

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION - E/S Loch Raven Boulevard, 700' SE of Taylor Avenue (6819 Loch Raven Boulevard) 9th Election District 6th Councilmanic District Crown Stations, Inc. Petitioners

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 90-93-SPHX

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve an amendment to the previously approved site plan in Case No. 70-229-RX, and a special exception for a food store with less than 5,000 sq.ft. as a use in combination with a gasoline service station, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Bernard F. Mannion, Real Estate Division, and Michael P. Malone, Engineering Division, appeared, testified and were represented by Andrew Lapyowker, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 6819 Loch Raven Boulevard, consists of .57 acres zoned B.L.-C.C.C. and is improved with a gas and go service station. Petitioners propose removing the existing attendant kiosk and replacing same with a new building containing 462 sq.ft. total for an "express mart" convenience food store and an area where customers can pay for gasoline purchases.

Testimony indicated that a Petition for Zoning Redistricting and/or Special Exception regarding the subject property was granted on December 30, 1970 in Case No. 70-229-RX. The property was redistricted from B.L.-C.C.C. to B.L.-C.S.A., which permitted a service station as of right, and granted a special exception for a coin-operated car wash. The coin-operated car wash was never installed, thus, the special exception

expired pursuant to Section 502.3 of the Baltimore County Zoning Regulations (B.C.Z.R.). Thereafter, the property was granted a variance to allow a double-faced sign totalling 181.3 sq.ft. in lieu of the maximum permitted 100 sq.ft. in Case No. 86-65-A.

Subsequent to the hearing held in December, 1970, there was a change in zoning of the property from B.L.-C.S.A. to B.L.-C.C.C. during the 1971 comprehensive zoning maps process. A service station is not permitted as of right or by special exception in the B.L.-C.C.C. zone unless the site was within a shopping center. Petitioners filed the instant Petition when the Office of Zoning raised the issue as to whether or not the site, which is located within the B.L.-C.C.C. zone, is permitted to add a food store with less than 5,000 sq.ft. of retail sales area since the service station is not permitted as of right or by special exception as currently zoned under the B.C.Z.R. Therefore, the service station use is a nonconforming use and as such, is governed by the requirements of Sections 104 and 405.8A of the Baltimore County Zoning Regulations (B.C.Z.R.). Petitioner contends that Section 405.8A permits as of right the expansion or construction of a gas station and any ancillary uses as listed in Section 405.4C. Section 405.8A states that:

Notwithstanding other provisions of these Zoning Regulations to the contrary, any automotive-service station which legally existed on December 31, 1967 and which has not lost its permitted status by reason of the termination of a special exception applying thereto shall be governed by the provisions of the following paragraphs:

A. Subject to the provisions of Paragraph C, below, the main structure of any such automotive-service station may be expanded or reconstructed and any ancillary uses listed in paragraph 405.4C may be added to any such establishment, provided that such station and all such expansion, reconstruction, or addition of uses: is either confined to the limits of the site as it existed on December 31, 1967 or to an expanded site

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as approved under Paragraph B...

Petitioner noted that while a food mart is not one of the permitted ancillary uses, a portion of Section 405.4C states that:

...Only uses listed in this Paragraph C or in Paragraph D (Uses in Combination with Service Stations) shall be permitted in conjunction with any service station regulated under this Subsection 405.4...

A food store with less than 5,000 sq.ft. is a use in combination under Section 405.4. The ancillary uses listed in Section 405.4C are permitted as of right with a service garage use, while uses in combination listed in Section 405.4.D5 are permitted only after a special exception hearing.

Subsequent to the hearing, Petitioner submitted a Memorandum of Law in support of its position that the relief requested is proper. Petitioners' Memorandum rests on two arguments.

First, Petitioners contend "the conversion of the existing island attendant kiosks to a small express mart is at most, an intensification of an existing use and not a new or different use" and would be permitted under Section 104.1 of the B.C.Z.R. and the case law interpretation of nonconforming uses. Section 104.1 of the B.C.Z.R. states:

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property.

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Petitioners have established that the property enjoys a nonconforming use as a service station. The coin-operated car wash was abandoned.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change or a change is proposed in the use of the subject property. A determination must be made as to whether or not the addition of the food mart is a different use, and therefore, not permitted as part of the service station non-conforming use. If the food mart use is found to be different than the original use, the proposed use of the property shall not be considered non-conforming. See McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d. 96 (1978).

Whether or not the food mart use represents a permissible intensification of the nonconforming use or an actual change from the prior legal use must be examined. In order to decide whether or not the proposed food mart activity is within the scope of the non-conforming use, the following factors must be considered:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

McKemy v. Baltimore County, Md., Supra.

The facts of the case do not support Petitioners' argument that the addition of the food mart to the service station is permitted as "it is at most an intensification of an existing use and not a new or differ-

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ent use and/or an ancillary use listed in Section 405.4C." In 1970, Petitioners were granted a special exception for the use of the property as a service station. The zoning regulations are very clear that food stores and service stations are not one and the same use. The effect is clearly different as in all cases the zoning regulations require a special exception hearing in order to add a food store to an existing service station, whether or not the station and/or a food mart standing alone are permitted as of right in a particular zone. Although the physical change to the site may not be a drastic enlargement or extension, the addition of a food mart is the addition of a new use. In my opinion the addition of a separate use, distinguishable from the nonconforming use as a second use, is not mere intensification.

Section 101 of the B.C.Z.R. defines "accessory use or structure" as follows:

...An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. (underlining added)

Clearly, the proposed food store with less than 5,000 sq.ft. is a use in combination under the zoning regulations and said addition would consist of a second use and therefore a different use not permitted under McKemy and/or Section 405.8A. Petitioner's argument that the expansion is permitted under Sections 405.8A and 405.4C is rejected.

The Petitioners' second argument that the relief requested is appropriate based upon other cases in which the Zoning Commissioner and Deputy Zoning Commissioner have granted similar petitions is rejected. A review of the decisions rendered in each case indicates that in none of the cases was the issue specifically addressed. The Deputy Zoning Commis-

sioner cannot grant relief which is not permitted under the zoning regulations. To do so would usurp the County Council's legislative powers which clearly is not the function of the Deputy Zoning Commissioner. The role of the Deputy Zoning Commissioner is to interpret and implement the B.C.Z.R. as enacted by the County Council.

"All parts of a statute are to be read together to find the intention as to any one part and that all parts are to be reconciled and harmonized if possible. We have further said that a corollary to that rule is that if there is no clear indication to the contrary and it is reasonably possible, a statute is to be read so that no word, clause, sentence or phrase shall be rendered surplusage, superfluous, meaningless, or nugatory." See, e.g., Thomas v. State, 277 Md. 314, 317, 353 A.2d 256 (1976), and the cases there cited. Supervisor of Assess., Etc. v. Southgate Harbor, 279 Md. 586, 369 A.2d 1053 (1977).

The question here is one of construction of the B.C.Z.R. When interpreting the zoning regulations, the restrictive language contained must be strictly construed so as to allow the landowner the least restrictive use of his property. Mayor of Balto. v. Byrd, 62 A.2d 588 (1948); Lake Adventure, Inc. v. Zoning Hearing Bd. of Dingham Township, 440 A.2d 1284 (Pa.Comwth., 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. Monogony v. Bevilacqua, 432 A.2d 661 (R.I., 1981).

The meaning of the words in a statute may be controlled by the context. A statute should be so construed that all its parts harmonize with each other and render them consistent with its general object and scope. Pittman v. Housing Authority, 25 A.2d 466.

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The basic principles of statutory construction were comprehensive-ly set out by the Court of Appeals in State v. Fabritz, 276 Md. 416, 348 A.2d 275 (1975), cert. denied, 425 U.S. 942 (1976):

The cardinal rule in the construction of statutes is to effectuate the real and actual intention of the Legislature. Purifoy v. Merc-Safe Dep. & Trust, 273 Md. 58, 327 A.2d 483 (1974); Scoville Serv., Inc. v. Comp.roller, 269 Md. 390, 306 A.2d 534 (1974); Height v. State, 225 Md. 251,170 A.2d 212 (1961). Equally well-settled is the principle that statutes are to be construed reasonably with reference to the purpose to be accomplished, Walker v. Montgomery County, 244 Md. 98, 223 A.2d 181 (1966), and in light of the evils or mischief sought to be remedied, Mitchell v. State, 115 Md. 360, 80 A.2d 1020 (1911); in other words, every statutory enactment must be considered in its entirety, and in the context of the purpose underlying (its) enactment, Giant of Md. v. State's Attorney, 267 Md. 501 at 509, 298 A.2d 427 at 432 (1973). Of course, a statute should be construed according to the ordinary and natural import of its language, since it is the language of the statute which constitutes the primary source for determining the legislative intent. Grosvenor v. Supervisor of Assess., Etc., 271 Md. 232, 315 A.2d 758 (1974); Height v. State, supra. Where there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the intention of the Legislature. Purifoy v. Merc-Safe Deposit & Trust, supra. Thus, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the natural import of words with a view towards making the statute express an intention which is different from its plain meaning. Gatewood v. State, 244 Md. 609, 224 A.2d 677 (1966). On the other hand, as stated in Maguire v. State, 192 Md. 615, 623, 65 A.2d 299, 302 (1949), "(a) adherence to the meaning of words does not require or permit isolation of words from their context" (since) the meaning of the plainest words in a statute may be controlled by the context... In construing statutes, therefore, results that are unreasonable, illogical or inconsistent with common sense should be avoided whenever possible 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, 246 A.2d 591 (1963); Sanza v. Md. Board of Censors, 245 Md. 319, 226 A.2d 317 (1967); Height v. State, supra.

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Date 11/16/80
By [Signature]

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In applying these principles to the B.C.Z.R., particularly Sections 101 defining accessory use or structure, and Sections 405.4C and 405.8A, the conclusion is inescapable that under the plain wording of said Sections, the proposed food mart is a "use in combination" and principal use and therefore, not a permitted ancillary use.

In the past when the Office has concluded it has erroneously interpreted and implemented a particular section of the B.C.Z.R., it has corrected its action and enforced the regulations as enacted. This would not be the first and/or probably the last time the Zoning Commissioner and/or Deputy Zoning Commissioner will correct past misinterpretations of the regulations. See In Re, C-F Properties Partnership, Case No. 85-113-SPHA. In that case, the then Zoning Commissioner, Arnold Jablon, reversed a long-standing policy of the Zoning Office which permitted both sides of a multi-faced business sign to be computed as one for the purpose of determining the size permitted. The language of Section 413.2 was found to clearly not support such an interpretation. In this instance, the proposed express mart as a use in combination with a service station is a principal use and not an ancillary use and/or accessory use. While an ancillary use and/or accessory use may be similar, Section 101 of the B.C.Z.R. clearly sets forth the distinction between a "use in combination" and ancillary use and/or accessory use. As indicated, the zoning regulations distinguish between ancillary uses and uses in combination with service stations. See Sections 101 and 405.4C and D of the B.C.Z.R. The fact that a food mart is permitted as of right in the B.L. zone, as noted by Petitioner, does not change the outcome. The County Council has distinguished between a food mart use standing alone and a use in combination, which is not permitted as of right but only when and where the service

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Date 11/16/80
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station is permitted, and then only after a special exception hearing. In this instance the service station use is not permitted. Therefore, the special exception criteria set forth in Section 502.1 of the B.C.Z.P. need not be addressed.

After reviewing all of the testimony and evidence presented, it appears that the relief requested in the Petitions for Special Hearing and Special Exception should be denied.

It is clear that the B.C.Z.R. currently does not permit the use proposed in a B.L.-C.C.C. zone as of right or by special exception. The proposed addition of a food store with less than 5,000 sq.ft. of floor space would be the addition of a second principal use and as such, is not permitted under the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 16th day of February, 1990 that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 70-229-RX, and the Petition for Special Exception for a food store with less than 5,000 sq.ft. as a use in combination with a gasoline service station, in accordance with Petitioner's Exhibit 1, be and are hereby DENIED.

ANN N. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 1/21/90
By [Signature]

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-93-SPHX SPECIAL HEARING

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 a food store with less than 5,000 square feet as a use in combination with a gasoline service station and an amendment to the site plan in Case #70-229-RX to allow said use.

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.

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: Legal Owner(s): Crown Stations, Inc.
William R. Snyder, Vice President/Administration
Signature: [Signature]
Address: [Address]
City and State: [City and State]
Signature: [Signature]
Address: [Address]
City and State: [City and State]
Signature: [Signature]
Address: [Address]
City and State: [City and State]

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 5-30-89 ACCOUNT [blank]
AMOUNT [blank]
RECEIVED FROM Crown Central
6819 Loch Raven Blvd.
FOR Special Exception
Baltimore County, this 28 day
subject matter of this petition be advertised, as
in two newspapers of general circulation through-
out that the public hearing be had before the Zoning
County Office Building in Towson, Baltimore
County, on the 19th day of Sept. 1989, at 2 o'clock
J. Robert Hailey
Zoning Commissioner of Baltimore County

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-93-SPHX SPECIAL HEARING

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 a food store with less than 5,000 square feet as a use in combination with a gasoline service station and an amendment to the site plan in Case #70-229-RX to allow said use.

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.

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: Legal Owner(s): Crown Stations, Inc.
William R. Snyder, Vice President/Administration
Signature: [Signature]
Address: [Address]
City and State: [City and State]
Signature: [Signature]
Address: [Address]
City and State: [City and State]
Signature: [Signature]
Address: [Address]
City and State: [City and State]

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 5-30-89 ACCOUNT [blank]
AMOUNT [blank]
RECEIVED FROM Crown Central
6819 Loch Raven Blvd.
FOR Special Exception
Baltimore County, this 28 day
subject matter of this petition be advertised, as
in two newspapers of general circulation through-
out that the public hearing be had before the Zoning
County Office Building in Towson, Baltimore
County, on the 19th day of Sept. 1989, at 2 o'clock
J. Robert Hailey
Zoning Commissioner of Baltimore County

Crown Station MD-32
6819 Loch Raven Blvd
Hillendale, MD 21204

ZONING DESCRIPTION

Located on the east side of Loch Raven Boulevard approximately 700' southwest of Taylor Avenue and thence running the following courses and distances; S 36° 25' 00"W 189.94'; thence S 77° 22' 00"W 174.47', thence N 36° 25' 00"E 119.69'; thence N 53° 35' 00"W, 159.70' to the point of the beginning.

containing 24,724 square feet or 0.57 acre.

Property also known as 6819 Loch Raven Boulevard.



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ORDER RECEIVED FOR FILING
Date 1/21/90
By [Signature]

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Allstate [DIF signs variance * used cars in B.L. Beginning of 2 side sign face calculations pg 3, 4, 5 + 6]

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCES BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Case No. 85-113-SPHA
C-F Properties Partnership, Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein seeks an interpretation from the Zoning Commissioner to permit the sale of used cars as an accessory use, permission to have an accessory structure for that purpose, and an amendment to the site plan approved in Case No. 84-50-X to reflect a change in the parking configuration and, additionally, variances to permit two signs, one to be 896 square feet instead of 442 square feet and one to be 196 square feet instead of 100 square feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by Jerome Fader, a partner, appeared and was represented by Counsel. There were no Protestants.

Testimony indicated that the subject property, primarily zoned B.L. with some B.M., contains approximately seven acres and is located on Reisterstown Road. The Petitioner was previously granted a special exception for a service garage in Case No. 84-50-X to allow the leasing of automobiles. However, a used motor vehicle outdoor sales area separated from a sales agency building is not permitted in a B.L. Zone, although it is allowed by special exception in a B.R. Zone.

The Petitioner had previously been located about one mile north on Reisterstown Road from the present location on property zoned B.R. and had operated an automobile leasing operation and a used car sales area for automobiles

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not being adversely affected, the special exception should be granted. Therefore, it is ORDERED by the Zoning Commissioner of Baltimore County this 28th day of August, 1989, that the Petition for Special Exception for a food store with less than 500 square feet of retail sales in combination with an existing service station be and is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:
1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order, however, the Petitioner is hereby notified that processing of this special exception petition from this Order has expired. If the Petitioner wishes to apply for this Order, it must be submitted to the Office of Current Planning and Zoning, Baltimore County, on or before the date of this Order.
2. A detailed landscaping plan must be submitted to the Office of Current Planning and Zoning, Baltimore County, on or before the date of this Order.
3. A copy of the overall showing master plan, of which this site is a part, must be submitted to the Office of Current Planning.

ORDER RECEIVED FOR FILING
Date 1/21/90
By [Signature]

cc: Equitable Life Assurance Soc. of the U.S.
People's Counsel
Shell Oil Company
Mr. Steve McManis, Life Now Associates

CROWN Crown Central Petroleum Corporation
Refiners / marketers of petroleum products & petrochemicals
One North Charles Street • P.O. Box 1168 • Baltimore, Maryland 21203 • (301) 659-7400
(301) 659-4834

October 9, 1989

Honorable Ann Nastarowicz
Deputy Zoning Commissioner
Office of Planning and Zoning
Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case Nos. 90-93-SPHX
90-94-SPHX
90-95-X

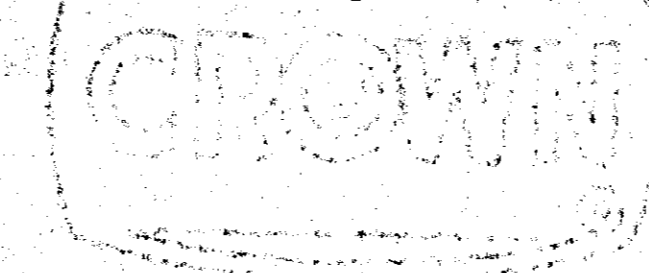
Dear Deputy Commissioner Nastarowicz:

This will confirm your discussion with Mr. Commodari regarding our time to provide you with additional research regarding the above three stations. We will provide those materials to you no later than October 31, 1989.

Thank you very much for your assistance and cooperation.

Very truly yours,
Andrew Lapsyowker
Staff Attorney

AL/tn
cc: Nick Commodari



RECEIVED
OCT 11 1989

ZONING OFFICE

Service Stations Existing on December 31, 1967 and Needing a Resolution of Whether or Not Uses in Combination are Permitted Per S.405.8 as it References S.405.4.C
C.R.G. WAIVER/C.R.G. and plan reviews since 8/1/89

Table with columns: ZONING CASES, NAME, LOCATION. Lists various cases like 89-448-XA, 90-93, 90-94-SPHX, etc.

Date: 12/11/89

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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE 8/22/89

Crown Stations, Inc.
One North Charles Street
Baltimore, Maryland 21201

ATTN: WILLIAM R. SNYDER

Re: Petitions for Special Exception and Special Hearing

CASE NUMBER: 90-93-SPHX
ES Loch Raven Blvd., 700' SE of Taylor Avenue
6819 Loch Raven Boulevard
8th Election District - 8th Councilmanic
Petitioner(s): Crown Stations, Inc.
HEARING SCHEDULED: TUESDAY, SEPTEMBER 12, 1989 at 2:00 p.m.

Gentlemen:
Please be advised that \$128.60 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

No. 074550

DATE 9/12/89 ACCOUNT R-01-615-000

AMOUNT \$ 128.60

RAJn91/189Cain 90-93-SPHX

813CF

VALIDATION OR SIGNATURE OF CARRIER

CROWN

Crown Central Petroleum Corporation
Refiners / marketers of petroleum products & petrochemicals
One North Charles Street • P.O. Box 1168 • Baltimore, Maryland 21203 • (301) 539-7400
(301) 659-4834

November 14, 1989

Honorable Ann Nastarovicz
Deputy Zoning Commissioner
Office of Planning & Zoning
Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 90-93-SPHX
Case No. 90-94-SPHX
Case No. 90-95-X

Dear Deputy Commissioner Nastarovicz:

Enclosed please find three copies of Crown Central Petroleum Corporation's Memorandum of Law in the above-captioned cases. We apologize for the delay in getting this Memo to you, but the project proved to be much more extensive than we expected.

Thank you very much for your cooperation throughout this matter.

Very truly yours,

Andrew Lapayowker
Attorney

AL/sab
enclosures

CERTIFICATE OF PUBLICATION

August 18, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on August 17, 1989.

THE JEFFERSONIAN
NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

S. Zebe Orlan
Publisher

PO 15172
reg M34128
ca 90-93-SPHX
price \$ 78.60

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CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

90-93-SPHX

District: P-1th Date of Posting: 8/25/89
Posted for: Special Exception & Special Hearing
Petitioner: Crown Stations, Inc.
Location of property: 6819 Loch Raven Blvd., 700' SE of Taylor Ave
6819 Loch Raven Blvd.
Location of Sign: 6819 Loch Raven Blvd., approx. 10' E of 700' SE of Taylor Ave property of Petitioner
Remarks:
Posted by: M. Haines
Number of Signs: 4

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

August 2, 1989

NOTICE OF HEARING

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Exception and Special Hearing
CASE NUMBER: 90-93-SPHX
ES Loch Raven Blvd., 700' SE of Taylor Avenue
6819 Loch Raven Boulevard
8th Election District - 8th Councilmanic
Petitioner(s): Crown Stations, Inc.
HEARING SCHEDULED: TUESDAY, SEPTEMBER 12, 1989 at 2:00 p.m.

Special Exceptions: A food store with less than 5,000 square feet as a use in combination with a gasoline service station.
Special Hearings: And an amendment to the site plan in Case No. 70-229-RX to allow said use.

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 in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH/sg
cc: Crown Stations, Inc.
Andrew Lapayowker, Esq.
File

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BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT

7/10/89
Date

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 525, Zoning Advisory Committee Meeting of June 27, 1989

Property Owner: Crown Stations, Inc. District: 9

Location: 6819 Loch Raven Blvd. Water Supply: metro Sewage Disposal: metro

COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any building, or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management 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 into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any charbroiler generation 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 amusements pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 427 6509 x 315.
- () 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 elimination of waste oil must be in accordance with the State Department of the Environment.
- () Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- () Soil percolation tests, have been _____ must be _____ conducted.
() The results are valid until _____
() Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test () shall be valid until _____
() is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydro-geological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3900.

In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.

Paul Titus
BUREAU OF WATER QUALITY AND RESOURCE

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Andrew Lapayowker	111 CHARLES ST., BALTO MD 21201
Michael P. Haines	" " " "
Bernard F. Mannion	" " " "

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SRA Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

June 21, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Att: James Dyer

Re: Baltimore County
Crown Stations Inc.
Zoning meeting 6/21/89
819 Loch Raven Boulevard
MD 542
700' south of
Taylor Avenue
Item #525

Dear Mr. Haines:

After reviewing the submittal of a Special Exception and Special Hearing, for a food store with less than 5,000 square feet as use in combination with a gasoline service station, we find the plan acceptable.

If you have any questions, contact Larry Brocato (333-1350).

Very truly yours,

Christian J. Hills, Jr. Chief
Engineering Access Permits
Division

LB/es

cc: Mr. J. Ogle

RECEIVED
JUN 27 1989

ZONING OFFICE

MICROFILMED

FAX # 333-1041
My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 563-4415 D.C. Metro - 1-800-482-3082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

July 24, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

RECEIVED
AUG 3 1989

ZONING OFFICE

Dennis F. Rasmussen
County Executive

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 525, 526, 527, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 557, 558 and 559.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF/lab

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Baltimore County
Fire Department
800 York Road
Towson, Maryland 21284-2536
(301) 887-4500

JUNE 26, 1989

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

RE: Property Owner: CROWN STATIONS, INC.
Location: #66, LOCH RAVEN BLVD.
Item No.: 525 Zoning Agenda: JUNE 27, 1989

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

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

CRG 11
ALL SELF-SERVICE STATIONS SHALL HAVE 1 ATTENDANT ON DUTY WHILE THE STATION IS OPEN TO THE PUBLIC. THE ATTENDANT'S PRIMARY FUNCTION SHALL BE TO SUPERVISE, OBSERVE, AND CONTROL THE DISPENSING OF CLASS I LIQUIDS WHILE ACTUALLY BEING DISPENSED. NFPA 30, 1987 ED., SEC 7-8.4.3 AND SEC 7-8.4.4.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Capt Wm Brady*
Planning Group
Special Inspection Division

Noted and Approved
Capt Wm Brady
Fire Prevention Bureau

JK/KEK

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Al Wirth - SWN
Bob Bowling - Dev. Eng. (3)
Frank Fisher - Current Planning
Rahim Fattil - Traffic Engineering
Rocky Powell - DEPRM
Larry Pilsch - DEPRM
Dave Flowers - DEPRM
Carl Richards - Zoning
Capt. Kelly - Fire Department
Pat Kincer - Rec. & Parks
Chuck Weiss - Sanitation
Larry Brocato - SHA

DATE: August 17, 1989

FROM: Susan Wimbley
Bureau of Public Services

SUBJECT: Crown - 6819 Loch Raven Blvd.
Crown Central
539-7400
W-88-259

RECEIVED AUG 18 1989
to JLL

The subject property was granted a waiver of CRG meeting by the Office of Planning & Zoning. However, CRG approval signatures must be obtained.

Please review the attached plan for concurrence with current development regulations and give us your approval or comments by September 17, 1989. Nonresponsiveness by the aforementioned date is considered to be concurrence by your office of the plan.

(SEE OTHER SIDE FOR COMMENT*)

SM:g
Attachment
cc: File

MICROFILMED

In addition to the hearings proposed on the plan, a Special Hearing will be required to determine if the use in combination is permitted under 5.405.8 as it references 5.405.4.c (B.C.Z.R.), otherwise:

Zoning Office records do not indicate that a Special Exception hearing for the service station use has ever been granted. The fact that the site is now within a B.C.Z.R. district establishes that the current use status of the service station is nonconforming and, therefore, the proposed use in combination may not be permitted.

Compliance with all sections of 5.405.4 must be shown. Include the A.T.M. 1,000 square feet requirement in the calculations. Dimension tangent distances, A.T.M. setbacks. Show any proposed free-standing signs. Variances which will be required are not necessarily limited to, but include the following:

Internal circulation, any new free-standing signs,
A.T.M. front set back (35 feet required).

John L. Lewis
Planning & Zoning Associate III

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: August 25, 1989

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning PK

SUBJECT: Crown Stations, Inc., Item 525
Zoning Petition No. 90-93-KSPH

The petitioner requests a Special Exception for a food store. In reference to this request, staff offers the following:

The site is presently improved with many signs and a Signet Bank automatic teller/money machine. To avoid increased visual clutter, temporary and other additional signage should be restricted. All existing temporary signs, banners and flags should be eliminated entirely upon occupancy of the food store. The outside display of merchandise shall not be permitted.

A general trend of revitalization is evident along the Loch Raven Blvd. corridor. MacDonalds Restaurant, located adjacent to the subject site, has developed a well planned site that is extensively landscaped. The Hillendale Shopping Center and Pleasant Plains Shopping Center have been recently revitalized and plant screening has been provided along Loch Raven Blvd. In a continuing effort to improve the visual character of the corridor, staff recommends that a minimal amount of street tree planting should be provided along Loch Raven Blvd (see enclosed overlay).

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

PK/JL/sf

Attachment

CC: 100

0100

