# PETITION FOR SPECIAL EXCEPTION 84-183-X

TO THE ZONING COMMISSIONER OF BALTIMGRE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the

herein described property for car wash as a use in combination with a service

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

> 1/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(a) of the property which is the subject of this Petition.

One North Charles Street

625+7.888

Balto...Md...21203.....

Legal Owner(s): Contract Purchaser: (Type or Print Name) Mayund desture L.J Nayward (Type or Print Name) Address Signature City and State

osenh K. Pokorny-Phone No. Address City and State Name, address and phone number of legal owner, confferson Puilding tract purchaser or representative to be contacted Amoco Oil Company owse. Maryland 21204.

ORDERED By The Zoning Commissioner of Baltimore County, this ..... ......, 19.83..., that the subject matter of this petition be advertised, as Of December. required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore

County, on the \_\_\_\_\_30th \_\_\_\_day of \_January \_\_\_\_, 19\_84\_, at 10:30 o'clock

\_\_A,\_M.

Z.C.O.-No. 1

tornes Telephone No.: \_823-2000-----

FILING

(OYC?)

### BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 12, 1984

RE: Item No. 80 - Case No. 84-183-X

Petitioner - Amoco Oil Company

COUNTY OFFICE BLDC. 111 W. Chearpeaks Ave. Towson, Marylan: 21204 408 Jefferson Building

Nicholes B. femmodari Chi Lizuati

HI SEL Bureas of Englas tring Department of Traffic Engineering furecy of Fire Parvention

Industrial

pevelopment

S\_ate Road Commissio Health Department Project Planning Building Department board of Education Zoning Administration

Special Exception Petition Dear Mr. Pokorny:

Joseph K. Pokorny, Esquire

Towson, Maryland 21204

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your client's proposal on construct a car wash building in combination with the existing gas station, this hearing is required.

The site plan should be revised to indicate the required number of servicing and waiting spaces at the pump islands.

Particular attention should be afforded to the comments of the Department of Fermits and Licenses and the Health Department.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the late of the enclosed filing certificate and a hearing scheduled accordingly.

> Very truly yours. Nicholae & Commodere, her NICHOLAS B. COMMODARI, Chairman Zoning Plans Advisory Committee

NBC:bsc Enclosures cc: Amoce Oil Company En gineering-Maintenance Bept. 1 North Charles Street Baltimore, Md. 21201

: BEFORE THE ZONING COMMISSIONER RE: PETITION FOR SPECIAL EXCEPTION NE Corner Reisterstown & Village Rds.

(1713, 1717, 1719 & 1721 Reisterstown Rd.), 3rd District

Case No. 84-183-X (Item 80) AMOCO OIL COMPANY, Petitioner 1111111

#### ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman Deputy People's Counsel

John W. Hessian, III People's Counsel for Baltimore County Rm. 223, Court House Towson, Maryland 21204 494-2188

OF BALTIMORE COUNTY

I HEREBY CERTIFY that on this 5th day of January, 1934, a copy of the foregoing Order was mailed to Joseph K. Pokomy. Esquire, 408 Jefferson Building, Towson, Maryland 21204, Attorney for Petitioner.

John W. Hessian, III

BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS TOWSON, MARYLAND 21204

HARRY I PISTEL P. E. DIRECTOR

November 3, 1983

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Marylar ! 21204

> Re: Item #80 (1983-1984) Property Owner: Amono Oil Company N/E corner Reisterstown Rd. and Village Rd. Acres: 0.9075 District: 3rd

Dear Mr. Jabian:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Reister - 'own Road (Md. 140) is a State Road. All improvements, intersections, entrances, drainage requirements and construction affecting a State Road right-of-way are subject to the standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

Paltimore County highway and utility improvements exist.

Village Road, an existing County road, is proposed to be further improved as a minimum 30-foot closed section roadway on the 50-foot right-of-way, see Drawing #64-1640, File 5.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installat on of drainage facilities, would be the full responsibility of the Petitioner.

> ROBERT ... MORTON, P.E., Chie Bureau of Public Services

RAM: EAM: PER: SS

F-NE Kay Sheet 31 NW 22 Pos. Sheet NW 8 P Topo 68 & 78 Tax Maps

PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER NE Corner Reisterstown & Village Rds. (1713, 1717, 1719 & 1721 Reisterstown Rd.). 3rd District

OF BALTIMORE COUNTY

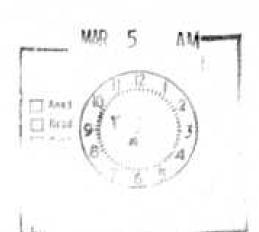
AMOCO OIL COMPANY, Petitioner

Case No. 84-183-X (Item 80)

1001 10 11 11 11 11 11 NOTICE OF APPEAL

Please note an appeal from your decision in the above-captioned matter, under date of February 3, 1994, to the County Board of Appeals and

forward all papers in connection therewith to the Board for hearing.



Phyllin Cole Friedman People's Counsel for Baltimore Councy

Leter Max Commence Peter Max Zimmerman Deputy Peonle's Counsel Room 223, Court House Towson, MD 21204 494-2188

le Friedman

I HEREBY CERTIFY that on this 5th day of March, 1984, a copy of the foregoing Notice of Appeal was mailed to Joseph K. Pokorny, Esquire, 408 Jefferson Building, Townon, MD 21204, and Lawrence J. Hayward, Enquire, Amoco Oil Company, One North Charles St., Balt more, MD 21203, Attorneys for Petitioner: Mr. and Mrs. Alan Bernstein, 1810 Hambling Ridge Lane, Apt. 201, Baltimore, MD 21239, Mr. Murray Kirschman, 25 Woodholme Ave., Baltimore,

BALTIMORE COUNTY, MARYLAND OFFIC OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

No. 128216

MD 21208, and Ms. Frances Carmer, 6 Feiton Rd., Lutherville, MD 21093,

DATE 3/5/34 \_\_\_\_\_R-01-615-000

AMOUNT \$110.00

RECEIVED Paople's Counsel ron Appeal fee on Care #84-183-X (Amoco Oll Company)

> C 055\*\*\*\*\*1100010 3120A VALIDATION OR SIGNATURE OF CASHIER

Maryland Department of Transportation State Highway Administration

Lowell K. Bridwell Secretary M. S. Caltrider

Elie Cole Friedman

October 10, 1983

Mr. Arnold Jablon Zoning Commissioner County Office Bldg. Towson, Maryland 21204

Attention: Mr. N. Commodari

Re: ZAC Meeting of 10-4-83 ITEM: #80. Property Owner: Amoco Oil Co. Location: NE/Cor. Reisterstown Road, Route 140 and Village Rd. Existing Zoning: B.L. Proposed Zoning: Special Exception for use in combination aucomatic service station with automatic car wasting equipment in existing bay. Acres: 0.9075 Districe: 3rd

Sear Mr. Jablon:

On review of the revised site plan of September 7, 1983 and field inspection, the State Highway Administration finds the plan generally acceptable.

Very truly yours,

Charle Le Charles Lee, Chief Bureau of Engineering Access Permits

CI.:Cwimaw

By: George Wittman

cc: Mr. j. Ogle

My telephone number is (301) 659-1350 Teletypewriter for Impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-452-5082 Statewide Ynll Frae P.O. Box 717 / 707 North Calvert St., Baltimora, Maryland 21203 - 0717

Joseph E. Pokurny, Esq. 408 Jefferson Bldg. Towson, Md. 21294

Petitioner Amoco 011 Co.

Petitioner's

Amoco Oil Company Engineering-Maintenance Dept. 1 North Charles Street Baltimore, Md. 21201

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this day of December , 19 83

Received by: Jeseph E. Pokorzy, Esq.

Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY
DE ARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204

TOWSON, MARYLAND 21204 494-3550

STEPHEN E. COLLINS DIRECTOR

November 10, 1983

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 2,204

> Item No. 79 80, 81,82.84 ZAC- Meeting of October 4, 1983 Property Owner: Location: Existing Coming: Proposed Zoning:

Acrest District:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for item numbers 79, 80, 81, 82, and 84.

MSF/ccm

Traffic Engineering Assoc. II

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 o. the Baitimore County Zoning

# BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Touton, Maryland - 21204

Date: September 30, 1983

Mr. Milliam E. Hammond Zoning Commissioner Baltimore County Office Building 1111 West Chesapeake Avenue Towson, Maryland 21204

Z.A.C. Meeting of: October 4, 1983

RE: Item No: 79 80, 81 82, 83, & 84 Location: Presert Zoning: Proposed Zoning:

> District: No. Acres:

Dear Mr. Hammond:

The above mentioned items have no adverse effect on student population.

Very truly yours, Cue level Teleout Wa. Nick Petrovich, Assistant Department of Planning

Oct. 21,1983

BALTIMORE COUNTY DEPARTMENT OF HEALTH

Zoning Commissioner Office of Planning and Zoning County Office Building Towson, Maryland 21204 Zoning Item # 80 , Zoning Advisory Committee Meeting of Oct. 4, 1983 Ameco Dil Company ne/cor. Reisterstown Road Sewage Disposal \_oublic COMMENTS ARE AS FOLLOWS:

( ) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food nervice facility, complete pieus and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.

(V) Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins. (V) A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts

( ) A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.

( ) Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.

( ) Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, centact the Recreational Hygiene Section, Division of Environmental Support Services.

( ) Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.

( ) If lubrication work and oil changes are performed at this location, the method providing for the climination of waste oil must be in accordance with Water Resources Administration requirements.

SS 20 1082 (1)

## BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon TO Zoning Commissioner Date January 10, 1984

Norman E. Gerber, Director FROM Office of Planning and Zoning

Amoco Oil Company SUBJECT\_ 84-183-X

This office is not opposed to the proposed use; however, a CRG meeting is required. Also, the zoning and use of the adjacent properties and the stacking for pumps should be shown in the plan. Finally, details of landscaping should be shown on the an.

> Norman E. Gerber, Director Office of Planning and Zoning

NEG/JGH/sf

( ) Any existing underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled. ( ) Soil percolation tests have been conducted. The results are valid until Revised plans must be submitted prior to approval of the percolation ( ) Prior to cocupancy approval, the potability of the water supply must be yerified by collection of bacteriological and chemical water samples. ( ) In accordance with Section 13-117 of the Baltimore County Code, the water well yield test shal. be valid until is not acceptable and must be retested. This must be accomplished prior to conveyance of property or approval of Building Permit Applications. ( ) All roads and parking areas should be surfaced with a dustless, bonding ( ) No health hezards are anticipated. (1) Others This site is served by Morngolitan water and sewer and lier within the Guynus Falls sewershed where a maratorium has been placed by the Maryland State Dept: OF HEACH. A WATE WATER PECIFEULATION System must be employed or this tacility. However, since the fixed discharge of this warreness must be into the savitary some, no Building Permits utilizing the sourcesy sewer will be opposed by this office until the moraterium is littel. If plans are required to be submitted to the Country Review Group Ser rainer, a Hydrogedogical Study and me Excircumental Efforts Report must be substitted. Encorreck his been notified of the store intermetion. an June Ian J. Forrest Director BUREAU OF ENVIRONMENTAL SERVICES 88 20 1080 (2)

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON ZONING COMMISSIONER

February 3, 1984

Joseph K. Pokorny, Esquire 408 Jefferson Building Towson, Maryland 21204

> IN RE: Petition Special Exception NE/corner of Reisterstown and Vi'lage Roads (1717, 1719, and 1721 Reisterstown Food) - 3rd Election District Amoco Oil Company, Petitioner Case No. 64-183-X

Dear Mr. Pokorny:

I have this date passed my Order in the above-referenced matter in accordance with the attached.

AJ/srl

Attachments

cc: Mr. & Mrs. Alan Bernstein 1810 Ramiling Ridge Lane, Apt. 201 Baltimore, Maryland 21209

> Mr. Murray Kirschman 28 Woodholme Avenue Baltimore, Maryland 21208

Ms. Frances Carmer 6 Felton Road Lutherville, Maryland 21093

People's Counsel

Mr. Arnold Jablon, Zoning Commissioner Office of Planning and Zonine County Office Building Towson, Maryland 2120k

Comments on Item # 80 Zoning Advisory Committee Meeting are as follows: Amoco Oil Company

Existing Zoning: Proposed Zoning:

NE/Cor. Reisterstown Road and Village Road

Special exception for use in combination automatic service station with automatic car washing equipment in existing bay.

Acres: 0.9075

The items checked below are applicable:

IN RE: PETITION SPECIAL EXCEPTION .

Election District

Amoon Oil Company.

NE/corner of Reisterstown and

1721 Reisterstown Foad) - 3rd

the Daltimore County Zoning Regulations (BCZR).

Village Roads (1717, 1719, and .

A. All structures thall conform to the Baltimore County Building Code 1981/Council Bill 4-82 State of Maryland Code for the Handicapped and Aged; and other appli-

B. A building to other permits shall be required before beginning construction.

C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required. Son-reproduced seals and signatures are required on Flans and Technica: Data. D. Commercial: Three sets of construction drawings with a Maryland Pegistered

. An exterior wall erected within 6'0 for Commercial uses or 3'0 for One & Two Panily use group, of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0 of lot lines. A firewall is required if construction is on the lot line, see Table h01, line 2, Section 11:07 and Table 11:02, also Section 503.2.

P. Requested variance appears to conflict with the Baltimore County Building Code,

G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will neet the Code requirements for the proposed change. Drawings may require a professional seal.

H. Before this office can comment on the above structure, please have the owner, thru the pervices of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 501.

I. Comments -A second exit is required from this building and overhead doors are not permitted to be counted as an Exit. A minimum 2'-8 x 6'-8 side hinged door is required.

These comments reflect only on the is ormation provided by the drawings submitted to the office of Planning and Coming and are not intended to be construed as the full extent of any primit. If desired, additional information may be obtained by visiting Room 122 (Plans Raview) at 111 W. Chesapsake are.,

BEFORE THE

ZONING COMMISSIONER OF BALTIMOPE COUNTY

Case No. 84-183-X

Petitioner . 

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception for a car wash as a use in combination with a service station (gas and go), as more fully described on Petitioner's Exhibit 1,

The Petitioner, by Larry Hayward, Esquire, Amoco's counsel in charge of leases, contract review, and real estate sequisicion, and Charles Bogeanowicz, its engineer, appeared and testified. The Petitioner was regresented by Counsel. Four Protestants also appeared.

Testimony indicated that the property in question is zoned B.L. and is presently being utilized as a gas and go service station. The Petitioner conducted a marketing study and determined that a car wash was needed in the geographic area. The proposed car wash, as shown on Petitioner's Exhibit 1, is described as a "roll-over" wash, which allows one car to be washed at a time. car takes approximately 1} to 3 minutes. The system is a drip-wet one in where is no provision for wiping and drying the cars. A car enters the 16' x 32 building and is parked by the driver who stays in the car until the procecompleted. The operation is a short-cycle wash designed to get the car out quickly. Upon completion, the driver will exit the car wash and leave the site. The manufacture, estimates that the machine can process 12 cars in }-hour period. Twenty-two stacking spaces will be provided, as required by

WNP/br

Nr. Bogdanowicz, who has been involved with eight to ten car washes for the Petitioner, stated that, based on his experience, the number of stacking spaces provided is sufficient in that the number of cars waiting to use the car wash never reaches the degree provided for. The speed with which the car wash operates allows for prompt ingress and egress. The lack of wiping and drying facilities also allows for quick movement of the vehicles. It is his opinion that there will be no adverse impact on the community or on the traffic flow in the area, which is heavily commercial.

Mr. Hayward testified that the car wash operation is planned for speedy service and quick turnover. He explained that in his experience people using the car wash are interested in fast service and will not wait when they see a long line

Vacuum machines will be available, at an extra cost, but no employees will be provided or made available to wipe, dry, or vacuum the cars. The operation would be totally self-service.

The gas and go operation will continue to operate, and it is expected that many who purchase their gas at the station will also utilize the car wash and vice-versa. It is also expected, based on prior experience of the witnesses, that if there is a line waiting for either, the customers will leave rather than wait again, the witnesses emphasized the importance of speedy service and quick turn-over to the operation of the car wash.

transect to an otherwise heavily travelled road system, but the car wash would be directed toward the existing traffic passing by on a daily basis. There will be no interference with users of the gas and go operation by users of the car wash. The Protestants argued that the car wash will cause further deterioration towards towards a least the car wash will cause further deterioration.

continuous and encompassing problem made worse by continuing development.

Murray Kirschman, Speaking for himself and as a member of the Pikesville Community Growth Corporation, argued that the stacking for the car wash might wind its way to Reisterstown Road causing further monumental traffic jams. Also, sure that cannot make a left turn across two lanes of on-coming traffic dus, to the traffic will cause a back-up of the cars waiting to turn. Mr. Kirschman disagrees with the Petitioner's witnesser that the car wash will attract users who currently travel Reisterstown Road and claims that additional truffic will be generated.

The Petitioner seeks relief from Section 230.13, pursuant to Section 502.1, of the BCZR.

It is clear that the BCZR permit the use requested by the Petitioner in a B.L. Zone by special exception. It is equally clear that the proposed use would not by detrimental to the primary uses in the vicinity of the proposed car wash. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisifed by the Petitioner.

After reviewing all of the testimony and evidence presented, it appears that the special exception as applied for by the Petitioner should be granted, with certain restrictions as more fully described below.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set torth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the facts proposed by the Petitioner does not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

- 3 -

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1 having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

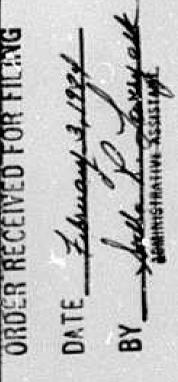
Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 3 L day of February, 1984, that the Petition for Special Exception for a car wash as a use in combination with a service station (gas and go), in accordance with the site plan introduced and accepted into evidence as Petitioner's Exhibit 1, be and is hereby GRALTED, from and after the date of this Order, subject however, to the following restrictions:

- The Petitioner may apply for its building permit and be granted same upon receip; of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- A detailed landscaping plan shall be submitted to and approved by the Current Planning and Development Division.
- Compliance with the comments submitted 5; the Baltimore County Zoning Plans Advisory Committee, which are adopted in their entirety and made a part of this Order.
- 4. Traffic flow signs shall be appropriately placed on the subject property to direct users to the car wash and gas and go operation and for purposes of ingress and egress.
- The Petitioner shall not employ or provide attendants to wipe or dry any vehicles using the car wash facility

nor operate or belp with the vacuum machines other than to repair the machinary in case of malfunction or make change for the customers.

6. The Petitioner shall not allow or permit any vehicles to stack up on any public access road swafting ingress to the subject site but must provide an attendant at such entrance to motion said vehicles forward so that traffic will not be impeded.

Zoning Commissioner o



INDER RECEIVED FOR FILING

ATE STATE STATE

SY LONGWISHMANNE ASSISTANCE

ADMENISTRATIVE ASSISTANCE

ADMINISTRATIVE ASSISTANCE

AS

ALEXANDER P. RATYCH, PROF LS.

RICHARD J. TRUCLOVE P.E.

### PETITION FOR SPECIAL EXCEPTION

3rd Election District

ZONING:

Petition for Special Exception

LOCATION:

Northeast corner Reisterstown and Village Roads (1713, 1717, 1719 and 1721 Reisterstown Road)

DATE & TIME:

Monday, January 30, 1984 at 10:30 A.M.

PUBLIC HEARING:

Roon, 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for a car wash as a use in combination with a service station (gas and go)

Being the property of Amoco Oil Company, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or mad at the hearing.

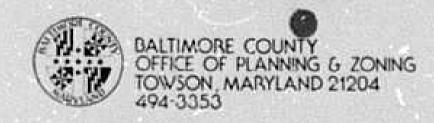
BY ORDER OF ARNOLD JABLON ZONING COMMISSIONER OF BALTIMORE COUNTY associates, inc.

DESCRIPTION OF PROPERTY 1713, 1717, 1719 and 1721 Reisterstown Road Third Election District, Baltimore County, Maryland

BEGINNING FOR THE SAME at a point on the Northeasterly side of Reisterstown Road, 66 feet wide, and at the West end of a junction curve connecting the Northeasterly side of Reisterstown Road with the Northwesterly side of Village Road, 50 feet side; thence binding along the Northeasterly side of Reisterstown Road North 42 degrees 12 minutes 00 seconds West 179.81 feet: thence leaving Reisterstown Road and running North 32 degrees 51 minutes 00 seconds East 91.71 feet, thence North 39 degrees 09 minutes 30 seconds East 135.32 feet, thence South 42 minutes 12 minutes 00 seconds East 99.65 feet, thence South 37 degrees 49 minutes 00 seconds west 79.80 feet and thence South 44 degrees 56 minutes 00 seconds East 129,41 feet to intersect the Northwesterly side of Village Road; thence binding along the Northwesterly side of Village Road the following two courses and distances: (1) by a curve to the right having a radius of 429.35 feet for an arc longth of 29.98 feet and (2) South 47 degrees 48 minutes 00 seconds West 100.00 feet to the East end of the beforementioned junction curve having a radius of 20.00 feet; thence binding thereon 31,42 feet to the point of beginning; containing 0.9075 acres more or less.

9/15/1983





ARNOLD JABLON ZONING COMMISSIONER

March 15, 1984

Joseph K. Pokorny, Esquire 408 Jefferson Building Towson, Maryland 21204

Re: Petition for Special Exception
NE/corner of Reisterstown and Village Roads
(1717, 1719 and 1721 Reisterstown Road)
Amoco Oil Company - Petitioner
Case No. 84-183-X

Dear Mr. Pokorny:

Please be advised that an appeal has been filed by Phyllis Cole Friedman, People's Counsel for Baltimore County, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above referenced mattur.

You will be notified of the date and time of the appear hearing when it is scheduled by the County Board of Appeals.

Very truly yours,

Arnold Jab'on
Zoning Commissioner

AJ:aj

cc: Mr. & Mrs. Alan Bernstein 1810 Rambling Ridge Lane, Apt. 201 Baltimore, Maryland 21209

Mr. Murray Kirschman 28 Woodholme Avenue Baltimore, Maryland 21203

Ms. Frances Carmer 6 Felton Road Lutherville, Maryland 21093



### County Board of Appenls of Baltimore County Room 200 Court Neuer Esteen, Margiand 21205 (301) 494-3180

July 31, 1984

Phyllis Cole Friedmon People's Counsel for Baltimore County Room 223 Courthouse Towson, MD 21204

> Re: Case No. 84-183-X Amoco Cil Company

Dear Mrs. Friedman:

Enclosed herewith is a copy of the Opinion and Order passed today by the County award of Appeals in the above entitled case.

Very truly yours.

Edith 7. Eisenhart, Adm. Secretary

Encl.

cc: Joseph X.Pokerny, Esquire Amoco Gil Campany Alan Bernstein, et wx Murray Kirschman Frances Carmer Arnold Jablon Jean M. H. Jung James E. Dyer Norman E. Gerber James G. Hoswell

\* \*\*

IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR A CAR WASH AS A USE IN COMBINATION WITH A SERVICE STATION (GAS & GO) NE CORNER REISTERSTOWN AND VILLAGE ROADS 3rd DISTRICT

COUNTY BOARD OF APPEALS

BALTIMORE COUNTY

NO. 84-183-X

#### OPINION

This case comes before the Board of Appeals of Baltimore County from an Opinion and Order of the Zoning Commissioner, dated February 3, 1984, granting the requested petition for a special exception for a Car Wash as a use in combination with a service station (gas & go). The subject property is located at the northeast corner of Reisterstown and Village Roads, in the Third Election District of Baltimore County. In granting the subject petition the Zoning Commissioner, in his Order of February 3, 1984, imposed a number of restrictions. From this Opinion and Order the People's Counsel for Baltimore County has appealed to this Board.

The rules governing the issuance of special exceptions are found in \$502 of the Balt'more County Zoning Regulations (BCZR). Specifically, sub-section 502.1 sets forth the standards which this Board must consider in determining whether a special exception shall be issued. The issue before the Board is whether the Petitioner has met this standard. Particularly, the Board must determine whether the issuance of the special exception will "Be detrimental to the health, safety, or general welfare of the locality involved" (BCZR \$502.1-a) or "Tend to create congestion in roads, streets or alleys therein" (BCZR \$502.1-b).

At the hearing on this matter, the Board heard from a number of witnesses. Among them was Mr. Charles Bogdanowicz, a project engineer employed by Amoco Oil Company. The thrust of Mr. Bogdanowicz's testimony was to the nature of the wash facility contemplated by Amoco Cil Company. Specif !cally, the witness testified that this was a roll-over type wash. The inner machinery of the wash unit, housed in a 16 foot by 32 foot structure, would be mobile. That is, the vehicle being washed would not be rolled or driven through the facility as is done in the traditional tunnel type wash. Instead

August 30, 1984

JOSEPH K. POKORNY, ESQUIRE IN PEFFERSON BUILDING TOWSON, MD. 21204

COST OF CERTIFIED COPIES OF DOCUMENTS FILED IN CASE NO. 84-183-X.....\$21.00

AMOCO OIL CO. NE CORNER REISTERSTOWN AND VILLAGE ROADS 3RD DISTRICT

MAKE CHECKS PAYABLE TO:

BALTIMORE COUNTY, MARYLAND

REMIT TO:

COUNTY BOARD OF APPEALS ROOM 200 COURTHOUSE 50N, MD 21204

BALTIMOPE COUNTY, MARYLAND MISCELLANEL CASH RECEIPT

No. 85158

Nes of documents from File #84-183-X Amoco Oil Co.

8238\*\*\*\*\*2100:a 805#F

VALIDATION OR SIGNATURE OF CASHIER

AMOCO OIL CO. - #84-183-X

the wash would be accomplished by a mobile hose and brush unit. As this type of wash provides only a "maintenance cleaning" as opposed to the more thorough cleaning provided in a tunnel wash facility, Mr. Bogdanowicz speculated that this installation would not create a large volume of customers because, by the witness' reasoning, the public will not wait any length of time for a service of the quality provided by this wash. Mr. Bogdanowicz stated that each wash cycle would take about five ninutes.

The second witness before the Board was William Larney, also an Amoco employee. Mr. Larney, the Sales Manager for Amoco Oil Company in Maryland, testified that he projected the wash would generate an additional ten customers per day for this service station. His estimates were based upon the volume of gasoline sold at this station per month, the average gallon purchase per customer and results of similar operations at Amoco stations in the Baltimore area, none of which are in Baltimore County. The Board particularly noted what appeared to be inconsistent reasoning by this witness in that while he testified that the price of gasoline is the major influence in determining the amount of business at a service station and that the construction and use of this wash might allow Amoco to lower its gazoline prices, he also stated that this price reduction would cause only a slight increase in the number of customers at this station.

The final witness on behalf of Amoco was W. W. Fwell, a traffic This expert witness testified that he had studied this locality on July 6, 1984. Based upon the results of this study and Mr. Larney's prediction that an additional ten cars would use this facility on a daily basis, it was Mr. Ewell's opinion that the traffic in this area would not be adversely affected.

Another witness who testified about the traffic in this area was Michael S. Flanigan, an associate traffic engineer with Baltimore County. Mr. Flanigan testified that the section of Reisterstown Road where the subject property is located is, from a traffic standpoint, among the worst in Baltimore County. The area has traditionally been very high, both in number of traffic accidents and citations issued by the Police Department.

IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR SPECIAL EXCEPTION FOR A CAR WASH AS A USE IN COMBINATION WITH A SERVICE SLATION (GAS & GO) NE CORNER REISTERSTOWN AND VILLAGE ROADS 3rd DISTRICT

AT LAW : File No. 84-0G-606

: IN THE CIRCUIT COURT

FOR HALTIMORE COUNTY

Zoning File No. 84-183-X . . . . . . . .

ANSWER TO PLITITION ON APPEAL

People's Counsel for Baltimore County, Appellee, answers the Petition on Appeal in the above-entitled case, as follow:

- 1. Appellee denies Paragraph 1 of the Petition.
- 2. Appellee admits that the County Board of Appeals of Baltimore County denied Appellant's request by its Order dated July 31, 1984, but denies all other allegations in Paragraph 2.
- 3. Appellee neither admits nor denies the allegations in Paragraph 3 inasmuch as Paragraph 3 is merely a prayer for relief.
- 4. In further answering, Appellee states that the decision of the Board of Appeals was legal because of substantially competent evidence.

WHEREFORE, Appellee prays that the Court affirm the decision of the County Board of Appeals of Baltimore County.

Phyllis Cole Friedman People's Counsel for Baltimore County

Peter Max Zummanna Peter Max Timmerman Deputy People's Counse Pm. 223, Court House Torson, Maryland 21204 494-2188

AMOCO OIL CO. - #84-183-X

already disruptive situation intolerable.

Also testifying before this Board was Gordon Sugar, a long time native of this locality and business neighbor of the Amoco station. The gist of Mr. Sugar's testimony was that, through his personal experience, he believed that this section of Reisterstown Road was a traffic "nightmare" and that any addition of traffic volume or strain, no matter how slight, would make an

Mr. Sugar's testimony was echoed by representatives of two corporations involved in the business growth of this area. Mrs. Diane Frederick and Mr. Jack Parks, appearing on behalf of the Pikesville Community Growth Corporation and Pikesville Chamber of Commerce, respectively, testified that the traffic situation around the subject property was abysmal and the area could stand no more burden on its already overtaxed traffic system.

Based upon the testimony, it is the Board's conclusion that the granting of the requested special exception sould be detrimental to the general welfare of this locality by tending to create traffic congestion. Clearly, the traffic situation in this locality is already very poor. The infusion of additional traffic generated by this Wash would turn an already bad situation into a nightmare. Also, the Board was not moved by the expert testimony produced by Amoco. The traffic study relied upon was of questionable value as it was performed on a day shortly after a holiday, which could have affected the volume of traffic. Finally, the Board is not convinced as to Amoco's projection of the amount of customers this facility would generate. Based upon the highly competitive nature of the oil business, the Board is unswayed that the Amoco Oil Company would make a substantial investment in the construction of this facility without expecting sufficient return. This sufficient return could only be obtained by a high volume use of the Wash facility.

For these reasons, the Board is of the opinion that the Petitione; has failed to meet the burden of proof and that the Zoning Commissioner's Order of February 3, 1984 is improped and will, therefore, be reversed.

- 2 -

I HEREBY CERTIFY that on this 7 day of September, 1984, a copy of the foregoing Answer to Petition on Appeal was mailed to Joseph K. Pokorny, Esquire, 408 Jefferson Blog., 105 W. Chesapeake Ave., Towson, MD 21204.

> Thylese Cole Friedman Phyllis Cole Friedman

/ LAW AMOCO OIL CO.

RECEIVED FROM THE COUNTY BOARD OF APPEALS, TRANSCRIPT CERTIFIED DOCUMENTS, EXHIBITS, AND BOARD'S ANSWER FILED IN THE ABOVE ENTITLED CASE, Also, Stipulation filed by People's Counsel

9/27/84

ST 8

BOARD OF

93

Amoco 011 Co. - #84-183-X

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 31st day of July, 1984, by the County Board of Appeals, ORDERED that the Order of the Zoning Commissioner, dated February 3, 1964, be REVERSED, and that the special exception petitioned for be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Keith S. Franz, Acting Chairman

mun > smust

County Board of Appeale f Baltimore County Room 200 Court Mouse (Hearing Room #218) Cotoson, Maryland 21204 (301) 494-3180

May 2, 1984

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 20). ABSOLUTELY NO POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL \$59-79

CASE NO. 84-183-X

AMOCO OIL COMPANY

NE/corner Reisterstown and Village Rds.

3rd District

SE-car wash as a use in combo. with service station (gas & go)

2/3/84 - Z.C. 's Order-GRANTED w/restrictions

ASSIGNED FOR:

THURSDAY, JULY 12, 1984, at 10 a.m.

cc: Joseph K. Pokomy, Esq.

Alan Bernstein, et ux

Counsel for Petitioners

Amoco Oil Company

Protestants

Petitioner

Profestant

Protestant

Murray Kirschman

Frances Carmer

Phyllis Friedman People's Counsel

A. Jation

Jean Jung

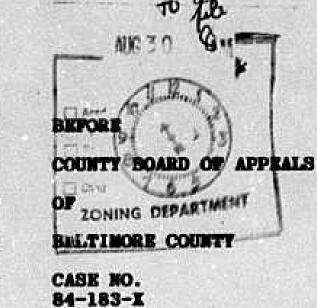
N. Gerber

J. Hoswell

J. Dyer

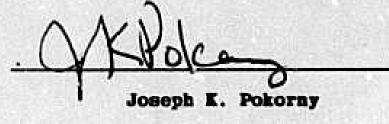
June Holmen, Secy.

IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR SPECIAL EXCEPTION FOR A CAR WASH AS A USE IN COMBINATION WITH A SERVICE STATION (gas and go) W.R. CORNER REISTERSTOWN AND VILLAGE ROADS 3RD DISTRICT



### NOTICE OF APPEAL

PLEASE NOTE AN APPEAL FROM YOUR DECISION IN THE ABOVE CAPTIONED MATTER, UNDER DATE OF JULY 31, 1984 TO THE CIRCUIT COURT FOR BALTIMORE COUNTY AND FORWARD ALL PAPERS IN COMMECTION THEREWITH TO THE CIRCUIT COURT FOR BALTIMORE COUNTY FOR HEARING.



I HYREBY CERTIFY THAT ON THIS 29th DAY OF AUGUST 1934, A COPY OF THE POREGOING NOTICE OF APPRAL WAS MAILED TO ZONING COMMISSIONER FOR BALTIMORE COUNTY, ARNOLD JABLON, ADMINISTRATION BUILDING, CHESAPEAKE AVENUE, BALTIMORE COUNTY, MARYLAND 21204, PHYLLIS COLE PRIEDMAN, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, ROOM 223 COURTGOUSE, TOWSON, MARYLAND 21204.



873-2000

Law Office of 06 W. Cheespeake Ave Towen, N4 2: 304

> IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR SPECIAL EXCEPTION FOR A CAR WASH AS A USE IN COMBINATION WITH A SERVICE STATION (GAS & GO) NE CORNER REISTERSTOWN AND VILLAGE ROADS 3rd DISTRICT Plaintiff

Zoring Case No. 84-183-X

CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW CG Docket No. 2 Folio No. 306 File No. 84-0G-606 \*

IN THE

CERTIFIED COPIES OF PROCEEDIN ... BEFORE THE ZONING COMMISSIONER AND THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Keith S. Franz, Lawrence E. Schmidt and Patricia Phipps, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the Office of Planning and Zoning of Baltimore County:

### No. 84-183-X

- Dec. 28, 1983 Petition of Amoco Oil Company for special exception for a car wash as a use in combination with service station (gas & go) on property located at the northeast corner of Reisterstown and Village Roads, 3rd District - filed
- Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for January 30, 1984 at :0:30 a.m.
- 12, 1984 Certificate of Publication in newspaper filed
- Certificate of Posting of property filed
- Comments of Director of Planning filed
- Comments of Baltimore County Zoning Plans Advisory Committee Id
- At 10:30 am, hearing held on petition by Zoning Commissioner case held sub curia
- Order of the Zoning Commissioner granting petition with restrictions Mar. Order of Appeal to County Board of Appeals from Order of Zoning Commissioner - filed
- Hearing on appeal before County Board of Appeals case held sub-
  - Order of County Board of Appeals denying special exception

AMOCO OIL COMPANY

Appelant

BOARD OF MUNICIPAL

July 31, 1984, and says:

CIRCUIT COURT

BALTIMORK COUNTY AND ZONING APPRAIS CASE NO. 84-183-X Appellee

### PETITION

NOW COMES, AMOCO OIL COMPANY, by it's attorney,

Joseph K. Pokorny, and has entered it's Appeal from an adverse decision of the Board of Appeals rendered against it on

1. The Amoco (il Company owas a tract of land at the northeast corner of Reisterstown Road and Village Road in Baltimore County's third election district, improved with an office, canopy and fuel dispensing units, for a gas and go service dispensing operation and had requested that it be permitted to construct a building for the purpose of a drive-in car wash, whereby the Zoning Commissioner of Baltimore County granted such request with certain reservations.

2. The Board of Appeals of Baltimore County, after hearing and applying Sections 502.1 and 502.1s and 502.1b, denied the applicant's request by it's Order dated July 31, 1984 by finding that such use would be detrimental to the health, safety and general welfare of the locality involved or tend to create congestion in roads, streets or alleys therein.

That as a matter of testimony and departmental submissions. the facts and expert testimony are in contravention to the foregoing.

Denial in that the proposed use would cause to over burden an over-burdened roadway, that such a roadway has numerous accidents because of it's over-burdening was contrary to the People's Counsel's own expert witness, the traffic engineer from Baltimore County, in whose opinion, the granting of such use would not cause a hardship or create congestion.

All departmental experts in behalf of Baltimore County required to render an opinion as to the effect the zoning request would have regarding this particular domain, and in each and every incident, there was no denegration or negative comments. The Board refused to consider their expertise. The Board acted arbitrarily and capriciously in considering the Appellant's cause.

3. Your Petitioner requests that this Honorable Court grant a hearing so that it's position can clearly evidence to the Court that there would be no harm to the public safety, general health, security and morals of the community and that traffic patterns would be enhanced, rather than made more difficult.

AMOCO OIL COMPANY By: L.J. HAYWARD



### County Board of Appeals of Baltimore County Room 200 Court Mouse Comeon, Acreland 21204 (301) 494-3180

August 30, 1984

Alan Bernstein, e. ux 1810 Rambling Ridge Lane, Apt. 201 Baltimore, MD 21209

> Re: Case No. 81-183-X Amoco Oil Company

Dear Mr. Bernstein:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Edith T Eisennart, Adm. Secretary

Encl.

cc: Murray Kirschman Frances Carmer Phyllis Cole Friedman

### CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 30th day of August , 1984. copies of the aforegoing PETITION were mailed to Mr. Arnold Jablos Zoning Commissioner of Baltimore County, Administration Building. Chespeake Avenue, Towson, Maryland 21204, Phyllis Cole Friedman, People's Counsel for Baltimore County, Brom 223 Courthouse. Towson, Maryland 21204.

Law Other of Suite 408 -5 W. Chesapeane Ave. Towson, Md. 21204

G- 10-10-

623-2.00

AMOCO OIL CO. - 2/306/84-CG-606

Aug. 29, 1984 Order for Appeal filed in the Circuit Court for Baltimore County by Joseph K. Pokorny, Esquire, Attorney for Amoco Oil Co.

Certificate of Notice sent to all interested parties

Petition to Accompany Order for Appeal filed in the Circuit Court for Baltimore County

Transcript of testimony filed - 1 volume, with Stipulation re Mr. Parks' testimony from People's Counsel Petitioner's Exhibit No. 1 - Plat - site plan

" 2 - Northwest Expressway map " " 3 - Ewell's Traffic Study, 2 pages, 7/6/84

Leople's Counsel's Exhibit No. 1 - Aerial Photo

" " 2 - Dept. of Traffic Engineering Accident History, Reisterstown Road and Beltway

" " " - Baltimore County list of high accident intersections-15 or more

" 5 - Baltimore County list of high accident intersections-5 or more

" " 6 - Maryland Department of Transportation letter, 4/14/81 - high accident intersections - 4 sheets " 7 - Segment of map showing F level

intersections, site circled in pen " 8 - Resolution - Pikesville

Community Growth Corp. Sept. 27 Record of proceedings filed in the Circuit Court for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, as are also the use district maps, and your Respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your Respondents will produce any and all such rules and regulations, together with the zoning use district maps, at the hearing on this petition or whenever directed to do so by this Court.

Respectfully submitted

cc: Joveph K. Pokorny, Esq. People's Counsel

Edith T. Eisenbart, Adm. Secretary County Board of Appeals of Baltimore County

IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR SPECIAL EXCEPTION FOR A CAR WASH AS A USE IN COMBINATION WITH A SERVICE STATION (GAS & GO) NE CORNER REISTERSTOWN AND VILLAGE ROADS 3rd DISTRICT

AT LAW CG Docket No. 2

IN THE

CIRCUIT COURT

FOR

**BALTIMORE COUNTY** 

Folio No. 306 Zoning Case No. 84-183-X File No. 84-CG-606

CERTIFICATE OF NOTICE

Pursuant to the provisions of Rule B-2 (d) of the Maryland Rules of Procedure: Keith S. Franz, Lawrence E. Schmilt and Patricia Phipps, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, Joseph K. Pokorny Esquire, 408 Jefferson Building, Towsen, MD 21204, Attorney for Petitioner, and L. J. Hayward, Amoco Oil Company, I North Charles Street, Baltimore, MD 21203, Petitioneand Alan Bernstein, et ux, 1810 Rambling Ridge Lane, Apt. 201, Baltimore, MD 21209, and Murray Kirschman, 28 Woodholme Avenue, Baltimore, MD 21208, and Frances Carmer, 16 Felton Road, Lutherville, MD 21093, Protestants, and Phyllis Cole Friedman, Room 223, Courthouse, Towson, MD 21204, People's Counsel for Baltimore County, a copy of which notice is attached hereto and prayed that it may be made a part hereof.

> County Board of Appeal of Baltimore County Room 200, Courthouse Towson, MD 21204 494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been muiled to Joseph K. Pokorny, Esquire, 408 Jefferson Building, Towson, MD 21204, Attorney for Petitioner, and L. J. Hayward, Amoco Oil Company, I North Charles Street, Baltimore, MD 21203, Petitioner, and Alan Bernstein, et ux, 1810 Rambling Ridge Lane, Apt. 201, Baltimore, MD 21209, and Murray Kirschman, 28 Woodholme Avenue, Baltionore, MD 21208, and Frances Carmer, 6 Felton Road, Luthervills, MD 21093, Protestants and Phyllis Cale Friedman, Room 223, Courthouse, Towson, MD 21204, People's Counsel for Baltimore County, on this 30th day of August, 1984.

County Board of Appeals of Baltimore County

cc: A. Jablon A. January . Hos vell



### County Board of Appeals of Baltimore County Room 200 Court Mouse Comen, Margland 21204

August 30, 1984

(301) 494-3180

Joseph K. Pokorny, Esquire 408 Jefferson Building Towson, MD 21204

> Re: Case No. 84-183-X Amoco Oil Company

Dear Mr. Pokorny:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zonica appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other document necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be poid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule 8-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

cc: L. J. Hayward

Encls.

Edith 7. Eisenhart, Adm. Secretary

CIRCUIT COURT FOR BALTII LAW  DOCKET 2 PAGE 306 CASE NO. 8403606	CIVIL - GENERAL		
IN THE MATTER OF THE APPLICATION OP AMOCO OIL COMPANY FOR SPECIAL EXCEPTION FOR A CAR WASH AS A USE IN COMMINATION WITH A SERVICE STATION (gas and go) N.E. CORNER REISTERSTOWN AND VILLAGE ROADS, 3xd DISTRICT	Joseph K. Pciorny 105 W. Chesapeake Ave. 4C8 (4) 823-2000	PHYLLIS COLE FRIEDMAN	BALTIMORE COUNTY, MARYLAN PEOPLE'S COUNSEL OLD COURT HOUSE TOWSON, MARYLAND 21204 494-2188
ZONING COMMISSIONER FOR BALITIMORE COUNTY PROPLE'S COUNSEL FOR BALITIMORE COUNTY	Phyllis Cole Friedman Peter Max Zimmerman Room 223 Court House (04) 494-2188	Joseph K. Pokorny, 1 408 Jefferson Build Towson, MD 21204	
L/25/85 D/E sett Best County  agust 29, 1984 Appellant's Appeal from decision of the Zenning  Commissioner for Baltimore County fa.  g. 30, 1984 - Certificate of Notice fd.  g. 31, 1984 - Appellant's Petition fd.  apt. 7, 1984 - App. of Phyllis Cole Friedman & Peter Max Zimmerman for 1984 (People's Counsel) & Same Day Answer to Petition on Appeal fd.  apt. 27, 1984 - Motice of Filing of Record fd.  apt. 27, 1984 - Motice of Filing of Record fd.  apt. 27, 1984 - Motice of Filing of Record fd.  by 1, 1985 - Deft's (Peoples Counsel) Motion to Dismiss the Appeal & tement of Points & Authorities fd.		The attached speaks for itself. Would you and if it is agreeable to you, please sign it and rout it can be filed with the transcript of testimony.  Very truly yours  Phyllis Cole Fri People's Counsel  Enclosure  PCF:sh	
WECENED COUNTY BOARD OF APPEALS  THE CEIVED TO INTERIOR (Name of Appeal & County Board of Appeal	JVEE)	COUNTY BOARD OF APPEALS FUEL SEP 25 P 2: 43 E	
DOCKET 2 PAGE 306	CASE NO. 84 CG- 606	In the Matter of the Appl  Amoco Oil Company for Spector a Car Vash as a use in with a Service State (gas	cial Exception Combination
Peter Max 25 mmarman  Peter Max 25 mmarman  Deputy Propie's Counsel  Room 223, Court House  Towson, MD 21204  494-2188  Maryland Annotated Code Rule B12.		N.E. Corner Reisterstown & VS  Zoning Commissioner for Ba  People's Counsel for Balti  A ruling by Judge J	Village Eds. 3rd District  Intimore County  Bore County
People's Counsel v. Public Service Commission 451 A.2d 945 (1982).	on, 52 Md. App. 715,	ON A PLEADING IN THE ABOVE	E ENTITLED MATTER IS AS FOLLOWS:

I HENERY CERTIFY that on this 32 day of Downy, 1985, a copy of the foregoing action to Dismiss was mailed to Joseph K. Pokorny, Esquire, 408 Jefferson Blog., Towson, MD 21204, Attorney for Petitioner/ Appellant.

BALTIMORE COUNTY, MARYLAND PEOPLE'S COUNSEL OLD COURT HOUSE TOWSON, MARYLAND 21204 494-2188

PETER MAX ZIMMERMAN DEPUTY PEOPLE'S COUNSEL

September 25, 1984

> RE: Amoco Oil Co., Petitioner Ckt. Ct. No. 84-0G-606

The attached speaks for itself. Would you please review it and if it is agreeable to you, please sign it and return to us so that it can be filed with the transcript of testimony.

IN THE CIRCUIT COURT

FOR

BALTIMORE COUNTY

DOCKET 2 FOLIO 306

CASE 84 0G606

ELMER H. KAHLINE, JR.

Clerk, Circuit Court for Baltimore County

PER April Gattus

Deputy Clerk

Phyl Hs Cole Friedman People's Counsel for Baltimore County

February 22, 1985

Joseph K. Pokorny, Esq. 105 W. Chesapeake Avenue, Saite 408 Towson, MD 21204

Frillis Cole Friedman, Poter Mas Zinmerman

Mail Stop 2206

: IN THE CIRCUIT COURT IN THE MATTER OF THE APPLICATION OF : FOR BALITIMORE COUNTY AMOCO OIL COMPANY FOR SPECIAL EXCEPTION AT LAW : File No. 84-CG-606 AND VILLAGE ROADS 3rd DISTRICT Zoning File No. 84-183-X 111111

ADDENDUM TO TRANSCRIPT OF TESTIMONY BEFORE THE COUNTY BOARD OF APPEALS ON JULY 12, 1984

People's Counsel for Baltimore County and Joseph K. Pokorny, Attorney for Appellant, having been advised that the record of the testimony of Jack Parks was lost due to mechanical failure and having consulted with the County Board of Appeals regarding their hearing notes, have agreed to the following stipulation:

Jack Parks testified as a representative of the Pikesville Chamber of Commerce that at their July 3, 1984 monthly meeting, they voted to oppose the proposed car wash because they determined that it was not in the best interest of the community.

408 Jefferson Building Towson, MD 21204 823-2000 Attorney for Appellant

Phyllis Cole Friedman People's Counsel for Baltimore County Rm. 223, Court House Towson, /ID 21204

COUNTY BOARD OF APPEALS OF BALTIMORY COUNTY

IN THE

FOR

IN THE CIRCUIT COURT AMOCO OIL COMPANY FOR BALTIMORE COUNTY Appellant AT LAW ZONING COMMISSIONER POR BALLTHARE COUNTY, Appellees 111111

MOTION TO DISMISS

People's Counsel for Baltimore County, Protestant below and Appellee herein, moves to dismiss the appeal in the above-captioned matter on the following grounds:

- 1. The Appellant filed its Order for Appeal on August 29, 1985, and its Petition on Appeal on August 30, 1985. Certified copies of proceedings before the County Board of Appeals were filed on September 27, 1984.
- 2. Rule Bl2 of the Annotated Code of Maryland states that within thirty (30) days after being notified by the clerk of the filing of the record, the appellant shall file a memorandum setting forth a concise statement of all issues raised on appeal and argument on each issue, including citations of legal authorities and references to pages of the transcript and exhibits relied on.
- 3. Pursuant to Maryland Rule B12, the Court must dismiss this "appeal because no memorandum was timely filed by Appellant. WHEREFORE, People's Counsel prays that the appeal of Amoor Oil

Company be dismissed.

LAW OFFICE OF

JOSEPH K. POKORNY

408 JEFFERSON BLDG.

813-1000

IUS W. CHESAPSARE AVI TORSON, MO. 21204

that the People's Counsel and the Municipal Board of Zoning Appeals were not prejudiced by the lapse, nor was there any showing that they were inconvent inced.

Wherefore, your Movant requests this Honorable Court to set aside its Order of Dismissal and refustate the case on the active court docket.

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 20th day of March, 1985, copies of the aforegoing Motion to Set Aside Order of Dismissa's ware mailed to Mr. Arnold Jablon, Zoning Commissioner of Baltimore County, Administration Building, Chesapeake Avenue, Touson, Maryland 21204 and Phyllis C. Friedman, People's Counsel for Baltimore County, Room 223 Courthouse, Towson, Maryland.

That on August 29 1984, your Movant filed its Order for Appeal and on August 31, 1984, your Mivant filed its Petition and on September 27, 1984 the transcript of the Record was filed and;

On Petition by the Appellee, citing failure of your Movant to comply with the B-12 rule of the Maryland Rules, this Honorable Court dismissed

and areas germane to the Appeal but, inadvertently, failed to cite, in accordance with Rule B-12, the parts of the transcript questioned and the legal auto rities;

That as a result, this Honorable Court dismissed the Appeal as a sanction under People's Counsel vs Public Service Commission 52 Md. App 715. 451 ATL 2nd 945 (1982);

and importance of the requirement against the circumstances of its violation";

AMOCO OIL COMPANY APPELLANT BOARD OF MUNICIPAL AND ZONING APPEALS APPELLEE

LAW OFFICE OF 725-L000

FOREPH K. POKORN 408 JEFFARSON BLDC TOWSON, MD. 21204

CIRCUIT COURT

84CG606 2/300

BALTIMORE COUNTY CASE NO. 84-183-X

MOTION TO SET ASIDE ORDER OF DISMISSAL

NOW COMES, AMOCO OIL COMPANY, Movant, by its attorney, Joseph K. Pokorny, and moves this Honorable Court to set aside its Order dismissing the above captioned case, and says,

the Movent's Appeal; That your Mevant's Petition set forth with great specificity the points

Whereby, such a sanction is harsh and does not "balance the purpose

#### POINTS AND AUTHORITIES

Maryland Annotated Code Rule B-12

Peoples Counsel vs Public Service Commission 52 Nd. App. 715, 451 ATL 2nd 945 (1982)

LAW OFFICE OF JOHEPH K. PCKORNY 438 JEFFERSON BLDG TOB W. CHESAPEARE AVE TOWSON, Mp. 21204 623-2000

JOSEPH K. POKORYN 408 JEFFERSON BLDG.

OS W. CHESAPEARE AV

683-2000

re ween, Mo. 21204

IN THE CIRCUIT COURT AMOCO OIL COMPANY, FOR BALTIMORE COUNTY Appellant AT LAW Case No. 84CG606 ZONING COMMISSIONER

FOR BALTIMORE COUNTY,

Appellees

ANSWER TO MOTION TO SET ASIDE ORDER OF DISMISSAL AND REQUEST FOR HEARING

111111

People's Counsel for Baltimore County states, in answer to the above Motion:

- 1. It is undisputed that Movant never filed a Memorandum purmuant to Maryland Rule Bl2.
- 2. Accordingly, it was appropriate for the Court to diskiss the appeal pursuant to People's Counsel v. Public Service Commission, 52 Md. App. 715, 451 A.2d 945 (1982).
- There is no dispute that Appellant did file a Petition pursuant to Rule B2.e., along with its Order for Appeal, but this in no way satisfies the requirement of a Memorandum separately described in Rule
- 4. Dismissal of the administrative appeal is the appropriate and preferred sanction for failure to comply with Maryland Rule Bl2.
- 5. The Rule was adopted by the Court of Appeals on October 1, 1980, effective January 1, 1981, and is now well established.
- 6. Furthermore, there was no fault on the part of the administrative agency or any other party which caused or contributed to Appellant's failure.
  - 7. Under these circumstances, in accordance with People's Counsel

v. Public Service Commission, supra, it was appropriate for the Court to dismiss this case, there being no good cause or extenuating circumstances shown in reference to the violation.

- 2 -

WHEREFORE, People's Counsel requests that the Motion to Set Aside Order of Dismissal be denied and that the Court hold a hearing.

> Phyllis Cole Friedman People's Counsel for Baltimore County

Peter Max Zimmerman Deputy People's Counsel Room 223, Court House Towson, Maryland 21204

I HEREBY CERTIFY that on this 3rd day of April, 1985, a copy of the foregoing Answer to Motion to Set Aside Order of Dismissal and Request for Hearing was mailed to Joseph K. Pokorny, Esquire, 408 Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, Attorney for Appellant.

TOWSON, Mp. 21204

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LAW OFFICE OF DEEPH K. POKORNY

400 JEFFERSON BLDG.

SW. CHESAPEARE AVE

APROCO OIL COMPANY " IN THE APPELLANT CIRCUIT COURT ZONING DEPARTMENT MUNICIPAL BOARD OF ZONING AT LAW APPELLEES CASE NO. 84C6606

Minte

To Al file

MEMORANDA

The above captioned matter came before the Zoning Commissioner and the request for Special Exception was granted, with reservations. An Appeal was taken by the People's Counsel and a hearing was had. The Board of Appeals of Baltimore County denied the Special Exception for a car wash as a use in combination with a service station.

Using the standards set forth in Section 502 of the Baltimore County Zoning Regulations, specifically sub-section 502.1, the Board cited that the standard to be proven was whether the issuance of the Special Exception would be "detrimental to the health, safety or general welfare" of the locality involved (BCZR502.1-b) or "tend to create congestion in the roads. streets or alleys therein".

The eivdence presented by the Appeliant was completely dismissed in the following cavalier manner "... the Board was not moved by the expert. testimony produced by Amoco. The traffic study relied upon was of questionable value as it was performed on a day shortly after a holiday which could have affected the volume of traffic'.

The Board assumes, as does People's Counsel, the traffic count was not reliable; however the Appellant's witness stated the traffic count was taken on a Friday and that Friday was the fourth of July weekend.

On cross-examination, Mr. Ewell stated there were peak traffic seasons which were, "during the summer months and ... at Easter and Christmas" (Tp 55). Mr. Ewell concludes, by saying, the facility would not affect the traffic on Reisterstown Road.

Peoples Counsel called on its expert, Michael Flannigan of the Baltimore County Department of Traffic who primarily testified that Reisterstown Road near the Beliway had a high number of accidents (Peoples Counsel Exh. 2-Tp 76). This report was accepted into evidence over objection.

Mr. Flannigan stated the area in question would be rated an "F" level for traffic (Tp 81) and that weams no building permits would be issued in that area .... so there could be no development (Tp 82-83). The evidence submitted could not show that one of the accidents that occured at the intersection was caused by traffic entering or exiting the Amoco Service Station (Tp89).

During the permit process, the Department of Traffic for Baltimore County, said they had "no comment" and on questioning, Mr. Flannigan stated "... the inclusion of this car wash would cause no perceptible problem with the flow of traffic on Reistersiamn Road" (Tp 90) and neither did the State Department of Transportation have a comment except to find the plan generally acceptable (Tp 94).

"The Board is not convinced as to Amoco's projection of the amount of customers this facility would generate (Op. p3) and is unswayed that Amoco would make a substantial investment in the construction of this facility without expecting sufficient return."

Again, the Board is only listening to the testimony it wants to hear and not the testimony presented. The tenant, or operator, controls prices. Amoco charges the same price to all of its dealers. In this highly competitive atmosphere the car wash is but a tool to maintain the customers they have since the nature of the car wash and the time it would require precludes a drastic increase in business (Tp 12-14).

The only statistical, as apposed to emotional, data produced was produced by the Appellant and the one expert produced by the Appellee who stated the use facility would not cause a problem."

> Attorney for Appellant 408 Jefferson Building Towson, Maryland 21204

I hereby certify that on this 10 day of April, 1985, copies of the aforegoing Memoranda were mailed to Phyllis Cole Friedman, People's Counsel for Baltimore County, Room 223 Courthouse, Towson, Maryland, and Mr. Arnold Jablon, Zoning Commissioner of Baltimore County, Administration Building, Chesapeake Avenue. Towson, Maryland 22204.

LAW OFFICE OF

JOSEPH K. POKORNY

408 JEFFERSON BLDG

105 W. CHESAPEAKE AVE.

TOWSON, Mb. 21204

Joseph K. Pokorny

AMOCO OIL CO., et al., IN THE CIRCUIT COURT Appellants FOR BALITIMORE COUNTY ZONING COMMISSIONER, et al., File No. 84 CG 606 Appellees #84-183.X 1111111

Upon consideration of the record and argument of counsel, and for the reasons stated in open court, it is, this day of October 2, 1985, by the Circuit Court for Baltimore County, ORDERED.

ORDER

t. That the appeal of home fit to , at the be, and benefit

2. That the Order of the County Board of Appeals of Baltimore County dated July 31, 1984 denying Appellants' patition for Special Exception be, and hereby is, affirmed and upheld.

En Olaria Brotte Deputy Clerk



APINOLD JABLY ZCHING COMMISSIONER

Januar; 18, 1984

Joseph K. Pokorny, Esquire 408 Jefferson Building Towson, Maryland 21204

> Re: Petition for Special Exception NE/corner Reisterstown & Village Rde. (1713, 1717, 1719 and 1721 Resisterstown Rend) Ameco Oil Company - Petitioner Case No. 84-185-X

Dear Mr. Pokornyi

This is to advise ; that \$52.30 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

ARNOLD JABAON Zoning Commissioner

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

No. 126816

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FILED OCT 2885

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SULIDATION OR SIGNATURE OF CASHIER

Joseph K. Pokorny, Esquire 408 Jefferson Building Towson, Maryland 21204

NOTICE OF HEARING

Re: Petition for Special Exception NE/or. Reisterstown and Village Roads (1713, 1717, 1719 and 1721 Relaterstown Road) Amoco Oil Company - Petitioner Case No. 84-183-X

TIME: 10:30 A.M. DATE: Monday, January 30, 1984 PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

> Zoning Commissioner of Baltimore County

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

No. 121599

C 375\*\*\*\*10000:6 8198A

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF POSTI

84-183-X Date of Posting Servery 11-84 Petitioner: Camola Oil Confiny Number of Signs: \_2\_\_

94-183-X

### CERTIFICATE OF PUBLICATION

PETITION FOR SPECIAL EXCEPTION
3rd Election Distret

Pond)
DATE & TIME: Monday, January
20, 1284 at 10:30 A.M.
PUBLIC HEARING: Room 104,
County Office Building, 111 W.
Chesapeake Avenue, Towson,
Maryland

a car wast as a use in combination with a service station (gas and go). Being the property of Anneo Oil Company, as shown on plat plan fied with the Zoning Department. In the event that this Fetition is granied, a beliding permit may be issued within the thirty (25) day appeal period. The Zoning Ornmissioner will, however, cuts ta's any request for a sury of the issuance of said permit during its a period for good cause shown. Suc I request must be received in writing by the date of the hearing set have or made at the hearing.

By Order Of ARLON,

Zoning Commissioner of Baltimore County

TOWSON, MD., January 12 19.84

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIA's, a weekly newspaper printed and published in Towson, Baltimore County, Md., oncecinxeach of goe time movements before the \_30th\_\_\_\_ day of \_\_\_\_\_\_January\_\_\_\_\_ 19.84\_\_, the xinest publication appearing on the \_12th \_\_\_\_ day of \_\_\_\_\_January\_\_\_ 19\_84\_

THE JEFFERSONIAN.

Cost of Advertisement, \$ 18.00

NITY NEWSPAPIS OF MARYLAND, INC.

ZONING: Petiton for Special Exception
LOCATION: Northeast corner Resterstown and Vivige Rixols (1713, 1717):
1719 and 1721 Reisterstown Road)
DATE & TIME: Monday, January 30, 1984 at 10:30 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake
Avenue, Towson, Maryland Westminster, Md. Jan. 12,19.84

TIFY that the annexed Req.#154659 P.O. 51215

y of January 19 84

ounty Times, a daily newspaper published Being the property of Arnoco Oil Company, as shown on plat plan filed with the Zoning Department. In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will however, erroll. Herald, a weekly newspaper published entertain any request for a stay of the issuance of said permit during this.

in Eldersburg, Carroll County, Maryland.

Times, a weckly newspaper published

ZONING COMMISSIONER OF BALTIMORE COUNTY in Reisterstown, Baltimore County, Maryland,

LANDMARK COMMUNITY NEWSPAPERS OF MARYLAND, INC.

Per tima Keesfer

### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

	84-103-1
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osted for Appell	
etitioner: Colombia 1912 Con	
ocation of property. NE Comm. 1	Restivatoron and Village Meda
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ration of Signs: IN 4 / 1 Court of 11	Eisteretum and Village Thanks
mark/:	
sted by A. G. O. ta	Date of return: 3 - 30 - 5-4

PETITION FOR SPECIAL EXCEPTION Srd Election District

The Zoning Commissioner of Bultimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing

Petition for Special Exception for a car wash as a

use in combination with a service station (29s and go).

period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

3rd District

NE/cor. Reisterstown & Village Roads

Arroco Oil Company

2 SIGNS

