHOUT PRIOR APPROVAL FROM THE DEPARTMENT OF RECREATION AND PARKS.
- NO UTILITIES, WHETHER PUBLIC OR PRIVATE, INCLUDING, BUT NOT LIMITED TO, TELEPHONE, CABLE TELEVISION, GAS AND ELECTRIC, WATER, SEWER, AND STORM DRAINS SHALL BE PLACED OR CONSTRUCTED ON OR WITHIN THE AREAS LABELED AS OPEN SPACE WITHOUT PRIOR WRITTEN CONSENT FROM THE BALTIMORE COUNTY DEPARTMENT OF RECREATION AND PARKS.
- THE DESIGN, CONSTRUCTION AND INSTALLATION OF ALL AMENITIES SHOWN ON THE DEVELOPMENT PLAN SHALL BE THE RESPONSIBILITY OF THE DEVELOPER.



TYPICAL BUILDING SETBACKS DETAIL
NOT TO SCALE

FROM FRONT BUILDING FACE TO: PUBLIC STREET RIGHT-OF-WAY OR PROPERTY LINE ARTERIAL OR COLLECTOR	D.R. 1 & 2 ZONES (FEET)	D.R. 3.5, 5.5, 10.5, 15 ZONES (FEET)	ALTERNATIVE SITE DESIGN DWELLINGS	
			ZERO & ZIPPER LOTS ALL D.R. ZONES (FEET)	NEO-TRADITIONAL ALL D.R. ZONES (FEET)
FROM FRONT BUILDING FACE TO: PUBLIC STREET RIGHT-OF-WAY OR PROPERTY LINE ARTERIAL OR COLLECTOR	25	25	25	15
FROM SIDE BUILDING FACE TO: SIDE BUILDING FACE	30	16-20 HIGH 20-20 HIGH	16	16-20 HIGH 20-20 HIGH
PUBLIC STREET RIGHT-OF-WAY PAVING OF A PRIVATE ROAD TRACT BOUNDARY	25 30 25	15 25 15	15 25 15	15 25 15
FROM REAR BUILDING FACE TO: REAR PROPERTY LINE PUBLIC STREET RIGHT-OF-WAY	30 30	30 30	20 20	50 50
ADDITIONAL SETBACKS: SETBACKS FOR BUILDINGS LOCATED ADJACENT TO ARTERIAL ROADWAYS SHALL BE INCREASED BY AN ADDITIONAL 20 FEET				
MAXIMUM BUILDING HEIGHT	50	50	50	50

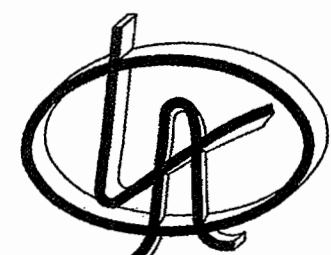
THIS TABLE LISTS MINIMUM SETBACK REQUIREMENTS AND BUILDING HEIGHTS FOR URBAN RESIDENTIAL USE FOR A FULLER EXPLANATION OF THESE AND OTHER REQUIREMENTS CONSULT THE COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES (CMOP)



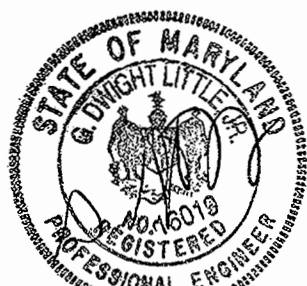
TYPICAL BUILDING SETBACKS DETAIL
NOT TO SCALE

GROUP HOUSES	
FROM FRONT BUILDING FACE TO: PUBLIC STREET RIGHT-OF-WAY OR PROPERTY LINE GARAGE UNITS NON-GARAGE UNITS PERPENDICULAR PARKING PARALLEL PARKING	25 FEET 13 FEET 15 FEET
FROM SIDE BUILDING FACE TO: SIDE BUILDING FACE PUBLIC STREET RIGHT-OF-WAY	25, 20 FEET (1) 25 FEET
FROM REAR BUILDING FACE TO: REAR PROPERTY LINE PUBLIC STREET RIGHT-OF-WAY	30 FEET 40 FEET
ANY BUILDING FACE TO: TRACT BOUNDARY	30 FEET
ADDITIONAL SETBACKS: SETBACKS FOR BUILDINGS LOCATED ADJACENT TO ARTERIAL ROADWAYS SHALL BE INCREASED BY AN ADDITIONAL 20 FEET	
MAXIMUM BUILDING HEIGHT	50 FEET
MAXIMUM BUILDING LENGTH	180 FEET

THIS TABLE LISTS MINIMUM SETBACK REQUIREMENTS AND BUILDING HEIGHTS FOR URBAN RESIDENTIAL USE FOR A FULLER EXPLANATION OF THESE AND OTHER REQUIREMENTS CONSULT THE COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES (CMOP)
(1) SEE CMOP SECTION 11, SINGLE-FAMILY ATTACHED.



