IN RE: PETITIONS FOR SPECIAL HEARING

AND SPECIAL EXCEPTION – W/S

Harford Road, 303' S of Topaz Road (8326 Harford Road)

9<sup>th</sup> Election District

6<sup>th</sup> Council District

Walter Buschman Petitioner

- \* BEFORE THE
- \* ZONING COMMISSIONER
- \* OF BALTIMORE COUNTY
- \* Case No. 04-292-SPHX

\*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by the owner of the subject property, Walter Buschman. The Petitioner requests a special hearing to approve a modified parking plan, pursuant to Section 409.12.B of the Baltimore County Zoning Regulations (B.C.Z.R.) and a termination of the special exception relief granted for the adjacent property at 8328 Harford Road. In addition, the Petitioner requests a special exception for an arcade, pursuant to Section 423.B of the B.C.Z.R. 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 request were Walter Buschman, property owner; Mitchell Kellman on behalf of Daft-McCune-Walker, Inc., the consultants who prepared the site plan for this property; and Vernon Boozer, Esquire, attorney for the Petitioner. Also appearing in support of the request were Jerry Kilduff and Vickie L. Kaufmann. Elsie Doxzen, owner of an adjacent business, known as Rudolf's Appliances and Kitchen Cabinets, Inc., appeared as an interested person/Protestant, and was represented by Michael J. Doxzen, Esquire. Ron and Mary Rudolf, the previous owners of that business, also appeared, as did Charles Rehm, with the Baltimore County Police Community Relations Council; Mark Horney a representative of St. Ursula's School; The Rev. Kenneth R. Dunnington on behalf of the Hiss United Methodist Church, and Ruth Baisden, on behalf of the Greater Parkville Community Council.

Testimony and evidence offered revealed that the subject property is a narrow rectangularly shaped parcel located on the west side of Harford Road, just south of its intersection with Topaz Road in Parkville. The property contains a gross area of 2,430 sq.ft., more or less, predominantly zoned B.L.-A.S., with a small sliver of D.R.5.5 zoned land to the rear of the site. The property is presently improved with a one-story brick building containing 990 sq.ft. in area. The building shares a common wall with commercial uses on both sides. In fact, on the southwest side is Rudolf's Appliances and Kitchen Cabinets, owned by Ms. Doxzen, and on the northeast side is Palmisano's Carry-out Restaurant, a portion of which has been used by the Petitioner as an arcade. In this regard, Mr. Buschman was a party in a prior zoning case relating to the restaurant property. In that matter (Case No. 03-507-SPHX) the owners of Palmisano's and Mr. Buschman as Lessee, sought special exception relief to use a portion of the restaurant building for an arcade as either a sole principal use, or a use in combination with the restaurant. By Order dated July 9, 2003, I granted the relief requested, subject to certain terms and conditions relating to hours of operation, parking, etc. The Petitioner now comes before me seeking similar relief for the subject adjacent property.

In this regard, testimony indicated that Mr. Buschman recently purchased the subject property and wishes to relocate his arcade business from the adjacent property to the subject site. Thus, special exception and special hearing relief is requested as set forth above to allow an arcade on the subject property and to discontinue the special exception granted in the prior case for the adjacent property. It need be emphasized that the Petitioner has operated an arcade on the adjacent property for three years. Thus, I have had the opportunity to adjudge the actual impacts of that use on the surrounding locale during that timeframe.

Mr. Buschman testified that he currently has 13 gaming machines, which he described as general entertainment video games, and 1 Keno and 1 Maryland Lottery machine. There are no poker machines. Although the subject building is only slightly larger than the current space, he anticipates expanding the operation by adding as many as 6 or 7 more machines. He also testified that he sponsors parties 3-4 times a year for his regular customers, particularly around the

holidays; however, he does not have a liquor license and does not sell alcoholic beverages. He indicated that ¾ of his customers are women and all of his customers are over 21 years of age. He also indicated that because of the scarcity of parking in the area, he has entered into a lease with a nearby business known as Ben's Auto Glass, to lease five (5) parking spaces on that premises if need be (see Petitioner's Exhibit 2). Mr. Buschman further testified that he is licensed by the State of Maryland and has never been in violation of any gaming laws or had any complaints lodged against his business to the State of Maryland Lottery Commission.

The neighbors raised certain objections. These were similar to the objections raised in the prior case. Ms. Doxzen, who operates Rudolf's next door, complained of parking in the public street (Harford Road) by patrons of the arcade and the impact of the Petitioner's outdoor parties. Ms. Baisden, on behalf of the Greater Parkville Community Council, and Charles Rehm, a member of the Baltimore County Police Community Relations Council, both expressed concerns about the nature of the business and believe that the proposed use is not compatible with the family atmosphere of the locale, particularly the churches and schools nearby.

An arcade is defined in Section 101 of the B.C.Z.R. as "A building or part of a building in which 5 or more pinball machines, video games, or similar player-operated amusement devices are maintained." An arcade is permitted by special exception in the B.L. zone, pursuant to Section 230.13 of the B.C.Z.R. Moreover, there are specific regulations governing arcade uses under Section 423 of the B.C.Z.R. Section 423.B states that an arcade is permitted by special exception in the B.L. zone.

Based upon the testimony and evidence offered, I am persuaded to grant the relief requested. It need be emphasized that the proposed use has existed immediately next door to the subject site for the past three years and there is no evidence to indicate that this use has been detrimental to the health, safety and general welfare of the locale. The proposed relocation of this business to the subject site will not cause any greater impact than where presently located. I am appreciative of the fact that an arcade is not necessarily considered by some as a family-type establishment; however, it need be emphasized that it is a legal use, regulated in part by the State

of Maryland. Moreover, there was no evidence that there has been any problem with loitering, public drunkenness, crime or any other negative adverse effects from the use of the adjacent property as an arcade. The issue in this case is simply whether the proposed use meets the special exception criteria set forth in Section 502.1 of the B.C.Z.R. and not whether arcades should be permitted in this locale. However, as a condition of the relief granted, I will impose certain restrictions to protect the integrity of the surrounding community. In this regard, the restrictions imposed in the prior Order for the adjacent property shall be adopted herein and made a part hereof. Also, I will limit the number of video amusement devices permitted at this location to 20 machines, not counting the Lottery or Keno machines. That is, the Petitioner shall be permitted to have 22 gaming machines, total.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of February 2004 that the Petition for Special Hearing seeking approval of a modified parking plan, pursuant to Section 409.12.B of the Baltimore County Zoning Regulations (B.C.Z.R.) and a termination of the special exception relief granted for the adjacent property at 8328 Harford Road, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to approve an arcade on the subject property, pursuant to Section 423.B of the B.C.Z.R., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner may apply for his use permit and be granted same upon receipt of this Order; however, the 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) The Petitioner shall have ninety (90) days from the date of this Order in which to relocate his arcade business from the adjacent property to the subject site. At such time as the arcade business has been relocated, the special exception granted for the adjacent property shall be terminated.

- 3) The special exception use granted herein is personal to Walter Buschman. In the event of the sale or transfer of the business, the new owner/operator shall petition for special hearing relief to amend this restriction. Moreover, there shall be no greater than 22 gaming machines, which includes 1 Maryland Lottery machine and 1 Keno machine.
- 4) The hours of operation for the arcade shall be limited to 7:00 AM to 12:00 Midnight, seven (7) days a week.
- 5) No one under the age of 21 shall be permitted inside the arcade business.
- 6) The Petitioner shall maintain a lease to provide no less than five (5) off-site parking spaces.
- 7) The Petitioner shall insure that access to the parking lots of adjacent businesses is not blocked in any way.

