IN THE MATTER OF
THE APPLICATION OF
VIRGINIA E. SMITH TRUST PETITIONERS FOR SPECIAL HEARING,
SPECIAL EXCEPTION AND VARIANCE *
ON PROPERTY LOCATED ON THE W/S
YORK ROAD BETWEEN PADONIA *
ROAD AND OLD PADONIA ROAD
(2444 YORK ROAD) *

The Election District
3rd Councilmanic District *

- * BEFORE THE
- * COUNTY BOARD OF APPEALS
- * OF
- * BALTIMORE COUNTY
- * CASE NO. 02-109-SPHXA

OPINION AND ORDER

Upon consideration of the evidence in a *de novo* hearing held on August 22, 2002, and upon public deliberations that same day, this Board enters the following Opinion and Order upon the Petition for Special Exception, Petition for Variance, and other relief in this case.

The subject property is located on the west side of York Road between Padonia Road and Old Padonia Road in Timonium. The property contains a gross are of .896 acre in area, is zoned BL-AS, and is improved with a fuel service station. The property is located along the highly commercial corridor of York Road and is surrounded by a number of business and retail uses. The proposal is to raze the existing improvements at the subject location and construct a fuel service station including a 2,880-square foot building containing a convenience store, carryout restaurant, and automatic teller machine. Six multi-product dispenser units and canopy will also be constructed along the frontage of York Road with one freestanding enterprise sign to be located at the corner of York and Old Padonia Roads. This sign will be 70 square feet in area and 21 feet 11.5 inches in height.

BP seeks to modify the relief granted in Case No. 65-3RX to reflect the proposed modification and seeks a Petition for Special Exception under § 405.4.E to permit a fuel service station use in combination with a convenience store over 1,500 square feet and carry-out restaurant and ancillary use automatic teller machine. Petitioners were represented by Sebastian A. Cross,

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Case No. 02-109-SPHXA / Virginia E. Smith Trust, Petitioners

Esquire, on behalf of the BP. People's Counsel, Peter Max Zimmerman, appeared to defend the zoning maps. The Board heard testimony from Gregory H. Reed of Bohler Engineering, the consultants who prepared the site plan for this property, and Larry Townsend, President of Greater Timonium Community Council ("GTCC") in support of the amended site plan.

The amended site plan was submitted due to concerns raised by both People's Counsel and the GTCC over the sign variance. In agreement of all aforementioned parties, the sign variance was withdrawn and a newly proposed sign was placed at the corner of York Road and Old Padonia Road. This sign is in compliance with all Baltimore County Zoning Regulations.

Based on the evidence, the Board finds the proposed land use, as conditioned below, satisfies the Special Exception standards of BCZR § 502.1 under *Schultz v. Pritts*, 291 Md. 1 (1981) and *County Commr's v. Holbrook*, 314 Md. 210 (1986). The proposal as conditioned will not have a particular adverse impact on its neighborhood relative to its business zoning classification above and beyond those normally inherent for such use in this zoning classification. There are, moreover, no residential areas which will be adversely affected. The Board **ORDERS**, as follows, this 23 Md. day of August, 2002;

- 1. SPECIAL EXCEPTION FUEL SERVICE STATION. That the Petition for Special Exception to permit a fuel service station use in combination with a convenience store over 1,500 square feet and carry-out restaurant and ancillary use automatic teller machine in accordance with Petitioner's amended, red-lined site plan is hereby **APPROVED**.
- 2. AMENDMENT TO SPECIAL EXCEPTION CASE. Petition to amend the previously approved Special Exception granted in Case No. 65-3RX to reflect the proposed modification in accordance with Petitioner's amended, red-lined site plan is hereby **APPROVED**.

Case No. 02-109-SPHXA / Virginia E. Smith Trust, Petitioners

3. PETITION FOR VARIANCE – The Petition for Variance from § 450.4.5(b) to permit 160 square feet in lieu of the permitted 100 square feet shown on Petitioner's original site plan has been WITHDRAWN from the requested relief.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Margaret Worrall

C. Lynn Barranger

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IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE -W/S York Road between Padonia Road and Old Padonia Road (2444 York Road) 7th Election District

3rd Council District

Virginia E. Smith Trust **Petitioners**

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 02-109-SPHXA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the Trustees of the Virginia E. Smith Trust, owners of the subject property, and BP Corporation, Contract Lessee, through their attorney, David K. Gildea, Esquire. The Petitioners request a special hearing to approve an amendment to the previously approved special exception in Case No. 65-3RX to reflect the proposed modifications; a special exception to permit a fuel service station use in combination with a convenience store/carryout restaurant and ancillary use automatic teller machine; and, a variance from Section 450.4.I.5(b) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two (2) double-faced, illuminated, freestanding signs totaling 160 sq.ft. (80 sq.ft. each) in lieu of the maximum allowed 100 sq.ft. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requests were John R. Lombardo, Property Manager for BP Corporation, Contract Lessees; Joseph M. Cronyn, a Market Analyst with Lipman, Frizzell and Mitchell, LLC; Gregory H. Reed, of Bohler Engineering, the consultants who prepared the site plan for this property; and, David K. Gildea, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

The subject property is well-known to this Zoning Commissioner. It is an irregularly shaped parcel located on the west side of York Road between Padonia Road and Old Padonia Road in Timonium. The property is located along a highly commercial corridor of York Road and is surrounded by a number of business and retail uses, including fuel service stations, automobile dealerships, restaurants, and stores. The property contains a gross area of .896 acres in area, zoned B.L.-A.S., and is improved with a fuel service station. The service station was originally constructed in 1955 and renovated in 1965, pursuant to the special exception relief granted under Case No. 65-3RX. Existing improvements are more particularly described on Page 1 of the 4-page site plan submitted into evidence as Petitioner's Exhibit 1. That plan shows an existing one-story brick and frame gasoline station containing three bays, and six pump islands, four of which are grouped immediately adjacent to York Road, and two others on the southeast side of the subject site, adjacent to Padonia Road. Vehicular access to the site is by way of four curb cuts; two from York Road, one from Padonia Road, and one from Old Padonia Road.

As is the case with a number of BP/Amoco stations, the BP Corporation is in the process of redeveloping/upgrading its sites. As more particularly shown on Page 2 of Petitioner's Exhibit 1, all of the existing improvements at the subject location will be razed and a new building, 2,880 sq.ft. in area will be constructed. The convenience store will offer ancillary items for sale and contain a carryout restaurant and automatic teller machine. Six multiple product dispenser units will be constructed on the front of the site immediately adjacent to York Road. The proposed building will be set back further on the lot from the public streets to provide better circulation and traffic access. The existing access points will be retained; however, the one adjoining Old Padonia Road will be reconstructed to current standards. It is to be particularly noted that although York Road and Padonia Road are major corridors and carry significant volumes of traffic, Old Padonia Road is a small side street and it is anticipated that light volumes of traffic will use that entrance. The proposed redevelopment at the subject site is entirely consistent with other proposals this Zoning Commissioner has considered, including a similar property further south from the subject site on York Road near its intersection with Timonium Road.

Turning first to the Petition for Special Exception, I am easily persuaded that same should be granted. The longstanding historic use of this property as a fuel service station is persuasive. In fact, the proposed renovation of the site will actually improve its appearance and promote better traffic flow within the property as well as along the public roads adjacent to the site. Moreover, landscaping will be significantly increased.

In granting the special exception, reference is made to the requirements of Sections 405.3 and 405.7 of the B.C.Z.R. Essentially, those Sections require that the Zoning Commissioner determine the presence of any abandoned fuel service stations within a one-half mile radius of the subject site. In this regard, there is a closed Exxon gasoline station located a short distance from the subject property. However, whether that station has been "abandoned" as defined in the B.C.Z.R. or merely presently "discontinued" is difficult to determine. Section 405.7 of the B.C.Z.R. sets out a procedure by which an abandonment shall be established. Apparently, that procedure has not been followed in this case. Thus, it is not clear whether the Exxon station has been abandoned at this point as contemplated by Sections 405.3 and 405.7 of the B.C.Z.R. However, the issue is made moot in this instance in view of the testimony offered through the report of Joseph M. Cronyn of Lipman, Frizzell & Mitchell. Mr. Cronyn was retained by BP to undertake a "need analysis" of the subject property. His report, which was accepted into evidence and marked as Petitioner's Exhibit 2, clearly establishes that a fuel service station is needed at this location. The primary basis upon which this conclusion is made is the fact that the station has been a vibrant and active business at this location for many years. Although the nature of the business will be expanded to include the convenience store and carryout restaurant, the primary purpose of the business will be to sell gasoline. The sale of gasoline has occurred on this property for over 40 years and will no doubt continue. Moreover, as noted above, the property is located adjacent to a major commercial corridor with significant business and employment centers nearby. Also, the residential communities of Timonium, Cockeysville and Hunt Valley utilize this site. For these reasons, I find that there is a need for this station and that the special exception requirements have been met.

Special hearing relief shall also be granted to amend the earlier site plan. This is necessary so that the current plan can be substituted for the prior plan. As noted above, all of the existing improvements on the site will be razed and the site entirely redeveloped. The Petition for Special Hearing will therefore be granted.

Variance relief is requested relative to proposed signage. Owing to this property's corner location, there are presently two signs on the site, one facing Padonia Road and the second facing York Road. The Petitioner proposes a similar arrangement under the redevelopment. Each sign will be 80 sq.ft. in area; thus, a variance is requested to permit a total sign area of 160 sq.ft. I find that a variance should be granted in this case. The compelling factor here is the high volume of traffic that uses York and Padonia Roads. Indeed, this is one of the busiest intersections in Baltimore County. Proper signage to direct traffic is necessary to serve public safety and promote reasonable traffic flow. I am persuaded that the Petition for Variance should be granted and that the Petitioner has met the requirements of Section 307 of the B.C.Z.R.

In sum, I find that the proposed redevelopment of the site is appropriate. It is also to be noted that the Petitioners have apparently reviewed its plans with the Greater Timonium Community Council which raised no objections. The Petitions shall therefore be approved, and restrictions added reflecting the Zoning Advisory Committee comments entered in this case by the Bureau of Development Plans Review in the Department of Permits and Development Management and the State Highway Administration (SHA).

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of November, 2001, that the Petition for Special Hearing to approve an amendment to the previously approved special exception in Case No. 65-3RX to reflect the proposed modifications in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

TO THE THE PARTY OF

ORDER RECEIVED FOR FILING

By

By

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a fuel service station use in combination with a convenience store/carryout restaurant and ancillary use automatic teller machine, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 450.4.I.5(b) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two (2) double-faced, illuminated, freestanding signs of 160 sq.ft. (80 sq.ft. each) in lieu of the maximum allowed 100 sq.ft., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

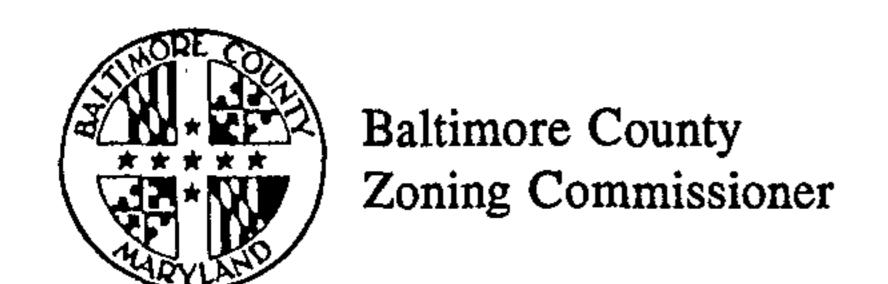
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the ZAC comments submitted by the State Highway Administration (SHA), dated October 3, 2001, and the Bureau of Development Plans Review division of the Department of Permits and Development Management (DPDM), dated October 16, 2001, copies of which are attached hereto and made a part hereof.

3) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs



Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204 410-887-4386

November 14, 2001

Fax: 410-887-3468

David K. Gildea, Esquire 301 N. Charles Street, Suite 800 Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE NW/Corner York Road and Padonia Road, S/S Old Padonia Road (2444 York Road)

847 Election District – 3rd Council District Virginia E. Smith Trust - Petitioners Case No. 02-109-SPHXA

Dear Mr. Gildea:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception, and Variance have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT Zoning Commissioner

for Baltimore County

LES:bjs

cc: Ms. Linda Smith Mulhern and Mr. Augustus W. Smith 10309 Greenside Drive, Cockeysville, Md. 21030

Mr. John R. Lombardo, BP/Amoco

1 W. Pennsylvania Avenue, Suite 95, Towson, Md. 21204

Mr. Gregory H. Reed, Bohler Engineering

810 Glen Eagles Court, Towson, Md. 21286

Mr. Kenneth A. McDonald, Jr., Chief Engineering Access Permits, SHA

P.O. Box 717, Baltimore, Md. 21203

Bureau of Development Plans Review, DPDM; People's Counsel; Case File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at	2444	York	Road	<u> </u>
which is	presen	tly zon	ed BL-AS	

This Petition shall be filed with the Department of Permits and Development Management. 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 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

to amend the previously approved special exception granted in case number 65-3RX.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Contract Purchaser/Lessee:

Corporation

Name - Type or Print

Signature

#20 115/98 CE D

-Signatur	e J	ohn	Ŕ.	Lom	bardo		
<u>l W.</u>	Peni	nsyl	van	ia	Ave.,	Suite	95
Address						Tele	phone No.
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City					State	<u> </u>	Zip Code
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No. 02-109-SPHXA

<u>Legal Owner(s):</u>
Veryami E. Su V Tueta
Ann 1) Ly. later treaten
Name - Type or Print Virginia E. Smith Trust
Zen der SV. leile
Signature Linda Smith Mulhern
Name - Type or Print Augustws W. Shith
Augustus 1. Anith
Signature
10309 Greenside Drive

i/We do solemnly declare and affirm, under the penalties of

is the subject of this Petition.

perjury, that I/we are the legal owner(s) of the property which

Address Telephone No. Cockeysville, MD 21030 City State Zip Code Representative to be Contacted:

David K. Gildea	a .	
Name		
301 N. Charles	St., Suite	800
Address	· · · · · · · · · · · · · · · · · · ·	Telephone No.
Baltimore, MD	21201	234-0070
City	State	Zip Code

OFFICE USE ONLY	

ESTIMATED	LENGTH	OF	HEARING		
				,	

UNAVAILABLE	FOR	HEARING

Reviewed By	LTM	Date	0/13/01	
Reviewed by		Dare		



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 2444 York Road

which is presently zoned BL-AS

This Petition shall be filed with the Department of Permits and Development Management. 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 Regulations of Baltimore County, to use the herein described property for

a fuel service station use in combination with a convenience store/carry out restaurant and ancillary use automatic teller machine.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Contract Purchaser/Lessee:

_Corporation

Name - Type or Print

RE0 09/15/98

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Signature John R. Lombar	·do
<u>l W. Pennsylvania Av</u>	
Address	Telephone No.
Towson, MD 21204	234-0070
City	State Zip Code
Attorney For Petitioner:	
THAT I TO I GUILDING!	
David K. Gildea	
Name - Type or Print	<u> </u>
	ام ا
Signature	/00-
Gildea, LLC	
Company	
301 N. Charles St.,	Suite 800
Address	Telephone No.
Baltimore, MD 21201	234-0070
City	State Zip Code
	·

De No. 02-109-SPHXA

perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. <u>Legal Owner(s):</u> Name - Type or Print Virginia .E. Smith 在inda Smith Mulhern Name - Type or Print Augustus Smith Signature 10309 Greenside Drive Address Telephone No Cockeysville, MD 21030 City State Zip Code Representative to be Contacted: David K. Gildea Name N. Charles St., Suite 800 Address Telephone No. Baltimore, MD 21201 234-0070 City State Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING UNAVAILABLE FOR HEARING Reviewed By LTM Date 9/13/6

I/We do solemnly declare and affirm, under the penalties of



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2444 York Road which is presently zoned BL-AS

This Petition shall be filed with the Department of Permits and Development Management. 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 Variance from Section(s)

See attached.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

to be presented at hearing.

Property is to be posted and advertised as prescribed by the zoning regulations. or we agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Contract Purchaser/Lessee: Corporation Name - Type or Print Signature John R. Lombardo W. Pennsylvania Ave., Suite 95 Address Telephone No. 21204 Towson, MD494-3772 City State Zip Code Attorney For Petitioner: Gildea David Nam UW Signature Gildea, LLC

N. charles St., Suite 800

MD

21201

02-109-SPHXA

State

Telephone No.

Zip Code

234-0070

Z Company

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LL City

Address

E 221 9/15/88

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EBaltimore,

Signature **Tinda** Smith Mulhern Name - Type or Print Augustus.W. Signature 10309 Greenside Drive Address Telephone No Cockeysville, MD 21030 City Zip Cade State Representative to be Contacted: David K. Gildea Name N. Charles St., Suite 800 Address Telephone No. Baltimore, MD 21201 234-0070 City State Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING UNAVAILABLE FOR HEARING Reviewed By LTM Date

I/We do solemnly declare and affirm, under the penalties of

perjury, that I/we are the legal owner(s) of the property which

Name - Type or Print Virginia Æ/ Smith Trust

Varun E. Smith openting

is the subject of this Petition.

Legal Owner(s):

Attachment to Petition for Variance

1. BCZR Section 450 - To permit 160-square feet of freestanding signage in lieu of the permitted 100 square feet. \mathcal{D}_{KS}

1. BCZR 450, 4. I. 5(b) - to permit Two(z) doublefaced, elluminated freestanding signs with a total of 160 SF in lieu of the required 100 S.F.

ORDER RECHIVED FOR FILING
Date

By

By

Control

By

Cont

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

August 23, 2002

Peter M. Zimmerman People's Counsel for Baltimore County Room 47, Old Courthouse 400 Washington Avenue Towson, MD 21204

> RE: In the Matter of: Virginia E. Smith Trust et al -Legal Owners; BP Corporation – C.P. /Case No. 02-109-SPHXA

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. This file will be scheduled for closure upon the expiration of 30 days from today's date.

Very truly yours,

Hackber a. Branco for Kathleen C. Bianco

Administrator

Enclosure

Sebastian Cross, Esquire c: David K. Gildea, Esquire John R. Lombardo /BP Corporation Augustus W. Smith, et al Lawrence E. Schmidt, Zoning Commissioner Pat Keller, Planning Director Arnold Jablon, Director /PDM

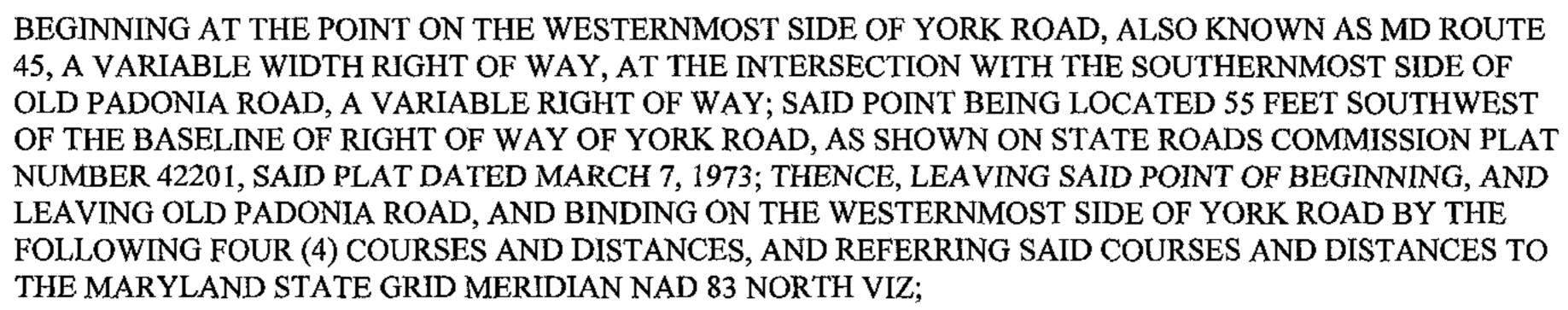


BOUNDARY & TOPOGRAPHIC SURVEYS . SUBDIVISIONS . CONSTRUCTION STAKE DUT

810 Gleneagles Court Suite 300 Towson, MD 21286 Telephone 410.494.9445 Fax 410.821.9335

> CP01039 August 22, 2000

DESCRIPTION OF THE LANDS OF
LINDA S. MULHERN, AUGUSTUS W. SMITH
AND LINDA S. MULHERN, TRUSTEE
DEED LIBER 10900 FOLIO 483
TAX MAP 51 GRID 17 PARCELS 410 7 421
8TH ELECTION DISTRICT, TIMONIUM, BALTIMORE COUNTY, MARYLAND



- 1. SOUTH 18 DEGREES 27 MINUTES 51 SECONDS EAST 104.45 FEET TO A POINT OF CURVATURE;
- 2. 43.71 FEET ALONG THE ARC OF A CURVE TO THE RIGHT TO A POINT, SAID CURVE HAVING RADIUS OF 703.92 FEET, AND A CHORD BEARING SOUTH 16 DEGREES 41 MINUTES 06 SECONDS EAST 43.71 FEET;
- 3. SOUTH 15 DEGREES 58 MINUTES 09 SECONDS WEST 61.50 FEET TO A POINT; AND THENCE,
- 4. SOUTH 48 DEGREES 23 MINUTES 36 SECONDS WEST 58.05 FEET TO A POINT ON THE NORTHERNMOST SIDE OF PADONIA ROAD, FORMERLY KNOWN AS THERESA STREET, A VARIABLE WITH RIGHT OF WAY; THENCE, LEAVING YORK ROAD, AND BINDING ON PADONIA ROAD,
- 5. SOUTH 72 DEGREES 03 MINUTES 12 SECONDS WEST 68.28 FEET TO AN IRON BAR WITH CAP FOUND; THENCE, LEAVING PADONIA ROAD, AND BINDING ON THE HEREIN AND DESCRIBED LANDS BY THE FOUR FOLLOWING COURSES AND DISTANCES,
- 6. NORTH 18 DEGREES 42 MINUTES 50 SECONDS WEST 51.02 FEET TO A POINT;
- 7. NORTH 84 DEGREES 18 MINUTES 50 SECONDS WEST 46.57 FEET TO AN IRON PIPE FOUND;
- 8. NORTH 05 DEGREES 38 MINUTES 55 SECONDS EAST 56.00 FEET TO AN IRON BAR WITH CAP FOUND; AND THENCE,
- 9. NORTH 06 DEGREES 41 MINUTES 07 SECONDS EAST 178.62 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERNMOST SIDE OF OLD PADONIA ROAD; THENCE, BINDING ON OLD PADONIA ROAD BY THE FOLLOWING TWO (2) COURSES AND DISTANCES,
- 10. SOUTH 84 DEGREES 19 MINUTES 14 SECONDS EAST 95.29 FEET TO A POINT OF CURVATURE; AND THENCE,
- 11. 28.74 FEET ALONG THE ARC OF A CURVE TO THE RIGHT TO THE PLACE OF BEGINNING, SAID CURVE HAVE A RADIUS OF 25.00 FEET AND A CHORD BEARING SOUTH 51 DEGREES 23 MINUTES 38 SECONDS EAST 27.18 FEET;

CONTAINED IN ALL 39,025 SQUARE FEET OR 0.896 ACRES OF LAND MORE OR LESS; ALSO BEING KNOWN AS 2444 YORK ROAD, 8TH ELECTION DISTRICT, BALTIMORE COUNTY, STATE OF MARYLAND.

The Zoning Commissioner of Baltimore County by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #02-109-SPHXA
2444 York Road

W/S York Road between Padonia and Padonia Park Roads
7th Election District — 3rd Councilmanic District
Legal Owner(s): Virginia E. Smith Trust, Linda Smith
Mulhern, Augustus W. Smith
Contract Purchaser: John R. Lombardo, BP Corporation

Variance: to permit two (2) double-faced, illuminated freestanding signs with a total of 160 square feet in lieu of the required 100 square feet. Special Exception: to permit a fuel service station use in combination with a convenience store/carry out restaurant and ancillary use automatic teller machine. Special Hearing: to amend the previously approved special exception granted in case No. 65-3RX.

Hearing: Thursday, November 8, 2001 at 10:00 a.m. in

Hearing: Thursday, November 8, 2001 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391. C501696

JT 10/769 Oct. 23

CERTIFICATE OF PUBLICATION

$\frac{1025}{25},2001$	
THIS IS TO CERTIFY, that the annexed advertisement was pub	lished
in the following weekly newspaper published in Baltimore County,	Md.,
once in each ofsuccessive weeks, the first publication appe	aring
on 10 23 ,20 <u>01</u>	
The Jeffersonian Arbutus Times	
Arbutus Times Catonsville Times	
☐ Towson Times	
Owings Mills Times	
□ NE Booster/Reporter	
☐ North County News	

LEGAL ADVERTISING

TO: P.

PATUXENT PUBLISHING COMPANY

Tuesday, October 23, 2001 Issue – Jeffersonian

Please forward billing to:

David K Gildea 301 N Charles Street Suite 800 Baltimore MD 21201

410 234-0070

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-109-SPHXA

2444 York Road

W/S York Road between Padonia and Padonia Park Roads

8 Xth Election District – 3rd Councilmanic District

Legal Owner: Virginia E Smith Trust, Linda Smith Mulhern, Augustus W Smith

Contract Purchaser: John R Lombardo, BP Corporation

<u>Variance</u> to permit two (2) double-faced, illuminated freestanding signs with a total of 160 square feet in lieu of the required 100 square feet. <u>Special Exception</u> to permit a fuel service station use in combination with a convenience store/carry out restaurant and ancillary use automatic teller machine. <u>Special Hearing</u> to amend the previously approved special exception granted in case No. 65-3RX.

HEARING: Thursday, November 8, 2001 at 10:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT GDZ ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 07 - 109 - SPHXA
Petitioner: Be Corporation
Address or Location: 2444 York love
PLEASE FORWARD ADVERTISING BILL TO:
Name: Javid K. Gilden do gilden LLC
Address: 301 N. Charles St. Jute 800
Baltima Md. 21201
Telephone Number: (410) ア34-のテ

APPEAL SIGN POSTING REQUEST

YORKONIA

CASE NO. 02-109-SPHXA

VIRGINIA E. SMITH TRUST, LINDA SMITH MULHERN, AUGUSTUS W. SMITH — Legal Owners

2444 York Road W/S York Road between Padonia and Padonia Parki Road

7th Election District	Appealed: 11/30/01
Attachment – (Plat to accompany Petition - Petitioner's Exhibit No.1)	
**************************************	BELOW INFORMATION*******
CERTIFICATE O	F POSTING
TO: Baltimore County Board of Appeals 400 Washington Avenue, Room 49 Towson, Maryland 21204	, , , , , , , , , , , , , , , , , , ,
Attention: Kathleen Bianco Administrator	
RE: Case No. <u>O2-109 5PHXA</u> Petitioner/Developer: VIRGINIA; LINDA, AUGUSTUS	SMITH
This is to certify that the necessary appeal sign(s) was p	osted conspicuously on
property located at 2444 York RD.	2 35 th 10 37 th
The sign(s) was posted on	002.

GARY C. FREUND
(Printed Name)

ing specimen

CERTIFICATE OF POSTING

Baltimore County Department of

County Office Building, Room 111

Attention: Ms. Gwendolyn Stephens

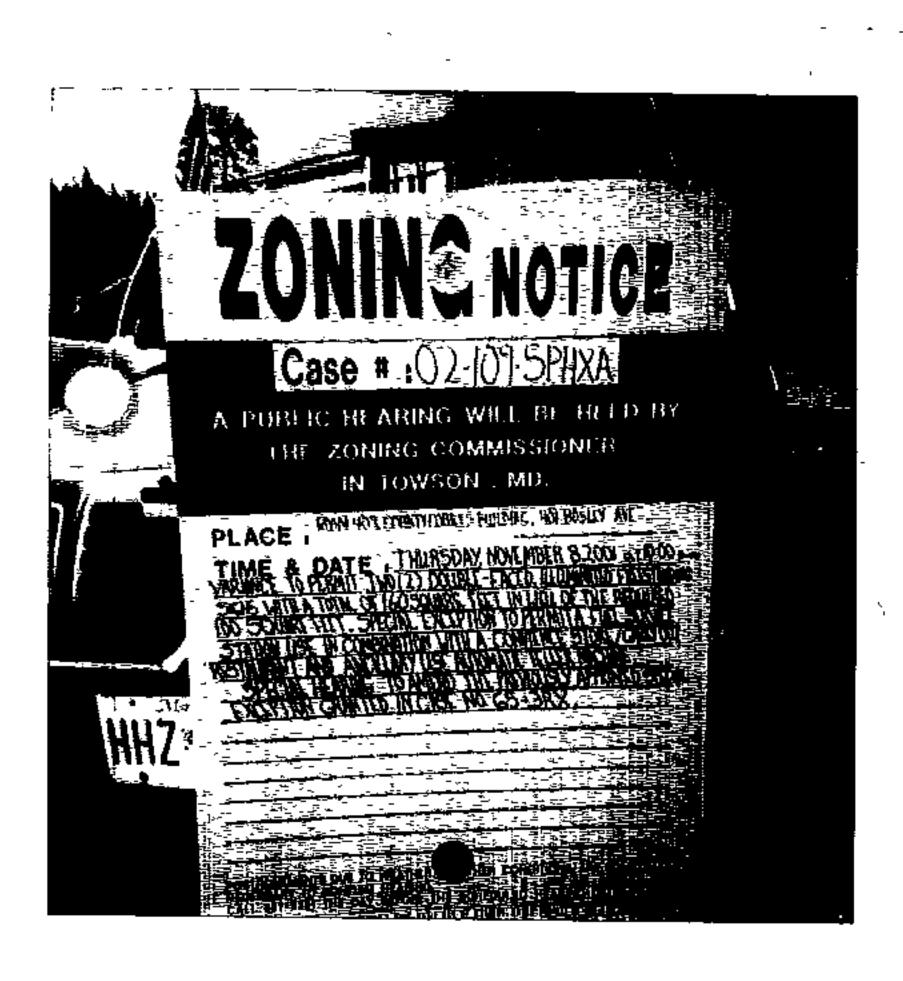
111 West Chesapeake Avenue

Towson, MD 21204

Ladies and Gentlemen:

Permits and Development Management

RE: Case No.: 02 - 109 - SPHXA Petitioner/Developer: JOHN R. LomBARD BP CORPORATION Date of Hearing/Closing: ///8/0/ This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 2446 (Month, Day, Year) Sincerely, (Signature of Sign Poster and Date) SSG ROBERT BLACK (Printed Name)



The sign(s) were posted on

1508 Leslie Rd (Address) Dundalk, Maryland 21222 (City, State, Zip Code) (410) 282-7940 (Telephone Number)



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

Hearing Room – Room 48 Old Courthouse, 400 Washington Avenue

May 7, 2002

NOTICE OF ASSIGNMENT

CASE #: 02-109-SPHXA

IN THE MATTER OF: Virginia E. Smith Trust, Linda Smith Mulhern, Augustus W. Smith – Legal Owners; BP Corp. – Contract Purchaser 2444 York Road

7th Election District; 3rd Councilmanic District

11/14/2001 – Z.C.'s decision in which requested special hearing, special exception and variance requests were GRANTED with restrictions.

ASSIGNED FOR:

THURSDAY, AUGUST 22, 2002 at 10:00 a.m.

NOTICE:

This appeal is an evidentiary hearing; therefore, parties should consider the

advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County

Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full

compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco Administrator

c:

Appellant

: Office of People's Counsel

Counsel for Petitioner

: David K. Gildea, Esquire

Petitioner Legal Owners

: John R. Lombardo /BP Corporation

: Augustus W. Smith, et al

Lawrence E. Schmidt, Zoning Commissioner Pat Keller, Planning Director Arnold Jablon, Director /PDM



Baltimore County
Department of Permits and
Development Management

Director's Office County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 410-887-3353

Fax: 410-887-5708

October 11, 2001

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-109-SPHXA

2444 York Road

W/S York Road between Padonia and Padonia Park Roads

7th Election District – 3rd Councilmanic District

Legal Owner: Virginia E Smith Trust, Linda Smith Mulhern, Augustus W Smith

Contract Purchaser: John R Lombardo, BP Corporation

<u>Variance</u> to permit two (2) double-faced, illuminated freestanding signs with a total of 160 square feet in lieu of the required 100 square feet. <u>Special Exception</u> to permit a fuel service station use in combination with a convenience store/carry out restaurant and ancillary use automatic teller machine. <u>Special Hearing</u> to amend the previously approved special exception granted in case No. 65-3RX.

HEARING: Thursday, November 8, 2001 at 10:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Arnold Jablon GDZ

Director

C: David K Gildea, 301 N Charles St, Ste 800, Baltimore 21201 Virginia E Smith Trust, Linda Smith Mulhern, Augustus W Smith, 10309 Greenside Drive, Cockeysville 21030 John R Lombardo, BP Corp, 1 W Pennsylvania Ave, Ste 95, Towson 21204

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, OCTOBER 24, 2001.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Del No2

BP AMOCO FUEL SERVICE STATION York & Padonia Roads

NEED ANALYSIS

Prepared For:

BP Corporation

1 W. Pennsylvania Avenue
Towson, MD 21204

Submitted by:

Lipman Frizzell & Mitchell LLC 8815 Centre Park Drive Suite 200 Columbia, Maryland 21045

November 8, 2001

Lipman Frizzell & Mitchell LLC

REAL ESTATE CONSULTANTS

M. Ronald Lipman, CRE, MAI George P. Frizzell, CRE, MAI Ryland L. Mitchell III, CRE, MAI David H. Brooks, CRE, MAI James C. Feeney, MAI Calvin V. Thomas, Jr., MAI Sheldon A. Stern, MAI Joseph M. Cronyn Kelly A. Hoffert Nathan O Brantley F Ford Dennis, Jr.

Kevin M. Keane
Joanne L. Andrews
Shaun J. Broome
Malcolm Sherman, CRE, Affiliate
Deborah M. Ryba, Mgr.

November 8, 2001

Mr. John R. Lombardo BP Corporation 1 W. Pennsylvania Avenue Suite 95 Towson, MD 21204

SUBJECT: BP AMOCO FUEL SERVICE STATION NEED ANALYSIS

Dear Mr. Lombardo:

Enclosed please find Lipman Frizzell & Mitchell's analysis of the need for a fuel service station at 2444 York Road in connection with BP Corporation's petition for a special exception. The property is located in the Timonium area of Baltimore County, Maryland.

LF&M finds that there is evidence of ample need for a fuel service station based on the successful performance of the existing station, which has been in continuous operation since 1966, as well as its estimated share of a very substantial consumer demand for fuel services within its market area. The enclosed report summarizes our reasoning process.

It has been a pleasure working with you on this project. Please call me at (410) 423-2372 should you have any questions or comments.

Sincerely,

LIPMAN, FRIZZELL & MITCHELL LLC

Joseph M. Cronyn Senior Associate

BP AMOCO FUEL SERVICE STATION NEED ANALYSIS

EXECUTIVE SUMMARY

Lipman Frizzell & Mitchell LLC (LF&M) has been engaged by BP Corporation to analyze the need for a fuel service station at 2444 York Road in connection with its petition for a special exception. Evidence of reasonable public need is required due to the presence of an abandoned fuel service station within a one-half mile radius of the subject.

The proposed fuel service station is actually the rehabilitation of an existing fuel service station on the same site, which has been in continuous operation since 1966. The station's existing structure of approximately 2,252 sq.ft. will be replaced with a 2,880 sq.ft. structure. Six existing multi-product dispensers (MPDs) will be replaced with six new MPDs.

LF&M finds that the subject has ample market support. In summary, our reasoning is as follows:

- <u>Location</u> The subject property is an existing fuel service station which has been in continuous operation since 1966. The site is well located and visible at one of the most heavily trafficked commercial crossroads in Baltimore County: York Road & Padonia Road. It has good access from York, Padonia and Old Padonia roads. The subject's neighborhood is dominated by intense commercial use in every direction. The subject is appropriately located for a fuel service station and its site has characteristics which make it a prime retail property.
- <u>Demand for Gasoline</u> First and foremost, demand at this location is self-evident, given its continued successful operation for 35 years. Demand within its defined one-mile radius market area is derived from three principal sources: residents (20%), workers (30%) and transient traffic (50%). Total annual demand within the market area is estimated at 11.20 million gallons.
- Competition The redeveloped subject has five competitor fuel service stations within the defined market area. We are aware of no new stations entering the market. Indeed, a former Exxon station is likely being turned to an alternative use as a laundromat. The subject is currently well-positioned within the competitive environment due to its strategic location in particular, but will be even better situated after redevelopment due to its more attractive design and the presence of a convenience store. Consumer demand is reinforced by the

brand identification of the subject. The subject's market share, based on competitive positioning, is estimated at 30% of total market area sales.

<u>Conclusion</u> - Annual gasoline sales at the subject location are estimated at approximately 3.36 million gallons. This volume of gasoline sales is sufficient to sustain ongoing operations.

LF&M, therefore, finds that the subject fuel service station is needed.

I. INTRODUCTION

Lipman Frizzell & Mitchell LLC (LF&M) has been engaged by BP Corporation (BP) in connection with its petition to the Zoning Commissioner for a special exception permitting the operation of a fuel service station at 2444 York Road, Timonium, Baltimore County.

Purpose of Assignment

The proposed fuel service station is actually the rehabilitation of an existing fuel service station on the same site. The station's existing structure of approximately 2,252 sq.ft. will be replaced with a 2,880 sq.ft. structure. Six existing multi-product dispensers (MPDs) will be replaced with six new MPDs.

LF&M has been engaged to examine "evidence of the probability of a reasonable public need" and offer market data in regard to the proposed use at this location. In particular, this effort is required when an abandoned fuel service station is present within a one-half mile radius or two abandoned fuel service stations are present within a one mile radius of the site. A fuel service station is considered abandoned which has not been in actual and continuous operation (at least 8 hours per day, 5 days per week) for the past 12 months.

For purposes of this analysis, we have considered need to mean "expedient or reasonably convenient and useful to the public," as it has been defined in similar proceedings. We consider a commercial venture to be needed which is supported by market factors, as analyzed according to standard market research methodologies.

Scope of Work

In conducting this analysis LF&M has accomplished the following tasks:

- Inspected the subject site and its existing fuel service station;
- Reviewed Baltimore County population, household, employment and income growth trends and projections of those trends developed by Claritas, Inc. a recognized national demographic research firm;
- Reviewed numerous standard reference texts concerning retail supply and demand, most particularly the U.S. Census Consumer Expenditure Survey (CES),

National Petroleum News and its Market Facts publication;

- Defined a competitive market area from within which the subject typically will draw the majority of its customers;
- Surveyed existing fuel service stations in nearby Baltimore County to develop information on their location and other factors;
- Consulted Baltimore County and State Highway Administration traffic volume maps and analyses;
- Calculated demand and market share statistics relevant to the use proposed for the subject site and arrived at certain conclusions.

Organization of Report

Following this Section I, LF&M's report is organized in four sections as follows: Section II, site and location analysis; Section III, fuel station demand; Section IV, fuel station competitive supply; Section V, summary and conclusions.

Qualifications of Consultant

Lipman, Frizzell & Mitchell is a multi-faceted real estate consulting and appraisal firm serving the Mid-Atlantic since 1977. LF&M is the Region's largest real estate advisory firm, with 16 professionals in our Columbia, MD headquarters. Joseph M. Cronyn, Senior Associate, is the principal in charge of this assignment.

A brief description of the firm and Cronyn's resume are found in Appendix A at the end of this study.

II. SITE LOCATION ANALYSIS

A. Site Description

The subject property is located at 2444 York Road. It is a site of approximately .898 acres (38,788 sq.ft.) located at the northwest corner of the intersection of York Road (MD Route 45) and Padonia Road in the Timonium neighborhood of Baltimore County. It is also bound at its northern edge by Old Padonia Road.

The property is currently improved by an Amoco brand fuel service station, which has been in continuous operation on the site since 1966. The existing improvements consist primarily of: a brick and frame structure of approximately 2,252 sq.ft. which includes four service bays (entered from the rear) and the station office; two gasoline dispensing areas with six total multi-product dispensers (MPDs); one diesel fuel dispenser.

The subject slopes from its northeastern edge down towards its southwestern edge at Padonia Road, with a grade differential of approximately ten feet. It is zoned BL-AS (Business Local: Automotive Services) and is a permitted use.

B. Site Access

The subject site is entered from its three adjoining roadways: York Road (southbound lane), Padonia Road (westbound lane) and Old Padonia Road (east and westbound lanes). Turns into the property from York Road northbound and Padonia Road eastbound are made impossible by concrete median barriers in those roads. Existing entrances are to remain.

The site has very good visibility from all directions. It has approximately 240 feet of frontage along York Road, 140 feet of frontage along Padonia Road and 100 feet of frontage along Old Padonia Road. Both York and Padonia are four lane highways with left turn lanes and arrows at their intersection.

The York & Padonia Roads intersection is one of the most heavily used in Baltimore County. The strongest turning movement noted by Baltimore County's Bureau of Traffic Engineering & Transportation Planning for the intersection is the right hand turn onto Padonia Road from southbound York Road (in front of the subject): 48% of southbound traffic turns right in the morning rush hour, 29% in the evening. Traffic issues are discussed in greater detail in Section III of this analysis.

C. Surrounding Land Uses

LF&M has surveyed the subject's neighborhood and finds the following pattern of uses surrounding the property:

- <u>To the West</u> The Lemmon Funeral Home is immediately to the west. Along Old Padonia Road there is a mixture of older detached structures converted to office use and newer 1-3 story office structures. Along Padonia Road there is a mixture of more dense office and retail uses including Broad Street Market, Padonia Plaza, the Padonia Building and others. Off of Padonia Road, between I-83 and York Road there is a predominance of large scale office, hospitality, industrial and retail uses including the new Texas Station and other individual properties.
- To the North Strip retail and auto-related uses, with other interspersed commercial uses, dominate along York Road to the north all the way to the Shawan Road intersection, giving way there to Hunt Valley Mall and North Park Business Park.
- <u>To the South</u> Strip retail, low-rise office buildings and converted residential buildings are the prevalent uses along York Road to the south past Timonium Fairgrounds and beyond.
- <u>To the East</u> Commercial uses dominate Padonia Road just to the east of York Road including Padonia Village Shopping Center on the south side, office buildings, auto-related businesses, SunTrust bank branch and others.

The subject, therefore, is located in a very heavily commercialized area. York Road has historically been a major thoroughfare in central Baltimore County. The subject's location on York Road at Padonia Road is a particularly significant crossroads location. Padonia Road offers one of the major I-83 interchanges and also serves as the principal route for residents west of I-83 (in Mays Chapel and elsewhere) to avail themselves of the services of the York Road corridor.

D. Summary

In summary, the subject property is an existing fuel service station which has been in continuous operation since 1966. The site is well located and visible at one of the most heavily trafficked commercial crossroads in Baltimore County: York Road and Padonia Road. It has good access from York, Padonia and Old Padonia roads. The subject's neighborhood is dominated by intense commercial use in every direction.

The subject is appropriately located for a fuel service station and its site has characteristics which make it a prime retail property.

III. FUEL STATION DEMAND ANALYSIS

In this section, LF&M reviews the factors which contribute to the demand for fuel station services at the subject location and estimates total demand within a defined market area.

A. Existing Fuel Service Station

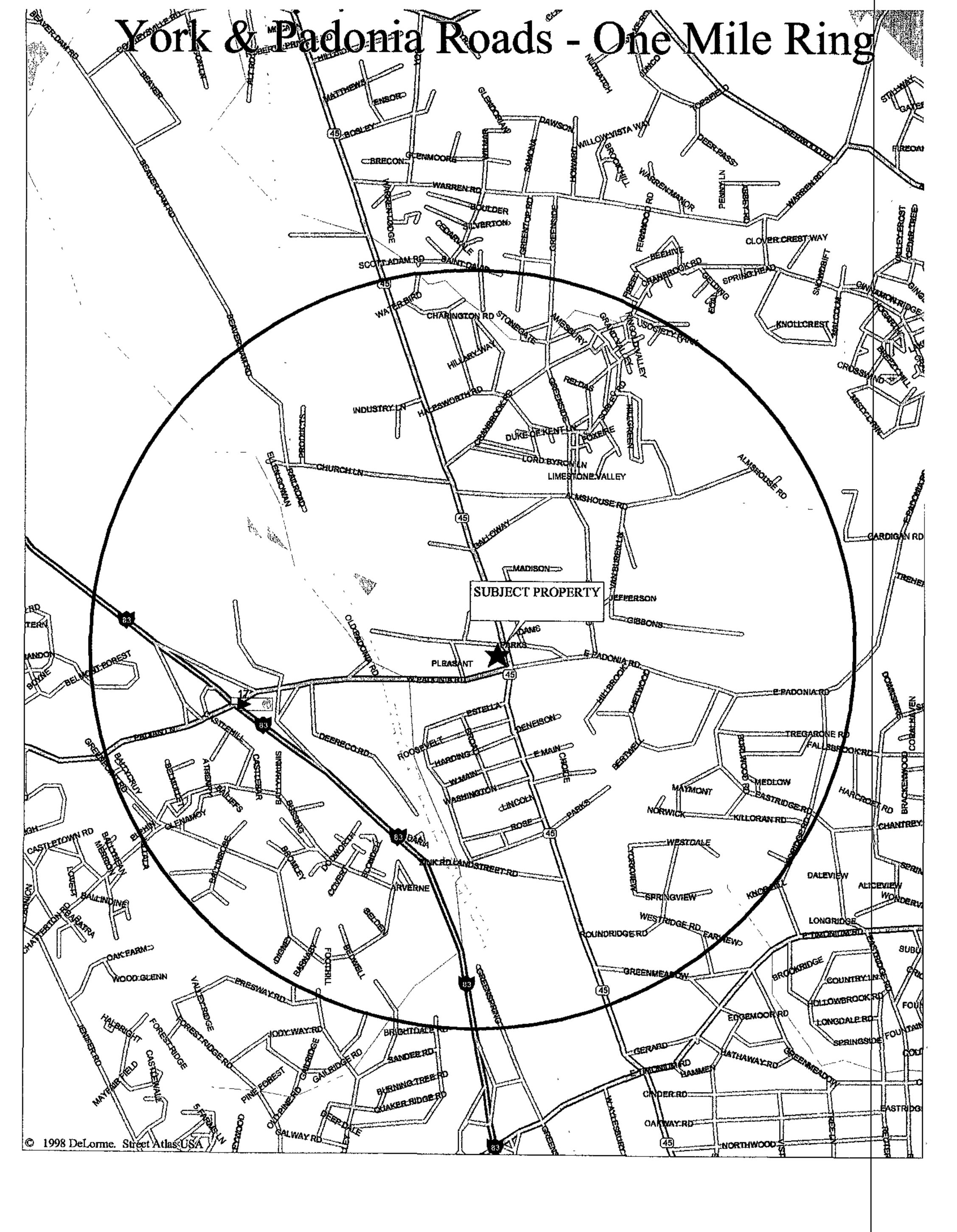
Demand for fuel service at the subject site is self-evident. The station has been in business continuously since 1966: thirty-five years. The station is successful, so much so that BP proposes to make a massive capital investment in upgrading it.

B. Market Area Definition

LF&M defines the market area served by the subject as the neighborhood within a one mile radius of the intersection of York and Padonia Roads. This market area is tighter than the 1.5-2.0 mile radius typically used by gasoline retailers in doing their analyses. The market area radius falls generally as follows: just below Scott Adam Road on the north, at Hartfell Road on the east, at Greenmeadow Drive on the south, at Greenpoint Road on the west. The market area is depicted on the following page.

This market area includes resident households, workers at their places of employment as well as commuters and other traversing the area. The subject is clearly supported by demand from all of these consumer segments.

LF&M's approach departs from traditional consumer market research methodology by expanding our analysis beyond the subject's immediately adjoining residential base. Simply put, that base is not sufficient to support the subject nor many of its competitors. The lion's share of demand within the market area is generated from automobile traffic along major thoroughfares, which derives principally from nearby employment concentrations and transient travelers. We believe that this nuanced analytical approach is more "real world" and parallels the statistical demand models in particular of MPSI and other national providers of market research to the major petroleum and convenience store retailers.



D. Market Area Data

Based on data supplied by Claritas, Inc., the defined market area has the following characteristics relevant to our analysis:

- Residential Base In 2001, there are an estimated 4,189 households resident in the area--with a growth to 4,264 households during the next five years. The average household income for the area is \$56,495 in 2001.
- Employment Base In 2001, there are an estimated 12,247 workers employed within the market area. Of those, 94% are private sector employees working in 828 business locations. The highest concentrations of employment are in the following industry sectors: Retail Trade (25.3%); Manufacturing (14.3%); Finance, Insurance, Real Estate (12.5%); and Business Services (11.5%).
- Traffic Baltimore County's Bureau of Traffic Engineering & Transportation Planning estimated in April 2001 that approximately 82,489 vehicles entered the York & Padonia intersection daily. Average daily trips on York Road through the intersection were estimated at approximately 35,900 southbound and 32,115 northbound. Average daily trips on Padonia Road were estimated at 34,308 westbound and 21,813 eastbound. The strongest turning movement noted by the Bureau for the intersection is the right hand turn onto Padonia Road from southbound York Road (in front of the subject): 48% of southbound traffic turns right in the morning rush hour, 29% in the evening.

The dynamics of retail gasoline demand in the market area are influenced by all three consumer segments: residents, workers and transient traffic. Local residential demand is, however, clearly dominated by demand from workers in the area and from commuters driving through the area. To develop some appreciation of scale, we see that there are approximately three times as many workers (most of them driving a car to work daily) as resident households in the area. There are about 20 times as many vehicles using the York & Padonia intersection as households.

E. Fuel Demand

LF&M here quantifies demand for fuel station services within the market by customer segment.

 Residential Demand - Claritas estimates that aggregate market area resident expenditures for gasoline are \$4,792,000 in 2001. This figure assumes that each household spends about 2.02% of annual gross income for gasoline, which consumer Expenditure Survey model. If we assume an average price at the pump of \$1.50 per gallon, that amount equates to demand for approximately 3.19 million gallons of gasoline annually. We know that the market area will not capture all of its residents' purchases so, assuming a 70% capture rate, we estimate local gasoline purchases at 2.24 million gallons.

LF&M further estimates that residents generate an average of approximately 20% of the vehicle trips per day along the York Road corridor.

- <u>Employment Demand</u> LF&M estimates that an average of 30% of all vehicle trips per day along the York Road commercial corridor are generated by the employees working within the market area.
- Transient Traffic Demand LF&M estimates that the remaining (non-resident and non-worker) traffic volume in this portion of the York Road commercial corridor represents about 50% of the total vehicle trips per day. This segment includes persons commuting through the area to employment elsewhere, shoppers coming to the area's stores from outside the area, etc.

LF&M estimates that gasoline purchases within the market area will be proportionate to each demand segment's share of traffic volume. We summarize gasoline demand by segment as follows:

Market Area Gasoline Demand by Segment		
	Share of Traffic	Ann. Gasoline Purchases
Resident Demand	20.0%	2.24 million gallons
Employment Demand	30.0%	3.36 million gallons
Transient Traffic Demand	50.0%	5.60 million gallons
Total Demand	100.0%	11.20 million gallons

We believe these estimates to be reasonable based on the tremendous volume of traffic using this portion of the York Road corridor and the York & Padonia intersection in particular. To test their plausibility, we can determine the approximate share of traffic flow which fuel service stations must capture in order to sell that volume of gasoline. We use the following calculation:

Total annual demand: 11.20 million gallons

Divided by 365 days: 30,685 avg. gal. sold per day

Divided by 10 gallons: 3,069 avg. fuel station trips per day

We take the estimated annual demand and divide by 365 days to calculate average daily demand. We take that number and divide by an assumed average fuel purchase amount of 10 gallons, resulting in 3,069 trips to fuel service stations

required. (If we had assumed a larger average sales transaction, the number of trips would be reduced.) LF&M conservatively calculates, then, that all of the fuel stations in the market area need capture only 1 in every 27 vehicles (3,069 in 82,489) which travel through the York & Padonia intersection daily.

F. Summary

In summary, LF&M makes the following findings concerning demand for gasoline at fuel service stations in the defined one-mile radius market area around the subject:

- Subject Demand at this location is self-evident, given its continued successful operation since 1966.
- <u>Demand Segmentation</u> Demand is derived from three principal sources within the market area: residents (20%), workers (30%) and transient traffic (50%).
- Estimated Demand Total annual demand within the market area is estimated at 11.20 million gallons.

IV. COMPETITIVE SUPPLY

In this section, LF&M reviews conditions in the competitive marketplace for fuel service stations within a one mile radius of the subject site. We survey existing and proposed locations, then estimate the market share captured by each based on their competitive characteristics.

A. Existing Fuel Service Stations

Within a one-mile radius of the subject, the York Road commercial corridor offers consumers a selection of major brand and independent fuel service stations. Surveying the competition first on the east side of York Road (proceeding from south to north) and then on the west side (north to south), LF&M finds the following fuel service stations in addition to the subject:

- Shell 2161 York Road Four MPDs, eight fueling positions, three service bays, older property
- <u>Crown</u> 2415 York Road Eight MPDs, 14 fueling positions, natural gas pump,
 Express Mart
- Hess 9715 York Road Three MPDs, six fueling positions, two diesel pumps, older property, no convenience store
- Shell 10111 York Road Three MPDs, six fueling positions, three service bays, small convenience store
- <u>Carrollfuel</u> 9904 York Road Four MPDs, eight fueling positions, car wash, independent brand

The Crown station is the largest and the most up-to-date in marketing concept, with a substantial convenience store. The Shell properties are older and smaller, with a repair service orientation. The Hess and Carroll stations are smaller, with no convenience store. The Carroll station is the only competitor located on the west side of York Road within the market area.

Based on their branding, location, access, size and features (especially convenience store), LF&M has estimated the market share of gasoline purchases within the one mile market area for each of the competitors after the redevelopment of the subject as follows:

<u>Station</u>	Address	<u>Share</u>
Shell	2161 York Road	7.5%
Crown	2415 York Road	30.0%
Hess	9715 York Road	15.0%
Shell	10111 York Road	7.5%
Carrollfuel	9904 York Road	10.0%
Subject	2444 York Road	<u>30.0%</u>
Total		100.0%

We find that the subject and the Crown station are the dominant gasoline retailers in the market area, each in strategic York Road locations: on the southbound and northbound sides respectively. Each will have the advantage of a more contemporary marketing concept and convenience store.

The subject also is associated with a strong national brand (which is also strong regionally) with a significant market share in the gasoline credit card business. Both factors create demand at the subject:

- National Brand BP Amoco is one of the strongest brands among gasoline retailers in the United States. According to the National Petroleum News' July 2001 Market Facts sourcebook, the company's 17,500 retail outlets represent 16.7% of the total 104,670 branded retail stations in the U.S. The company had more stations than Exxon Mobil (16,080), Citgo (13,666), Chevron (8,055), Phillips (6,000) and Conoco (5,022) which had the next strongest presences.
- Gasoline Credit Card Base It is estimated that there are approximately 59.9 million gasoline credit card holders in the United States, of whom 9.9 million (16.5%) are BP Amoco private label credit card holders. Internal analyses at BP Amoco estimate that about 18.0% of gasoline purchases at the company's outlets are made with its own private label credit cards, reinforcing demand at the subject through brand loyalty.

B. Abandoned Fuel Service Station

LF&M has inquired at the Baltimore County Office of Planning concerning the abandoned Exxon fuel station property at 2424 York Road, just south of the York & Padonia intersection. The County planner for the Timonium area, Nicole Dozier, states that there are currently no plans before the County to redevelop that property, but that a laundromat is said to be in design. A sign on the property states that a laundromat is coming.

C. Summary

LF&M finds that the redeveloped subject has five competitor fuel service stations within the defined one mile market area radius. We are aware of no new stations entering the market. On the contrary, the former Exxon station is likely being turned to an alternative use as a laundromat.

The subject is currently well-positioned within the competitive environment due to its strategic location in particular, but will be even better situated after redevelopment due to its more attractive design and the presence of a convenience store. Consumer demand is reinforced by the brand identification of the subject. The subject's market share, based on competitive positioning, is estimated at 30% of total market area sales.

V. <u>SUMMARY & CONCLUSIONS</u>

In this section LF&M reconciles our estimates of market area demand and supply, determining whether the subject can generate sufficient gasoline sales to support its operations.

LF&M estimated above that approximately 11.20 million gallons of gasoline were demanded annually within the market area. We also estimated that the new fuel service station would be able to attract a market share of approximately 30% within the area, based on its location and competitive positioning. We then estimate the subject's annual sales as follows:

Total market area gasoline sales

11.2 million gal. per year

Market share

Subject Sales

13.36 million gal per year

This volume of gasoline sales is sufficient to sustain ongoing operations at the subject location.

LF&M, therefore, finds that the subject fuel service station is needed.

APPENDIX A Consultant Qualifications

<u>Lipman Frizzell & Mitchell, LLC</u>

Lipman, Frizzell & Mitchell is a multi-faceted real estate consulting and appraisal firm serving the Mid-Atlantic since 1977. LF&M is the Region's largest real estate advisory firm, with 21 professionals in our Columbia, MD headquarters. The firm offers advisory services including: appraisal/portfolio valuation, litigation support/expert testimony, feasibility assessment, economic and fiscal analysis, transaction consulting.

Joseph M. Cronyn

Joseph M. Cronyn is the senior consultant who completed this assignment. Mr. Cronyn has a broad professional background in real estate acquired over 25 years in the industry including: research, sales and marketing, development, financing and appraisal. His advisory assignments have encompassed: market and financial feasibility analyses of major real estate projects; land acquisition and marketing for residential development; tax-motivated and conventional financing for single family and multifamily residential projects; and advising public, non-profit and private clients concerning real estate decision-making.

Mr. Cronyn is qualified in analyzing the multitude of issues relating to residential and commercial real estate development, including: demographic and economic trends, financial analysis and property valuation, economic and fiscal impacts.

Mr. Cronyn has often conducted real estate feasibility analyses in Baltimore County. He has advised the County's Office of Planning, Office of Community Conservation and Department of Economic Development on various issues. He has testified before Baltimore County administrative bodies concerning the public need for various kinds of commercial facilities and other planning issues.

JOSEPH M. CRONYN Resume

Joseph Cronyn has a broad professional background in real estate research, sales and marketing, development, financing and appraisal. His experience includes market and financial feasibility analyses of major real estate projects; land acquisition and marketing for residential development; tax-motivated and conventional financing for single family and multifamily residential projects; and advising public, non-profit and private clients concerning real estate decision-making.

PROFESSIONAL EXPERIENCE

Lipman Frizzell & Mitchell, LLC, Baltimore, MD (1997 - present) Senior Associate

Conducts market feasibility analyses for commercial and residential real estate projects throughout the Mid-Atlantic area. Analyzes commercial real estate markets and specializes in determining the economic and fiscal outcomes of real estate decision-making. Building on strong skills in economic and demographic research, also advises clients on economic development, public sector housing policy, historic preservation and fiscal impact issues. Recent assignments include:

- HOPE VI Public Housing Redevelopment, Baltimore City and Philadelphia
- Convention Center Hotel Feasibility, Baltimore City
- Owings Mills Metro Station Master Redevelopment Plan, Baltimore County
- National Business Park Feasibility, Anne Arundel County
- Springfield State Hospital Redevelopment, Carroll County
- State Housing Needs Assessment: Delaware, Maryland and Louisiana
- Class B Office Conversion to Apartments Feasibility, Baltimore City
- For-Sale Residential Feasibility in Bolton Hill, Baltimore City

Legg Mason Realty Group, Inc., Baltimore, MD (1989 - 1997)

Vice President

Built a professional practice within the real estate advisory subsidiary of a major regional securities firm. Served private, public and non-profit clients throughout the Mid-Atlantic states in dealing with their real estate-related issues: residential and commercial development, market and financial feasibility, fiscal and economic impacts.

Financial Associates of Maryland, Baltimore, MD (1987 - 1989)

Vice President

Responsible for land acquisition and marketing for firm specializing in real estate development and venture capital investment. Analyzed financial and sales feasibility for residential lot development and home construction projects.

Baltimore Federal Financial, F.S.A., Baltimore, MD (1982 - 1987)

Director of Sales & Marketing. Senior Vice President

Responsible for all marketing and public relations for one of the largest thrift organizations in Maryland. Directed all retail sales efforts and administration of statewide branch banking network, stock brokerage, insurance agency and business development functions.

Neighborhood Reinvestment Corporation, Washington, DC (1978 - 1982) Assistant Director

Discovered and developed innovative urban revitalization projects throughout the United States for prominent national non-profit corporation. Supervised allocation of grant budget and researched impact of programs. Trained staff and local non-profits in real estate practices and housing finance.

Baltimore Federal Savings & Loan, Baltimore, MD (1976 - 1978)

Mortgage Underwriter and Urban Lending Coordinator

Evaluated residential purchase and rehabilitation mortgage loans for investment. Assisted in the development of urban lending techniques in cooperation with public, non-profit and private sector partners.

St. Ambrose Housing Aid Center, Baltimore, MD (1973-1976)

Principal and Housing Counselor

Counselor and non-profit real estate agent. Sold over 200 homes to low- and moderate-income families throughout the Baltimore Metropolitan Area. Researched local housing issues.

EDUCATION

Master of Business Administration Loyola College, Executive Program, 1986

B.A. in English & Philosophy Boston College, 1969

AFFILIATIONS

Neighborhood Housing Services of Baltimore, Chairman of the Board Citizens Planning and Housing Association, Member Preservation Maryland, Member Maryland Industrial Development Association (MIDAS), Member Regional Development Advisory Committee, Baltimore Metropolitan Council Lambda Alpha International Land Economic Society, Member MD Route 32 Planning Study, Land Use Expert Panel, Member Mayor's Council on City Living (Baltimore City), Member

PROFESSIONAL LICENSES

State of Maryland Real Estate Agent's License



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

October 2, 2001

David K Gildea Gildea LLC 301 N Charles Street Suite 800 Baltimore MD 21201

Dear Mr. Gildea:

RE: Case Number: 02-109-SPHXA, 2444 York Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 13, 2001.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

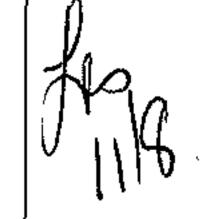
W. Carl Ruchards, Jr.

W. Carl Richards, Jr. 692-Supervisor, Zoning Review

WCR: gdz

Enclosures

c: Linda Smith Mulhern, Virginia E Smith Trust, 10309 Greenside Drive Cockeysville 21030 John R Lombardo, BP Corporation, 1 W Pennsylvania Avenue Suite 95, Towson 21204 People's Counsel



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: October 16, 2001

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

1 1

SUBJECT:

2444 York Road

INFORMATION:

Item Number:

02-109

Petitioner:

Virginia E. Smith Trust Linda Smith Mulhern

Zoning:

BL-AS

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

While the Office of Planning supports the applicant's efforts to upgrade the subject property, this office has determined that it is incumbent upon the petitioner to demonstrate practical difficulty and unreasonable hardship in this particular instance.

Prepared by:

Section Chief: My

AFK:MAC:



700 East Joppa Road Towson, Maryland 21286-5500 410-887-4500

October 15, 2001

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF October 1, 2001

Item No.: See Below

Dear Ms. Stephens:

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.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

082, 102, 103, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 117, and 118

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office PHONE 887-4881, MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: October 16, 2001

Department of Permits & Development Mgmt.

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For October 8, 2001

Item No. 109

The Bureau of Development Plans Review has reviewed the subject zoning item.

The developer is responsible for the reconstruction of his entrance fronting on Old Padonia Road per the Department of Public Works' Standard Plate R-32 – Single Commercial Entrance with Depressed Curb.

RWB:HJO:jrb

cc: File



Maryland Department of Transportation State Highway Administration

Parris N. Glendening Governor

John D. Porcari Secretary

Parker F. Williams
Administrator

October 3, 2001

Ms. Ronnay Jackson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County Item No. 109 (LTM)

MD 45

2444 York Road Mile Post 6.28

Dear Ms. Jackson:

We have reviewed the referenced plan and have no objection to approval.

However, we will require the owner/developer to obtain an access permit from our office and as a minimum the following will be required:

• A traffic impact analysis. The final design for any required roadway improvements will be determined following the review and approval of the traffic impact analysis.

Should you require any additional information regarding this subject, please contact Larry Gredlein at 410-545-5606 or by E-mail (lgredlein@sha.state.md.us).

Very truly yours,

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division

CC: Robert W. Bowling, P.E.

My telephone number is ______

Case No. 02-109-SPHXA

In the Matter of: BP Corporation — Contract Purchaser /Petitioner; August W. Smith, et al —Legal Owners

SPH – To amend previously approved SE in 65-3RX; SE – To permit fuel service station in combo with convenience story /carryout and automatic teller machine; and VAR – To permit two double-faced, illuminated free-standing signs totaling 160 sf (80 sf each) ilo maximum allowed 100 sf.

11/14/2001 - DZ.C.'s decision in which requested relief was GRANTED subject to restrictions.

1/23/02 - Entry of Appearance filed by David K. Gildea, Esquire; stamped copy of Entry mailed back to Mr. Gildea this date as requested and file noted.

5/07/02 - Notice of Assignment sent to following; scheduled for hearing on Thursday, August 22, 2002 at 10 a.m.:

Office of People's Counsel
David K. Gildea, Esquire
John R. Lombardo /BP Corporation
Augustus W. Smith, et al
Lawrence E. Schmidt, Zoning Commissioner
Pat Keller, Planning Director
Arnold Jablon, Director /PDM

- 8/02/02 Letter from David Gildea, Esquire Agreement with PC and GICC okay per redline plan; with withdrawal of variance request by BP, PC will withdraw opposition to fuel service station in combo with convenience store. Opposition was to sign variance (2 double faced illuminated signs of 160 sf (80 sf each) ilo 100 sf.
- 8/06/02 Conversation w/PMZ; indicates that it will be brief hearing; elimination of one sign; will put case on record before Board; possible to deliberate at conclusion of same.
- 8/07/02 -- T/C to Sebastian Cross, Esquire message left on voice mail case will proceed as scheduled on 8/22/02; also left CBA telephone number for questions, etc.
- 8/22/02 Board convened for hearing as assigned; deliberation took place at conclusion of hearing; Sebastian Cross, Esq. on behalf of BP; P Zimmerman, People's Counsel; granted special exception, special hearing; variance as to 160 sf ilo 100 sf withdrawn. Order to be issued.

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:

Virginia E. Smith, Trust, Linda Smith

Mulhern, August W. Smith – Legal Owners

Case No.: 02-109-SPHA

DATE:

August 22, 2002

BOARD/PANEL:

Lawrence S. Wescott

LSW

Margaret Worrall

MW

C. Lynn Barranger

CLB

RECORDED BY:

Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate the Special Hearing, Special Exception, and Variance filed by legal owners, Virginia E. Smith Trust, Linda Smith Mulhern, Augustus W. Smith, requesting special hearing to amend the previously approved special exception granted in case number 65-3RX; special exception to use a fuel service station in combination with a convenience store/carry out restaurant and ancillary use automatic teller machine; and variance (signs) with a total of 160 sf in lieu of required 100 sf.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- Variance has been withdrawn
- Project meets special requirements of 502.1
- Will enhance area
- Accept red-lined cite plan

FINAL DECISION: Unanimous decision to GRANT the Special Exception.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,

Theresa R. Shelton

County Board of Appeals

TRUSH B. Shelton

APPEAL

Petition For Special Hearing – Special Exception - Variance
2444 York Road
W/S York Road between Padonia and Padonia Park Road

8 Election District – 3rd Councilmanic District
Virginia E Smith Trust, Linda Smith Mulhern, Augustus W Smith- Legal Owner
BP Corporation - Contract Purchaser
Case No.: 02-109-SPHXA

Petition for Special Hearing, Special Exception, Variance (dated 09/13/01)

Zoning Description of Property

Notice of Zoning Hearing (dated 10/11/01)

Certification of Publication (The Jeffersonian issue 10/23/01)

Certificate of Posting (dated 10/23/01 posted SSG Robert Black)

Entry of Appearance by People's Counsel (dated 10/31/01)

Petitioner(s) Sign-In Sheet (1 page)

Protestant(s) Sign-In Sheet (none)

Citizen(s) Sign-In Sheet (none)

Zoning Advisory Committee Comments

Petitioners' Exhibits:

- Plans to Accompany Special Hearing, Special Exception and Variance (dated 04/26/01)
- 2. BP Amoco Fuel Service Station Need Analysis

Protestants' Exhibits:

(none)

Miscellaneous (Not Marked as Exhibits): (none)

Zoning Commissioner's Order (dated 11/14/01 - GRANTED)

Notice of Appeal received on 11/30/01 from Peter M. Zimmerman, People's Counsel for Baltimore County

C: David K Gildea, Gildea LLC, 301 N Charles Street, Suite 800, Baltimore 21201 People's Counsel of Baltimore County, MS #2010 Lawrence Schmidt, Zoning Commissioner Arnold Jablon, Director of PDM RE: PETITION FOR SPECIAL HEARING
PETITION FOR SPECIAL EXCEPTION
PETITION FOR VARIANCE
2444 York Road, W/S York Rd between

2444 York Road, W/S York Rd between Padonia and Padonia Park Rds
7th Election District, 3rd Councilmanic

Legal Owner: Virginia E. Smith Trust, Linda Smith

Mulhern, Augustus W. Smith Contract Purchaser: BP Corporation

Petitioner(s)

* BEFORE THE

* ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

* Case No. 02-109-SPHXA

*

* * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Jarole S. Demilio

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October, 2001 a copy of the foregoing Entry of Appearance was mailed to David K. Gildea, Esq., Gildea, LLC, 301 N. Charles Street, Suite 800, Baltimore, MD 21201, attorney for Petitioner(s).

PETER MAX ZIMMERMAN

PETITION FOR SPECIAL HEARING - SPECIAL					*	BEFORE THE					
EXCEPT	ION – VA	ARIANC	E								
2444 Yo	k Road						*	BAL	TIMO	RE CO	UNTY
W/S Yo	k Road B	Between :	Pado	nia and	l Padoi	nia					
Park Roa	d, 7th Ele	ction Di	strict	– 3 rd C	ouncili	nanic	*	BOA	ARD		
District											
_	E. Smith				Mulher	n,	*	OF A	APPEA	ALS	
Augusts	W. Smith	ı – Legal	l Own	ers							
BP Corp	oration -	Ground	Lesse	ee			*	Case	e No. 0	2-109-5	SPHXA
* *	*	*	*	*	*	*	*	*	*	*	

NOTICE OF APPEARANCE

Clerk:

Please enter the appearance of David K. Gildea, Esquire and Gildea, LLC as attorneys on behalf of the Ground Lessee, BP Corporation.

David K. Gildea

Gildea, LLC

301 N. Charles Street

Suite 800

Baltimore, MD 21201

Phone No: 410-234-0070

Respectfully submitted, ^

Attorneys for BP Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of January, 2002, a copy of the forgoing Entry of Appearance was mailed to:

Peter Max Zimmerman
People's Counsel for Baltimore County
Old Courthouse
Room 47
400 Washington Avenue
Towson, MD 21204

David K. Gildea

Gildea, LLC

301 N. Charles Street

Suite 800

Baltimore, Maryland 21201

(410) 234-0070

Attorney for BP Corporation

GILDEA, LLC

301 NORTH CHARLES STREET

SUITE 900

BALTIMORE, MARYLAND 21201

TELEPHONE 410-234-0070

FACSIMILE 410-294-0072

www.gildeallc.com

02 AUG 22 PII 4: 54

DAVID K. GILDEA
DAVIDGILDEA@GILDEALLC.COM

SEBASTIAN A. CROSS SCROSS@GILDRALLC.COM

JOSEPH R. WOOLMAN, III
JWOOLMAN@GILDEALLC.COM

D. DUSKY HOLMAN DHOLMAN@GILDEALLC.COM August 21, 2002

Via Hand Delivery

Ms. Kathy Bianco Court Board of Appeals Old Court House, Room 49 400 Washington Avenue Towson, MD 21204

Re: BP/2444 York Road (348)

Case No.: 02-109-SPHXA

Dear Kathy:

Attached please find an Opinion and Order to be employed for the above referenced case, currently scheduled for Thursday, August 22, 2002, at 10:00 a.m. As discussed with you previously, this Opinion and Order has been reviewed by People's Counsel and is acceptable to be utilized by the Board.

Thank you for your consideration in this matter and please contact me if there is any additional information you may require.

Very truly yours,

Sebastian A. Cross

SAC:bhb

Attachments

CC: John R. Lombardo

Larry Townsend, GTCC

People's Counsel, Peter Max Zimmerman, Esquire

David K. Gildea, Esquire

IN RE: PETITIONS FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE W/S York Road between Padonia Road and Old Padonia Road (2444 York Road)

(2444 York Road)

7th Election District

3rd Council District

* BEFORE THE

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

* Case No. 02-109-SPHXA

Virginia E. Smith Trust Petitioners

OPINION AND ORDER

Upon consideration of the evidence in a *de novo* hearing held on August 22, 2002, and upon public deliberations that same day, this Board enters the following Opinion and Order upon the Petition for Special Exception, Petition for Variance and other relief in this case:

The subject property is located on the west side of York Road between Padonia Road and Old Padonia Road in Timonium. The property contains a gross area of .896 acres in area, is zoned BL-AS, and is improved with a fuel service station. The property is located along the highly commercial corridor of York Road and is surrounded by a number of business and retail uses. The proposal is to raze the existing improvements at the subject location and construct a fuel service station including a 2880 sq. ft. building containing a convenience store, carry-out restaurant, and automatic teller machine. Six multi-product dispenser units and canopy will also be constructed along the frontage of York Road with one freestanding enterprise sign to be located at the YORK corner of Padonia and Old Padonia Roads. This sign will be 70 sq.ft.

BP seeks to modify the relief granted in case number 65-3RX to reflect the proposed modification and seeks a Petition for Special Exception under Section 405.4.E to permit a fuel service station use in combination with a convenience store over 1,500 square feet and carry-out restaurant and ancillary use automatic teller machine. Petitioners were represented by Sebastian A. Cross, Esq. on behalf of BP. People's Counsel, Peter Max Zimmerman, Esq. appeared to defend the zoning maps. The Board heard testimony from Gregory H. Reed of Bohler Engineering, the consultants who prepared the site plan for this property and Larry Townsend, President for Greater Timonium Community Council ("GTCC") in support of the amended site plan.

The amended site plan was submitted due to concerns raised by both People's Counsel and the GTCC over the sign variance. In agreement of all aforementioned parties, the sign variance was withdrawn and a newly proposed sign was placed at the corner of York Road and Old Padonia Road. This sign is in compliance with all Baltimore County Zoning Regulations.

- 1. SPECIAL EXCEPTION FUEL SERVICE STATION. That the Petition for Special Exception to permit a fuel service station use in combination with a convenience store over 1,500 square feet and carry-out restaurant and ancillary use automatic teller machine in accordance with Petitioner's amended, red lined site plan is hereby APPROVED.
- 2. AMENDMENT TO SPECIAL EXCEPTION CASE Petition to amend the previously approved Special Exception granted in Case Number 65-3RX to reflect the proposed modification in accordance with Petitioner's amended, red lined site plan is hereby APPROVED.
- 3. PETITION FOR VARIANCE The Petition for Variance from section 450.3(b) to permit 160 sq. ft. in lieu of the permitted 100 sq. ft. shown on Petitioners original site plan has been WITHDRAWN from the requested relief.

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GILDEA, LLC

301 NORTH CHARLES STREET

SUITE 900

DAVID K. GILDEA
DAVIDGILDEA@GILDEALLC.COM

+¥ *

BALTIMORE, MARYLAND 21201
TELEPHONE 410-284-0070

TELEPHONE 410-234-0070 FACSIMILE 410-234-0072

www.gildeallc.com

SEBASTIAN A. CROSS SCROSS@GILDEALLC.COM

JOSEPH R. WOOLMAN, III
JWOOLMAN@GILDEALLO.COM

August 2, 2002

D. DUSKY HOLMAN DHOLMAN@GILDRALLC.COM

Ms. Kathy Bianco Court Board of Appeals Old Court House, Room 49 400 Washington Avenue Towson, MD 21204

Re:

BP/2444 York Road (348)

Case No.: 02-109-SPHXA

Dear Kathy:

Attached please find BP's amended site plan for the pending case 02-109-SPHXA. This decision of November 14, 2001 granted a Petition for a Special Hearing, a Special Exception and Petition for Variance. This decision was appealed by People's Counsel on November 30, 2001 and is currently scheduled to be heard by the Board of Appeals on August 22, 2002. The plan attached to this correspondence contains redline amendments for the following reasons.

At the original hearing, BP had received approval for two (2) double-faced, illuminated, freestanding signs of 160 square feet (80 square feet each) in lieu of 100 square feet. BP has since learned there were concerns from the community regarding this sign variance. After the filing the appeal, BP met with both People's Counsel and the Greater Timonium Community Council (GTCC) in an attempt to resolve these concerns.

As a result of these meetings BP, People's Counsel and GTCC have agreed that the signage package currently presented on the redline plan (located on the corner of Old Padonia and York Road) is satisfactory to all parties. This sign complies with the Zoning Regulations in terms of setbacks and allowable square footage. This sign is 70 square feet and, as a result, BP would like to formally withdraw its variance request. BP does not withdraw the Special Hearing relief or Special Exception approval allowing an automotive service station in combination with a convenience store.

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Ms. Kathy Bianco August 2, 2002 Page 2

People's Counsel and GTCC stated the withdrawal of this variance will alleviate any opposition these parties have to the Special Hearing and Special Exception. This withdrawal of BP's variance request will be forwarded on to People's Counsel and GTCC.

With all parties in agreement as to the amended plan, BP would also like to request an expedited date be scheduled for this hearing. At this expedited hearing, BP would briefly testify as to why this variance request is being withdrawn on the record. People's Counsel could also testify that they are withdrawing their opposition to the fuel service station in combination with a convenience store. Hopefully this will result in a brief hearing and will allow BP to retain approval for the fuel service station as currently presented in the attached redlined plan.

Upon receipt and review of this letter and attached site plan, please contact this office with any direction from the Board of Appeals. BP will be working closely with People's Counsel and GTCC in order to accommodate any requirement the Board may have. Thank you for your consideration of this matter and please feel free to contact us with any comments or questions you may have.

Very truly yours,

Sebastian A. Cross

DKG:dls Enclosure

CC: John R. Lombardo Gregory H. Reed

Larry Townsend, GTCC

People's Counsel, Peter Max Zimmerman, Esquire

David K. Gildea, Esquire

GILDEA, LLC

301 NORTH CHARLES STREET

SUITE 800

BALTIMORE, MARYLAND 21201

FAX 410-234-0072 www.gildeallc.com

DAVID K. GILDEA
DIRECT NUMBER
410-234-0070
DAVIDGILDEA@GILDEALLC.COM

SEBASTIAN A. CROSS DIRECT NUMBER 410-234-0071 scross@gildeallo.com

January 22, 2002

ATTN: CLERK
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re:

BP Corporation/2444 York Road

Case No.: 02-109-SPHXA

Dear Clerk:

Please find enclosed one original and one copy of BP Corporation's Entry of Appearance. I have included the additional copy and would appreciate it if you would date stamp the copy and return it to me in the envelope provided.

Thank you for your assistance.

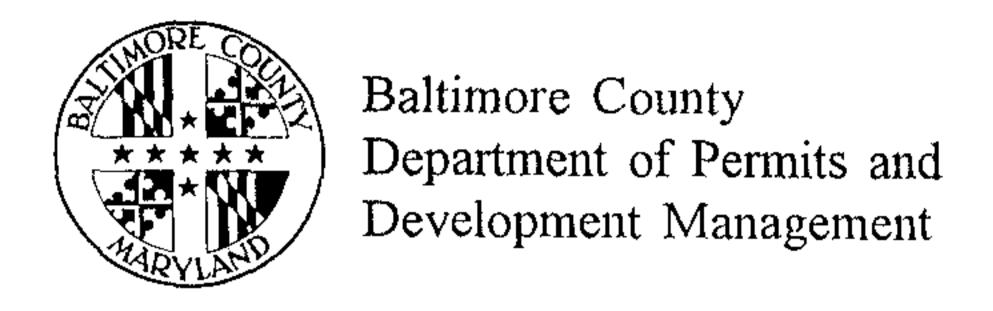
Very truly yours,

David K. Gildea

DKG:bhb

CC: Peter Max Zimmerman, Esquire

Enclosures



Director's Office County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 410-887-3353

Fax: 410-887-5708

December 19, 2001

David K Gildea Gildea LLC 301 N Charles Street Suite 800 Baltimore MD 21201

Dear Mr. Gildea,

RE: Case No. 02-109-SPHXA, 2444 York Road

Please be advised that an appeal of the above-referenced case was filed in this office on November 30, 2001 by Peter M. Zimmerman, People's Counsel for Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Arnold Jablon GDZ

Director

AJ: gdz

c: People's Counsel

GILDEA, LLC

301 NORTH CHARLES STREET SUITE 800

BALTIMORE, MARYLAND 21201

FAX 410-234-0072
www.gildeallc.com

12/10/01 2000 Coours

DAVID K. GILDEA
DIRECT NUMBER
410-234-0070
DAVIDGILDEA@GILDEALLC.COM

SEBASTIAN A. CROSS DIRECT NUMBER 410-234-0071 SCROSS & GILDEALLO, COM

December 6, 2001

Arnold Jablon, Director
Baltimore County Department of
Permits
and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Baltimore County Board of Appeals Old Courthouse, Room 49 400 Washington Avenue Towson, MD 21204

Re:

Petition for Special Hearing

Petition for Special Exception

Petition for Variance

2444 York Road, W/S York Rd, between

Padonia and Padonia Park Rds

7th Election Dist., 3rd Councilmanic District

Virginia E. Smith Trust, Petitioners

Case No.: 02-109-SPHXA

Please enter the appearance of David K. Gildea and Gildea, LLC on behalf of the Petitioners to the County Board of Appeals of the appeal filed by People's Counsel from the Zoning Commissioner's Order dated November 14, 2001 in the above entitled case pursuant to Rule 6 of the Practice and Procedure Rules of the Baltimore County Board of Appeals.

Very truly yours,

Dávid K. Gildea

DKG:bhb

CC: People's Counsel for Baltimore County

Mr. Edward Sedlar

01-4138 DEC 10 2001

Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL -

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

November 30, 2001

People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING PETITION FOR SPECIAL EXCEPTION

PETITION FOR VARIANCE

2444 York Road, W/S York Rd, between

Padonia and Padonia Park Rds
7th Election Dist., 3rd Councilmanic
Virginia E. Smith Trust, Petitioners

Case No.: 02-109-SPHXA

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated November 14, 2001 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Peter May Zimmeiman

(Varde S. Demilio

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf

cc: David K. Gildea, Esq., Gildea, LLC, 301 N. Charles Street, Suite 800, Baltimore, MD 21201, Attorney for Petitioners

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PETITIONER(S) SIGN-IN SHEET

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