

Westfield Neighborhood Improvement Association
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Baltimore City Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, MD 21202

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To Whom it May Concern:

The Westfield Neighborhood Improvement Association (WNIA) opposes subdivision approval for the Royston Gardens housing development, located within the boundaries of Westfield.

Regarding the development of land that encompasses a historic cemetery:

- JJ Royston LLC has not consulted with the Maryland Historical Trust regarding the development of land encompassing a cemetery more than 50 years old, as is required by Maryland State Law (MD Code, Real Property, § 14-121.1).
- The land slated for development encompasses Christopher Cemetery. There are extensively documented burials at this location. It is a known cemetery, in use from ca. 1773 to 1899. In family cemeteries of similar age and duration, there are usually between 50-90 identifiable burials, many unmarked, and almost all extending beyond the assumed boundaries. A small GPR survey performed on a tiny cleared portion of this lot identified nine intact graves, densely crowded. We have reports of graves and/or funerary monuments at several surrounding (private) properties, so we know that the cemetery boundaries are not precise. The cemetery is also described as "about a quarter acre" in the 1851 deed, and burials continued for 48 more years.

Section 5-505 Business Regulation Article of the Annotated Code of Maryland states that no land encompassing a cemetery may be developed for other purposes without a court hearing. While this legislation is commonly applied to commercial cemeteries, it is applicable to the Christopher Cemetery, whose establishment predates the commercial cemetery industry. 'Private/family' cemeteries of this period served the needs of the larger community, and evidence suggests that the Christopher farm (located adjacent to the cemetery) served at times as a religious meeting place for the Quakers. Active burials are as recent as 1899, and relatives are concerned about burial desecration. For example, Elijah Christopher, a veteran of the War of 1812, is buried in an unmarked grave on JJ Royston's property. Out of respect for Westfield residents and the Christopher Family, and in consideration of the families who may purchase these homes, we request that the Planning Commission's decision on this subdivision be deferred until it is determined that the development will not disturb human remains. Subdivision approval should be contingent upon the results of an archaeological survey of the site to determine the location of burials. The community has an interest in preserving Christopher Cemetery after the real boundaries of the cemetery are determined.

Regarding Forest Land and Waterways

- Baltimore City Planning Regulations (Baltimore City Code, Article 7, §2 & 3) state that a variance must be obtained for a development within 25 feet of a watercourse. There is a fresh water stream documented on maps beneath JJ Royston's property, which is a part of the Back River Watershed. Development plans state that there are "no streams, wetlands and/or channels on site." Residents living downhill from Royston's property have reported severe basement flooding, and cite the underground stream as the source. Some residents believe that the woods encompass a seasonal wetlands. Construction without proper precautions could disrupt water pathways and cause residential damage. WNIA would like the City to assess geological reports of the area before subdivision approval is granted, to verify whether a special variance for construction is required.
- The Baltimore City Forest Conservation Act (Baltimore City Code, Article 7, §41) requires development sites to minimize loss of existing forests and replenish tree coverage (prioritizing local reforestation). The acre of forest at this development site was assessed in 2015, and is outdated. It does not take into account tree growth in the last 3 1/2 years. The housing development's density, by design, does not prioritize the preservation of existing tree coverage, as is mandated in the Forest Conservation Act. Plans also do not compensate the community for the developer's unlawful clearing of trees in 2007 and do not prioritize local reforestation. The Royston Gardens development will clear the largest parcel of undeveloped forest in Westfield. This destruction of valuable tree canopy negatively impacts residents and represents a significant habitat loss for local wildlife. WNIA requests that the Forest Conservation Worksheet for Royston Gardens be revised to include compensation for the loss of mature trees when the woods were unlawfully cleared in 2007. We request that the 2015 forest assessment be updated to reflect forest growth in the last 3 ½ years (reflecting the forested area in 2018), and that the developer's forest conservation plan prioritize localized reforestation. WNIA would like to see a localized reforestation plan which compensates residents for the loss of a full acre of established urban forest.

Overall, the Westfield Neighborhood Improvement Association does not feel the Royston Gardens development benefits our neighborhood. Our mission is to add more green space to Westfield, and we feel that this development, and the unsettling disruption of a burial site, goes directly against our mission and goals as a community. The heritage value of the Christopher Cemetery and ecological value of a 1-acre forest patch hold importance to residents, and are assets the community would like to retain. The Planning Commission should weigh seriously the community's strong opposition to this development.

Sincerely,



Angela Jancius, Ph.D.

