

**PETITION FOR SPECIAL HEARING 85-167-SPH**  
**TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:**

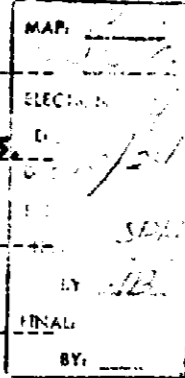
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 5-9.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the non-conforming use as an automotive service station.

Property is to be posted and advertised as prescribed by Zoning Regulations.  
 I, or we, agree to pay expenses of the above Special Hearing 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.

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

Contract Purchaser: \_\_\_\_\_  
 (Type or Print Name)  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City and State: \_\_\_\_\_  
 Attorney for Petitioner: \_\_\_\_\_  
 (Type or Print Name)  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City and State: \_\_\_\_\_  
 Attorney's Telephone No.: \_\_\_\_\_

Legal Owner(s):  
**KHK Inc.**  
 (Type or Print Name)  
 Signature: *Paul M. Koch*  
**PAUL M. KOCH**  
 (Type or Print Name)  
 Signature: \_\_\_\_\_  
 Address: **608 CLIVEDEN ROAD 486-2256**  
 City and State: **PIKESVILLE, MARYLAND 21208**  
 Name, address and phone number of legal owner, contract purchaser or representative to be contacted:  
**PAUL M. KOCH**  
**608 CLIVEDEN ROAD 486-2256**




85-167-SPH  
10/20

ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of October, 1984, that the subject matter of this petition be advertised, as 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 17th day of December, 1984, at 10:45 o'clock.

*Carl Jablon*  
 Zoning Commissioner of Baltimore County.

ORDER RECEIVED FOR FILING  
DATE: 10/20  
BY: [Signature]

**BALTIMORE COUNTY**  
**ZONING PLANS**  
**ADVISORY COMMITTEE**



**PETITION AND SITE PLAN**  
**EVALUATION COMMENTS**

**BALTIMORE COUNTY, MARYLAND**  
 INTER-OFFICE CORRESPONDENCE

To: Arnold Jablon, Zoning Commissioner Date: December 10, 1984  
 From: Norman E. Gerber, Director, Office of Planning & Zoning  
 Subject: Zoning Petition No. 85-167-SPH

In view of the subject of this petition, this office offers no comment.

*Norman E. Gerber per J. Stawell*  
 Norman E. Gerber, Director

NEG:JGH:bjs

**BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE**  
 December 6, 1984

Mr. Paul M. Koch  
 608 Cliveden Road  
 Baltimore, Maryland 21208

RE: Item No. 108 - Case No. 85-167-SPH  
 Special Hearing Petition

Dear Mr. Koch:

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.

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 date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,  
*Nicholas B. Commodari*  
 NICHOLAS B. COMMODARI  
 Chairman  
 Zoning Plans Advisory Committee

NBC:bsc  
 Enclosures  
 cc: A. L. Snyder  
 1911 Hanover Pike  
 Hampstead, Maryland 21074

**85-167-SPH**

**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 30th day of November, 1984.

*Arnold Jablon*  
 ARNOLD JABLON  
 Zoning Commissioner

Petitioner: **K.H.K., Inc.** Received by: *Nicholas B. Commodari*  
 Petitioner's Attorney: \_\_\_\_\_ Chairman, Zoning Plans Advisory Committee

**BALTIMORE COUNTY**  
 DEPARTMENT OF PUBLIC WORKS  
 TOWSON, MARYLAND 21204

HARRY J. PISTEL, P. E.  
 DIRECTOR

November 26, 1984

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

Re: Item #108 (1984-1985)  
 Property Owner: K.H.K., Inc.  
 W/S Park Heights Ave. 1650' S. from centerline Walnut Ave.  
 Acres: 0.75  
 District: 4th

Dear Mr. Jablon:

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 comments:  
 Park Heights Avenue is a State Road (Route 129); therefore, we have no comment regarding any future improvements along a State Road.  
 Since no public facilities are involved, this office has no comment.

Very truly yours,  
*James A. Markle*  
 JAMES A. MARKLE, P.E., Chief  
 Bureau of Public Services

JAM:EAM:PMO:ss

**Maryland Department of Transportation**  
 State Highway Administration

William K. Hollmann  
 Secretary  
 Hal Kassoff  
 Administrator

November 9, 1984

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

Attention: Mr. N. Commodari

Re: ZAC Meeting of 10-30-84  
 ITEM: #108.  
 Property Owner: K.H.K., Inc.  
 Location: W/S Park Heights Avenue, Route 129, 1650' S. from c/l Walnut Avenue  
 Existing Zoning: R.C. 5  
 Proposed Zoning: Special Hearing to approve a non-conforming use for an automotive service station.  
 Acres: 0.75  
 District: 4th

Dear Mr. Jablon:

On review of the site plan of 5-8-84 and field inspection, for non-conforming use, the State Highway Administration offers the following comments.

If the site is approved as a non-conforming use, the existing access to the site can remain unchanged.

However, if the site loses the non-conforming use status, the State Highway Administration will require the owner or developer to provide S.H.A. channelized improvement along the frontage of Park Heights Ave. (Route 129) as shown on the attached sketch.

My telephone number is (301) 659-1350  
 Teletypewriter for Impaired Hearing or Speech  
 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free  
 P.O. Box 717/707 North Calvert St., Baltimore, Maryland 21203-0717

Mr. A. Jablon -2- November 9, 1984

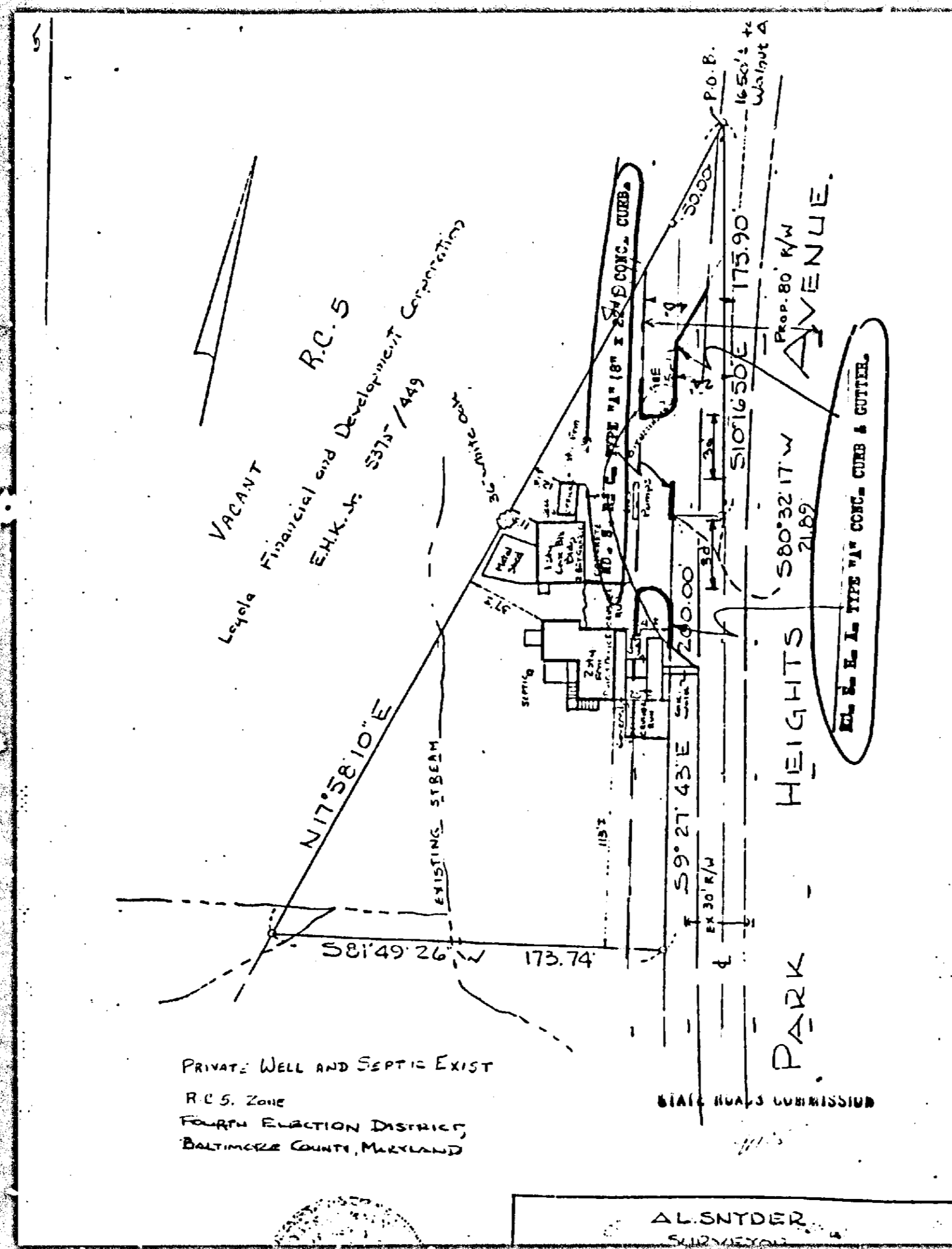
All work within the State Highway Administration Right-of-Way must be through S.H.A. permit with the posting of a \$3,000.00 bond to guarantee construction.

Very truly yours,  
*Charles Lee*  
 Charles Lee, Chief  
 Bureau of Engineering  
 Access Permits

By: George Wittman

CL:GW:maw  
 Attachment  
 cc: Mr. J. Ogle

Pursuant to the advertisement posting of property, and public hearing on the Petition and it appearing that by reason of the following finding of facts:



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING TOWSON, MARYLAND 21204

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

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- There are no site planning factors requiring comment.
A County Review Group meeting is required.
A County Review Group meeting was held and the minutes will be forwarded by the Bureau of Public Services.

Site plan must include a vicinity sketch

Stephen G. Belts, Chief, Current Planning and Development

BALTIMORE COUNTY DEPARTMENT OF TRAFFIC ENGINEERING TOWSON, MARYLAND 21204

STEPHEN E. COLLINS, DIRECTOR, November 20, 1984

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

Item No. 108 - ZAC Meeting of October 30, 1984. Property Owner: K.H.K., Inc. Location: W/S Park Heights Ave. 1650' S. from C/L Walnut Ave.

Acres: 0.75, District: 4th

Dear Mr. Jablon:

If this site is found to be a non-conforming use then this Department has no comments; if found to be a conforming use, than all County standards will apply.

Michael S. Flanigan, Traffic Engineering Assoc. II

BALTIMORE COUNTY FIRE DEPARTMENT TOWSON, MARYLAND 21204-2586

PAUL H. RENCKE, CHIEF, November 7, 1984

Mr. Arnold Jablon, Zoning Commissioner, Office of Planning and Zoning, Baltimore County Office Building, Towson, MD 21204

Attention: Nick Commodari, Chairman, Zoning Plans Advisory Committee

RE: Property Owner: K. H. K., Inc.

Location: W/S Park Heights Avenue 1650' S. from c/l Walnut Avenue

Item No.: 108, zoning Agenda: Meeting of 10/30/84

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- 1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

REVIEWED BY: [Signature] Approved: George M. Hagmann, Fire Prevention Bureau

BALTIMORE COUNTY DEPARTMENT OF PERMITS & LICENSES TOWSON, MARYLAND 21204

TED ZALESKI, JR., DIRECTOR, November 5, 1984

Mr. Arnold Jablon, Zoning Commissioner, Office of Planning and Zoning, County Office Building, Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item #108 Zoning Advisory Committee Meeting are as follows:

Property Owner: K.H.K., Inc. Location: W/S Park Heights Avenue 1650' S. from c/l Walnut Avenue

Proposed Zoning: Special Hearing to approve a non-conforming use for an automotive service station.

- 1. All structures shall conform to the Baltimore County Building Code 1981/Council Bill 1-83 State of Maryland Code for the Handicapped and Aged; and other applicable Codes.
2. A building permit shall be required before beginning construction.
3. Residential: Three sets of construction drawings are required to file a permit application.
4. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
5. An exterior wall erected within 6'0" for Commercial uses or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction.
6. Requested variance appears to conflict with the Baltimore County Building Code, Section 5-101.
7. 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 meet the Code requirements for the proposed change.
8. Before this office can comment on the above structure, please have the owner, thru the services of a Registered or Licensed Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed complies with the height/area requirements of Table 505 and the required construction classification of Table 401.

Comments - Section 103.1 as amended by Bill 1-82 appears applicable. The applicant should request a Fire Department inspection to determine that no unusual hazards exist or endanger the occupants.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 W. Chesapeake Ave., Towson.

Charles E. Burnham, Chief, Plans Review

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER W/S of Park Hgts. Ave., 1,650' S of the Centerline : OF BALTIMORE COUNTY of Walnut Ave. (12026 Park Hgts. Ave.), 4th District : Case NO. 85-167-SPH

KIK, INC., Petitioner

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman, People's Counsel for Baltimore County

Peter Max Zimmerman, Deputy People's Counsel, 494-2188

I HEREBY CERTIFY that on this 13th day of December, 1984, a copy of the foregoing Entry of Appearance was mailed to Mr. Paul M. Koch, KIK Inc., 608 Cliveden Road, Pikesville, MD 21208, Petitioner.

Peter Max Zimmerman, Peter Max Zimmerman

85-1396 Timber Valley Association, Inc. December 21, 1984 DEPARTMENT

Baltimore County Office of Planning & Zoning, 111 West Chesapeake Avenue, Towson, Maryland 21204

ATTN: Mr. Arnold Jablon, Zoning Commissioner

RE: Case No. 85-167SPH

Dear Mr. Jablon:

On Sunday, December 23, 1984, the Board of Directors of the Timber/Valley Association, Inc. met with the principals of K H K, Inc. relative to the above. At that time, we discussed the above matter and wish to jointly present for your consideration the following recommendations which both the owners of the above referenced automotive service station and our Association have agreed upon.

- 1. The non-conforming use for which the above referenced property is currently being utilized is that of an automotive service station, with an accessory use for vehicle repair services.
2. That the current non-conforming use has been expanded to the maximum size allowed under applicable Baltimore County law.
3. That on or before February 1, 1985, K H K, Inc. will construct an 8 foot high wooden at-grade privacy fence in the area between the 2-bay garage and the 2-story building immediately south of said garage.
4. The automotive service station will also be permitted to store 2 vehicles, at night, within their garage.
5. During operating hours, K H K, Inc. will make every reasonable effort to store vehicles which they are servicing within the fenced in area.

*Timber Valley Association, Inc.*

December 31, 1984  
Re: Case No. 85-167SPH  
Page 2

6. That on or before April 15, 1985, K H K, Inc. will plant a thick row of trees along their rear property line within the area which we have marked on the attached plat in green. Said trees are to stand at least 8 feet above ground after being planted, and are to grow to a height of at least 20 feet. These trees are to form a natural buffer between the automotive service station and our community. Both parties are currently consulting with nurseries to determine the appropriate variety of tree which should be planted in the specified area. Upon agreeing on a particular species, we will notify you of both the species, and the number of "set between each tree which the parties have agreed upon. This will occur within 7 days of this date.

The signatures below indicate the approval of the recommendations contained herein of the persons, corporations or Associations to whom said signatures are attributed.

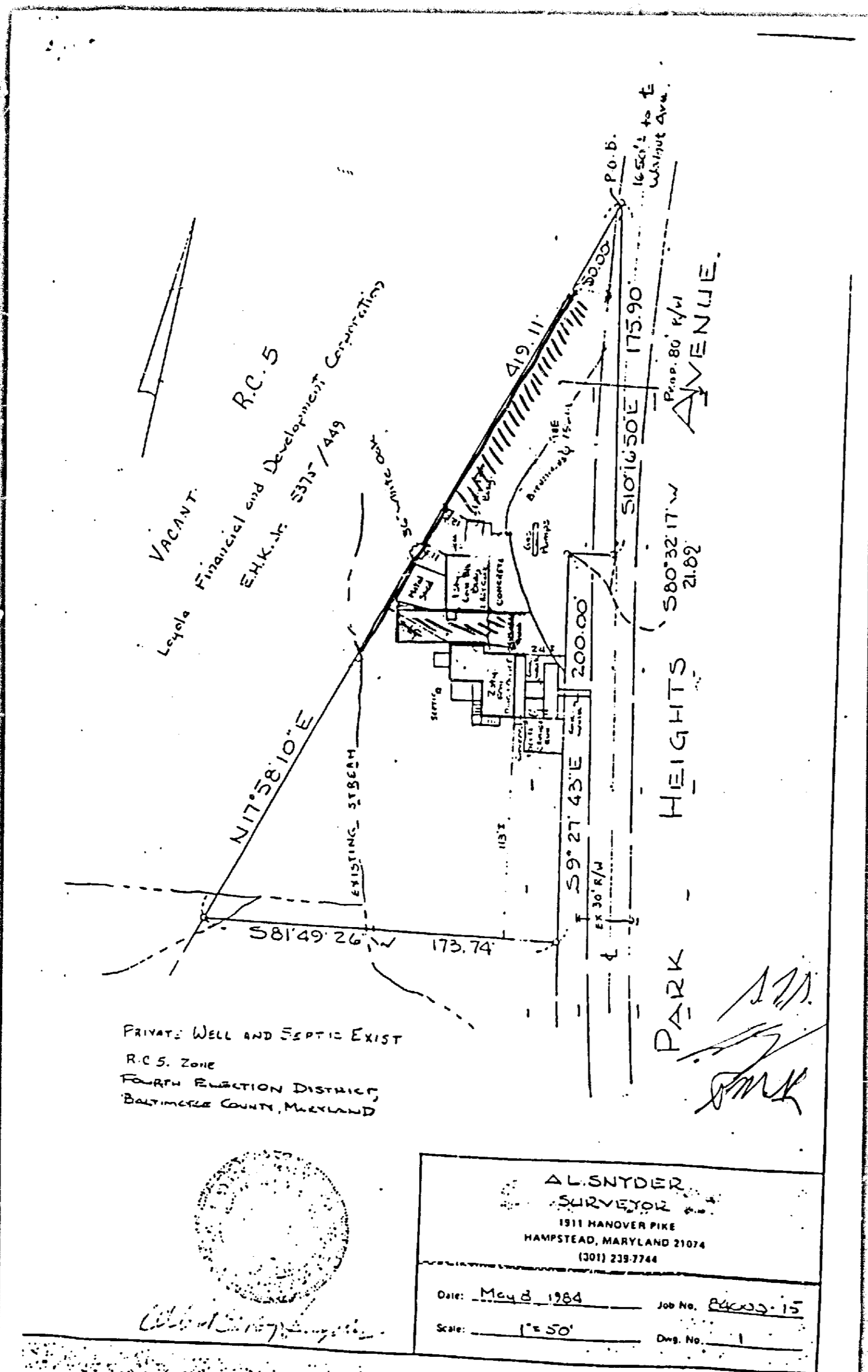
Very truly yours,  
TIMBER/VALLEY ASSOCIATION, INC.

BY: *[Signature]*  
STUART L. SACAL, PRESIDENT

Approved as to content:

K H K, INC.  
BY: *[Signature]*  
PAUL KOCH, PRESIDENT

*[Signature]*  
LANCE YATEMAN, ESQUIRE



November 15, 1984

Mr. Paul M. Koch  
608 Cliveden Road  
Baltimore, Maryland 21208

**NOTICE OF HEARING**  
RE: Petition for Special Hearing  
W/S Park Heights Ave., 1650' S  
of the c/l of Walnut Ave.  
(12026 Park Heights Avenue)  
KHK, Inc. - Petitioner  
Case No. 85-167-SPH

TIME: 10:45 a.m.  
DATE: Monday, December 17, 1984  
PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE-REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
No. 134311

DATE: 11/17/84 ACCOUNT: 01-615-000  
AMOUNT: \$ 100.00

RECEIVED FROM: KHK, Inc.  
FOR: Filing Fee to S.H. # 108

BY: *[Signature]*  
Commissioner

**CERTIFICATE OF PUBLICATION**  
85-167-SPH  
TOWSON, MD., November 22, 1984.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. appearing on November 22, 1984.

THE JEFFERSONIAN,  
*[Signature]*  
Publisher

Cost of Advertising 20<sup>00</sup>

BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3053

ARNOLD JABLON  
ZONING COMMISSIONER

December 5, 1984

Mr. Paul M. Koch  
608 Cliveden Road  
Baltimore, Maryland 21208

RE: Petition for Special Hearing  
W/S Park Heights Ave., 1650' S of  
the c/l of Walnut Ave. (12026 Park Heights Ave.)  
KHK, Inc. - Petitioner  
Case No. 85-167-SPH

Dear Mr. Koch:

This is to advise you that \$53.35 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

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.

Sincerely,  
ARNOLD JABLON  
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE-REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
No. 003133  
DATE: Dec. 17, 1984 ACCOUNT: 01-615-000  
AMOUNT: \$ 53.35  
RECEIVED FROM: KHK, Inc. Paul Koch  
FOR: Advertising & Posting Case No. 85-167-SPH

**PETITION FOR SPECIAL HEARING**  
4th Election District

LOCATION: West side of Park Heights Avenue, 1,650 feet South of the centerline of Walnut Avenue (12026 Park Heights Avenue)

DATE AND TIME: Monday, December 17, 1984 at 10:45 a.m.

PUBLIC HEARING: Room 106, County Office Building, 111 West 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 Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the nonconforming use as an automotive service station.

Being the property of KHK, Inc. as shown on the plat filed with the Zoning Office.

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 made at the hearing.

BY ORDER OF  
ARNOLD JABLON  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY

IN RE: PETITION SPECIAL HEARING  
W/S of Park Heights Avenue,  
1,650' S of the centerline of  
Walnut Avenue (12026 Park  
Heights Avenue) - 4th Election  
District

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY

KHK, Inc., Petitioner

Case No. 85-167-SPH

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Petitioner herein requests a determination from the Zoning Commissioner as to whether the present use of its property is a legal nonconforming use, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by its President, Paul M. Koch, and his son, Michael Koch, appeared and testified. Lance Yateman, an attorney representing the Timber/Valley Association, Inc. and himself as a neighbor, appeared and testified as a Protestant. Also appearing as Protestants were Mary Fitchett, Avis Reed, and Doris Quante, all neighbors.

Testimony indicated that the subject property, presently zoned R.C.5, is located on Park Heights Avenue near Caves Road and has always had residential zoning. The Petitioner purchased the property in May, 1984 in order to operate an existing automotive service station. Two letters from individuals familiar with the site, Petitioner's Exhibits 2 and 3, indicated that the property has been used as a service station for at least 30 years. The property is improved with two-story dwelling which has offices on the first floor and an apartment on the second floor, a two-car garage with one bay, a metal shed behind the garage, and an office in a small building to the side of the garage. The Petitioner presently operates four gas pumps and performs extensive automobile mechanical repairs. There are as many as 20 automobiles on the site awaiting repairs

ORDER RECEIVED FOR FILING  
DATE: 11/17/84  
BY: *[Signature]*

**PETITION FOR SPECIAL HEARING**  
4th Election District

LOCATION: West side of Park Heights Avenue, 1650 feet South of the centerline of Walnut Avenue (12026 Park Heights Avenue)  
Monday, December 17, 1984 at 10:45 a.m.  
Room 106, County Office Building, 111 West 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 Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the nonconforming use as an automotive service station.

Being the property of KHK, Inc. as shown on the plat filed with the Zoning Office.

In the event that the 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 made at the hearing.

BY ORDER OF  
ARNOLD JABLON  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY

**LANDMARK COMMUNITY NEWSPAPERS OF MARYLAND, INC.**  
Westminster, Md., Nov. 29, 1984.

THIS IS TO CERTIFY that the annexed Reg. # L6737B...P.O.#60885 was published for one (1) consecutive days in the... to the 29th day of November, 1984, previous to the...

Carroll County Times, a daily newspaper published in Westminster, Carroll County, Maryland.  
 South Carroll Herald, a weekly newspaper published in Eldersburg, Carroll County, Maryland.  
 Community Times, a weekly newspaper published in Reisterstown, Baltimore County, Maryland.

BY ORDER OF  
*[Signature]*  
Per *[Signature]*

LANDMARK COMMUNITY NEWSPAPERS OF MARYLAND, INC.

and a growing business has developed by word of mouth. There is no question that the primary use of the property is as a complete automotive service garage for the repair of cars.

The Protestants presented uncontradicted testimony that the property was utilized literally as a gas station from 1934 to 1977. Mrs. Fitchett, the daughter of the original owner of the property, Mr. Hofmeister, testified that her parents began the gas station operation with two pumps in front of their home, which is the existing two-story dwelling, and used the kitchen as the office. Indeed, it was a typical "ma and pa" operation with Mrs. Hofmeister operating the pumps during the day while Mr. Hofmeister worked as a mechanic in Reisterstown. From its inception until Mr. Hofmeister died in 1977, there were no automobiles being repaired on the premises. On or about 1970, the two-car garage was constructed without bays. The sole purpose of the business was the pumping of gasoline, nothing else. From 1977 until 1982, Mrs. Fitchett's son operated the gas station and expanded the business by performing minor automobile repair work. In 1982, Mr. Curd purchased the property and added a bay in the garage in order to perform more extensive repairs. The Petitioner purchased the property from Mr. Curd in 1984.

All of the Protestants complained about the noise emanating from the use of Park Heights Avenue to test cars, the use of private property as turn-arounds, and storage of up to 20 cars awaiting parts or to be picked up after repairs were completed. Both the Petitioner and the Protestants agreed that the current use is an intensification of any nonconforming use and it is obvious that the intensity of the use has expanded since the 1920's. The Petitioner has agreed, however, to curtail its use to comply with the nonconforming use found to exist by this Order and described below. See Joint Exhibit 1.

BY The Petitioner seeks relief from Section 104.1, pursuant to Section 500.7, Baltimore County Zoning Regulations (BCZR).

ORDER RECEIVED FOR FILING  
DATE: 11/17/84  
BY: *[Signature]*

A nonconforming use is an exception to generally applicable zoning requirements for a previously lawful, existing use. See, generally, 1 Anderson, American Law of Zoning, 2nd Edition, Section 6.01 to 6.73; 3 Rathkopf, The Law of Zoning and Planning, Section 58-1 to 62-18. The government recognizes a nonconforming use in derogation of the general zoning scheme in order to protect the interests of property owners. 1 Anderson, supra, Section 6.02 to 6.07; 3 Rathkopf, supra, Sections 58-1 to 58-3, 61-1. Nevertheless, the ultimate purpose of zoning was and is to reduce nonconformance to conformance as speedily as possible with due respect to the legitimate interests of all concerned. A permissible aim of the zoning regulations is to limit and forbid expansion of a nonconforming use and to forfeit the right to it upon abandonment of the use or the destruction of the improvements housing the use. Grant v. Mayor and City Council of Balto., 129 A.2d 363 (1957). Whether a nonconforming use can be changed, extended, enlarged, altered, repaired, restored, or recommenced after abandonment ordinarily is governed by the provisions of the applicable ordinances and regulations. Feldstein v. LaNale Zoning Board, 227 A.2d 731 (1967). These regulations and ordinances must be strictly construed in order to effectuate the purpose of eliminating nonconforming uses. Mayor of Balto. v. Byrd, 62 A.2d 588 (1948).

In deciding whether a current activity is within the scope of a nonconforming use, the following factors should be considered:

1. to what extent the current use of the property reflects the nature and purpose of the original nonconforming use;
2. is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;
3. does the current use have a substantially different effect upon the neighborhood; and

ORDER RECEIVED FOR FILING

DATE January 22, 1985  
BY John P. [Signature]  
ADMINISTRATIVE ASSISTANT

- 3 -

4. is the current use a drastic enlargement or extension of the original nonconforming use. McKeny v. Balto. County, 39 Md. App. 257 (1948). There is a strong presumption of the correctness of the original zones and of comprehensive zoning. Howard County v. Dorsey, 438 A.2d 1339 (1982). There is a presumption of validity that must be accepted. Johnson & Wales College v. DiPiete, 448 A.2d 1284 (Pa. Cmwlth., 1982). When the language of a zoning regulation is clear and certain, there is nothing left for interpretation and the ordinance must be interpreted literally. Mongony v. Bevilacqua, 432 A.2d 661 (R.I., 1981).

This gasoline service station began prior to the existence of zoning in Baltimore County. However, it is significant to note that under the original BCZR (circa 1945), a "public service garage" and "gasoline service station" were distinguished. In order to conclude whether the present use is no more than a continuation of a valid nonconforming use begun prior to comprehensive zoning, with continuation through various stages of zoning changes, the two terms must be defined. The definition for a service garage in the current BCZR is similar to that found in the 1945 BCZR. Although no definition for a gasoline service station is found in the 1945 BCZR, it is obvious that the County Commissioners, in adopting those ordinances, considered the two separate and distinct entities. Current law defines an automotive service station as "[a] structure or land used or intended to be used primarily for the retail sale of automotive fuel..." It is difficult to draw an analogy from the current definitions through the evolution of the BCZR from the earliest ordinances and accept these definitions as indicative of what the ordinance intended then.

It is true that an ordinance must be interpreted literally when its language is clear and certain. Mongony, supra. It is also true that restrictive language contained in an ordinance must be strictly construed so as to allow a

ORDER RECEIVED FOR FILING

DATE January 22, 1985  
BY John P. [Signature]  
ADMINISTRATIVE ASSISTANT

- 4 -

landowner the least restrictive use of his property. Lake Adventure, Inc., supra. The regulations passed by the Council must be construed according to the ordinary and natural import of their language since it is the language of the statutes which constitutes the primary source of legislative intent. Grosvenor v. Supervisor of Assessment, 271 Md. 232 (1974). When statutes are construed, however, results that are unreasonable, illogical, or inconsistent with common sense should be avoided whenever possible and consistent with the statutory language, with the real legislative intention prevailing over the intention indicated by the literal meaning. B. F. Saul Co. v. West End Park, 250 Md. 707 (1968).

Applying these principles, it must be concluded that the primary use of the instant property was as a gasoline station. The 1955 BCZR substituted the term "filling station" for that of "gasoline service station", and in turn, the current BCZR substituted the term "automotive service station" for "filling station". It is without question that the Legislature intended that each is the equivalent of the other when the primary use is the retail sale of gasoline. Under the 1955 BCZR, minor and emergency repairs and customary services were permitted outside of a building. Section 405.4, 1955 BCZR. Vehicle repair services, including self-service repair facilities, are permitted as ancillary uses by current law. Section 405.4.C.1, BCZR. It is clear from the inception of comprehensive zoning that minor repairs have been permitted by gas stations as long as the principal use has been the sale of gasoline.

For the above reasons, based on the evidence and testimony presented, it is determined that a nonconforming use exists on the instant site to the following extent:

1. An automotive service station with an accessory vehicle repair service.

ORDER RECEIVED FOR FILING

DATE January 22, 1985  
BY John P. [Signature]  
ADMINISTRATIVE ASSISTANT

- 5 -

2. Overnight storage of only two vehicles within the garage.
3. Parking of nine vehicles on the crusher-run area along Park Heights Avenue, north of the service station. Any unsightly vehicles shall be stored so as not to be visible from Park Heights Avenue or from the communities west of the service station, particularly Valley Hills and Valley View.
4. That every reasonable effort be made to store no more than six vehicles awaiting service within an area between the garage and the dwelling, beginning at the front of the dwelling and running to the end of the shed behind the garage. This area is to be enclosed by an eight-foot-high stockade privacy fence painted to match the predominate color of the dwelling.
5. The placement of a thick row of trees, at least eight feet in height at planting with an expected height of at least 20 feet, along the rear property line.
6. The nonconforming use, as described above, provides the maximum expansion permitted and no further expansion is allowed.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the request for determination of a nonconforming use is granted, subject to the limitations as expressed above.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 22nd day of January, 1985, that the Petition for Special Hearing for a nonconforming use for an automotive service station be and the same is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The site plan attached to Joint Exhibit 1 shall be the plan adopted by this Order to confirm the existence of the nonconforming use and, as such, the nonconforming use shall be subject to it.

[Signature]  
Zoning Commissioner of  
Baltimore County

ORDER RECEIVED FOR FILING

DATE January 22, 1985  
BY John P. [Signature]  
ADMINISTRATIVE ASSISTANT

- 6 -

cc: Mr. Paul M. Koch  
Lance I. Yateman, Esquire  
People's Counsel

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE  
ITEM # 108

Paul M. Koch, Bureau of Public Services - Developers  
TO: ENGINEERING DIVISION  
Malcolm F. Spicer, Jr., County Attorney  
FROM: # 85-167-JPH  
SUBJECT: Disclosure Resolution

I am enclosing herewith a copy of a Resolution which I have prepared on your behalf and at the request of Councilman Huddles. Please contact Councilman Huddles' office to find out when this Resolution will be considered by the County Council.

[Signature]  
Malcolm F. Spicer, Jr.  
County Attorney

MFSJR:gh  
Enclosure.  
cc: Honorable Gary Huddles

RECEIVED

DEC 4 1984  
DEVELOPERS ENGINEERING DIVISION  
BUREAU OF PUBLIC SERVICES

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1984, Legislative Day No. \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

Mr. Gary Huddles, Councilman

By the County Council, \_\_\_\_\_

A RESOLUTION concerning the public disclosure of Paul M. Koch.

WHEREAS, Paul M. Koch, an employee in the Department of Public Works, Bureau of Public Services, has an interest in K.H.K., Inc., the owner of Walnut Heights Amoco Station located on Park Heights Avenue, in Baltimore County which property is or will be the subject of a Petition for Special Hearing to determine nonconforming use; and

WHEREAS, this Resolution is intended to serve as the public disclosure required by §22-11(e) of the Baltimore County Code.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the interest of Paul M. Koch in the property described herein and the Petition for Special Hearing in connection therewith does not contravene the public welfare.

ORDER RECEIVED FOR FILING

DATE January 22, 1985  
BY John P. [Signature]  
ADMINISTRATIVE ASSISTANT

- 7 -

85-167

Park Heights Avenue  
Caves Road  
December 12, 1984

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

Dear Mr. Jablon:  
In the matter of the petition of the Walnut Heights Amoco Automotive Service Station, operated by K.H.K. Inc., I wish to state as follows:  
I have lived at the address for sixty years and I have utilized the services of the petitioner since 1949.  
I and many of my neighbors would find it to be a great inconvenience if this service station were to be discontinued due to a zoning regulation.  
I request that you grant the requested petition that would permit this automotive service station to remain.

Sincerely,  
[Signature]  
Stewart J. [Signature]



[Signature]  
FREDERICK W. RINGGER, JR.  
Notary Public Baltimore County  
State of Maryland  
My Commission expires July 1, 1986

PETITIONER'S  
EXHIBIT 3

AUG 1 1985



085-167  
606 Main Street • Reisterstown, Maryland 21136  
(301) 526-6464

December 10, 1984

To Whom it May Concern,

The Walnut Heights Gas Station has been a landmark in the Owings Mills area for over 30 years. Its existence provides a worth-while service to the residence in the area. Being a rural area it would be a severe loss to everyone in the area if this service station was forced to close for any reason.

Aesthetically speaking, this station is very unobtrusive and maintains a very low profile. Being a small station there is very little, if any increase in traffic due to its existence and operation.

Having grown up and lived in this area I'm sure I speak for many residence when I say its closing would be a tremendous inconvenience to all who live in the area and pass through. Please consider the above before reaching a final decision on the station's future status.

Sincerely,  
Morris Eskin  
Morris Eskin  
President

PETITIONER'S  
EXHIBIT 2

MR/mau

Mackie Adelberg Updeike  
Commissioner Expires 7-1-86

15-1395  
12/21/84  
Timber Valley Association, Inc.

608 Cliveden Road  
Pikesville, Maryland 21208

October 23, 1984

The Honorable Gary Huddles  
County Council Chambers  
County Court House  
Towson, Maryland 21204

Dear Councilman Huddles:

This is to notify you that the undersigned is an employee of the Baltimore County Department of Public Works, Bureau of Public Services, Developers Engineering Division.

K.H.K., Inc., the owner of Walnut Heights Amoco automotive service station, existing at 12026 Park Heights Avenue has petitioned the Zoning Commissioner of Baltimore County to determine if the non-conforming use zoning can be established to permit the use of an automotive service station. This station has been in operation for several years. K.H.K. purchased this property in May, 1984.

As an officer of K.H.K., Inc., I signed the petition that was filed.

The purpose of this letter, at the request of a zoning office technician, is to disclose publicly through my County Councilman the above stated facts, so that the Corporation or myself will not be charged with conflict of interest.

Sincerely,  
Paul M. Koch  
Paul M. Koch

PHR:iss

cc: Mr. Carl Richards - Zoning Office

1201K  
12/18

Timber Valley Association, Inc.

January 17, 1985

Baltimore County Office of Planning & Zoning  
111 West Chesapeake Avenue  
Towson, Maryland 21204

ATTN: Mr. Arnold Jablon, Zoning Commissioner

RE: Case No.: 85-167SPH

Dear Mr. Jablon:

Supplementing our prior correspondence of December 31, 1984 relative to the above, please be advised that it would be agreeable to the owners of the above referenced automotive service station and our Association that the owners of the automotive service station, at their expense, plant either arbutus, at a distance of eight (8) feet between each tree, or Leyland cypress, at a distance of five (5) feet between each tree, along their rear property line within the area marked on the plat attached to our letter of December 28, 1984.

The signatures below indicated the approval of the recommendations contained herein of the persons, corporations or Associations to whom said signatures are attributed.

Very truly yours,

TIMBER VALLEY ASSOCIATION, INC.

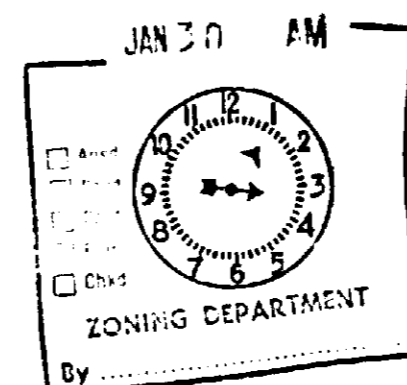
BY: Stuart L. Sagal, President

Approved as to content:

K.H.K., Inc.

by: Paul M. Koch  
Paul M. Koch, President

Lance Yateaman, Esquire



CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

85-167-SPH

District: 446  
Posted for: Official Hearing  
Petitioner: K.H.K., Inc.  
Location of property: W/S Park Heights Ave. 1,650' S of the  
C/P of Walnut Ave. (12026 Park Heights Ave.)  
Location of Sign: on front of 12026 Park Heights Ave.  
Remarks:  
Posted by: [Signature]  
Date of return: 12-2-84  
Number of Signs: 1

DESCRIPTION FOR SPECIAL HEARING

Beginning at a steel pin set on the west side of Park Heights Avenue, 1,650 feet south of the centerline of Walnut Avenue, and running the following courses and distances: South 10° 16' 50" East, 175.90 feet; thence, South 80° 32' 17" West, 21.89 feet; thence South 09° 27' 43" East, 200.00 feet; thence South 81° 49' 26" West, 173.34 feet; thence North 17° 58' 10" East, 419.11 feet to the point of beginning. Containing 0.7500 of an acre, more or less. Also known as 12026 Park Heights Avenue.

OFFICE COPY

15-1395  
12/21/84  
Timber Valley Association, Inc.

December 20, 1984

Baltimore County Office of Planning & Zoning  
111 West Chesapeake Avenue  
Towson, Maryland 21204

ATTN: Mr. Arnold Jablon, Zoning Commissioner

RE: Case No. 85-167SPH

Dear Mr. Jablon:

This will confirm that Lance Yateaman, Esquire, is a member of the Board of Directors of the Timber Valley Association, Inc. and was authorized to speak on the Association's behalf at the hearing held on December 17, 1984 relative to the above.

Further, please be advised that we intend to meet with Mr. Koch on Sunday, December 23, 1984, in order to reach a compromise of our positions in this matter. It is not our desire to put Mr. Koch in a position where he cannot perform any service work, but we do desire that the welfare and aesthetics of the community be preserved to the greatest extent possible, while still allowing Mr. Koch to carry on his business.

We would request that your file be kept open in this matter until we have had the opportunity to meet with Mr. Koch on Sunday so that we may forward you a memorandum of our understanding, with which we hope Mr. Koch will be in accord.

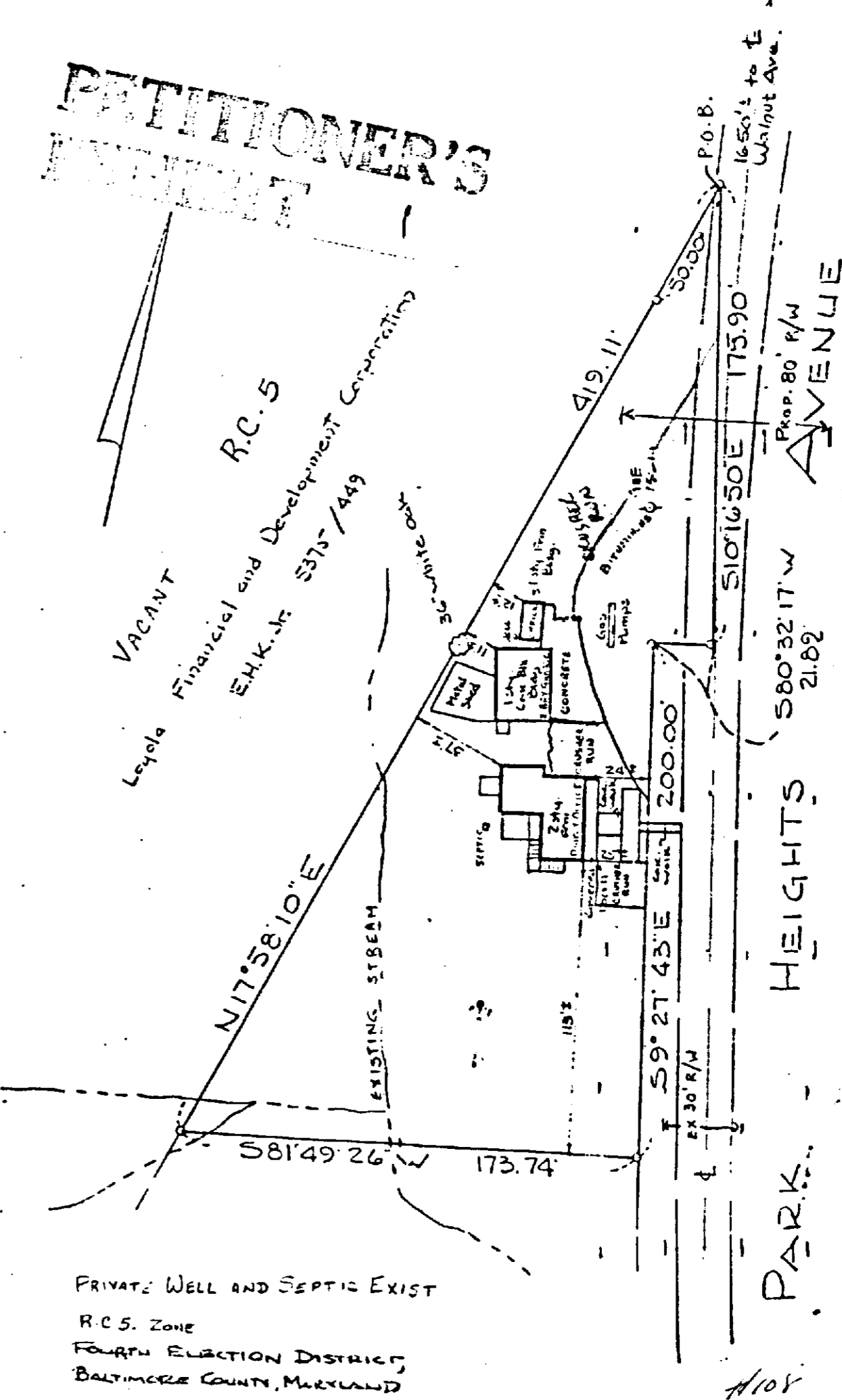
Your kind attention to this matter is greatly appreciated.

Very truly yours,

TIMBER VALLEY ASSOCIATION,  
INC.

BY: Stuart L. Sagal, President

sLS:bw



PRIVATE WELL AND SEPTIC EXIST  
R.C.S. Zone  
FURNACE EXHAUST DUCTING  
BALTIMORE COUNTY, MARYLAND

ALSNOYER SURVEYOR  
1311 HAMPSTEAD PIKE  
HAMPSTEAD, MARYLAND 21074  
13011 271744  
DATE: May 3, 1984  
JOB No. 84-230-15  
SCALE: 1" = 50'  
DWG No. 1