

Michael Greenebaum, representative of the Developer, attended the HOH in support of the Redlined Development Plan. Patricia A. Malone, Esquire, Adam Rosenblatt and Venable, LLP represented the Developer. Alan Zukerberg, Esquire, President of Pikesville Communities Corporation (an umbrella corporation which includes a number of local community associations) was in attendance. Dennis Soper, Esquire, a member of the Board of Directors of the Pikesville Communities Corporation was also in attendance.

AGENCY WITNESSES

Numerous representatives of the various Baltimore County agencies who reviewed the Redlined Development Plan attended the hearing, including the following individuals from PAI: Darryl Putty, Project Manager; James Hermann representing Development Plans Review (“DPR”) and Recreation and Parks (“R&P”); Michael Viscarra representing DPR and Department of Public Works (“DPW”); LaChelle Imwiko of Real Estate Compliance (“REC”); Brett Williams of Department of Planning (“DOP”); Steve Ford of Department of Environmental Protection and Sustainability (“DEPS”); and Gary Husik of the Office of the Zoning Review (“OZR”).

Each County agency representative indicated the Redlined Development Plan addressed all comments submitted by their agency and each recommended approval. Specifically, Mr. Hermann testified that a Schematic Landscape Plan was approved on January 14, 2021. (County Exhibit No. 1). He testified that in Phase II of the development process, he will review a photometric plan which will focus on the impact of proposed lighting on adjacent communities. On behalf of R&P, Mr. Hermann clarified that because this is a commercial use, there are no open space requirements or Master Plan greenway issues.

Michael Viscarra of DPR and DPW testified that there were no outstanding issues affecting the road, the site, the grading, flood plains, water or sewer connections and therefore both DPR

and DPW recommended approval of the Redlined Development Plan. In response to cross examination by Alan Zukerberg, Mr. Viscarra confirmed that there was no need for a second entrance from Reisterstown Rd. into the Property because the average number of daily trips was insufficient. He testified that the proposed entrance into the Property from Woodholme Center Circle is appropriate. Mr. Zukerberg asked Mr. Viscarra about: the possible future road access for Castleton Avenue in the rear of the Property (northeastern); whether Castleon Avenue and Keller Rd. off of Reisterstown Rd. were public or private roads; the turning radius at the entrance into the Property; and a traffic study for the PUD Project.

LaChelle Imwiko testified that she reviewed the Redlined Development Plan in regard to the proposed and existing right of ways. At her request, a Dedication Table was added for easements concerning drainage and utility, storm water management, forestation and floodplains. (Pet. Ex. 1A). In response to cross examination by Mr. Zukerberg, Ms. Imwiko testified that the revisions were submitted on January 19, 2021.

Brett Williams testified on behalf of DOP and stated that there was no Adequate Public Facilities Ordinance School Impact Analysis because this is an office building. DOP prepared a HOH Final Report dated January 14, 2021 which stated that the PUD Project met the requirements of BCZR, Master Plan 2020, Comprehensive Manual of Development Policies (“CMDP”), the Compatibility Objectives BCC, §32-4-402, and the mitigation impact analysis under BCC, §32-4-243(b)(3). (County Ex. 2). DOP further found that the proposed Modification of Standards as set forth in the Developer’s Revised Pattern Book, p. 30 do not adversely impact the surrounding community. (Dev. Ex. 2). Mr. Williams confirmed that the DOP’s condition as set forth in the HOH Final Report (that all signage details should be included in the Pattern Book) was included as Note 42 on the Redlined Development Plan. (Dev. Ex. 1A, Note 42). Finally, the DOP

recognized the proposed Community Benefit of “Silver” rating according to the U.S. Green Building Council’s LEED Green Building System and the addition of pathways and walkways in and around Woodholme Center, where possible, to increase the overall walkability of the center and its connectivity to the adjacent communities. (County Ex. 2).

Steve Ford from DEPS testified on behalf of Storm Water Management (“SWM”), Environmental Impact Review (“EIR”) and Ground Water Management (“GWM”). SWM approved the Concept SWM Plan on March 12, 2020 and the Development SWM Plan on May 20, 2020. (County Ex. 3). On behalf of EIR, Mr. Ford provided the DRC Comments dated October 28, 2020 which indicated that EIR will review Grading and Sediment Control Plans, a Final Forest Conservation Plan and a Final Forest Buffer Protection Plan during Phase II prior to permit approval. (County Ex. 4). He stated that the Redlined Development Plan reflected all corrections/additions requested by EIR. (Pet. Ex. 1A). Finally, on behalf of GWM, the PUD Project will be connected to public water and sewer, and therefore, no comments were made. (County Ex. 5). In response to Developer’s question, an Application for a Forest Conservation Variance for one (1) specimen tree located on northwestern Property line was requested and approved. (Dev. 12, 13, 14).

Finally, Gary Hucik testified on behalf of OZR and stated that the Redlined Development Plan under the BL zoning designation did not require a new Resolution from the County Council.

¹ In response to cross examination by Mr. Zukerberg, Mr. Hucik testified that the amount of parking spaces required for the OR zone and the BL are the same (3.3 spaces/1000 sf).

DEVELOPER’S CASE

Testifying on behalf of the Developer was Stacy McArthur, who was accepted as an expert

¹ BCC, §32-4-245(e) “Amendments” was enacted to address this issue.

in landscape architecture, in BCZR, and in BCC in regard to development. (Dev. Ex. 3). Ms. McArthur testified that she prepared and sealed the Redlined Development Plan (Dev. Ex. 1A and 1B) and she prepared the Pattern Book (Dev. Ex. 2). She testified that the Redlined Development Plan addressed all concerns from the County agencies. In response to comments received at the Community Input Meeting, the Redlined Development Plan was amended so as to reflect those comments. (Pet.1B, Note 34).

The Property is a 2.7 acre vacant piece of land which was previously improved with a home and accessed from Reisterstown Rd. via an unpaved roadway (Castleon Avenue). (Dev. Exs. 1A; 2, p.11; and 6). An aerial photograph of the area reveals a mix of commercial, retail, medical, and housing and includes the shopping center known as The Festival at Woodholme. (Dev. Ex. 6). Most of the immediate properties have already been developed. To the north and northwest of the Property is Grey Rock residential community; to the east and northeast is Life Bridge Health and a medical office building; to the west are 4 single family homes bordering on Keller Road; and to the east and southeast is the office building addressed as 1829 Reisterstown Rd. and a Barnes and Noble. (*Id.*).

During the 2020 Comprehensive Zoning Map Process (CZMP), the zoning of the Property was changed from Office Building-Residential (OR-2) to Business-Local (BL). There is a T-5 Urban Center Zone attributed to the Property which is defined as having higher density mixed use and accommodates retail, office and residential uses.

Ms. McArthur explained that the proposed PUD Project has been reduced in size from a 65,000 sf office building with a restaurant on the first floor (per Resolution 73-18, Dev. Ex. 4) to a 56,000 sf office building. (Dev. Ex. 4). The proposed building is a 3-story office building which will face Reisterstown Rd. (Dev. Ex. 7). The proposed Community Benefit is to achieve at least a

“Silver” rating according to the U.S. Green Building Council’s LEED Building System. (*Id.*) As an additional benefit, she relayed that the Developer is proposing to add pathways and walkways in and around Woodholme Center, where possible, to increase the overall walkability of the center and its connectivity to the adjacent communities. (*Id.*) She stated that this Community Benefit was added as Note 41 to the Redlined Development Plan. (Pet. Ex. 1B). The pathways and walkways were superimposed in red on an aerial photo of the Property and the adjacent Woodholme Center. (Dev. Ex. 5).

As referenced on the Redlined Development Plan, there is a notation about a “possible future connection” from northeastern side of the Property to a County-platted, public, paper road known as ‘Castleton Avenue’. Ms. McArthur explained that the Developer took the initiative to file a Road Closing Petition to terminate Castleton Ave. from the Property to Greene Tree Rd. (Dev. Ex. 8). That portion of Castleton Avenue which was closed is owned in two places by Baltimore County; the other portion is owned by a Delaware limited liability company named HSRE-CAPMED Woodholme MOB, LLC (“HSRE”). By Order dated September 30, 2020, OAH ordered the requested portion of the road to be closed. (Dev. Exs. 1A and 9). Ms. McArthur explained that the notation for a ‘future connection’ on the Redlined Development Plan is for a possible parking area and not for a thoroughfare to Greene Tree Rd., and is also dependent upon obtaining access easements from both Baltimore County and HSRE. (Pet. Ex. 1A). On the west side of the Property is a private road labeled as ‘Castleton Ave.’ which is accessed from Reisterstown Rd. and serves as a right of way to several undeveloped parcels. (Dev. Ex. 1A; Dev. Ex. 2, p. 11).

The details of the PUD Project are depicted on a Rendered Development Plan. (Dev. Ex. 7). It shows proposed on-grade parking lots, an underground parking lot, and one access point

into and out of the Woodholme Center Drive. There are 3 proposed on-grade storm water management facilities and one underground facility. The Application for Special Variance was to remove one (1) white mulberry (an invasive species) specimen tree which measures 38 ½ diameter. Ms. McArthur described this tree as having a huge cavity in its trunk. The location of that tree is on the northwestern side of the Property and sits on the property line as depicted on a Site Plan to Accompany A Special Variance. (Dev. Ex. 13). Ms. McArthur confirmed that DEPS approved the Special Variance, having met the requirements of BCC, §33-3-116. (Dev. Ex. 14).

Ms. McArthur testified that the Developer is requesting the following Modification of Standards which are listed on the Redlined Development Plan (Dev. Ex. 1A and 1B) as well as in the Pattern Book (p. 30) (Dev. Ex. 2):

1. Parking – BCZR, §409.6.A.2: to allow 175 parking spaces in lieu of the minimum of 185 spaces. For general office space, BCZR requires 3.3 spaces per 1,000 sf. Ms. McArthur opined that 175 spaces was an adequate number of parking spaces for this office building. In the event that an additional 10 spaces are needed, the Developer will permit parking in the adjacent parking lots at 1829 Reisterstown Rd. which is also owned by the Developer and/or a related entity. It was Ms. McArthur’s opinion that the modified parking will not impact the surrounding the uses which are commercial, medical and residential in nature. She explained that, other than the parking available at 1829 Reisterstown Rd., the tenants of the proposed office building will not be parking in the residential surrounding streets or in parking lots of other commercial properties. She emphasized that the modified parking is needed for this vacant piece of property which is irregular in shape, is an infill development with grading challenges and has wetlands and floodplains. She also stated that the modified parking was in the public interest in order to bring this Class A office building to the area.

2. Signs – BCZR, §450: to allow two (2) wall-mounted identification signs on the building, to allow three (3) wall-mounted enterprise signs on the building and to allow two (2) wall-mounted building address signs as depicted in the Pattern Book. (Dev. Ex. 2, pp 31-34). Ms. McArthur opined that these signs will have no adverse impact on the surrounding uses and are in the public interests. She testified that the signs are minimal, there is no sign facing the residences along Keller Rd., while the signs facing Reisterstown Rd. are consistent with other commercial signs along Reisterstown Rd. including the signs on 1829 Reisterstown Rd. Due to the many commercial uses in and around the Property, the tenant identification enterprise and address signs are in the public interest because the signs provide both advertising and location for tenants of the proposed building.

3. Keller Road – Widening Sidewalks - Waiver: to waive the requirement to widen and provide sidewalks along Keller Rd. Ms. McArthur explained that this waiver does not adversely impact the residential community along Keller Rd. and is in the public interest because there is no direct access or use of Keller Rd. by the PUD Project. Rather, there will be a dedicated right of way.

4. Landscape Manual – to provide reduced widths for landscaped areas adjacent to residential properties, interior parking lot medians, and at the base of retaining walls. Landscaping is provided as depicted in the Rendered Development Plan (Dev. Ex. 7). The Schematic Landscape Plan was approved by the County on January 14, 2021. (County Ex. 1). Ms. McArthur testified the proposed modification to landscaping requirements will not adversely impact the surrounding uses as for example, landscaping will be planted along boundary with Grey Rock. To the contrary, the Developer worked with the Grey Rock community to eliminate a proposed privacy fence on the northern boundary and to add landscaping as requested by Grey Rock on its property. Ms.

McArthur testified that the landscaping modification is in the public interest in that it improves this vacant Property with landscaping buffers between the Property and neighboring uses. Additionally, due to the unique shape of the Property which reduces the buildable area and parking lots, it is thereby necessary to reduce the required landscaping within the parking lots.

In regard to whether the Redlined Development Plan meets the Compatibility Objectives under BCC, §32-4-402(d), Ms. McArthur testified that it met each factor.² Specifically, she stated that the ‘neighborhood’ boundaries as required under BCC, §32-4-402(a) is depicted in red on an aerial photograph. (Pet. Ex. 2, p.38). The Compatibility Analysis is set forth in the Pattern Book at pp. 39-40. (Dev. Ex. 2). A rendering of the proposed building is in the Pattern Book at pp. 19-22. (Dev. Ex. 2). It will be oriented toward Reisterstown Rd. similar to the office building at 1829 Reisterstown Rd.

As to the required factors in BCC, §32-4-245(c), Ms. McArthur testified that the Redlined Development Plan meets all of the standards of Section 245 as required under BCC, §32-4-245(c)(1). She stated that it also conforms to the special exception factors in BCZR, §502.1 A – F as follows:

- (A) the PUD Project will not be detrimental to the health, safety and general welfare of the locale as it is in an existing office setting with the building footprint located as far as possible from the neighboring homes with additional landscape screening provided;
- (B) it will not cause congestion in the roads, streets or alleys as there is one ingress/egress point into the Property and the traffic is directed in an efficient manner by way of directional arrows to and from the parking lots;
- (C) it will not cause fire, panic or other danger as the building will meet all fire codes;

² There is a legal issue as to whether a commercial PUD must meet the Compatibility Objectives of BCC, §32-4-402(d). Under BCC, §32-4-245 (c)(4), residential uses are permitted for a General Development PUD under BCZR, §430.3.B.1, subject to Compatibility requirements of BCC, §32-4-402. There does not appear to be an express requirement for a commercial PUD to meet these factors. Notwithstanding the lack of express language, DOP acknowledged receipt of a Compatibility Report dated September 23, 2020 in its HOH Report (County Ex. 2) and confirmed that the Redlined Development Plan met all those objectives. BCC, §32-4-402(d).

- (D) there will not be an undue concentration of population as the zoning permits 350,000 sf but the proposed building is only 56,000 sf;
- (E) it will not interfere with public improvements as there are no deficiencies in public water and sewer or public transportation (Dev. Ex. 10A-C); and
- (F) this 3-story building will not interfere with light and air as it will not cast shadows on neighboring residences.

Finally, she opined that the PUD Project will constitute a good design, use and layout as depicted in the Rendering of Development (Dev. Ex. 7). The proposed façade of metal and glass will mirror the recently renovated 1829 Reisterstown Rd. as shown on the building rendering in the Pattern Book (pp. 17-26). [BCC, §32-4-245(c)(2)].

With regard to BCC, §32-4-245(c)(3), Ms. McArthur emphasized that the Developer of this Property also developed the office building at 1829 Reisterstown Rd., the adjacent Woodholme Campus which includes the retail shopping center ‘The Festival at Woodholme’ and the Greene Tree residential communities. As a result, she believed there would be a reasonable expectation that the proposed development would be developed to the full extent of the Redlined Development Plan. Additionally, Ms. McArthur opined that the PUD Project is in compliance with BCZR, §430 because the proposed office building is a permissible use in the BL zone. (BCC, §32-4-245(c)(4).

Finally, it was Ms. McArthur’s opinion the PUD Project is in conformance with the 2020 Master Plan as confirmed by the DOP in their HOH Report (County Ex. 2). She added that the PUD Project meets the T5 Urban Center Zone concepts which includes office space.

Mr. Zukerberg cross examined Ms. McArthur on several issues. Ms. McArthur stated that there would be no sign facing the Grey Rock community on the northern side of the Property. On the western side facing Reisterstown Rd., and on the eastern side facing Greene Tree Rd., she testified that there will be identification signs for the Developer, tenant enterprise signs, and

address signs above the entrances. On the southern elevation, tenant enterprise signs will be visible.

Mr. Zukerberg asked about open space requirements and Ms. Arthur confirmed that while there will be areas of open space around the parking lot as integrated into the design and layout, 'open space' is not required under the BL zone. Ms. McArthur also verified that adjacent parcels (parcels labeled as 'P313', P426, P97) are not owned by the Developer and there are no options to purchase those parcels. However, the Developer did own 9 Keller Rd. (aka P427).

Mr. Zukerberg also inquired as to the proposed sidewalks connecting to the neighboring Woodholme Center (Dev. Ex. 5). Through his questioning, Mr. Zukerberg alluded to the fact that he was concerned about people parking in the Life Bridge parking lot and walking over to the proposed building, particularly in light of the requested parking modification. Consequently, he inquired as to the possibility of erecting a fence between Life Bridge and the Property. In response, Ms. McArthur responded that no sidewalk was proposed from the Property to the Life Bridge property because the design concept is to integrate the office park and not to add barriers between properties. Moreover, she testified that benches, tables and trash receptacles would be provided as amenities to the proposed building. (Dev. Ex. 2, p. 35).

The next witness to testify for the Developer was Mickey Cornelius who was accepted as an expert in traffic and in the development and zoning regulations. (Dev. Ex. 15). In summary, Mr. Cornelius opined that any traffic generated by the PUD Project meets all the County development regulations and requirements. Mr. Cornelius prepared a Traffic Impact Analysis (the "Traffic Report"). (Dev. Ex. 16). He relied upon the County's traffic counts and level of service designations. He explained that the four (4) intersections impacted by the PUD Project comprised the study area and that the County rated those intersections at a level of service of 'C' or better as

follows: 2 of those intersections performed at an ‘A’ level of service and 2 performed at a ‘C’ level of service. (*Id.*). He explained that a level of service of ‘D’ or better during weekday morning and evening peak hours is the industry standard. Mr. Cornelius explained that he conducted his own supplemental traffic counts in May of 2019 to evaluate existing and future traffic conditions in accordance with State Highway Administration (“SHA”) standards for a 65,000 sf office building. In his analysis, he considered another future project at the Castleton property which was for a 16,000 sf office building. As a result, he factored in the traffic counts for that project. Based on his traffic counts, he opined that the Property is not located in a deficient traffic zone. His analysis showed each of those intersections are projected to maintain acceptable levels of service of ‘D’ or better during weekday morning and evening peak hours.

Based on the Traffic Report, Mr. Cornelius opined that the PUD Project will not cause congestion in the roads, streets or alleys. [(BCC, §32-4-245(c)(2) and BCZR, §502.1(B)]. In summary, Mr. Cornelius testified that there is not a large amount of traffic that will be generated from the PUD Project; there will be no appreciable traffic difference with or without the PUD Project.

In support of the request for parking modification, Mr. Cornelius also conducted a parking study in 2018 of 1829 Reisterstown Rd. (the “Parking Study”). He did this to determine whether that property had 10 additional spaces available. (Dev. Ex. 17). Mr. Cornelius testified that the Developer’s ownership of both the proposed office building and 1829 Reisterstown Rd. will permit parking overflow, if needed. The Parking Study was conducted with drones monitoring the parking lots at 1826 Reisterstown Rd. every ½ hour between 6:00 am and 6:00 pm and it confirmed that there is ample parking at 1829 Reisterstown Rd.

Finally, Mr. Cornelius performed an analysis of Site Distance from the Property to

Woodholme Center Circle. He testified that for a vehicle exiting the Property, the Stopping Sight Distance looking left or right is 200 ft. (Dev. Ex. 18). He explained that Stopping Sight Distance is the distance needed to stop before a collision occurs with a car driving 30 mph.

Mr. Zukerberg inquired of Mr. Cornelius whether the sidewalks and crosswalks to be installed would cause safety issues. In response, Mr. Cornelius stated that adding sidewalks from the parking lots at 1829 Reisterstown Rd. to the Property makes it safer for pedestrians. Mr. Zukerberg questioned the distance from the parking lots at 1829 Reisterstown Rd. to the Property. Mr. Cornelius responded that Parking Lot D (the farthest parking lot from the Property) was approximately 400-500 ft. away. He also added that Keller Rd. was never an option for access to the Property due to lack of a traffic signal there. Mr. Cornelius clarified that the traffic count was conducted during one (1) day - Thursday, May 16, 2019; the weather was sunny and warm. He added traffic counts are conducted during on either (Tuesdays, Wednesdays or Thursdays) and that this provides a sufficient amount of data. He explained that the County's traffic counts were conducted at Hooks Lane/Green Tree Rd. (7/10/17); Grey Rock Rd./Reisterstown Rd. (9/19/2016); Hooks Lane/Reisterstown Rd. (1/16/2018); and Reisterstown Rd./Woodholme Center Circle (10/2/2017). He responded to questions about the level of service designations and verified that the County assigned the specific level of service to each intersection.

In response to questions by Dennis Soper, Esquire, about whether the Traffic Study factored in the additional traffic that will come from the 147 unit residential development project of the Fairways at Woodholme which will affect the intersection of Reisterstown Rd. and Mt. Wilson Lane, Mr. Cornelius responded that, because the Fairways at Woodholme plan has not been approved as of the date of this hearing, it is not included according to SHA standards.

Also testifying for the Developer was Michael Greenebaum, the President of Greenebaum

Enterprises, the Developer of the PUD Project as well as Woodholme Center and Greene Tree residential subdivisions. Mr. Greenebaum was admitted as an expert in real estate development. Mr. Greenebaum testified that the PUD Project will provide a Class A office building. He said that there is a market demand for such quality office space on Reisterstown Rd. near I-695. The development of the PUD Project will bring jobs to the Pikesville area which, in turn, will benefit Woodholme Center and surrounding businesses. He further reiterated that 175 parking spaces is more than adequate for this office building. If 10 more spaces are needed, the parking lot of the recently renovated building at 1829 Reisterstown Rd. is available. It was his opinion that the amount of parking required for an office building under the BCC creates too much impervious surface. He advocated for walkability and connectivity; not fences or barriers between buildings.

In response to cross examination by Mr. Zukerberg, Mr. Greenebaum acknowledged that, although he authorized and incurred the expense of filing the Application for the Road Closing of Castleton Avenue, the Developer does not own that land. He agreed that he wrote a letter dated August 11, 2020 to Councilman Patoka in which he acknowledged that it was not his intent to reopen Castleton Avenue. (Prot. Ex. 1). In response to cross examination by Mr. Soper, Mr. Greenebaum explained that the size of the proposed building was reduced from 65,000 sf to 56,000 sf when the restaurant was eliminated.

The final witness to testify for the Developer was Lawrence Levin, the President of Grey Rock Villas Condominium Association, 8823 Howard Forest Lane, Pikesville, MD 21208 (“Grey Rock”). Mr. Levin testified that the Developer in this case has been cooperative and responsive to the concerns of Grey Rock. For example, the Developer agreed to relocate the dumpsters; agreed not to install cell phone or microwave towers on the roof of the office building; and eliminated a proposed privacy fence on the northwestern Property line with Grey Rock. In addition, Grey Rock

is in discussion with the Developer to have additional trees planted on Grey Rock's property.

COMMUNITY WITNESS

Alan Zuckerberg and Dennis Sober declined to testify in this case. Mr. Zukerberg did put into evidence a document he prepared entitled "Opening Statement" dated January 21, 2021. (Prot. Ex. 2).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Hearing Officer may approve a PUD Development Plan only upon finding:

- (1) The proposed development meets the intent, purpose, conditions, and standards of this section;
- (2) The proposed development will conform with Section 502.1.A, B, C, D, E and F of the Baltimore County Zoning Regulations and will constitute a good design, use, and layout of the proposed site;
- (3) There is a reasonable expectation that the proposed development, including development schedules contained in the PUD development plan, will be developed to the full extent of the plan;
- (4) Subject to the provisions of § 32-4-242(c)(2), the development is in compliance with Section 430 of the Baltimore County Zoning Regulations; and
- (5) The PUD development plan is in conformance with the goals, objectives, and recommendations of the Master Plan, area plans, or the Department of Planning.

B.C.C. §32-4-245(c)(1)-(5).

In this case, without repeating all the evidence reiterated above while incorporating that evidence as my findings herein, I find that the Developer presented uncontroverted evidence establishing each of the above elements and specifically that the PUD Project meets the intents, purpose, conditions, and standards of B.C.C. §32-4-245. [BCC, §32-4-245(c)(1)]. I find clear evidence exists that the PUD Project satisfies the BCZR, §502 A-F (special exception requirements) as reiterated by Ms. McArthur, and will constitute a good design, use and layout as set forth in the Rendering of the Development Plan (Dev. Ex. 7) and the building rendering (Dev.

Ex. 2, pp 18-25). [BCC, §32-4-245(c)(2)]. I also agree that, given the successful development of 1829 Reisterstown Rd., the Festival at Woodholme, as well as Greene Tree residential development, the Developer has a long history and experience for developing projects in this community. Accordingly, I find that there is a reasonable expectation that the Developer is invested in this area and that the PUD Project will be developed to the full extent of the Redlined Development Plan. [BCC, §32-4-245(c)(3)].

With regard to BCC, §32-4-245(c)(4), it is clear that the proposed PUD Project is a permitted use under BCZR, §430.3 (General Development PUD) because an office is a permissible use in a BL zone. Finally, in regard to BCC, §32-4-245(c)(5), I find that the PUD Project is in conformance with the goals, objectives and recommendations of both Master Plan 2020, including the T-5 Urban Center Zone and the DOP's recommendation as set forth in the Final HOH Report (County Ex. 2). The uncontroverted testimony by DOP was persuasive that the goals and objectives have been met.

With regard to the Modifications, I incorporate and refer to the list of Modifications itemized by the Developer in the Pattern Book. (Dev. Ex. 2, p. 30; Dev. Ex. 11). I have carefully considered the impact of each of these Modifications on surrounding uses and find that there is no adverse impact. Specifically, the size and unique configuration of the Property makes the parking and landscaping Modifications necessary. The sign Modifications do not adversely impact either the neighboring residential or commercial properties but rather identifies and directs people to the Property. The waiver for sidewalk widening on Keller Rd. is not detrimental to those residences as there is no access to the Property from Keller Rd.

I find that the Modifications are in the public interest as they are *de minimis* in the overall design concept for this infill development. The addition of the storm water management facilities,

the protection of environmental resources, the addition of landscaping to buffer the nearby residences, and construction of a Class A office building is in the public interests as it will improve this vacant piece of land which is adjacent to Woodholme Center and the Festival at Woodholme shopping center. As such, the PUD Project is a natural connection to existing commercial uses while not being intrusive upon the residential communities.

I also find that the Modifications are necessary to achieve the intent and purpose of BCC, §32-4-245 which is to provide development of substantially higher quality than a conventional development could achieve. The Modifications are also necessary and integral part of the layout and to the ultimate successful development of the PUD Project. Additionally, I find that the Modifications are also necessary in order for that the PUD Project will comply with other standards such as the Compatibility objectives in BCC, §32-4-402(c) and Master Plan 2020's T-5 Urban Center Zone which includes office space.

In regard to Application for Special Variance, I find that the Developer would suffer an unwarranted hardship if the single white mulberry (specimen) tree on the western Property line is not removed. The undisputed evidence was that the tree is in poor condition, with a hole in its trunk. Further, the tree is not located in a forest; it stands alone. The limited size and unique shape of the Property makes the removal of this specimen tree necessary for the improvements to be constructed. The Developer has met all of the required variance criteria as set forth BCC, §33-3-116(d) and (e).

Finally, I accept the proposed community benefit of a providing a "Silver" rating according to the U.S. Green Building Council's LEED Green Building System and the construction of pathways and walkways in and around Woodholme Center, where possible, to increase the overall walkability of the center and its connectivity to the adjacent communities. The proposed

community benefit provides additional safety mechanisms which are in the general welfare of the community and are reasonable, necessary and consistent with the intent and purpose of the PUD regulations. (BCC, Title 32, Part IV).

In light of the testimony and evidence presented, I find that the PUD Project should be approved as proposed on the Redlined Development Plan.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this 4th day of **February, 2021**, the Redlined Development Plan as set forth on the 2-Sheet Redlined Development Plan (Dev. Ex.1A and 1B) for the PUD Project is hereby **APPROVED** consistent with the comments contained therein; and it is,

FURTHER ORDERED that the Application for Special Variance for the one (1) white mulberry tree as specified on Dev. Exs. 12, 13, and 14 is **APPROVED** consistent with the DEPS' Special Variance Approval (Dev. Ex. 14).

The relief granted herein shall be subject to the following:

1. The Developer and any subsequent owner of 1829 Reisterstown Rd. shall permit parking on that property for the PUD Project, if needed.

Any appeal of this Order shall be taken in accordance with BCC, §32-4-281.

Signed _____
MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlm