

Tax Map/Block/Parcel  
No. 74-13-681

Building Permit/Zoning  
Certificate No. 96-3332

Cases 4162 and 4072 Consolidated

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPELLANT:** Security Development Corporation  
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**REQUEST:** On remand from the Circuit Court for Carroll County to the Carroll County Board of Zoning Appeals to hear the Petition for Review of the Carroll County Planning Commission's ruling of March 28, 1996, denying Security Development Corporation's site plan for Phase 1, Section 4B of Carrolltowne Planned Unit Development subdivision for development of Parcel "A" into multi-family residential units pursuant to the approved Planned Unit Development of 20.408 acres

**LOCATION:** North of Kali Drive, east of Ridge Road in Election District 5

**BACKGROUND**

On November 17, 1995, the Board of Zoning Appeals received the application for appeal of the October 17, 1995, Planning Commission's decision denying the consideration of the appellant, Security Development Corporation's site plan for Section 4B of Carrolltowne Planned Unit Development. The Board held a hearing February 1, 1996, and on March 4, 1996, rendered its written decision. The March 4, 1996 decision affirmed the appeal in part and reversed and remanded the case in part. The Board directed the Planning Commission to review the applicant's site plan. The Board also directed the applicant to simultaneously provide an amended

subdivision plat to the Planning Commission and directed the Commission to approve the plat (See Board's decision Case 4172). On March 28, 1996, the Planning Commission denied the appellant's request for a second time and refused to approve the subdivision plat. On April 2, 1996, the appellant filed a Petition for Judicial Review in the Circuit Court for Carroll County, (Case No. C-96-22171). The appellant sought review of the Board's decision of March 4, 1996, and of the Planning Commission's decision of March 28, 1996. On July 26, 1996, the matter came before the Honorable Luke K. Burns on a hearing of the Planning and Zoning Commission's Motion to Dismiss the Petition for Judicial Review. Finding that the Board never heard the appeal of the Planning Commission's denial of March 28, 1996, the Court, by order dated September 9, 1996, remanded the case to this Board to hear the Petition for review of the Planning Commission's decision of March 28, 1996. After the Court's order and before the matter was remanded by the Clerk of the Circuit Court, the Board received (on October 9, 1996) an application filed by Security Development Corporation, (Case No. 4162) wherein Security Development Corporation sought review of the "denial by the Planning and Zoning Commission's decision of March 28, 1996, Applicant's Site Plan for Section B of Carrolltowne for development of Parcel A into multi-family residential units as part of a previously approved planned unit development: Appeals of denial by Carroll County Planning and Zoning Commission on October 17, 1995 and March 28, 1996 filed pursuant to remand of the Circuit Court for Carroll County on September 9, 1996, Case No. C-96-22171". As noted, the record in the file of 4162 reflected that the appeal was of the Carroll County Planning and Zoning Commission decision of March 28, 1996. It did not reflect that the appeal was first noted to the Circuit Court by the Security Development Corporation. The application for appeal did not indicate that there had been an appeal of the March 4, 1996, decision of the Board of Zoning Appeals and an appeal of the Planning Commission's March 28, 1996, decision.

These omissions caused the Board to believe the appeal was not timely filed and to issue a Show Cause Order directing the parties to show cause why the appeal noted as 4162 and dated September 9, 1996 should not be dismissed for not having been timely filed with the Board. The appellant filed its memorandum showing cause why the appeal should not be dismissed. The Board thereafter scheduled the matter for a hearing on appeal of the March 28, 1996 decision, having been directed to do so by the Court. The issue of the appeal of the Board's decision of March 4, 1996, is apparently still pending before the Circuit Court of Carroll County.

On February 25, 1997, the Board held a hearing consistent with the Order of the Court. The Board consolidated Cases 4162 and 4072 for the purposes of the hearing. At the close of the hearing, the Board continued its deliberation to April 10, 1997. The Board deliberated in open session and rendered its decision, affirming the decision in part and reversing the decision in part. The Board

extended the time for issuing its written decision. The following are the Board's findings and conclusions with respect to the remand noted as Case 4162.

### FINDINGS AND CONCLUSIONS

Security Development Corporation was before the Planning Commission for approval of a site plan for 254 apartment units on March 28, 1996, representing the final phase of the overall planned unit development of Carrolltowne. The site plan in question was before the Planning Commission on three other occasions; specifically, August 15, 1995, September 19, 1995 and October 17, 1995. The October 17, 1995, decision precipitated the appeal to the Board (BZA case 4072). The site plans reflects that the developer proposes to establish a 254 apartment units on Parcel A of Section 4B of Carrolltowne Planned Unit Development. Section 4B of Carrolltowne is part a 155 acre site that was approved as a planned unit development by the Carroll County Planning and Zoning Commission as far back as November 11, 1975, and again April 19, 1977. The project developed with the development units being single-family residences. The November 18, 1975, minutes of the Carroll County Planning and Zoning Commission reflect the conditions upon which the planned unit development was approved. The following are among the many conditions:

1. That any final plats submitted for the Commission approval prior to recordation be prepared in accordance with the subdivision regulations and policies of the Carroll County Planning and Zoning Commission.
- . . .
9. That the lots to be shown on any final plat and submitted to the Commission for recordation shall first be subject to an Official School Enrollment and Rated Capacity Schedule which will be approved by the Office of the Superintendent of Schools and the County Commissioners Office and shall be the basis for issuance of a required certificate from the Office of the Superintendent of Schools to the Commission that the result of the development of said lots will not materially compromise or adversely affect the existing school facilities by causing or aggravating any classroom overcrowding requiring part-time, double-session scheduling.
10. That either a "Memorandum of Assessment" or a certification from the State Fire Marshal's office be provided to the Commission indicating whether the result of development of said lots in the Sykesville Fire District would seriously compromise or reduce the effectiveness of the Sykesville Fire Department to provide adequate fire protection to the said district;

(b) require any provisions for additional fire stations, equipment, personnel, or other facilities.

- . . .
30. That the area shown for multi-family areas are approved only for location of land use and are subject to all of the applicable conditions stated herein.

In March of 1991, the Planning Commission approved a revision to the Carrolltowne Plan and the multi-family area. The southern portion of the area, known as Section 4A, was approved for 81 single-family lots. The remaining area was shown as future Section 4B. The remaining area was shown as multi-family. Condition 23 of the approval stated: "That the area shown on Section 4B be platted with the note stating that no building permits or zoning certificates shall be issued for the parcel until such time as the site development plan has been approved by the Carroll County Planning and Zoning Commission." (Emphasis added). Minutes of the meeting also reflect that "the Commission is giving notice of public school capacity difficulty resulting in overcrowding in the local school districts in which your subdivision is located. This may affect the required adequate public school facilities certification required prior to the approval of a final subdivision plat and may, in turn, result in the deferral of a final plat recordation. You will be notified at the earliest possible time, the necessity for and duration of any such deferral. In the meantime, we will continue to process your development plans." The Board concludes that the approval of the Planned Unit Development was conditioned upon compliance with the regulations in existence at the time the final plans are reviewed.

The record reflects that the Planning and Zoning Commission on March 28, 1996, received certification from the Board of Education regarding the schools serving the proposed site plan, indicating the following. Carrolltowne Elementary School has a local rated capacity of 575 full-time students. The September 1996 actual enrollment was 747 or 130% of the local rated capacity. Enrollment was projected to increase to 903 full time students, or 157% of the local rated capacity by the year 2001. The Sykesville Middle School has a local rated capacity of 855. The 1996 September enrollment was 1,137 or 133% of the local rated capacity. Enrollment was projected to increase to 1,658 full time students or 194% of the local rated capacity by the year 2001. The relief facility planned for the Sykesville Middle School was intended for occupancy for January 1997. The Liberty High School's local rated capacity was at 117% in 1996, 128% in 1997, with projected enrollment of 148% in 1999 and 158% in 2000. The relief facility for the high school is not funded, and is scheduled for the year 2000. The adequate facility certification from the State Highway Administration certified that Maryland Route 26 as approaching inadequate. The adequate facility certification from the County



Roads for Ridge Road and Kali Drive indicate that the development will not aggravate or create serious traffic conditions. Based on those certifications, the Planning Commission denied approval of the site plan.

The Board finds that the Planning Commission's denial of the site plan was proper and substantiated by the evidence. The Board hereby affirms the denial. The Planning Commission went further and declined to approve the subdivision plat as directed previously by the Board. Pursuant to Section 4.07 (h) or Article 66B of Annotated Code of Maryland, the Board hereby approves the revised subdivision plat.<sup>1</sup>

5/27/97

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Date



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James L. Schumacher, Chairman

IM/bmh/c4072dec.bmh  
May 21, 1997

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<sup>1</sup>Section 4.07 (h) of Article 66B provides: "In exercising the above-mentioned powers such board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the power of the officer from whom the appeal is taken."