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|--|---|-------------------------------|
| IN RE: <b>PETITION FOR SPECIAL HEARING</b> | * | BEFORE THE                    |
| <b>(11505 Jerome Avenue)</b>               |   |                               |
| 11 <sup>th</sup> Election District         | * | OFFICE OF                     |
| 6 <sup>th</sup> Council District           |   |                               |
|  | * | ADMINISTRATIVE HEARINGS       |
| Isaac Properties, LLC                      |   |                               |
| <i>Legal Owner</i>                         | * | FOR BALTIMORE COUNTY          |
|  |   |                               |
| Petitioner                                 | * | <b>Case No. 2016-0275-SPH</b> |

\* \* \* \* \*

**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 Isaac Properties, LLC, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow the density anomaly on Lot 1 of Minor Subdivision 16-002M.

Jake Ruppert and Rick Richardson from Richardson Engineering, LLC appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency does not oppose the request.

The subject property is 2.54 acres and split-zoned DR 2 and DR 3.5. The property is improved with an existing single-family dwelling, and Petitioner is in the process of creating a three lot (i.e., two additional lots) minor subdivision on the property. In reviewing that subdivision, the zoning office informed Petitioner special hearing relief was required due to an “anomaly” on proposed Lot 1. Stated in the simplest terms, though Lot 1 is 20,064 square feet, which satisfies the minimum lot size in the DR 2 zone, a portion of the lot is zoned DR 3.5. Citing B.C.Z.R. §1B01.2.A.1, the zoning office instructed Petitioner to file for a special hearing.

After reviewing the plan and regulations, I do not believe any “anomaly” exists on proposed Lot 1. The regulations contain a provision (§1B01.2.A.2) concerning tracts of land divided by a zone boundary, although the provision is only applicable in DR 10.5 and DR 16 zones. Even if that regulation was applicable, I believe Petitioner would be entitled to the three lots as shown on the plan. According to the density chart on the site plan (Ex. 1, n.3) the overall tract could support 5 density units, yet Petitioner proposes only 3 single family dwellings on the tract. Also, the great majority of the tract is zoned DR 2, with just a small portion zoned DR 3.5. The DR 3.5 zone is of course a higher density zone, yet Petitioner is not seeking to obtain additional density due to this fact. The minimum lot size is satisfied, and for the above reasons I believe granting the petition is within the spirit and intent of the Regulations.

THEREFORE, IT IS ORDERED this 21<sup>st</sup> day of **June, 2016** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to allow the density anomaly on Lot 1 of Minor Subdivision 16-002M, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln