

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(2006 Far Out Lane)		
5 th Election District	*	OFFICE OF
3 rd Council District		
Flying J. Ranch, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2019-0255-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Hearing filed on behalf of The Flying J Ranch, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) seeking a declaration to permit the non-density transfer of 2.53 acres of a 6.33 acre subject property to the adjoining property owned by Beste Pond Farm, LLC (“Beste”). The subject property and Beste’s property are zoned Resource Conservation (RC 2), and the proposed non-density transfer will not alter the density of the Petitioner’s property or Beste’s property. The public hearing on the Petition opened on May 10, 2019 before Administrative Law Judge Beverungen. Robert Porter, Esquire represented the Petitioner. J. Carroll Holzer, Esquire, represented a number of the adjacent property owners (“Protestants”). A site plan was marked and admitted as Petitioner’s Exhibit 1. The site plan filed with the Petition was revised to reflect a change in the location of the proposed lot line pursuant to an agreement of the Petitioner and the Protestants. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Comments (“ZAC”) were received from any of the County reviewing agencies.

Prior to any testimony at the public hearing, the Protestants voiced their primary concerns with the Petition. The concerns included anticipated impacts that the proposed non-density transfer

and lot line adjustment would have on Far Out Lane, a private use-in-common lane, increased traffic, utilization of Far Out Lane for access to and from Akehurst Lane, a public road, and potential disturbance to their secluded, peaceful enjoyment of their properties. Recognizing the issues and concerns of the parties, ALJ Beverungen granted a joint motion for a continuance to give the Petitioner and the Protestants the opportunity to reach agreement and to achieve a resolution of the parties' concerns prior to continuing the hearing. Per the recorded notes of ALJ Beverungen on May 10, 2019,

“Case was opened & continued on May 10, 2019 at request of counsel. Messrs. Holzer & Porter sought continuance to have time to meet with their clients & hopefully reach an agreement that would resolve the case. Two neighbors were copied on memo that were not represented by Holzer and requested that they be copied on any future correspondence”.

After several months of discussion, the Petitioner and the Protestants reached agreement through an executed Memorandum of Understanding (“MOU”). A redacted copy of the signed MOU was entered into evidence as Petitioner’s Exhibit 2.

Mr. Dave Rongione, one of the neighbors who is not represented by Mr. Holzer, requested a hearing by e-mail dated January 17, 2020. After further discussion between and among the parties, Mr. Rongione withdrew his opposition to the Petition.

By a joint Statement and Motion filed on June 24, 2020, the Petitioner and the Protestants moved to amend the Petition and to enter the revised plan to accompany the Petition as Petitioner’s Exhibit 3.

The record in this case shows that the Petitioner’s property adjoins Beste’s property, and the driveway that provides ingress, egress and access to the Beste property is located, in part, on the Petitioner’s property. The Petitioner and Beste desire to adjust a common lot line between their properties to remove the driveway encroachment and to provide a buffer between the

residence that is located on Beste's property and any future development of the Petitioner's property that remains after the lot line adjustment. Pursuant to the MOU, the parties have reached agreement to resolve their concerns.

Pursuant to the Petition, as amended, the Petitioner is requesting approval of a lot line adjustment pursuant to a non-density transfer by the Petitioner to Beste. BCC § 32-4-106(a)(1)(vii) defines "lot line adjustment" as follows:

For purposes of this subsection, "lot line adjustment" means one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole.

After consideration of the evidence presented and the agreement of the parties, I find that the requested relief is in keeping with the spirit and intent of the BCZR:

THEREFORE, IT IS ORDERED this 30th day of **June, 2020** by this Administrative Law Judge, that the Petition for Special Hearing seeking a lot line adjustment subject to a non-density transfer complies with Baltimore County Code, regulations and policy and is hereby GRANTED, subject to the following conditions:

1. The Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, the Petitioner is hereby made aware that proceeding at this time is at its risk until thirty (30) days from the date hereof, during which time an appeal can be file by any party. If for whatever reason this Order is reversed, the Petitioner would be required to return the subject property to its original condition.
2. The lot line adjustment subject to a non-density transfer is approved as to that area of the Petitioner's property which is designated as "Proposed Non-Density Area of Conveyance" on Petitioner's Exhibit 3. The lot line adjustment shall be reflected in a lot line adjustment deed by the Petitioner unto Beste, and in a confirmatory deed by Beste to consolidate the "Proposed Non-Density Area of Conveyance" with Beste's property (1940 Akehurst Drive, Tax Account 05-02-020480; Tax Map 27, Parcel

183). A copy of this Order and Petitioner's Exhibit 3 shall be recorded with the lot line adjustment deed from the Petitioner unto Beste.

3. No density units or development rights shall convey pursuant to the lot line adjustment deed from the Petitioner to Beste. The two existing density units associated with the RC2 zoning of the Petitioner's property shall remain with the Petitioner's property after the lot line adjustment subject to a non-density transfer.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.

Signed
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlw