

**Tax Map/Block/Parcel  
No. 57-7&8-354**

**Building Permit/Zoning  
Certificate No. 03-2643**

Case 4842

**OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND**

**APPLICANT:** W.T.C. Contractors, Inc.  
3033 Salem Bottom Road  
Westminster, Maryland 21158

**ATTORNEY:** Clark R. Shaffer

**REQUEST:** An appeal of a letter from the Director of Planning, dated June 17, 2003, regarding the 12-month deferral on all residential development (Ordinance 03-11).

**LOCATION:** The site is located on the south side of MD Rte. 27, Westminster, on property zoned "A" Agricultural District in Election District 9.

**BASIS:** Code of Public Local Laws and Ordinances, Chapter 223-186 A (1) and Article 66B, § 4.07 (d) 1

**HEARING HELD:** September 26, 2003

**FINDINGS AND CONCLUSION**

On September 26, 2003, the Board of Zoning Appeals (the Board) convened to hear an appeal of a letter from the Director of Planning, dated June 17, 2003, regarding the 12-month deferral on all residential development (Ordinance 03-11). Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The facts are essentially not in dispute. The property is the subject of a residential development plan known as "Shorty Hills". The development is classified as minor subdivision under the applicable County subdivision regulations, and it will consist of 3 lots located on the south side of MD Rte. 27, Westminster. The property is zoned "A" Agricultural and "C" Conservation. On June 5, 2003, the County Commissioners adopted Ordinance 03-11, commonly referred to as the "deferral ordinance", which provides in relevant portion at Article I, § (i):

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*The submittal, acceptance, review, processing and approval of all major residential subdivisions, minor residential subdivisions in any district except for the Agricultural District, and site plans for residential development as these terms are defined under the Code shall be deferred for a period of twelve (12) months after the effective date of this Ordinance except for those plans approved by the Planning and Zoning Commission prior to the effective date of this Ordinance. (Emphasis Added)*

Although the Appellant was in the process of obtaining the necessary approvals of the plan from various county agencies, it had not received preliminary plan approval as of the effective date of the deferral Ordinance, which was June 10, 2003. On June 17, 2003, Steven C. Horn, Director of the Carroll County Department of Planning sent a letter to the Appellant notifying the Appellant of the adoption of the deferral Ordinance, and informing the Appellant that its "property is subject to the deferral, and therefore, all processing of the plan would cease as of June 10, 2003." The Appellant filed the written appeal from the letter to the Board under § 4.07 (d)(1) of Article 66B of the Annotated Code of Maryland and § 223-186 A (1) of our Code of Public Local Laws and Ordinances. The Appellant characterized the letter from Director Horn as, "an order, requirement or determination made by an administrative officer" concerning a land use matter under Article 66B or the Zoning and/or subdivision regulations found in our Code of Public Local Laws and Ordinances.

We are thus called upon to conduct our own review of the matter appealed from, and in doing so exercise our own judgment under the aforementioned provisions of law. We may affirm, reverse, or modify in whole or in part, the order or decision under review. We may issue our own order or decision, as we have "all the powers of the administrative officer from whom the appeal is taken." Article 66B, § 4.07 (h).

In the instant case, we find that "Shorty Hills" constitutes a preliminary plan for a minor subdivision consisting of three lots. The plan covers a parcel which is bisected into two zoning districts, namely the "A" Agricultural and "C" Conservation districts. In the preliminary plan for Shorty Hills, all lot yield from the "C" Conservation zoned portion was transferred to the "A" Agricultural zoned portion. Thus, the three lots are subject to all zoning and subdivision regulations applicable in the Agricultural zone, including lot size, setbacks, and the application of the County's Rural Development Guidelines.

Based upon the above, we find that the transfer of all lot yields to the Agricultural zone has rendered this to be, for all practical purposes, a minor subdivision in the Agricultural zone. It is subject to all the Agricultural zone's regulations, and therefore should be considered as a subdivision in that zone. The deferral ordinance (03-11) specifically exempts minor subdivisions in the Agricultural District, regardless of whether the plan has been approved by the Planning

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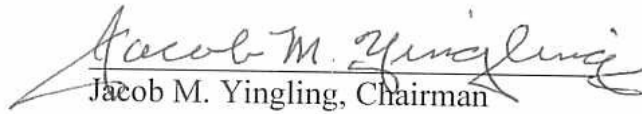
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and Zoning Commission prior to the adoption of the deferral. Accordingly, we respectfully conclude that it was an error on the part of the Director to advise the Appellant in the letter dated June 12, 2003, that the project was deferred. We therefore need not address the Appellant's other grounds for appeal on the County Planning Department's Motion to Dismiss.

For the foregoing reasons, the appeal is granted.

Oct 15, 2003  
Date

  
Jacob M. Yingling, Chairman