

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(4242 and 4244 Butler Road)		
4 th Election District	*	OFFICE OF
3 rd Councilmanic District		
NTKT, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2015-0039-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 NTKT, LLC, Legal Owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a non-density transfer of 4.71 acres from the NTKT, LLC property known as 4244 Butler Road to the NTKT, LLC property known as 4242 Butler Road.

Appearing at the public hearing in support of the requests was Todd Morrill and surveyor Scott Lindgren, whose firm prepared the site plan. J. Neil Lanzi, Esquire, represented the Petitioner. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP). That agency did not oppose the request, but requested that it be clarified that no additional density or development rights would arise as a result of the proposed transfer.

The subject property is zoned RC-2. The improved property at 4242 Butler Road is presently 1.68 Ac +/-, while the unimproved property at 4244 Butler Road is presently 7.09 Ac +/- . The property is comprised of two lots, described in separate deeds and assigned unique tax account numbers. The Petitioner proposes to transfer 4.71 acres from one of the lots to the other,

as noted above. Todd Morrill (a principal of the entity owner) testified that the transfer would provide the dwelling at 4242 Butler with an appropriate front yard and fee simple access to the public road.

The only reference to “non-density transfers” is found in the Zoning Commissioner’s Policy Manual (ZCPM), p. 1A-3. The Manual indicates that such transfers may be approved for access or agricultural purposes, but provides little else in terms of what standards apply to such requests. Here, the DOP does not oppose the request, and Petitioner submitted letters of support from three (3) of his nearest neighbors. Ex. Nos. 3A-3C. The Petitioner proposes the transfer to improve the appearance, yard area and access to the dwelling at 4242 Butler Road, which will be offered for sale. This is in my opinion a reasonable request, and it will not result in increased density or development potential for either lot. The R.C.-2 regulations provide that no “lot having a gross area of between two and 100 acres may be subdivided into more than two lots (total).” B.C.Z.R. § 1A01.3.B.1. In this case, the original parcel of approximately 8.340 acres was “subdivided” by a “saving and excepting” clause in a 1976 deed (Liber 5712, folio 622), which created the second lot of 1.679 acres, now known as 4242 Butler Road. Thus, under the current zoning, no further subdivision is possible, and a condition to that effect will be included in the Order below.

THEREFORE, IT IS ORDERED this 15th day of October, 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a non-density transfer of 4.71 acres from the property known as 4244 Butler Road to the property known as 4242 Butler Road, be and is hereby GRANTED.

The relief granted herein is expressly conditioned upon the following:

1. The 4.71 acre transfer approved herein shall not provide any additional density or right of subdivision for either of the lots/parcels known as 4242 & 4244 Butler Road.
2. The property described herein was subdivided by deed in 1976, creating the two lots known as 4242 & 4244 Butler Road. Under the R.C.-2 zoning classification, neither of the lots known as 4242 & 4244 Butler Road can be subdivided.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln