

ALLEGANY COUNTY BOARD OF ZONING APPEALS

IN RE: APPLICATION OF	*	Case No.: 953
MAGNOLIA GREENE	*	
LIMITED PARTNERSHIP	*	Hearing Date: 03/07/18
FOR A SPECIAL EXCEPTION	*	
	*	

* * * * *

FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon applicant Magnolia Greene Limited Partnership’s request for a special exception for two multi-family apartment buildings in the “B-1” - Neighborhood Commercial Zoning District.

A field inspection of the subject property was conducted by the members of the Board on March 1, 2018. The purpose of the field inspection was to familiarize the Board members with the site layout in order for them to develop an understanding as to where the proposed use would be located and as to whether the proposed use would be constructed in compliance with the terms of the Zoning Ordinance.

At the hearing on March 7, 2018, the Board considered the attached list of exhibits which consisted of information gathered by the Division Chief and information provided by other agencies and individuals.

The proposed use will be located on the east side of Maryland Route 53; 1100' North of Quarry Ridge Road; 1000' south of Oakleaf Drive, LaVale, Allegany County, Maryland. The applicant intends to use the property to build two (2) three-story apartment buildings.

The Board considered testimony presented at the hearing in order to ascertain whether the proposed use would meet the standards and criteria of the Zoning Ordinance. The Board’s findings are as follows:

1. That the two (2) three-story multi family apartment buildings planned are a special exception use in the “B-1” Zoning District in accordance with Section 360-83 of the Ordinance.
2. The lot size is approximately 3.62 acres.

3. The proposed use meets all the necessary requirements of the existing zoning code as found in Code Section 360-125.

4. The building site has a slope of less than 25 percent.

5. There are no streams within 50 feet of the site upon which the proposed use will be placed.

6. There are no designated wetlands or habitats for threatened or endangered species within 50 feet of the site where the proposed use will be located.

7. That a traffic analysis was completed and provides no serious traffic concerns.

8. The Board found that this project requires a major site plan. Having made that determination, the Board applied the criteria of Section 360-76 of the Ordinance to the site plan which was submitted by the Applicant. The Board found that the site plan met those criteria.

9. That the proposed use is in harmony with current zoning in the area and the Allegany County Comprehensive Plan.

Based upon the foregoing findings, the Board found that the Applicant will comply with the criteria of the Zoning Ordinance. Having made that determination, the Board next considered whether “the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use, regardless of its location within the zone ...”. Brandywine Enterprises v. County Council for Prince Georges County, 117 Md. App. 525 (1997).

Two witnesses appeared in opposition to the request for special exception. The two individuals were neighboring property owners who raised concerns specific to the project. The first witness, Mr. Justin Beeler, raised questions regarding the exterior lighting. He was concerned about the light from the parking garage shining directly upon his property. He was assured by the applicant that the builder was working with the county to minimize the lighting effects to the surrounding properties. The applicant also testified that no lighting would be aimed at any property other than applicants.

The next witness, Mr. Keith Beeler, testified regarding his concerns over storm water runoff. The applicant, in response to these concerns, testified that there are currently no storm water systems in place on the existing property. The current water runoff received by Mr. Beeler would be

significantly relieved by the proposed storm water measures to be implemented at the new site. These measures include curbing to redirect the flow of water in the parking lots and sand filters to help disburse the water.

Based upon the evidence presented by the applicant, the testimony provided by the witnesses in opposition and the site visit, the Board found no evidence of a site specific adverse impact.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of March 7, 2018, 3-0 in favor of granting the Applicant's request for a special exception to construct two (2) multi-family apartment buildings in the "B-1" - Neighborhood Commercial Zoning District. As a condition to the granting of the Board's approval, the Applicant will be required to comply with the terms and criteria of the Zoning Ordinance at all times. The Applicant must also obtain the approval of all State, County, and municipal agencies whose approvals are required for the conduct of the proposed use, including, but not limited to, Soil Conservation District, Allegany County Health Department, ACDPW Roads Division, Zoning Certification, Building Codes Compliance, House Numbering, Floodplain Management, Subdivision Review and Structural/Electrical Inspection Agency.

ATTEST

BOARD OF ZONING APPEALS



By:



Julia Williams, Chairman

Copies to: See Attached List
Attachment: Exhibits List

BOARD OF ZONING APPEALS

FOR ALLEGANY COUNTY, MARYLAND

CASE# 953
MAGNOLIA GREENE L.P.

MARCH 7TH, 2018

EXHIBITS LIST

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application* and assorted administrative documents (i.e. invoice(s), receipts, etc.)
- B. Site Plan.
- C. Completed *Petition for Special Exception*
- D. Photocopy of an Allegany County Tax Map for property identification.
- E. An *Adjoining Property Owners List* completed and signed by the Applicant.
- F. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- G. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- H. *Inter Office Memo*, prepared by the LDS office, that was distributed to the necessary review agents notifying them of this Case, date, time and requesting comment.
- I. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- J. *Certification of Public Notice*, received from the Cumberland Times/News, certifying that the *Public Notification* was published February 17th, 2018.
- K. Returned *Inter-Office-Memo*, dated February 16th, 2018, from Mark McKenzie - SHA, with comment; "... MDOT SHA Access Permit must be issued prior to building permit sign off..."
- L. Correspondence dated February 16th, 2018, from Amy McKenzie, LDS Planner, to Mr. Tom Simons, WODA Group, conveying comments relative to the *site plan* associated with the project.
- M. Correspondence dated February 20th, 2018, from Steve Stallings, LDS Plans Examiner, to Mr. Tom Simons, WODA Group, conveying comments relative to the *building code* requirements and the project.
- N. Memorandum dated March 6th, 2018, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding *site development plan* requirements.

Distribution List: BOZA 953 Findings

Carl Belt Jr
13119 Quarry Ridge Road
Cumberland, MD 21502

RCL Leasing & Management Inc.
12816 Winchester Road, SW
Cumberland, MD 21502

Mr. Robert Beachy
12816 Winchester Road, SW
Cumberland, MD 21502

Mrs. Cindy Beeler
13012 Winchester Road, SW
Cumberland, MD 21502

Mr. Ali Behnam
925 Bishop Walsh Road
Cumberland, MD 21502

Mr. Zebulin Culver
141 Main Street - Suite 205
Annapolis, MD 21401

Mr. James Diamond
271 Armstrong Avenue
Frostburg, MD 21532

Mr. Ernest Dolly
13000 Lewis Heights Drive, SW
Cumberland, MD 21502

Mr. Michael Fisher
14315 Jarrettsville Pike
Phoenix, MD 21131

Mr. Keith Goldberg
820 Morris Turnpike
Short Hills, NJ 07078

MD DOT Office of the Attorney General
301 W. Preston Street, RM 1302-B
Baltimore, MD 21201

Mr. Iyen Acosta
455 Massachusetts Avenue NW - Suite 900
Washington, DC 20001

Mr. Keith Beeler
13012 Winchester Road, SW
Cumberland, MD 21502

Mr. Justin Beeler
13012 Winchester Road, SW
Cumberland, MD 21502

Mr. Matt Brewer
23 E. Main Street
Frostburg, MD 21532

Mr. Allan Deffinbaugh
13102 Winchester Road, SW
Cumberland, MD 21502

Mr. James Diamond
231 Armstrong Avenue
Frostburg, MD 21532

Ms. Kendra Fink
13006 Lewis Heights Drive, SW
Cumberland, MD 21502

Ms. Jill Frank
418 Washington Street
Cumberland, MD 21502

Mr. Robert Graham
455 Massachusetts Avenue NW
Washington, DC 20001

Distribution List: BOZA 953 Findings

Mr. Bill Hixon
1071 Longwood Avenue
Cumberland, MD 21502

Ms. Frances Hixon
1071 Longwood Avenue
Cumberland, MD 21502

Mr. Jeremy Kennell
13016 Winchester Road, SW
Cumberland, MD 21502

Mr. Ray & Irene Kiddy
13103 Quarry Ridge Road, SW
Cumberland, MD 21502

Mr. Ronald & Diane Klinetob
13022 Quarry Ridge Road, SW
Cumberland, MD 21502

Mr. Michael Lenhart
695 Baltimore Annapolis Boulevard - Suite 214
Severn Park, MD 21146

Mr. Brian Logsdon
13100 Winchester Road, SW
Cumberland, MD 21502

Mr. Doug Macy
475 Williams Street
Cumberland, MD 21502

Mr. Christopher & Theresa Owens
12810 Sangston Drive
LaVale, MD 21502

Mr. Thomas Rafferty
13104 Winchester Road, SW
Cumberland, MD 21502

Mr. Richard Raley
12803 Winchester Road, SW
Cumberland, MD 21502

Mr. Charles Robinette
12905 Winchester Road, SW
Cumberland, MD 21502

Mr. Kathy Robinette
12905 Winchester Road, SW
Cumberland, MD 21502

Honorable Jacob Schade
Allegany County Commissioners
701 Kelly Road - Suite 408
Cumberland,, MD 21502

Ms. Kendall Schrader
1414 Key Highway - #1100
Baltimore, MD

Ms. Mary Shriver
12812 Winchester Road, SW
Cumberland, MD 21502

Ms. Jeanne Turner
13020 Quarry Ridge Road, SW
Cumberland, MD 21502

Mr. C.J. Tyree
500 S. Front Street - 10th Floor
Columbus, OH 43215

Mr. Robert Yonker
c/o Genevieve E. Yonker
PO Box 5128
Cresaptown, MD 21505-5128

Maildata BOZA Case 953
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