8) When applying for any permits, the site 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

## Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



# **Baltimore County**

James T. Smith, Jr., County Executive Lawrence E. Schmidt, Zoning Commissioner

February 25, 2004

F. Vernon Boozer, Esquire 614 Bosley Avenue Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING & SPECIAL EXCEPTION W/S Harford Road, 303' S of Topaz Road (8326 Harford Road)

9<sup>th</sup> Election District – 6<sup>th</sup> Council District
Walter Buschman - Petitioner
Case No. 04-292-SPHX

Dear Mr. Buschman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception 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,

Solution of the second of

LAWRENCE E. SCHMIDT Zoning Commissioner

for Baltimore County

LES:bjs

cc: Mr. Walter Buschman, 8326 Harford Road, Parkville, Md. 21234

Mr. Mitchell Kellman, Daft-McCune-Walker, Inc.

200 E. Pennsylvania Avenue, Towson, Md. 21286

Michael J. Doxzen, Esquire, 3101 Clearview Avenue, Baltimore, Md. 21234

Ms. Elsie Doxzen, c/o Rudolf's, 8324 Harford Road, Parkville, Md. 21234

Ms. Ruth Baisden, 7706 Oak Avenue, Parkville, Md. 21234

Mr. Charles Rehm, 9241 Bellbeck Road, Parkville, Md. 21234

The Rev. Kenneth R. Dunnington, Hiss United Methodist Church

8700 Harford Rd., Parkyille, Md. 21234

Mr. Mark Horney, St. Ursula School, 2902 Garnet Road, Parkville, Md. 21234

People's Counsel; Case/File



Visit the County's Website at www.baltimorecountyonline.info



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 8326 Harfork Road which is presently zoned BL-AS OR5.5

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

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

a modified parking plan pursuant to Section 409.12. B, BCZR and terminate the special. exception at 8328 Harford Road.

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:	Legal Owner(s):						
Walter Bushmann	Walter Bushmann						
Name - Type or Print	Name - Type or Print Buschman						
Signature	Signature .						
Address Telephone No.	Name - Type or Print						
City State Zip Code	Signature						
Attorney For Petitioner:	8328 Harford Road 410-661-244 Address Telephone N						
	13a/to mo 21239						
Name - Type or Print	City State Zip Coo						
Signatule	Representative to be Contacted:						
	Walter Bushmann						
Company							
Address Telephone No.	8328 Harford Road 410-661-6 Address Telephone No						
7	Balto MD 21234						
State Zip Code	$\frac{\int 3a/f_0}{\text{City}} \frac{M_0}{\text{State}} = \frac{2/234}{\text{Zip Code}}$						
<b>36</b> :	OFFICE USE ONLY						
	ESTIMATED LENGTH OF HEARING						
SPKX							
	UNAVAILABLE FOR HEARING						
Case No. 04-292	UNAVAILABLE FOR HEARING						



# Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 8326 Harford Road

which is presently zoned BL-AS /DR5.5

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

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal cwner(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

an arcade, pursuant to Section 423.13, 13CZR.

Property is to be posted and advertised as prescribed by the zoning regulations.

In 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.

		perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:		Legal Owner(s):
Name - Type or Print	<del></del>	Name-Type or Print Succemman
Signature	<del></del>	Signature
Address	Telephone No.	Name - Type or Print
City	Zip Code	Signature
Attorney For Petitioner:		8328 Harford Road 416-661-2442 Address Telephone No.
Name - Type or Print	<del></del>	$\frac{13a/+o.  MD}{\text{City}} \qquad \frac{2/234}{\text{State}} \qquad \frac{\text{Zip Code}}{\text{State}}$
Signature	<del></del>	Representative to be Contacted:
<u> </u>		Walter Bushmann
Company  Company	<del></del>	Name 8328 Harford Road 410-661-244
Address City State	Telephone No.	Address Telephone No.  13a / to. MD 2/234  City State Zip Code
State	Zip Code	City State Zip Code
		OFFICE USE ONLY
SPHX 0. 04-292-XX		ESTIMATED LENGTH OF HEARINGUNAVAILABLE FOR HEARING
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		EUROS MARIANTES A	

#### NOTICE OF ZONING HEARING

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

Case: #04-292-SPH
8328 Harford Road

Northwest corner of Harford Road and southwest side of Topaz Road
9th Election District - 6th Councilmanic District Legal Owner(s): Walter Bushmann
Special Exception: to permit an arcade, Special Hearing: for a modified parking plan and to terminate the Special Exception at 8328 Harford Road.
Hearing: Thursday, January 29, 2004 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baitimore 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.

JT 1/668 Jan. 13

# CERTIFICATE OF PUBLICATION

114,2004
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing on
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
☐ Owings Mills Times
□ NE Booster/Reporter
☐ North County News
S. Wilkings
LEGAL ADVERTISING

# CERTIFICATE OF POSTING

		RE: Case No.: 97-292-57
		Petitioner/Developer: WALTER
		BUSHMANN
Baltimore County Department of Permits and Development Managemen		Date of Hearing/Closing: 129/
County Office Building, Room 111 11 West Chesapeake Avenue Cowson, Maryland 21204		
TTN: Becky Hart {(410) 887-3394}		** · -
adies and Gentlemen:	, ,	
his letter is to certify under the penaltions osted conspicuously on the property lo	ies of perjury that th cated at:	e necessary sign(s) required by law were
	HARFORD	
e sign(s) were posted on	1/ 1/	
	(Month, Day	Vear)
> > > >	Sincerely,	,
		-  *
	Z/S	ignature of Sign Poster) (Date)
Francisco de Maria de Proposition de		SSG Robert Black
Partial of the Control of the Contro		(Print Name)
		1508 Leslie Road
	· · · · · · · · · · · · · · · · · · ·	(Address)
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	<del>~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~</del>	(City, State, Zip Code)
		(410) 282-7940
	<del>*************************************</del>	
€ '		(Telephone Number)

# CERTIFICATE OF POSTING

	RE: Case No.: 04-292-3P+
	Petitioner/Developer: WALTER
•	BUSHMANN
	Date of Hearing/Closing: FEB 6, 2
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204	
ATTN: Becky Hart {(410) 887-3394}	
Ladies and Gentlemen:	,
This letter is to certify under the penaltic posted conspicuously on the property loc	es of perjury that the necessary sign(s) required by law were cated at:
8324	HARFORD RID
The sign(s) were posted on	2/1/04
vine sign(s) acte beseen on	(Month, Day, Year)
<u>- 10</u>	Sincerely,
	(Signature of Sign Poster) (Date)
	SSG Robert Black
	(Print Name)
	1508 Leslie Road
	(Address)
	Dundalk, Maryland 21222
	(City, State, Zip Code)
	(410) 282-7946
POSSEL TO A POSSEL	(Telephone Number)

PATUXENT PUBLISHING COMPANY TO:

Tuesday, January 13, 2004 Issue - Jeffersonian

Please forward billing to:

Walter Bushmann 8328 Harford Road Baltimore, MD 21234

410-661-2442

# 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

CASE NUMBER: 04-292-SPH

8326 Harford Road

Northwest corner of Harford Road, and southwest side of Topaz Road 9<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District

Legal Owner: Walter Bushmann

Special Exception to permit an arcade. Special Hearing for a modified parking plan and to terminate the Special Exception at 8328 Harford Road.

Hearing: Thursday, January 29, 2004, at 10:00 a.m. in Room 407, County Courts Building,

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S

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

# Department of Permits and Development Management

Director's Office County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204 Tel: 410-887-3353 • Fax: 410-887-5708



# Baltimore County

James T Smith, Jr., County Executive Timothy M Kotroco, Director

January 2, 2004

# 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

CASE NUMBER: 04-292-SPH

8326 Harford Road

Northwest corner of Harford Road, and southwest side of Topaz Road 9<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District

Legal Owner: Walter Bushmann

Special Exception to permit an arcade. Special Hearing for a modified parking plan and to terminate the Special Exception at 8328 Harford Road.

Hearing: Thursday, January 29, 2004, at 10:00 a.m. in Room 407, County Courts Building, Muthy Kotroco

Timothy Kotroco

Director

TK:klm

C: Walter Bushmann, 8328 Harford Road, Baltimore 21234

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JANUARY 14, 2004.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

### <u>ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS</u>

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.

	paper Advertising:		
		04-292-655	PHX
Petitioner	Walter P	Bushmann	
Address c	r Location: 83ス	6 Harford Rl.	
•	1		
PLEASE	ORWARD ADVERTI	ISING BILL TO:	
Name:	Walter Bus	shmann	
	8328 Ha		
	Ba 140. M	0 21234	
	•		

# Department of Permits and Development Management

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



# Baltimore County

James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

January 23, 2004

Walter Bushmann 8328 Harford Road Baltimore, MD 21234

Dear Mr. Bushmann:

RE: Case Number: 04-292-SPHX, 8326 Harford Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 17, 2003.

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 Richards, Jr.
Supervisor, Zoning Review

WCR:kim

Enclosures

c: People's Counse!



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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

January 5, 2004

ATTENTION: Rebecca Hart

Distribution Meeting of: December 29, 2003

293

Item No.:

280-285, 287-299

6. The Fire Marshal's Office has no comments at this time.

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

cc: File

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

**DATE:** February 2, 2004

TO: Timothy M. Kotroco, Director

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For January 5, 2004

Item Nos. 280, 281, 282, 284, 285, 286,

288, 289, 290, 291, 292, and 299

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

RWB:jrb

cc: File

# BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

**DATE:** January 29, 2004

TO: Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM: Arnold F. 'Pat' Keller, III

Director, Office of Planning

**SUBJECT:** 8326 Harford Road

**INFORMATION:** 

Item Number: 04-292

Petitioner: Walter Bushman

**Zoning:** BL-AS

Requested Action: Petition for special exception to permit an arcade and modified parking plan and to terminate the special exception at 8328 Harford Road.

#### SUMMARY OF RECOMMENDATIONS:

The Office of Planning recommends the petition for variance be approved provided that the petitioner shall not block access to the parking lots of adjacent businesses.

Prepared by

Section Chief

AFK/DAP:



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 1.7.04

**Baltimore County** 

292

ンアヤ

Item No.

RE:

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

Dear Ms. Hart:

We have reviewed the referenced item and have no objection to approval. Our review has determined that no construction is required within the State Highway Administration's right-of-way.

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

Engineering Access Permits Division

RE: PETITION FOR SPECIAL HEARING

AND SPECIAL EXCEPTION

8326 Harford Road; Corner NW/side Harford\*

Rd & SW/side Topaz Road

9<sup>th</sup> Election & 6<sup>th</sup> Councilmanic Districts

Legal Owner(s): Walter Bushmann

**BALTIMORE COUNTY** Petitioner(s)

> ж 04-292-SPHX

FOR

BEFORE THE

ZONING COMMISSIONER

## ENTRY OF APPEARANCE

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

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 day of January, 2004, a copy of the foregoing Entry of Appearance was mailed to Walter Bushmann, 8328 Harford Road, Baltimore, MD 21234, Petitioner(s).

RECEIVED

JAN 0 5 2004

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

## Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



# Baltimore County

James T. Smith, Jr., County Executive Lawrence E. Schmidt, Zoning Commissioner

January 29, 2004

Mr. Walter Bushmann 8328 Harford Road Baltimore, Maryland 21234

RE: PETITIONS FOR SPECIAL HEARING & SPECIAL EXCEPTION NW/Corner Harford Road & Topaz Road (8326 Harford Road)

9<sup>th</sup> Election District — 6<sup>th</sup> Council District Walter Bushmann — Petitioner Case No. 04-292-SPHX

Dear Mr. Bushmann:

This letter is to confirm that the above-captioned matter was postponed in open hearing this date at the request of some of the adjacent community groups. Apparently, the Notice of Posting regarding the public hearing and the relief requested was insufficient and many residents were not aware of the hearing until yesterday. In any event, by agreement of those parties who appeared at the hearing this date, the matter has been rescheduled for Friday, February 6, 2004 at 1:00 PM in Room 407 of the Circuit Courts Building in Towson.

In the meantime, should anyone have any questions, please do not hesitate to call me.

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. Mitchell Kellman, Daft-McCune-Walker, Inc.

200 E. Pennsylvania Avenue, Towson, Md. 21286

Mr. Jerry Kilduff, 5123 Forge Road, Perry Hall, Md. 21128

Michael Doxzen, Esquire, 3101 Clearview Avenue, Baltimore, Md. 21234

Ms. Elsie M. Doxzen, 8324 Harford Road, Baltimore, Md. 21234

Ms. Mary Rudolf, 100005 Harford Road, Baltimore, Md. 21234

Ms. Ruth Baisden, 7706 Oak Avenue, Baltimore, Md. 21234

People's Counsel; Case File



Visit the County's Website at www.baltimorecountyonline.info

#### TRANSMISSION OK

TX/RX NO. 3397 CONNECTION TEL 5791

CONNECTION ID

START TIME 01/29 14:02

USAGE TIME 00'34
PAGES 1
RESULT OK

Joseph C. Boteler III
Delegate
Sth Legislative District
Baltimore County

Health and Government Operations Committee

F-Mail Joseph Boreler@house.sing.md.us



JOHN W. E. CLUSTER, JR.
District

8th Legislature District

Baltimore County

Environmental Mariers Committee

I-Mail John Cluster@house.some indias

# The Maryland House of Delegates Annapolis, Maryland 21401-1991

January 29, 2004

Baltimore County
Zoning Commissioner's Office
Mr. Lawrence Schmidt
401 Bosley Avenue
Towson, MD 21204

We are contacting you to request a postponement for a hearing that is scheduled for today January 29, 2004 regarding a zoning change at 8326 Harford Road. The communities Associations for the area has contacted us regarding this issue and have not been notified concerning this hearing until last night. They have not had enough time to prepare or investigate how the changes will affect the community.

Thank you for your immediate attention to this issue. Please contact us at our Annapolis office with the outcome of this request.

Sincerely

Joe Boteler, III

Delegate

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JCB/JWEC:row

John Cluster, Jr.

Delegate

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3101 Clearview Avenue Baltimore, MD 21234 Phone (410) 444-6262 Fax (410) 426-9266

June 22, 2004

Baltimore County Zoning Room 111 111 W. Chesapeake Avenue Baltimore, MD 21204

Attention: Donna

Re: 04-292-SPH

To Whom It May Concern:

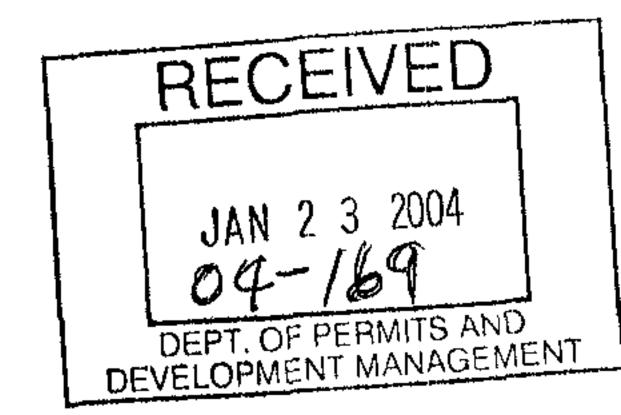
Please enter my appearance as attorney for Elsie Doxzen, owner of Rudolph's Appliances, located at 8324 Harford Road, Parkville, Maryland. We are opposed to the parking modification and special exception to use 8326 Harford Road as an arcade.

Very Truly Yours,

Michael J. Doxzen

Attorney at Law

cc. Carol Demilio
Peoples' Counsel
401 Washington Avenue
Towson, Maryland



03044.00 File

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IN RE: PETITIONS FOR SPECIAL HEARING

AND SPECIAL EXCEPTION
SW/Corner Harford Road
and Topaz Road
9th Election District
6th Councilmanic District

(8328-8332 Harford Road)

Francis J. & Rita E. Desantis, Legal Owners & \*
Walter Buschman, Lessee

\*
Petitioners

BEFORE THE

\* ZONING COMMISSIONER

OF BALTIMORE-COUNTY

CASE NO. 03-507-SPHX

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Zoning Commissioner on a Petition for Special Exception and Petition for Special Hearing for the property located at 8328-8332 Harford Road in Parkville. The Petition was filed by Francis J. Desantis and Rita E. Desantis, Property Owners and Walter Bushmann, Lessee. Special Exception relief is requested for use of the property as an arcade, pursuant to Section 423.B of the Baltimore County Zoning Regulations (B.C.Z.R.), as the sole principal use or in combination use with a restaurant. Special Hearing relief is requested to permit the existing parking, as shown on the site plan, to support the existing restaurant/proposed arcade use. The subject property and requested relief are more particularly shown on the site plan received into evidence at the hearing as Petitioners' Exhibit No. 1.

Appearing at the requisite public hearing held for this case was Walter Buschman, Lessee/Co-Petitioner. Also present was Mitch Kellman, a planner from Daft, McCune, Walker, Inc., the consultants who prepared the site plan. A number of other individuals appeared at the hearing and their attendance is reflected on the Petitioners' Sign-In Sheet. These individuals generally appeared in support of the petitions. Appearing in opposition to the request was Elsie Doxzen, President of Rudolf's, Inc., an adjacent business. That company was represented by Michael Doxzen, Esquire. Also appearing in opposition to the request was Mary Rudolf.

The subject property under consideration is an irregularly shaped tract located at the southwest corner of the intersection of Harford Road (Maryland Route 147) and Topaz Road in Parkville. The property is approximately one fifth of an acre in area. The predominant zoning of the property is BL-AS, however, there is a small strip at the rear of the property which is zoned D.R.5.5. The property is improved with a one-story building that contains two distinct uses. The building is attached to an adjoining commercially used building known as "8326 Harford Road". In fact, this entire block of Harford Road is highly commercial in character and is occupied by a series of connected buildings containing a variety of commercial/business uses. The primary use of the building on the subject property is a carry-out restaurant known as "Palmisano's". The restaurant building encompasses approximately 1,938 sq. ft. The building is one-story in height. A separate area of the building is used as an arcade. This area is leased by Walter Buschman, Co-Petitioner. The building used as an arcade occupies approximately 888 sq. ft.

Mr. Buschman testified that he has leased the subject property and operated his business therefrom for approximately 2 years. The arcade trades under the business name "Let's Play". Mr. Buschman indicated that he operates an arcade business from the site. A variety of game machines are present on the property and there are also sales of Lottery and Keno. An arcade is defined under Section 101 of the B.C.Z.R. as "a building or part of a building in which 5 or more pinball machines, video games, or similar player operated amusement devices are maintained". Arcades are permitted in the BL zone by special exception pursuant to Section 423.B of the B.C.Z.R.

The business operates seven days a week from approximately 7:00 a.m. to 12:00 midnight. The average age of the clientele is 35-40 years of age. Mr. Buschman indicated that he does not allow patrons under 21 years of age. He indicated also that he has never received

Case Number	
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# PLEASE <u>PRINT</u> LEGIBLY

# PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
CHARIES REHM	2241 BELL Seck RD	STORKUILLE LA	21234
ELSIE DOXZEN	8324 HARFORD P)	TORKULLE MX	\$1234
MARKHORNEY ST. CASIA Jeloul		<b>γ</b> (	7 12 3-1
The Rev. Kenneth R. Dunnington	HISCIPIAL OF POTENDENT CHU	Parkville	21234
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MARY RUDOLF	8324 HARFORD RD	PARKUILLE	21234
Michae) JOOXZeh AHM			•
Ron PuloH	8324 Hm Ford Rd	Porkille MD	<del></del>
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# PROTESTANT'S SIGN-IN SHEET

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PETITIONER'S SIGN-IN SHEET

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ADI	8326 /Mul	200 E. Rubbylvone the	614 Basley Am	Y	3101 Huske Road								
NAME	Malle Susaiman	make Kellman	Mann Sma	JERLU KILDURE	Vickie K. Kaurmann								

PLEASE PRINT CLEARLY

CASE NAME & 334 Harford RR.
CASE NUMBER 04-292-5PH
DATE 1/29/04

# PETITIONER'S SIGN-IN SHEET

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Towson, My 21286	Hau mi							
DMW, In Runsyland Are	5123 Elhge RD.							
MAME Mark Jacobinan	JERRY KILDUFF							

THIS AGREEMENT, MADE THIS FIRST DAY OF JUNE, 2003, BY AND BETWEEN BERNARD GUGLIUZZA, LANDLORD AND WALTER BUSCHMAN, t/a LET'S PLAY.

WITNESSETH, THAT THE SAID LANDLORD HEREBY RENTS TO THE SAID TENANT, WALTER BUSCHMAN, 5 PARKING PLACES AT REAR OF 8314 HARFORD ROAD, BALTIMORE COUNTY, MARYLAND FOR THE TERM OF ONE YEAR BEGINNING ON THE FIRST DAY OF JUNE, 2003, AND ENDING ON THE THIRTY-FIRST DAY OF MAY, 2004, AT TWO HUNDRED DOLLARS (\$200) A MONTH, PAYABLE MONTHLY ON THE FIRST DAY OF EACH MONTH IN ADVANCE.

AND THE SAID TENANT HEREBY COVENANTS WITH THE SAID LANDLORD TO PAY THE RENT AS AFORESAID, KEEP THE PREMISES IN GOOD ORDER, AND TO SURRENDER THE PEACEFUL AND QUIET POSSESSION OF THE SAME AT THE END OF THE SAID TERM, IN AS GOOD CONDITION AS WHEN RECEIVED (THE NATURAL WEAR AND DECAY OF THE PROPERTY AND UNAVOIDABLE ACCIDENTS EXCEPTED), AND FURTHER THAT THE SAID TENANT WILL NOT DO SUFFER OR PERMIT ANYTHING TO BE DONE IN OR ABOUT THE PREMISES WHICH WILL CONTRAVENE THE POLICY OF INSURANCE AGAINST LOSS OF FIRE: NOR USE, NOR PERMIT THEIR USE FOR THE PURPOSE OTHER THAN CUSTOMER PARKING. I WILL NOT AT ANY TIME ASSIGN THIS AGREEMENT, OR SUBLET THE PROPERTY THUS LET OR ANY PORTION THEREOF, WITHOUT THE CONSENT IN WRITING OF THE SAID LANDLORD: AND FURTHER, NO ALTERATIONS OR REPAIRS SHALL BE DONE WITHOUT THE EXPRESS WRITTEN CONSENT OF THE LANDLORD, AND ALL SUCH ALTERATIONS OR REPAIRS SHALL BE DONE AT THE EXPENSE OF THE TENANT. THE TENANT SHALL HAVE USE OF FIVE PARKING PLACES AT REAR OF 8314 HERFORD ROAD.

IT IS FURTHER AGREED, THAT IF THE RENT SHALL BE TEN (10) DAYS IN ARREARS THE LANDLORD SHALL HAVE THE RIGHT TO DISTRAIN FOR THE SAME, AND TO RE-ENTER AND TAKE POSSESSION: AND IF THE TENANT SHALL VIOLATE ANY OF THE FOREGOING COVENANTS ON HIS PART HEREIN MADE, THE LANDLORD SHALL HAVE THE RIGHT WITHOUT FORMAL NOTICE TO RE-ENTER AND TAKE POSSESSION: AND IF THE PROPERTY SHALL BE DESTROYED OR RENDERED UNTENANTABLE BY FIRE OR UNAVOIDABLE ACCIDENT, THE TENANCY HEREBY CREATED SHALL BE THEREBY TERMINATED, AND ALL LIABILITY FOR RENT HEREUNDER SHALL CEASE UPON PAYMENTS PROPORTIONATELY TO THE DAY OF FIRE OR UNAVOIDABLE ACCIDENT. ALSO AGREED THAT THE LANDLORD HAS THE RIGHT AT HIS DISCRETION TO TERMINATE OR CHANGE LEASE AFTER SIXTY DAYS WRITTEN NOTICE.

WITNESSETH THE HANDS AND SEALS OF THE PARTIES HERETO, THE DAY AND YEAR FIRST ABOVE WRITTEN.

WITNESSETH

TENANT

