

Moses, Leonard D.

From: Norman Rivera <normanrivera2012@gmail.com>
Sent: Tuesday, February 16, 2021 3:49 PM
To: Clerk of the Council; Moses, Leonard D.
Subject: Fwd: Notice and Decision for A-10020-C-01
Attachments: 2-15-21. Exceptions to Examiner A-10020-C.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from an external email domain which carries the additional risk that it may be a phishing email and/or contain malware.

Fyi. Thank you.

----- Forwarded message -----

From: Norman Rivera <normanrivera2012@gmail.com>
Date: Mon, Feb 15, 2021, 2:10 PM
Subject: Re: Notice and Decision for A-10020-C-01
To: Bah, Fatima J. <FJBah@co.pg.md.us>
Cc: Samuel H. Dean <unique41@verizon.net>, Stan Brown <attorney@stanbrown.net>, Kumar, Rajesh A. <RAKumar@co.pg.md.us>, LaRay Benton <laraybenton@gmail.com>, Poteat, Betty M. <bmpoteat@co.pg.md.us>, Rawlings, Mary J. <mjrawlings@co.pg.md.us>, Moses, Leonard D. <LDMoses@co.pg.md.us>, Walker-Bey, James T. <JWalkerBey@co.pg.md.us>

Good afternoon all. Please see attached our exception and request for a hearing on March 22, 2021. Thank you all.

Sincerely,

Norman

Norman D. Rivera, Esq.
Law Offices of Norman D. Rivera, LLC
17251 Melford Boulevard Suite 200
Bowie, MD 20715
301-352-4973 Direct
301-580-3287 Mobile
normanrivera2012@gmail.com

The contents of this email message and any attachments are intended solely for the addressee(s) named in this message. This communication is intended to be and to remain confidential and may be subject to applicable attorney/client and/or work product privileges. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and its attachments. Do not deliver, distribute or copy this message and/or any attachments and if you are not the intended recipient, do not disclose the contents or take any action in reliance upon the information contained in this communication or any attachments.

On Tue, Feb 9, 2021 at 2:55 PM Bah, Fatima J. <FJBah@co.pg.md.us> wrote:

Good afternoon Mr. Rivera, Mr. Benton, Mr. Dean Mr. Brown and Mr. Kumar,

The record in this matter for A-10020-C-01 closed December 14, 2020. Attached is the Notice and Decision from the ZHE. It is being filed electronically. Accordingly any exceptions must be filed within 15 days of today's date February 9, 2021. Please confirm receipt of this email at your earliest convenience. Thank you.

Fatima J. Bah

This E-mail and any of its attachments may contain Prince George's County Government or Prince George's County 7th Judicial Circuit Court proprietary information or Protected Health Information, which is privileged and confidential. This E-mail is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient of this E-mail, you are hereby notified that any dissemination, distribution, copying, or action taken in relation to the contents of and attachments to this E-mail is strictly prohibited by federal law and may expose you to civil and/or criminal penalties. If you have received this E-mail in error, please notify the sender immediately and permanently delete the original and any copy of this E-mail and any printout.

Norman D. Rivera, Esquire
Law Offices of Norman D. Rivera, LLC
17251 Melford Boulevard Suite 200
Bowie, MD 20715
301-352-4973 Direct
301-580-3287 Mobile
normanrivera2012@gmail.com

February 15, 2021

Ms. Donna J. Brown, Acting Clerk of the Council
Prince George's County Council
14741 Governor Oden Bowie Drive, Room 2198
Upper Marlboro, MD 20772

Re: *Exceptions to Zoning Hearing Examiner Decision and Request for Hearing for Amendment of Conditions Zoning Map Amendment A-10020-C*

Dear Ms. Brown:

As you know I represent Woodmore Overlook Commercial, L.L.C., the applicant in this case. On behalf of the Applicant, we hereby file exceptions from the Zoning Hearing Examiner decision of February 9, 2021, regarding the above captioned case.

By way of background, this case was necessary in order to allow the Applicant to finalize the approval of DSP-18024 approved by Order dated September 19, 2019. We had filed a timely reconsideration of the District Council order in that DSP however it was determined by legal staff that an amendment of the underlying zoning conditions was necessary prior to final disposition of the DSP order and hence the reconsideration. As you may recall, the DSP order contained certain transportation conditions from A-10020-C which could not be amended at the DSP stage in the process. The amendment of the zoning conditions would then allow the DSP Order to be revised. This allows the DSP to be certified so the Applicant can proceed to record plat and permits.

We now hereby file exceptions to the Examiner's decision in order to clarify the subsequent process for the staff and the Applicant. *The primary exception is to request that the final order reinstate Condition No. 6 of A-10020-C which states as follows:*

6. All required transportation facility improvements shall be determined at the time of subdivision approval.

The condition was part of the order for A-10020-C and should remain part of the underlying record governing this case. As the Planning Board stated in the resolution on 4-18007 as noted in the Examiner's decision on page 6, this condition affirms that the needed transportation improvements shall be determined at the time of subdivision approval and was done in the Board's Resolution. The District Council placed that condition in the original zoning case as it reflects the law and the process as we respectfully request it be adopted with the instant case if approved. The Planning Board recognized it and the Council placed it there for a reason. We believe it may have been inadvertently omitted by the Examiner in her final decision as the Applicant did not request its deletion.

Section 27-213(a)(3)(B) of the Code states:

“(B) The finding by the Council of adequate transportation facilities at this time shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.”

This reflects Section 27-270 of the Code as well as to the Order of Approvals:

Sec. 27-270. Order of approvals.

“(a) When a Conceptual Site Plan or Detailed Site Plan is required unless otherwise provided for in this Subtitle, the following order of approvals shall be observed:

- (1) **Zoning;**
- (2) Conceptual Site Plan;
- (3) **Preliminary Plat of Subdivision;**
- (4) Detailed Site Plan;
- (5) **Final Plat** of Subdivision (a final plat of subdivision may be approved prior to a detailed site plan, if the technical staff determines that the site plan approval will not affect final plat approval);
- (6) **Grading, building, use and occupancy permits.”**

As detailed above, the zoning ordinance allows that a Preliminary Plan can amend zoning conditions. In this case the Examiner concurred with our request to replace the conditions of the A case with the conditions in Preliminary Plan 4-18007 as reconsidered. Condition No. 6 of the A case codifies this what the zoning approval which we seek as well for flexibility in future development. The current DSP contains 6 parcels for development and only two are programmed with actual users so the trip cap is set as to those parcels.

The trip cap is contained in Condition No. 4 of the Examiner's decision is based on the approved preliminary plan. However, as we develop the other parcels on-site which required another DSP for each parcel(s), there could be a use that has a higher trip generation. We still would be far under the density of the original zoning case, CSP and Preliminary Plan even then.

Leaving the Condition No. 6 in the zoning case would then allow the Preliminary Plan to adjust the trips without amending zoning case again for each subsequent parcel as contemplated originally by the District Council.

Now that the Examiner has recommended approval of our request, this now allows the DSP order to be revised accordingly. We respectfully request also that the hearing for the amendment of zoning conditions be heard on March 22nd and as well as the revised DSP order.

Thank you for your attention to this matter and please do not hesitate to contact me for further information.

Sincerely,



Norman D. Rivera

NDR:ndr

C: Ms. Maurene McNeil, Esq.
Mr. Stanley D. Brown, Esq.
Mr. Jeffrey Harding, Esq.
Mr. Samuel H. Dean
Mr. LaRay Benton
Woodmore Overlook Commercial, LLC

CERTIFICATE OF SERVICE

The purpose of this Certificate of Service is to certify that notice with regard to A-10020-C, King Property (now known as Woodmore Overlook) was emailed and mailed first class to Ms. Donna J. Brown, Acting Clerk of the County Council on February 15, 2021.

I solemnly affirm under the penalties of perjury that the contents of the foregoing are true to the best of my knowledge, information, and belief.



Norman D. Rivera