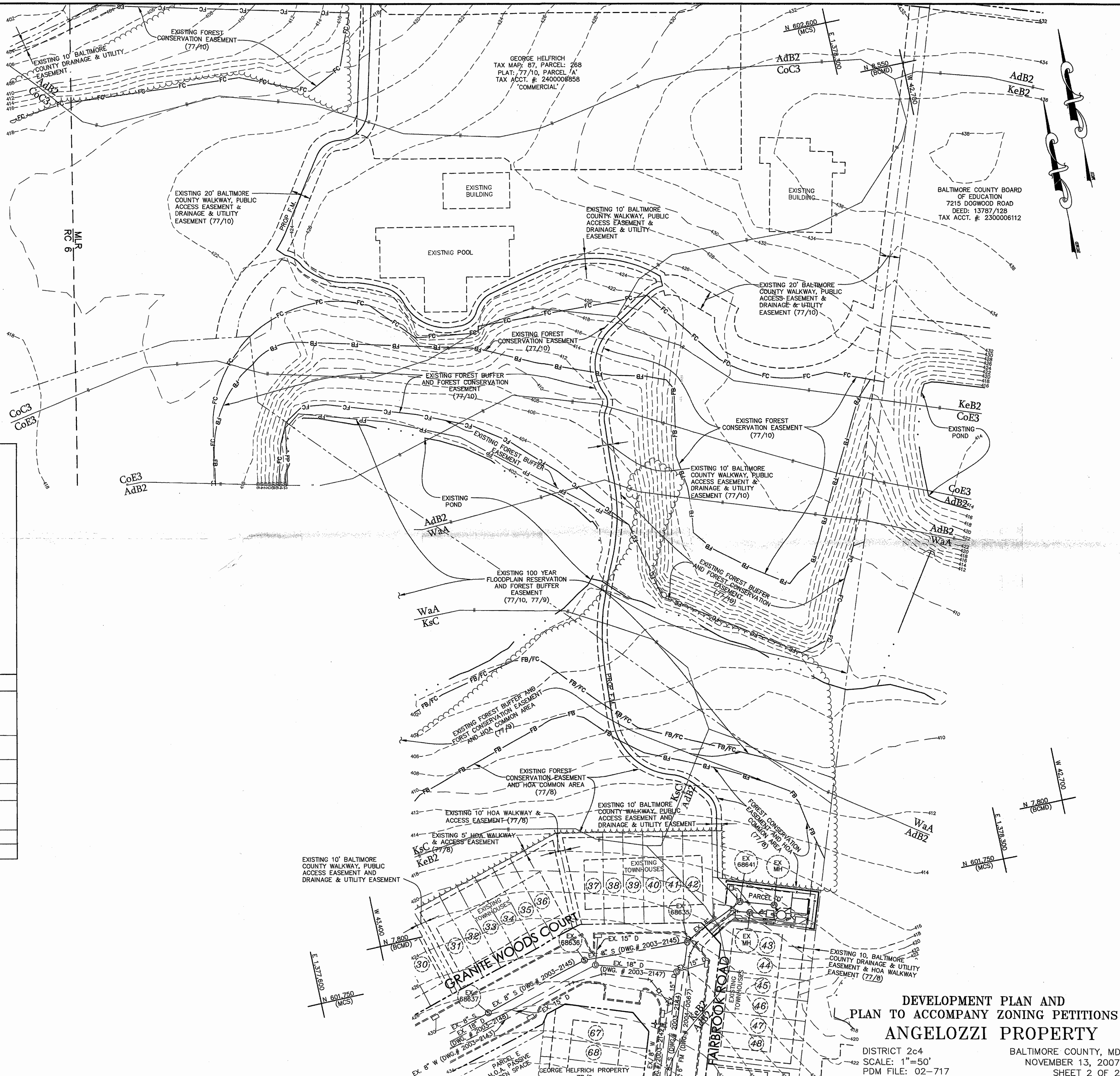
LITTLE & ASSOCIATES, INC.
ENGINEERS~LAND PLANNERS~SURVEYORS
1055 TAYLOR AVENUE, SUITE 307
TOWSON, MARYLAND 21286
PHONE: (410)296-1636 FAX: (410)296-1639



NOTE:

I, G. DWIGHT LITTLE, JR., CERTIFY UNDER OATH THAT TO THE BEST OF MY KNOWLEDGE, THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OF THE FOLLOWING: THE DEVELOPMENT WITH RESPECT TO ANY OF THE FOLLOWING: THE APPLICANT, A PERSON WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT, OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.

MATCHLINE SHEET 1 OF 2



**DEVELOPMENT PLAN AND
PLAN TO ACCOMPANY ZONING PETITIONS
ANGELOZZI PROPERTY**

DISTRICT 2c4
SCALE: 1"=50'
PDM FILE: 02-717

BALTIMORE COUNTY, MD
NOVEMBER 13, 2007
SHEET 2 OF 2

