IN RE: PETITIONS FOR SPECIAL EXCEPTION, *

SPECIAL HEARING & VARIANCE

NW corner East Avenue and

Harford Road

11th Election District

6th Councilmanic District

(9205 Harford Road)

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

R. Benson Phelps, LLC Legal Owner

CASE NO. 07-223-SPHXA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

*

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Exception, Special Hearing and Variance filed by the legal owner of the subject property, R. Benson Phelps, LLC. for property located at 9205 Harford Road.

The Special Hearing is to approve, pursuant to BCZR Sections 409.1.B and 409.8.B.1 of a modified parking plan and modified parking requirements for the proposed uses in accordance with the specific detail shown on the Plat to Accompany this Petition, and modification of the relief and site plan approved in Case No. 98-328-SPHXA.

The Special Exception is to allow roll-over car wash pursuant to BCZR Section 405.4.E.2 and 419.1 (this is the same special exception relief requested and granted in Case No. 98-328-SPHXA; the relief granted lapsed before it was implemented).

The Variance request is to permit a total of 16 parking spaces for the non carwash uses in lieu of the 20 spaces otherwise required (if the modified parking plan is not approved as part of the Special Hearing, Petitioner filed herewith, from BCZR Section 409.6.A.2).

The property was posted with Notice of Hearing on December 26, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on December 26, to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 502.1 of the B.C.Z.R. Special Exceptions

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Section 307 of the B.C.Z.R. Variances

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

1-25-07 Miles

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the variance and special exception requests were David Billingsley, with Central Drafting & Design, Inc., who prepared the site plan, Bob Infussi, Development Consultant, and Howard Phelps, Jr., with R. Benson Phelps, LLC, Petitioner. Howard Alderman, Jr., Esquire, represented the Petitioner. There were no citizens or protestants' at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property contains 28,937 square feet zoned BM-AS and improved by the Petitioner's fuel service station. Mr. Alderman indicated that he presented Case No. 98-328-SPHXA in 1998 in which the Deputy Zoning Commissioner approved special exceptions for a roll over car wash, convenience store and carryout restaurant in conjunction with a fuel service station. He indicated that prior to this 1998 request, the site contained a fuel service station with a three bay repair shop. The intention of the owner was to convert the service bays into a convenience store, and carryout restaurant. The roll over car wash was to be built as well. However in fact the service bays were not converted and the car wash never constructed. Consequently the special exception lapsed causing the need for the subject hearing.

The subject property is located close to the northeastern intersection of I 695 and Harford Road as shown in the vicinity map of the Plat to Accompany exhibit 1. The Plat indicates the proposed uses are as a fuel service station with a convenience store of 600 square feet and roll

over car wash. The service bays will remain. Mr. Alderman presented the Order in Case No. 98-238-SPHXA as exhibit 2 and a comparison to what is requested in the subject case and the former Order as exhibit 3. This exhibit shows the service bays will remain, request for modified parking plan similar to that approved in 1998, a convenience store of 600 square feet as compared to 1500 square feet previously approved, no carry out restaurant, no change to the signage, a stacking space now provided for each fuel pump in addition to the space at the pump, the parking variance to allow 16 spaces in lieu of 20 required.

Mr. Alderman noted that all required stacking spaces will be provided for the car wash in addition to providing the required stacking parking space for each pump. A variance was previously approved for pump stacking spaces. Sixteen of 20 parking spaces will be provided in the modified parking plan or in the alternative a variance is requested. He opined that the present request met all criteria of Section 502.1 of the BCZR, was within the spirit and intent of the BM-AS zoning regulation and would not adversely affect the community. He noted that the AS overlay was specifically designed for these kinds of uses. In addition he indicated that the proposed car wash was a true roll over design with flow rate of vehicles of 15 vehicles per hour. The nearest residentially zoned property is approximately 300 feet away.

In regard to operation, the car wash will be attended during the daylight hours, but will operate 24 hours a day, 7 days per week. He opined that this would not be detrimental to the community since the property is surrounded by commercial uses including the large Doug Griffith Honda dealership which all but surrounds the property. Finally he opined that the property is unique given the existing buildings on the property, and the lot location close to the Beltway. The current owners had no role in defining either the location of the buildings or the dimensions of the lot. All relief is internal to the site. Mr. Billingsley indicated that the modified parking plan has been designed to present standards regarding size of parking spaces,

drive aisles etc and was a safe design without safety hazards sometimes present in parking fields in older communities.

Findings of Fact and Conclusions of Law

Special Hearing

In regard to the request for a modified parking plan under Section 409.12, I understand that the design is up to date and safe. I much prefer modified parking plans in older communities as compared to variances which simply document parking fields which sometimes have inherent safety flaws. A modified parking plan had previously been approved for this site in the 1998 case. I find that the Petitioner would suffer undue hardship if the plan were not approved given the existing lot size and buildings on site. All stacking spaces are provided for the car wash which will prove to be important on the sunny day after the salt trucks treat the snow. The Petitioner could have relied on the previous variance and not provide the stacking space for each fuel pump but did not. This may have helped with the overall parking requirements. Therefore I will approve the modified parking plan.

Special Exception

In regard to the special exception of the roll over car wash, I find the proposed use meets the criteria of Section 502.1 of the BCZR, is within the spirit and intent of the BM-AS regulations and will not adversely affect the community. The nearest residence is 300 feet away, the property is surrounded by commercial uses coming off the Beltway on Harford Road. The AS overlay specifically allows these kinds of uses. Therefore I will grant the special exception.

Special Hearing

In regard to the request to modify the site plan approved in Case No. 98-328-SPHXA, I will grant the request for the reasons given.

Having granted the modified parking plan the variance request becomes moot and therefore I will deny this request.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' requests for special exception and special hearing should be granted, and the requests for variance should be denied as moot.

IT IS FURTHER ORDERED, that the Special Exception to allow roll-over car wash pursuant to BCZR Section 405.4.E.2 and 419.1 be and is hereby GRANTED; and

IT IS FURTHER ORDERED, that the Special Hearing to modify the site plan approved in Case No. 98-328-SPHXA in accordance with the specific detail shown on Petitioner's exhibit 1 be and is hereby GRANTED subject to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their 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 such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition; and

IT IS FURTHER ORDERED, that the Variance request is to permit a total of 16 parking spaces for the non carwash uses in lieu of the 20 spaces otherwise required be and is hereby DENIED, as moot.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:pz

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE -

SW/S Harford Road, 38' SE of

the c/l of East Avenue (9205 Harford Road) 11th Election District 6th Councilmanic District BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 98-328-SPHXA

R. Benson Phelps, LLC Petitioner

* * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owner of the subject property, R. Benson Phelps, LLC, by John H. Phelps, Member, through their attorney, Howard L. Alderman, Jr., Esquire. The Petitioner seeks approval of an amendment to the previously approved site plan in prior Case No. 5529-X for the conversion of the existing service bays to a carry-out restaurant use, and a modified parking plan and modified parking requirements for the proposed use, pursuant to Sections 409.12B and 409.8.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The Petitioner also requests a special exception to continue the existing automotive fuel service station use, pursuant to Section 230.13 of the B.C.Z.R., in combination with a convenience store with a sales area of greater than 1500 sq.ft., pursuant to Section 405.4.E.1 of the B.C.Z.R.; a roll-over car wash, pursuant to Sections 405.4.E.2 and 419.1 of the B.C.Z.R.; and carry-out restaurant, pursuant to Section 405.4.E.10 of the B.C.Z.R. In addition to the special hearing and special exception relief sought, the Petitioner requests variance relief From Section 450.4.F.5(a) of the B.C.Z.R. to permit the follows: existing three, wall-mounted enterprise signs to remain located on the front facade in lieu of the two signs per facade permitted as of right;

PETITIONER'S

EXHIBIT

C

from Section 405.4.A.3(c) of the B.C.Z.R. to permit a single fuel service space without the necessity of one stacking space; and, if the modified parking plan is not approved pursuant to the special hearing relief sought herein, then relief is requested from Section 409.6.A.2 of the B.C.Z.R. to permit 12 parking spaces for the carryout/convenience store in lieu of the required 15 spaces. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were John H. Phelps, representative of R. Benson Phelps, LLC, Owner of the property, Ashton Menifee, a representative of Carroll Independent Fuel Company, Developer, Edwin S. Howe, Professional Engineer with KCW Consultants, Inc., C. Richard Moore, a traffic engineering consultant with Wells and Associates, and Howard L. Alderman, Jr., Esquire, attorney for the Petitioner. There were no Protestants or other interested persons present.

At the onset of the hearing, the Petitioner amended the third variance requested within its Petition for Variance and submitted a revised site plan, marked into evidence as Petitioner's Exhibit 2. In accordance with the revised site plan, the Petitioners propose to construct an addition to the existing building rather than remove same and construct a new building. The building will actually be smaller than that originally proposed; thus, only 14 spaces are required. The Petition was amended accordingly and the hearing proceeded.

Testimony and evidence offered revealed that the subject property consists of 0.664 acres, more or less, zoned B.M.-A.S., and is improved with a 2300 sq.ft., one-story masonry building. The property is located on the southeast corner of the intersection of Harford Road and East

Avenue, just north of the exit ramp from the Baltimore Beltway (I-695) to Harford Road. The property is currently improved with a gasoline service station which has existed on the property for many years. The Petitioner is desirous of converting the site to a use in combination gasoline sales/ convenience store/car wash facility in accordance with Petitioner's Exhibit 2. The Petitioner recognizes the need to remain competitive with other gasoline service stations in the area, most of which have already converted from automobile repair facilities to gas and go service stations with accessory convenience store and car wash uses. However, in order to proceed with the proposed conversion, the requested special exception, spccial hearing and variance relief are necessary. As noted above, the Petitioner originally proposed to raze the existing building and construct new buildings to house the convenience store/gasoline sales and car wash services. However, the Petitioners have since modified their plans and now wish to proceed with the proposed improvements, utilizing the existing building. In addition, a modified parking plan is proposed, pursuant to Sections 409.12.B and 409.8.B.1 of the B.C.Z.R., which, if approved, would obviate the need for the parking variance to permit 12 spaces in lieu of the required 14. On behalf of the Petitioner, Mr. Alderman proffered that there are no specific parking requirements set forth in the B.C.Z.R. for a gasoline service station use in combination with a convenience store and roll-over car wash. Mr. Alderman indicated that while the modified parking plan, shown on Petitioner's Exhibit 2, would provide 12 "hard" spaces, it does not account for the additional spaces under the canopy. Furthermore, the Petitioner believes that 12 parking spaces would be sufficient, given the use proposed for this property.

A.S. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

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

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

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

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the special hearing and variance relief are not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions unique to this particular parcel. Furthermore, I find that the modified parking plan shown on Petitioner's Exhibit 2 is appropriate and should be approved. In the opinion of this Deputy Zoning Commissioner, the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and meets the spirit and intent of the zoning regulations. Inasmuch as the modified parking plan has been approved, the variance to allow 12 parking spaces in lieu of the required 14 shall be dismissed as moot.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above,

the special hearing, special exception and variance relief sought should be granted.

Baltimore County this 13 day of May, 1998 that the Petition for Special Hearing seeking approval of an amendment to the previously approved site plan in prior Case No. 5529-X to reflect the proposed conversion of the existing service bays to a carry-out restaurant use, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve a modified parking plan and modified parking requirements for the proposed use, pursuant to Sections 409.12B and 409.8.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

continue the existing automotive fuel service station use, pursuant to Section 230.13 of the B.C.Z.R., in combination with a convenience store with a sales area of greater than 1500 sq.ft., pursuant to Section 405.4.E.1 of the B.C.Z.R., in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

permit a roll-over car wash, pursuant to Sections 405.4.E.2 and 419.1 of the B.C.Z.R., and carry-out restaurant, pursuant to Section 405.4.E.10 of the B.C.Z.R., in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 450.4.F.5(a) of the B.C.Z.R. to permit the existing three, wall-mounted enterprise signs to remain located on the front facade

in lieu of the maximum permitted two signs per facade permitted as of right, and from Section 405.4.A.3(c) of the B.C.Z.R. to permit a single fuel service space without the necessity of one stacking space, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED, subject to the following restriction:

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.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 409.6.A.2 of the B.C.Z.R. to permit 12 parking spaces for the carryout/convenience store in lieu of the required 14 spaces, be and is hereby DISMISSED AS MOOT.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

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RELIEF GRANTED IN Case No. 98-328-SPHXA

COMPARED TO EXISTING USES & PRESENT REQUEST

Relief Granted 98-328-SPHXA	Existing Uses & Present Request
SPH: Approval of the conversion of the existing service bays to carry-out restaurant use and amendment of previously approved site plans, in Case No. 5529-X	Service bays never converted - will remain in use
SPH: Modified Parking Plan approved per Petitioner's Exhibit No. 2	Requesting that present modified parking plan be approved; otherwise variance request
S/E: continuation of automotive fuel service station pursuant to BCZR §230.13, in combination with a convenience store with a sales area of greater than 1500 square feet pursuant to BCZR §405.4.E.1;	Convenience store greater than 1500 sq.ft. never established
S/E: roll-over car wash pursuant to BCZR §§405.4.E.2 & 419.1	Roll over car wash was not constructed within 2 years of order
S/E: carry-out restaurant pursuant to BCZR §405.4.E.10	Carry-out restaurant was not constructed - service bays retained
VAR: BCZR § 450.4.F.5(a) for the three, wall mounted enterprise signs otherwise allowed to be located on the front facade in lieu of the maximum of two per facade permitted as of right	No change; 3 wall mounted enterprise signs still proposed
VAR: BCZR §405.4A.3.c to permit a single fuel service space without the necessity of one stacking space	Single fuel service space and stacking space for each pump still provided
VAR: BCZR § 409.6.A.2 to permit a total of 12 parking spaces for the carryout/convenience store in lieu of the 14 spaces otherwise required - dismissed as moot because of approval of modified parking plan	If new, modified parking plan not approved, need variance for 16 non-carwash related parking spaces in lieu of the 20 required.



PLEASE PRINT CLEARLY

CASE NAME 9205 HARFORD RO CASE NUMBER 07-2235 PHXA DATE 1/12/07

PHILLIANS SICILIANTERS

Hower Phenes @ Green.								
CITY, STATE, ZIP EDGEWOOD MO 210140 BALDWIO ND 21014	Z GW,							
	SOZ WASHINGTON AVE							
DAWID BILLINGSLEY BOS INFUSSI	HOWARD ALDERINAR							



JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

January 23, 2007

HOWARD ALDERMAN, ESQUIRE LEVIN & GANN 502 WASHINGTON AVENUE, 8TH FLOOR TOWSON, MD 21204

Re: Petitions for Special Exception, Special Hearing & Variance
Case No. 07-223-SPHXA
Property: 9205 Harford Road

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:pz

Enclosure

c: David Billingsley, Central Drafting & Design, Inc., 601 Charwood Court, Edgewood MD 21040 Bob Infussi, PO Box 1043, Bel Air MD 21014 Howard Phelps, 13918 Baldwin Mill Road, Baldwin MD 21013

12300 13300



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 9205 Harford Road

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

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

which is presently zoned BM-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

SEE ATTACHED

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.

is the subject of this Petition. Contract Purchaser/Lessee: Legal Owner(s): **NONE** R. BENSON PHELPS LIMITED LIABILITY COMPANY Name - Type or Print Name - Type or Print Signature Signature , MEMBER Address Telephone No. Name - Type or Print City State Zip Code Signature 2700 LOCH RAVEN ROAD 410-261-5440 Attorney For Petitioner: Address Telephone No. Jr., Esquire, Howard L. Alderman, Jr., Esquire **BALTIMORE** MD 21218 Name - Type or Print City State Zip Code Representative to be Contacted: Signature David Billingsley Central Drafting & Design, Inc. Levin & Gann, PA Nottingham Centre, 8th Floor Company Name 502 Washington Avenue 410-321-0600 601 Charwood Court 410-679-8719 Address Telephone No. Address. Telephone No Edgewood MD 21040 <u>Towson, MD 21204</u> City State Zip Code City State Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING UNAVAILABLE FOR HEARING Date 1//14/06 Reviewed By ____ REV 09/15/98

Petition for Special Exception [continuation sheet]

LEGAL OWNERS:

R. BENSON PHELPS, LLC

Property Address:

9205 Harford Road

Special Exception Use Requested: roll-over car wash pursuant to BCZR §§405.4.E.2 & 419.1

NOTE:

this is the same special exception relief requested and granted in Case No. 98-

328-SPHXA; the relief granted lapsed before it was implemented



REV 9/15/98

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9205 Harford Road which is presently zoned BM-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)

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations. I, 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. IWe do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee: Legal Owner(s): R. BENSON PHELPS LIMITED LIABILITY COMPANY Name - Type or Print Name - Type or Print BY: Signature **MEMBER** Address Telephone No. Name - Type or Print City State Zip Code Signature 2700 LOCH RAVEN ROAD 410-261-5440 Attorney For Petitioner: Address Telephone No. Howard L. Alderman, Jr., Esquire Mame - Type or Print City Zip Code Representative to be Contacted: Signature David Billingsley Central Drafting & Design, Inc. Levin & Gann, PA Nottingham Centre, 8th Floor Company Name 502 Washington Avenue 410-321-0600 601 Charwood Court 410-679-8719 **Address** Telephone No. Address Telephone No. Edgewood MDTowson, MD 21204 21040 City State City Zip Code Zip Code State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING Case No. 07-223- SPHXA UNAVAILABLE FOR HEARING Reviewed By Date 11/14/0 (

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Petition for Variance [continuation sheet]

LEGAL OWNERS:

R. BENSON PHELPS, LLC

Property Address:

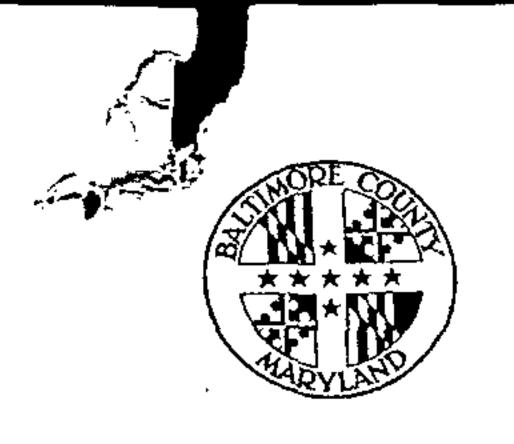
9205 Harford Road

Variance Relief Requested:

If the modified parking plan is not approved as part of the Special Hearing Petition filed herewith, from BCZR § 409.6.A.2 to permit a total of 16 parking spaces for the non-carwash uses in lieu of the 20 spaces otherwise required.

Justification:

- existing topography of the subject property;
- irregular shape of existing lot;
- identification of three, separate enterprises on site;
- configuration of existing improvements; and
- such further justification as will be presented at the time of the hearing on this Petition.



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9205 Harford Road which is presently zoned BM-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

SEE ATTACHED

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.

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

Contract Purchaser/Lessee: Legal Owner(s): NONE R. BENSON PHELPS LIMITED LIABILITY COMPANY Name - Type or Print Name - Type or Print BY: Signature MEMBER Address Telephone No. Name - Type or Print City State Zip Code Signature 2700 LOCH RAVEN ROAD 410-261-5440 Attorney For Petitioner: Address Telephone No. Howard L. Alderman, Jr., Esquire **BALTIMORE** 21218 MD Name - Type or Print City State Zip Code Representative to be Contacted: Signature David Billingsley Central Drafting & Design, Inc. Levin & Gann, PA Company Name 502 Washington Avenue, Suite 800 410-321-0600 601 Charwood Court 410-679-8719 Address Telephone No. Address Telephone No. MD 21040 Edgewood 21204 Towson Maryland City State Zip Code City State Zip Code 1 OFFICE USE ONLY ESTIMATED LENGTH OF HEARING _____ Case No. 67-123-5PHXA UNAVAILABLE FOR HEARING _____ Reviewed By Bh Date 11/14/06 REV 9/15/98

Petition for Special Hearing [continuation sheet]

LEGAL OWNERS:

R. BENSON PHELPS, LLC

Property Address:

9205 Harford Road

Special Hearing Request:

1. Approval, pursuant to BCZR §§409.12.B and 409.8.B.1, of a modified parking plan and modified parking requirements for the proposed uses in accordance with the specific detail shown on the Plat to accompany this Petition; and

2. Modification of the relief and site plan approved in Case No. 98-328-SPHXA, consistent with the relief requested in this hearing and for the uses shown (existing and proposed) on the Plat which accompanies this Petition.

ZONING DESCRIPTION

9205 HARFORD ROAD

Beginning at a point formed by the intersection of the south side of East Avenue (50 feet wide) with the east side of Harford Road, Md. Rte 147 (60 feet wide), thence (1) S 56°24' 06"E 146.15 feet, thence (2) S 33°57'29"W 200.20 feet, thence (3) N 56°21'06"W 143.02 feet, thence (4) N 33°03'40"E 200.08 feet to the place of beginning. Containing 28,937 square feet or 0.664 acre of land, more or less.

Being known as 9205 Harford Road. Located in the 11th Election District, 6th Councilmanic District.



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NOTICE OF ZONING HEARING

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

Case: # 07-223-SPHXA

9205 Harford Road

Northeast corner East Avenue and Harford Road.

11th Election District - 6th Councilmanic District
Legai Dwner(s): R. Benson Phelps Limited Llability
Company

Special Hearing: Approval, pursuant to BCZR Sections
409.12. B and 409.8.B.1, of a modified parking plan and
modified parking requirements for the proposed uses in
accordance with the specific detail shown on the Plat to
accompany this Petition; and modification of the relief
and site plan approved in Case No. 98-328-SPHXA. SPECIAL EXCEPTION: To allow roll-over car wash pursuant
to BCZR Sections 405.4.E.2 & 419.1 (this is the same
special exception relief requested and granted in Gase No.
98-328-SPHXA; the relief granted lapsed before it was
implemented). VARIANCE: To permit a total of 16 parking spaces for the non-carwash uses in lieu of the 20
spaces otherwise required (if the modified parking plan is
not approved as part of the Special Hearing Petition filed
herewith, from BCZR Section 409.6.A.2).
Hearing: Wednesday, January 17, 2007 at 10:00 a.m.
in Room 407, County County Building, 401 Bosley
Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for
special accommodations Please Contact the Zoning Gommissioner's Office at (410) 887-3868.

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

JT 12769 Dec. 26

,2005

IFY, that the annexed advertisement was published THIS IS TO CERT

successive weeks, the first publication appearing y newspaper published in Baltimore County, Md., in the following weekl once in each of

The Jeffersonian

Catonsville Times

Arbutus Times

Towson Times

Owings Mills Times

NE Booster/Reporter

County News North

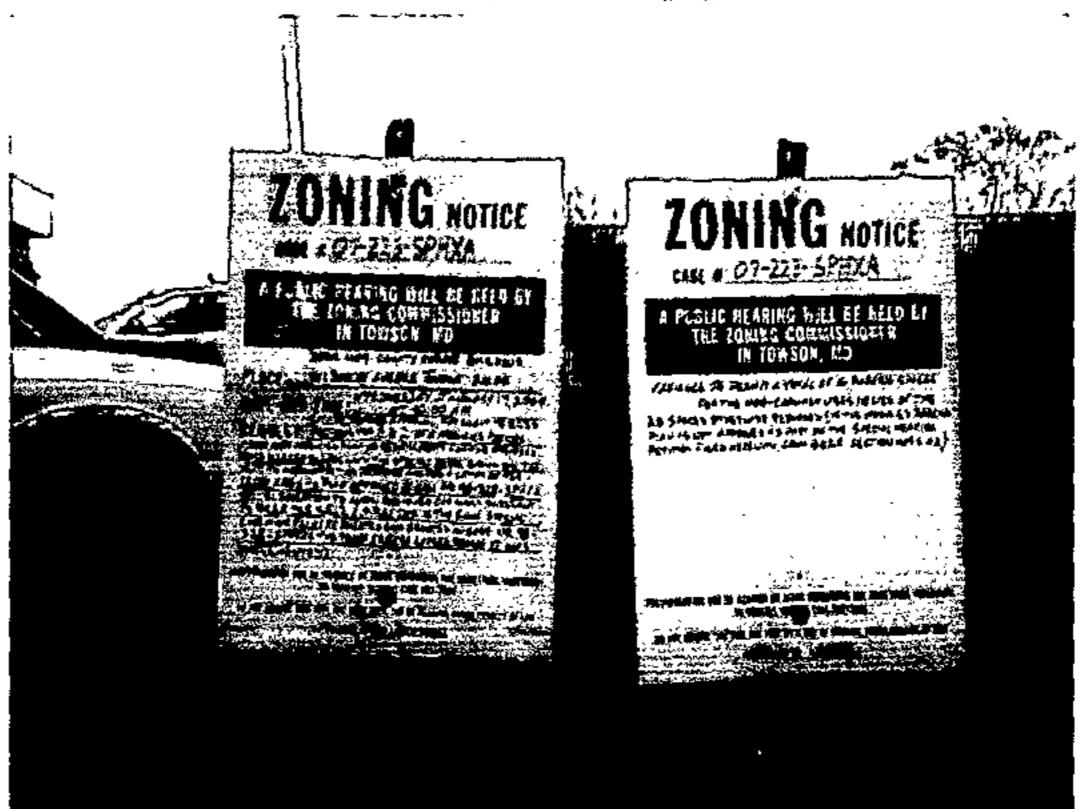
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LEGAL ADVERTISING

CERTIFICATE OF POSTING

	RE: Case No: 07-223-5PHXA
	Petitioner/Developer: R. BENSON PHELIS LLC
	Date Of Hearing/Closing: 1/17/07
Baltimore County Department of Permits and Development Manag County Office Building, Room 1	gement
Attention:	
Ladies and Gentlemen:	
-	penalties of perjury that the necessary ed conspicuously on the property S HARFORD RD.
This sign(s) were posted on D	eclember 24, 2006.
	(Month, Day, Year)
	Sincerely, Mouth So 12/26/06 (Signature of sign Poster and Date)
	Martin 20 12/26/06
	(Signature or sign Poster and Date) Martin Ogle
	Sign Poster
	16 Salix Court
	Address
	Balto. Md 21220
	(443-629 3411)
	<u>J </u>

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greter El 12/24/0C

RE: PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE

9205 Harford Road; NE corner East Avenue & Harford Road

11th Election & 6th Councilmanic Districts Legal Owner(s): R. Benson Phelps LLC

Petitioner(s)

* BEFORE THE

* ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

* 07-223-SPHXA

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 20th day of November, 2006, a copy of the foregoing Entry of Appearance was mailed to David Billingsley, Central Drafting & Design, Inc, 601 Charwood Court, Edgewood, MD 21040, and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

NOV 2 8 2006

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Tax dimmenman

Per.....

TO: PATUXENT PUBLISHING COMPANY

Tuesday, December 26, 2006 Issue - Jeffersonian

Please forward billing to:

R. Benson Phelps, LLC C/o C. Howard Phelps, Jr. 2700 Loch Raven Blvd. Baltimore, MD 21218

410-261-5440

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: 07-223-SPHXA

9205 Harford Road

Northeast corner East Avenue and Harford Road.

11th Election District - 6th Councilmanic

Legal Owner(s): R. Benson Phelps Limited Liability Company

SPECIAL HEARING Approval, pursuant to BCZR Sections 409.12.B and 409.8.B.1, of a modified parking plan and modified parking requirements for the proposed uses in accordance with the specific detail shown on the Plat to accompany this Petition; and modification of the relief and site plan approved in Case No. 98-328-SPHXA.

SPECIAL EXCEPTION To allow roll-over car wash pursuant to BCZR Sections 405.4.E.2 & 419.1 (this is the same special exception relief requested and granted in Case No. 98-328-SPHXA; the relief granted lapsed before it was implemented).

VARIANCE To permit a total of 16 parking spaces for the non-carwash uses in lieu of the 20 spaces otherwise required (If the modified parking plan is not approved as part of the Special Hearing Petition filed herewith, from BCZR Section 409.6.A.2).

Hearing: Wednesday, January 17, 2007 at 10:00 a.m. in Room 407 in the County Courts Building, 401 Bosley Ayenue, Towson 21204.

WILLIAM J. WISEMAN III 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.



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

December 6, 2006

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:

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9205 Harford Road

Northeast corner East Avenue and Harford Road.

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Hearing: Wednesday, January 17, 2007 at 10:00 a.m. in Room 407 in the County Courts Building, 401 Bosley

Avenue Towson 21204.

Timothy Kotroco Director

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TK:amf

C

R. Benson Phelps Limited Liability Company C. Howard Phelps, Jr. 2700 Loch Raven Blvd Baltimore 21218 Howard L. Alderman, Jr. Levin & Gann, PA 502 Washington Avenue, Suite 800 Towson 21204 David Billingsley Central Drafting & Design, Inc. 601 Charwood Court Edgewood 21040

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, DECEMBER 27, 2006.

- (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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

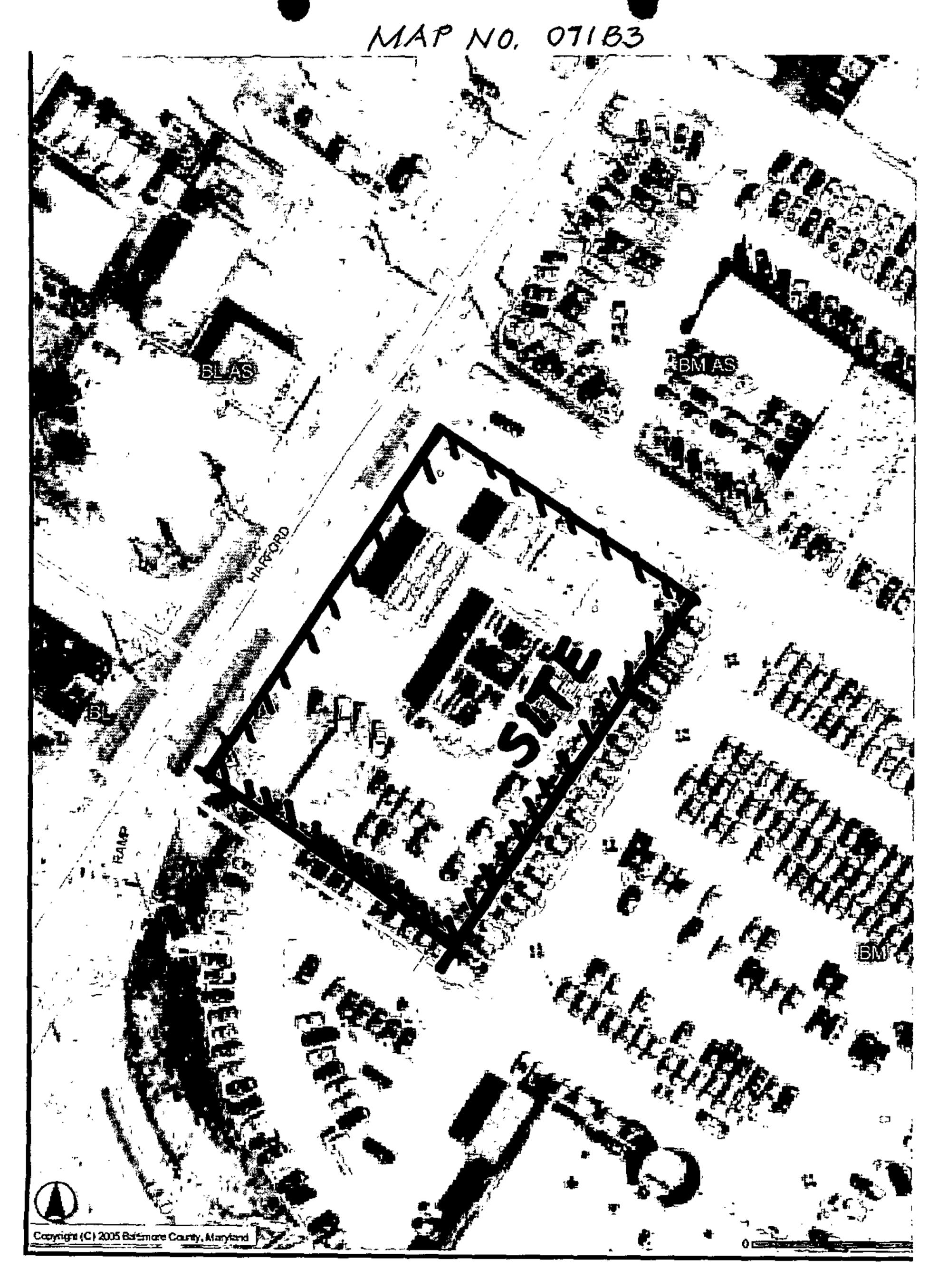
The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign 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.

	ber or Case Number: R. BENSON PHELPS LLC	07- g	223	-SPHXA	
	or Location: 9205 Harford Re	ad			
• ———	FORWARD ADVERTISING BENSON PHELPS, LLC C/C			ELPS, JR.	
• ———	BENSON PHELPS, LLC C/C			ELPS, JR.	
Name: R	BENSON PHELPS, LLC C/C			ELPS, JR.	
Name: R	BENSON PHELPS, LLC C/C 2700 LOCH RAVEN ROAD			ELPS, JR.	

Revised 2/20/98 - SCJ



223



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

January 10, 2007

Howard L. Alderman, Jr., Esquire Levin & Gann, PA Nottingham Centre, 8th Floor 502 Washington Avenue Towson, MD 21204

Dear Mr. Alderman:

RE: Case Number: 07-223-SPHXA, 9205 Harford Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on .November 14, 2006

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,
U. Call Rillal

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR:amf Enclosùres

c: People's Counsel

R. Benson Phelps Limited Liability Company C. Howard Phelps, Jr. 2700 Loch Raven Road Baltimore 21218

David Billingsley Central Drafting & Design, Inc. 601 Charwood Ct. Edgewood 21040

State Highway

Administration

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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 11-20-2006

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE:

Baltimore County

Item No. 7-223

MD 147 (HARFORD ROAD) 9205 HARFORD ROAD

R. BENGEN PHELPS LLC

Dear Ms. Matthews:

We have reviewed the referenced plan and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD (HARFERD ROD) are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

A Steven D. Foster, C

Engineering Access Permits

Division

SDF/MB

Street Address: 707 North Calvert Street · Baltimore, Maryland 21202 · Phone: 410.545.0300 · www.marylandroads.com

Fire Department

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



Baltimore County

James T. Smith, Jr., County Executive John J. Hohman, Chief

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

November 22,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 20, 2006

Item Number(s): 213 through 228



Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C)443-829-2946 MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: November 28, 2006

Department of Permits & Development Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For November 27, 2006

Item Nos. 07-72, 139, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224,

226, 227, and 228

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

DAK:CEN:clw cc: File

ZAC-NO COMMENTS-11272006.doc

HOWARD L. ALDERMAN, JR. halderman@LevinGann.com

DIRECT DIAL 410-321-4640

LAW OFFICES

LEVIN & GANN

A PROFESSIONAL ASSOCIATION

NOTTINGHAM CENTRE 502 WASHINGTON AVENUE 8th Floor TOWSON, MARYLAND 21204 410-321-0600 TELEFAX 410-296-2801

November 8, 2006

11 | 9 | 06 ELLIS-LEVIN (1893-1960) CALMAN A. LEVIN (1930-2003)

ZONING PETITIONS DROP OFF

W. Carl Richards, Jr., Zoning Supervisor
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing, Special Exception & Variance

Dear Mr. Richards:

In order to expedite the processing of the enclosed zoning petitions, our client has requested that we drop off for processing and hearing the following materials relative to this property:

- 1. Three (3) originals each of a Petition for Special Hearing, Special Exception and Variance;
- 2. Three (3) copies of a zoning description;
- 3. One (1) Advertising Form;
- 4. A copy of a portion of Zoning Map No. 071B3 with the property identified;
- 5. Twelve (12) copies of the *Plat to Accompany Zoning Petition* as prepared by Central Drafting & Design, Inc.,
- 6. A table comparing the relief from Case No. 98-238-SPHXA to the presently requested relief; and
- 7. A check for the required filing fee.

As the legal representative of the owner of the property, neither I nor the owner are aware of any actual or alleged zoning violations on the Property. Although Mr. Billingsley of Central Drafing & Design has met with zoning staff in the preparation of these materials, it is understood that by filing this as a "drop off" petition, this package has not been formally reviewed by a planner and there may be comments to address once a review has been completed.

Please call me with any questions.

Very truly yours,

Howard L. Alderman, Ju

HLA/gk Enclosures

c: R. Benson Phelps, LLC

Central Drafting & Design, Inc.

RELIEF GRANTED IN Case No. 98-328-SPHXA

COMPARED TO EXISTING USES & PRESENT REQUEST

Relief Granted 98-328-SPHXA	Existing Uses & Present Request
SPH: Approval of the conversion of the existing service bays to carry-out restaurant use and amendment of previously approved site plans, in Case No. 5529-X	Service bays never converted
SPH: Modified Parking Plan approved per Petitioner's Exhibit No. 2	Requesting that present modified parking plan be approved; otherwise variance request
S/E: continuation of automotive fuel service station pursuant to BCZR §230.13, in combination with a convenience store with a sales area of greater than 1500 square feet pursuant to BCZR §405.4.E.1;	Convenience store greater than 1500 sq.ft. never established
S/E: roll-over car wash pursuant to BCZR §§405.4.E.2 & 419.1	Roll over car wash was not constructed within 2 years of order
S/E: carry-out restaurant pursuant to BCZR §405.4.E.10	Carry-out restaurant was not constructed - service bays retained
VAR: BCZR § 450.4.F.5(a) for the three, wall mounted enterprise signs otherwise allowed to be located on the front facade in lieu of the maximum of two per facade permitted as of right	No change; 3 wall mounted enterprise signs still proposed
VAR: BCZR §405.4A.3.c to permit a single fuel service space without the necessity of one stacking space	Single fuel service space and stacking space for each pump still provided
VAR: BCZR § 409.6.A.2 to permit a total of 12 parking spaces for the carryout/convenience store in lieu of the 14 spaces otherwise required - dismissed as moot because of approval of modified parking plan	If new, modified parking plan not approved, need variance for 16 non-carwash related parking spaces in lieu of the 20 required.