President, Westfield Neighborhood Improvement Association (WNIA)

Effective: June 1, 2018, MD Code, Real Property, § 14-121.1

§ 14-121.1. Burial site owner consultation with the Maryland Historical Trust

“Burial site” defined

(a) In this section, “burial site” has the meaning stated in § 14-121 of this subtitle.

Proper treatment of markers, human remains, and environment surrounding the burial site

(b) An owner of a burial site or of the land encompassing a burial site that has been in existence for more than 50 years and in which the majority of the persons interred in the burial site have been interred for more than 50 years shall consult with the Director of the Maryland Historical Trust about the proper treatment of markers, human remains, and the environment surrounding the burial site.

Advice not binding

(c) Advice provided by the Maryland Historical Trust under this section is not binding on the owner of the burial site.

Credits

Added by Acts 2018, c. 506, § 1, eff. June 1, 2018; Acts 2018, c. 507, § 1, eff. June 1, 2018.

MD Code, Real Property, § 14-121.1, MD REAL PROP § 14-121.1

Current through all legislation from the 2018 Regular Session of the General Assembly

Subtitle 5 - Cemetery Property

§ 5-505. Action for sale of burial ground for another purpose

Universal Citation: MD Bus Reg Code § 5-505 (2017)

- (a) Authorized. -- An action may be brought in accordance with the Maryland Rules and a court may pass a judgment for sale of a burial ground for another purpose if:
 - (1) the ground has been dedicated and used for burial;
 - (2) burial lots have been sold in the burial ground and deeds executed or certificates issued to buyers of the lots;
 - (3) the ground has ceased to be used for burial; and
 - (4) it is desirable to dispose of the burial ground for another purpose.
- (b) Action by court. -- If the court is satisfied that it is expedient or would be in the interest of the parties to sell the burial ground, the court:
 - (1) may pass a judgment for the sale of the burial ground on the terms and notice the court sets;
 - (2) shall order that as much of the proceeds of the sale as necessary be used to pay the expenses of removing any human remains in the burial ground, buying burial lots in another burial ground, and reburying the remains; and
 - (3) shall distribute the remaining proceeds of the sale among the parties according to their interests.
- (c) Effect of judgment. -- A judgment for the sale of a burial ground passes to the buyer of the burial ground the title to the burial ground free of the claims of:
 - (1) the owners of the burial ground; and
 - (2) the holders of burial lots.

Baltimore City Code. Article 7: Natural Resources

§2-6 Unmapped streams

- (a) Minimum flood protection setback

If development is proposed in vicinity of an unmapped stream that has no delineated base floodplain, a minimum of a 25-foot flood protection setback from the streams bank may be used.

(b) State Permits

State permits may be required. Applicants should request the state water management administration for a determination of whether its permit requirements apply.

(c) Variances

Variances may be applied under Subtitle 5 (floodplain variances) of this Division 1. (City Code 2000, art. 2-6)

§3-15 Watercourses

(a) Variance required to alter

In all floodplain zones or areas within 25 feet from a water course, any development that proposes to alter a water course must obtain a variance under Subtitle 5 ("Floodplain Variances") of this Division 1.

(b) Conditions for Encroachment to be minimized.

All conditions for encroachment in the Floodway must be minimized.

(c) Required notices.

Adjacent communities and property owners, FEMA, and the State Water Management Administration must be notified of any application.

§3-16 Flood Protection Setback

(b) Stream with no floodplain

(1) A minimum 25-foot flood-protection setback must be maintained from the top of the bank of any stream that has no designated floodplain.

(2) Natural vegetation must be maintained and, if necessary, trees planted.

Baltimore City Code, Article 7, §44 Baltimore City Forest Conservation Act

§44-2 Retention of Existing forest.

In developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest on the site. If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the full satisfaction of the Department how techniques for retention have been exhausted.

§44-5 Cutting Prohibited Pending Approval

If a forest conservation plan is required by this Division IV, a person should not cut, clear, or grade on the development site until the Department has approved the plan.

§45-1 Preference for retention.

After every reasonable effort to minimize the cutting of trees and other woody plants is exhausted in the development of a subdivision plan, and/or grading and sediment control plans, the forest conservation plan shall provide for reforestation or afforestation.

§45-2 Sequence for reforestation, etc.

The required sequence for reforestation or afforestation, after techniques for retaining existing forest on the site have been exhausted, is as follows:

- (1) On site reforestation or afforestation, as specified in the Baltimore City Forest Conservation Manual;
- (2) Off site reforestation or afforestation within the City shall be as specified for on-site reforestation, and
- (3) Payment into the City Forest Conservation Fund.