

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
W/S Hanover Pike (Md. Rte. 30), 200' S of		
Mt. Gilead Road	*	ZONING COMMISSIONER
(14224 Hanover Pike)		
4 th Election District	*	OF
3 rd Council District		
	*	BALTIMORE COUNTY
Pohlhaus Properties, LLC		
<i>Petitioner</i>	*	Case No. 2011-0115-SPH
* * * * *		

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Walter Pohlhaus, President and managing member of Pohlhaus Properties, LLC, the legal owner of the subject properties. As filed, the Petitioner requested a special hearing to confirm that a non-density transfer of 1.0198 acres is permitted, along with a lot reconfiguration in the R.C.2 zoned areas, and for a septic area to be located in the R.C.2 zoned non-density lot in support of a commercial building in a B.R. zone.¹ The subject properties and the requested relief are more particularly described on the amended site plan submitted, which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Walter Pohlhaus and Albert (Roy) Snyder, of A.L. Snyder Surveyor, Inc., who prepared the site plan for these properties. S. Glenn Elseroad, Vice President of the Hanover Road Association, and George P. Neubeck, Jr., who resides across from the subject property (also a Hanover Road Association Board member), appeared not in opposition to the minor subdivision of the property pending before the Development Review Committee (DRC) but in opposition to the use of the R.C.2 non-density transferred parcel fronting on Hanover Pike to be used for commercial expansion.

¹ At the outset of the hearing, Petitioner amended its Petition and site plan to respond to concerns raised by the Office of People's Counsel, Office of Planning and the Department of Environmental Protection and Resource Management (DEPRM). The amendments eliminated the septic area in the R.C.2 zone. The R.C.2 non-density transfer (1.0198 acres) will not facilitate the adjacent commercial business use.

Testimony and evidence offered established the following. The Petitioner owns three (3) contiguous parcels of land on the west side of Hanover Pike (MD Rte. 30) south of Mt. Gilead Road, two (2) of which are zoned R.C.2 (shown on Maryland Tax Map 31 as Lots 23 – 25) and one (1) zoned B.R. (Lots 8 – 13) used commercially as Skip’s Auto Collision and Towing in northern Reisterstown.² The size, configuration and dimension of the parcels as they presently exist are more particularly described on Petitioner’s Exhibit 1. As shown on that exhibit, the Business Roadside parcel (Lots 8 – 13) – north side – is improved with an existing office building, parking field and a brick/block service garage and contains 0.65 acres or 28,950 square feet. The second parcel (Lot 25) is centered between the other two lots and contains an accessory residential garage and shed and is 19,994 square feet in area. The third or southernmost parcel (Lots 23 and 24) contains 3.01 acres and has two (2) dwelling rights and is improved with an existing unoccupied home built in 1921. Mr. Snyder indicated at the hearing that all three (3) parcels are specifically identified as separate lots of record as of November 25, 1979, the date of the adoption of the R.C.2 zoning classification in Baltimore County.

Insofar as rights of subdivision, the Petitioner is requesting approval to reflect the proposed modifications and reconfiguration of the Resource Conservation lots so that approximately 1.3178 acres of the western portion of the property will be known as Lot 3 and become the rear lot; Lot 2 will contain 1.1102 acres and become the central lot, and Lot 1 with its frontage along Hanover Pike will be the easternmost lot next to the B.R. parcel and contain 1.0198 acres and have no remaining density rights. In other words, if relief is granted, the Petitioner is requesting that I approve the *merging of proposed R.C.2 Lot 1 along Hanover Pike with the northernmost B.R. parcel*. The existing 1-½ story home and existing accessory garage on this Lot 1 will then be razed. The two (2) density rights will be shared by the interior Lots 2

² Skip’s Auto Collision Service Garage has functioned at this location for some 50 years. Walt Pohlhaus obtained the property ten (10) years ago and is a licensed Baltimore County Police towing operator/collision repair center.

and 3 and be accessed via panhandle driveways from Hanover Pike. Mr. Snyder submits that there will be no detriment to the agricultural uses in the area. The properties are surrounded by residential homes positioned on one or two acre lots. The subject property is not used agriculturally. He further indicated that the layout of the lots would minimize impacts and would provide the Petitioner with an opportunity to develop Lots 2 and 3 and that Lot 1 would provide a buffer along Hanover Pike.

Messrs. Elseroad (whose property adjoins the subject property at the southwest rear boundary) and Neubeck (residing across Hanover Pike from the subject property) believe that a “non-density transfer” would only serve to facilitate the service garage’s expansion. While they do not oppose the development of Lots 2 and 3 with single-family homes, they question the fairness or potential misfortune of a purchaser – particularly of Lot 2 in the event the Petitioner should later apply for and obtain a zoning change for the non-density parcel and then expand the auto body and towing operations. Mr. Neubeck believes such a reclassification, if it should occur, would undermine the value of his home and the subsequent commercial expansion would become an unwelcome addition to the streetscape in the area. They both voiced their displeasure to having this property undergo a future commercial extension. While the success of a future rezoning request for this 1.0198 acre parcel is at best speculative and premised on conjecture, the undersigned advised the Petitioner and its consultant that the record of the case would be held open for a period of thirty (30) days to allow for further discussions and dialogue with the Hanover Road Association in order to resolve some of the concerns that had been put forward during the public hearing. Subsequently, Roy Snyder prepared a red-lined plan illustrating potential future improvements on the non-density Lot 1 parcel. Specifically, a 75' long x 50' deep building addition would be attached to the south side of the existing concrete block auto repair building with a parking field in front. This plan is submitted for the sole purpose of

providing a conceptual use of the property and marked as Petitioner's Exhibit 3. On December 1, 2010, a letter was received from the Hanover Road Association indicating that efforts to reach a "covenant agreement" that would have met the needs of both parties had not occurred. The letter was received as Protestants Exhibit 2. I will therefore condition approval of the non-density transfer on what I believe to be reasonable constraints.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 14th day of December 2010, that the Petition for Special Hearing to confirm that a non-density transfer of 1.0198 acres is permitted, along with a lot reconfiguration in the R.C.2 zoned area, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following conditions:

1. ADVISORY: The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. The relief granted herein is strictly for a non-density transfer and there are no density or development rights associated with this conveyance.
3. No motor vehicles will be serviced (i.e., mechanical and/or body fender work) or allowed to be stored whether damaged, disabled or just customer related parking for Skip's service garage operations and all such vehicles including parts must be confined to the B.R. zoned lot.
4. There shall be no additional buildings or parking areas constructed on the R.C.2 non-density parcel granted herein without:
 - The approval of a Comprehensive Zoning Map Process (CZMP) changing the R.C.2 zoned Lot 1 to a commercial zone classification.

- The house, barn and garage on the non-density property will be razed within 120 days of this decision.
- A landscape plan shall be submitted for approval by E. Avery Harden in the Department of Permits & Development Management and shall provide for evergreen plantings to the south of the existing garage to buffer the south side of the garage and storage area in the back from the Hanover Road and surrounding neighbors prior to June 1, 2011.
- The R.C.2 non-density parcel shall be maintained as lawn in a park like setting.
- The residential lots [Lot 2 – 1.11 acres and Lot 3 – 1.32 acres] will remain in the R.C.2 zoning classification and only be used for single family dwellings that are similar to neighboring properties.

IT IS FURTHER ORDERED that the request for a septic area in the R.C.2 zoned non-density lot to be used in support of a commercial building in the B.R. zone, be and is hereby DISMISSED AS MOOT.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code (B.C.C.).

WJW:dlw

__SIGNED_____
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County