IN RE: PETITION FOR SPECIAL HEARING

NE corner of York and Halesworth Road

8<sup>th</sup> Election District

3rd Councilmanic District

(10111 York Road)

\* BEFORE THE

DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

Brenda Mandel

Petitioner and Legal Owner

BKL Halesworth, LLC

Contract Purchaser

CASE NO. 07-346-SPH

# FINDINGS OF FACT AND CONCLUSIONS OF LAW

\*

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 10111 York Road. The Petition was filed by Brenda Mandel, legal property owner, and BKL Halesworth, LLC, contract purchaser. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve termination of the previously approved special exception granted in Case 90-81-X for a combination fuel service station and food mart. The Pettioner requests termination to occur upon final settlement on property between owner and contract purchaser, and completion of necessary environmental remediation of property as required and verified by the proper Federal and State agencies. If final settlement does not occur on the property the Special Exception will remain in effect.

The property was posted with Notice of Hearing on February 24, 2007, 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 February 15, 2007, to notify any interested persons of the scheduled hearing date.

# **Applicable Law**

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

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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.

# **Zoning Advisory Committee Comments**

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: The Zoning Review Office explanation of the need for special hearing is contained in a letter to the Petitioner dated January 18, 2007.

# **Interested Persons**

Appearing at the hearing on behalf of the requested special hearing were James Matis, of Matis Warfield Engineering, and Bruce Mortimer for BKL Halesworth, LLC, contract purchaser. Sebastian A. Cross, Esquire, represented the Petitioners. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

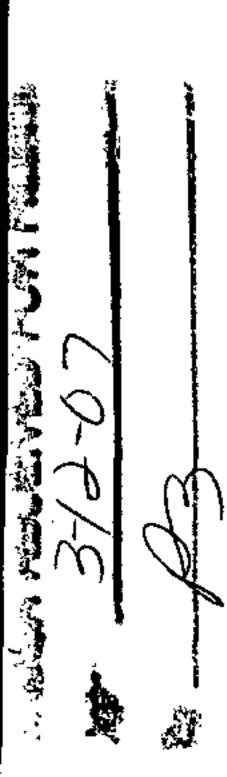
# **Testimony and Evidence**

The subject property contains 0.4713 acres +/- zoned BR-IM and is improved with an existing fuel service station which was allowed by the Special Exception in Case No. 90-81-X. See Plat to Accompany, Exhibit 1. The site is improved by an operating fuel service station (Shell brand gasoline) under lease until March 2008. Mr. Cross explained that this fuel service station is part of the larger PUD plan for the Anderson Honda Dealership which was approved in Case No. VIII-848. In addition to razing the fuel service station, the Petitioner will also purchase the vacant skating rink to the east and then build the dealership structures according to the PUD plan.

This case arises because the Petitioner will abandon the fuel service station next year.

The Zoning Review Office wanted a public hearing and Order removing the special exception.

2



See the Zoning Review Office letter to the Petitioner dated January 18, 2007 which is included in the file. Consequently the Petitioner filed for a special hearing to remove the special exception Mr. Cross noted that one could argue that a special hearing is not necessary under Section 405.7 C of the regulations. Rather all the Petitioner is required to do is to give PDM notice of abandonment. Nevertheless the Petitioner agreed to file for the special hearing.

In March of 2008 the Shell station will cease operation and remediation of the site will begin including razing the fuel service station, removal of underground tanks, environmental inspection, etc.) At this point the purchase will be ready for settlement and it is after settlement that the Petitioner would like the special exception to be removed. Otherwise the Petitioner requests the special exception not be removed. If settlement takes place, remediation will follow regulations specified under Federal, State and County law.

As this point in the hearing a discussion took place regarding the propriety of making an Order by this Commission to approve termination of the special exception contingent on actions of private parties in settlement of their property. Given this concern, Mr. Cross suggested that the special exception be terminated upon completion of the remediation process which will not occur unless the settlement takes place. Another approach would be to condition the special hearing Order to a date certain in the future such as March 31, 2008.

# Findings of Fact and Conclusions of Law

TANA STANA

This Deputy Commissioner is very familiar with the Petitioner's plan to raze the Shell fuel service station and skating rink, and then construct the Honda dealership according to the commercial PUD which I approved in Case No. VIII-848. This PUD will replace a vacant skating rink and older fuel service station with a new use which is encouraged in the PUD regulations. The Petitioner demonstrated in the prior case that he has the support of the adjacent residential community associations for the entire plan. This Petition is simply a first step. I

certainly find that the request meets the spirit and intent of the BR-IM regulations and will not adversely affect the community. The full PUD plan has previously been approved.

I understand why the Zoning Review Office wanted a full public hearing on the request to terminate the special exception previously granted in Case No. 90-81-X. This will put an official end to the special exception and impose applicable Federal, State and County regulations regarding the remediation of the site including removal of the underground fuel tanks.

My only concern is with tying the termination of the special exception to private settlement of the property. First the County is not a party to this settlement and so may never know when settlement was completed and so know when the special exception was terminated. Secondly the settlement may never take place although given the circumstances this is very unlikely. In either case two conflicting orders each apparently valid would exist on the County records. No one would be certain which applied. Future owners of the property might have to file for further special hearings to resolve the matter.

I think the best approach is to tie the removal of the special exception to an event of public record such as the approval by PDM of the change in use of the property from a fuel service station to the dealership. In this way the County records would reflect approval of the change in use and the termination of the special exception. This change in use will occur only after settlement and remediation of the property is complete. There is no reason the present lessee of the Shell station cannot continue operation until the lease expires and the property converted to an auto dealership.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' request for special hearing should be granted with conditions.

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THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this \_\_\_\_\_\_ day of March, 2007, that the Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve termination of the previously approved special exception granted in Case 90-81-X for a combination fuel service station and food mart is herby GRANTED subject to the following conditions which are conditions precedent to the removal of the special excetion:

1. The Petitioner shall abide by all applicable Federal, State and County regulations regarding the remediation of the site including removal of the underground fuel tanks.

2. The special exception in Case 90-81-X shall terminate upon approval by the Department of Permits and Development Management of the permit granting change in use of the property from a fuel service station but said special exception shall not otherwise be terminated.

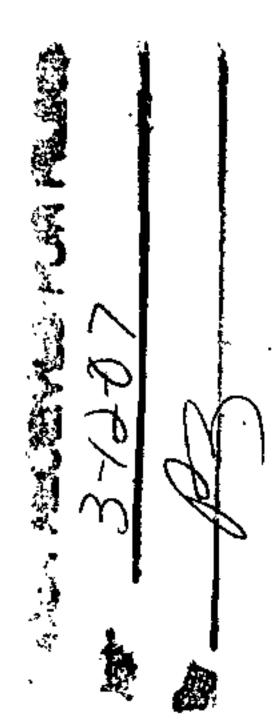
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:pz





# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at	10111 York Road		
which is	s presently zoned _	BR-IM	

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

termination of the previously approved special exception granted in case 90-81-X for a combination fuel service station and food mart. Termination to occur upon exercise of lease option on property between owner and contract purchaser/lessee and completion of necessary environmental remediation of property as required and verified by the proper federal and state agencies.

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): BKL HALESWORTH, LLC Brenda Mandel Name - Type or Print Name - Type or Print mudall! Signature Bruce R. Mortimer, Manager ∕Signature Howard & 25th Streets 410-544-1414 Address Telephone No. Name - Type or Print **Baltimore** Maryland 21218 City Zip Code State Signature **Attorney For Petitioner:** 500 Bay View Drive, Suite 2020 305-947-2799 Address Telephone No. Sebastian A. Cross Sunny Isles Beach Fla 33160 Name - Type or Print City State Zip Code Representative to be Contacted: Signature Gildea & Schmidt, LLC Sebastian A. Cross Company Name 300 East Lombard Street, Suite 1440 (410) 234-0070 300 East Lombard Street, Suite 1440 (410) 234-0070 Address Telephone No. Address Telephone No. Baltimore MD 21202 Baltimore MD 21202 City City State Zip Code State Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING UNAVAILABLE FOR HEARING Reviewed By \_\_\_\_\_ REV 9/15/98



January 30, 2007

Description to Accompany Zoning Petition For Special Hearing 10111 York Road Baltimore County, Maryland 8<sup>th</sup> Election District

Beginning for the same at a point on the easterly Right-of-Way Line of York Road, said point distant. North 24° 18' East. 58 +/- feet from the intersection of the centerlines of York Road and Halesworth Road, running thence and binding on the east side of York Road,

- (1) North 18° 59' 30" West 176.85 feet to a point, thence leaving the east side of York Road and running thence the four following courses and distances viz:
- (2) North 70° 54' 56" East 108.94 feet to a point,
- (3) South 18° 54' 14" East 189.72 feet to a point,
- (4) South 71° 05' 46" West 94.06 feet to a point, and
- (5) North 68° 16' 47 " West 19.25 feet to the place of beginning.

Containing 20,530 square feet or 0.4713 acres of land, more or less.

This description is intended for zoning purposes only and is not to be used for conveyance of land.



Matis Warfield, Inc.
10540 york road • suite m
hunt valley, maryland 21030
phone 410-683-7004 • fax 410-683-1798

# 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: #07-346-SPH

10111 York Road

N/east corner of York Road and Halesworth Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): Brenda Mandel

Contract Purchaser: BKL Halesworth, LLC

Special Hearing: to approve termination of a previously approved special exception granted in case 90-81-X for a combination fuel service station and food mart. Termination to occur upon exercise of lease option on property between owner and contract purchaser/lessee and completion of necessary environmental remediation of property as required and verified by the proper federal and state agencies.

Hearing: Monday, March 12, 2007 at 11:00 a.m. In Room 407, County Courts Building, 401 Bosiey Avenus, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

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

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

TFY, that the annexed advertisement was published successive weeks, the first publication appearing in the following weekly newspaper published in Baltimore County, Md., THIS IS TO CER once in each of

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- Catonsville Times Arbutus Times
- Towson Times
- Owings Mills Times
- NE Booster/Reporter
  - North County News

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LEGAL ADVERTISING

Notice of Zoning Hearing

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10111 York Road

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Hearing: Friday, March 2, 2007 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21274.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
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🛱 The Jeffersonian

Catonsville Times Arbutus Times

Towson Times

Owings Mills Times

NE Booster/Reporter

County News North

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LEGAL ADVERTISING

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JAMES T. SMITH, JR. County Executive

February 7, 2007

NOTICE OF ZONING HEARING

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

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

CASE NUMBER: 07-346-SPH

10111 York Road

N/east corner of York Road and Halesworth Road 8<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owner: Brenda Mandel

Contract Purchaser: BKL Halesworth, LLC

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Hearing: Monday, March 12, 2007 at 11:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue, Towson 21204

Timothy Kotroco Director

TK:klm

C: Sebastian Cross, 300 E. Lombard Street, Ste. 1440, Baltimore 21202 Brenda Mandel, 500 Bay View Drive, Ste. 2020, Sunny Isles Beach, FL 33160 BKL Halesworth, LLC, Howard & 25th Streets, Baltimore 21218

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, FEBRUARY 24, 2007.

- (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.



# CERTIFICATE OF POSTING

RE: Case No.: 07-346-5PH

Petitioner/Developer: BKL

HALESWORTH, LLC

Date of Hearing/Closing: 3-12-07

Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

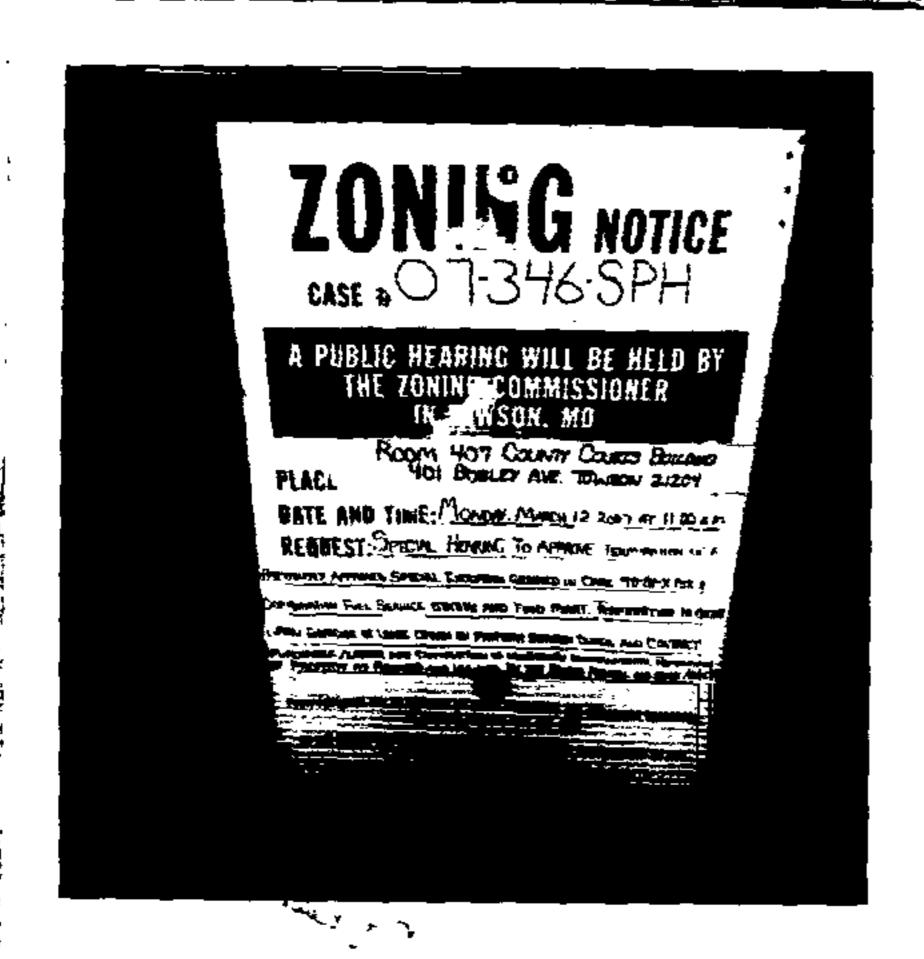
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

10111 YORK RD

The sign(s) were posted on

2-24-07 (Month, Day, Year)

Sincerely,



Robert Black	3-2-0
(Signature of Sign Poster)	(Date)
SSG Robert Black	
(Print Name)	· •
1508 Leslie Road	
(Address)	* >
Dundalk, Maryland 2122	22
(City, State, Zip Code)	)
(410) 282-7940	• • •
(Talashamis Nameham)	<del></del>

MAR 5 2007

TO: PATUXENT PUBLISHING COMPANY

Tuesday, February 27, 2007 Issue - Jeffersonian

Please forward billing to:

Gildea & Schmidt

300 E. Lombard Street, Ste. 1440

Baltimore, MD 21202

410-821-0070

# **NOTICE OF ZONING HEARING**

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

CASE NUMBER: 07-346-SPH

10111 York Road

N/east corner of York Road and Halesworth Road 8<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owner: Brenda Mandel

Contract Purchaser: BKL Halesworth, LLC

<u>Special Hearing</u> to approve termination of a previously approved special exception granted in case 90-81-X for a combination fuel service station and food mart. Termination to occur upon exercise of lease option on property between owner and contract purchaser/lessee and completion of necessary environmental remediation of property as required and verified by the proper federal and state agencies.

Hearing: Monday, March 12, 2007 at 11:00 a.m. in Room 407, County Courts Building,

Avenue, 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.

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February 7, 2007

JAMES T. SMITH, IR. County Executive

# NOTICE OF ZONING HEARING

TIMOTHY M. KOTROCO, Director

NG

Department of Permits and

Development Management

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Timothy Kotroco

Director

TK:klm

C: Sebastian Cross, 300 E. Lombard Street, Ste. 1440, Baltimore 21202 Brenda Mandel, 500 Bay View Drive, Ste. 2020, Sunny Isles Beach, FL 33160 BKL Halesworth, LLC, Howard & 25<sup>th</sup> Streets, Baltimore 21218

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 15 2007.
  - (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.

TO: PATUXENT PUBLISHING COMPANY

Thursday, February 15, 2007 Issue - Jeffersonian

Please forward billing to:

Gildea & Schmidt 300 E. Lombard Street, Ste. 1440

Baltimore, MD 21202

410-821-0070

# **NOTICE OF ZONING HEARING**

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

CASE NUMBER: 07-346-SPH

10111 York Road

N/east corner of York Road and Halesworth Road 8<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owner: Brenda Mandel

Contract Purchaser: BKL Halesworth, LLC

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Hearing: Friday, March 2, 2007 at 2:00 p.m. in Room 407, County Courts Building,

1401 Bosley Avenue, 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.

# 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.

m Number or Case Number: $37-346-591$	
etitioner: BKL Halesworth LLC.	
dress or Location: 10/// Yorh Rd	
EASE FORWARD ADVERTISING BILL TO:	-
Z' ( $I$	
me:Filen + Schnidt	
Idress: 300 En laabout 600 Washington Ave Suite 2	200
	700
Idress: 300 En laabout 600 Washington Ave Suite 2	200

Revised 7/11/05 - SCJ

07-346-SP61



JAMES T. SMITH, JR. County Executive

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

March 5, 2007

Sebastian A. Cross Gildea & Schmidt, LLC 600 Washington Avenue, Suite 200 Towson, MD 21204

Dear Mr. Cross:

RE: Case Number: 07-346-SPH, 10111 York Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 31, 2007.

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. Calliball

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel Brenda Mandel 500 Bay View Drive, Suite 2020 sunny Isles Beach, Fla 33160 BKL Halesworth, LLC Howard & 25<sup>th</sup> Streets Baltimore 21218



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

January 18, 2007

Sebastian A. Cross Gildea & Schmidt, LLC 300 East Lombard Street Baltimore, MD. 21202

RE: Anderson Honda PUD

10111 York Road, 8th Election District

Dear Mr. Cross:

In response to your letter addressed to me dated December 5, 2006, and upon discussions with Mr. Timothy Kotroco, Director, Baltimore County Department of Permits and Development Management (PDM) and also with Mr. W. Carl Richards Jr., Chief, Baltimore County Zoning Review the following is offered.

Baltimore County Zoning Review concurs with your assessment of the requirements of the Baltimore County Zoning Regulations (BCZR) as it pertains to the abandonment of the principal use of an arcade as established in zoning case No. 91-187-XA. To continue, the requirements of Section 405.7 of the BCZR as it pertains to the discontinued principal use of a fuel service station is twofold. One part being the actual abandonment and notification thereof, the other part being the termination of any special exception associated with said principal use of a fuel service station, in this particular discussion that being the grant of special exception found in zoning case 90-81-X.

Baltimore County Zoning Review is in agreement with the decision of Director Kotroco in that a special hearing is required to terminate the special exception in this instance. Due to the potential environmental hazards associated with this particular principal use the necessity of a special hearing is in order so that the Zoning Commissioner for Baltimore County may assure the health, safety and welfare of the community is not adversely impacted by the proposed physical abandonment of the fuel service station and redevelopment of the property.

It is the position of Baltimore County Zoning Review that written notice of abandonment is delivered to the Director of PDM. Further, petitions for special hearing, to include all required postings and public notifications are filed for through this office. Notifications, filings and the subsequent hearing should occur prior to the final approval of the submitted PUD for the above referenced property. The decision of the Zoning Commissioner should be made part of all plans submitted to Baltimore County for approval.

Anderson Honda PUD 10111 York Road January 18, 2007 Page two

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need any further information or have any questions, please do not hesitate to contact me at Baltimore County Zoning Review at 410-887-3391

Sincere

Lloyd T. Moxley

Planner II

Baltimore County Zoning Review

**LTM** 

RE: PETITION FOR SPECIAL HEARING \*
10111 York Road; NE corner of York Road
& Halesworth Road

8<sup>th</sup> Election & 3<sup>rd</sup> Councilmanic Districts
Legal Owner(s): Brenda Mandel

Contract Purchaser(s): BKL Halesworth, LLC

Petitioner(s) \*

BEFORE THE

ZONING COMMISSIONER

**FOR** 

BALTIMORE COUNTY

07-346-SPH

# 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 and all 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 9<sup>th</sup> day of February, 2007, a copy of the foregoing Entry of Appearance was mailed to, Sebastian A. Cross, Esquire, Gildea & Schmidt LLC, 300 E. Lombard Street, Suite 1440, Baltimore, MD 21202, Attorney for Petitioner(s).

RECEIVED

FEB 0 9 2007

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per....

# BALTIMORE COUNTY, MARYLAND

# INTER-OFFICE CORRESPONDENCE

DATE: February 22, 2007

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 07-346- Special Hearing

The Office of Planning has reviewed the above referenced case(s) and supports the petitioner's request.

For further questions or additional information concerning the matters stated herein, please contact Bill Hughey in the Office of Planning at 410-887-3480.

Prepared By

**Division Chief:** 

CM/LL



Martin O'Malley, Governor Anthony Brown, Lt. Governor

Maryland Department of Transportation

Date: FEBRUARY 12, 2007

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

RE:

Baltimore County
Item No. 7-346 SPH
10111 YERK ROAD
HALESWORTH, LLC PROPERTY
SPECIAL HELERING

John D. Porcari, Secretary Designate

Neil J. Pedersen, Administrator

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-346 SPH.

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,

Steven D. Foster, Chief

Engineering Access Permits

Division

SDF/MB

# 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

February 6, 2007

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

ATTENTION: Zoning Review planners

Distribution Meeting of: February 5, 2007

Item No.: 346, 347 and 348

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.

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

> Acting Lieutenant Don W. Muddiman Fire Marshal's Office (0)410-887-4880MS-1102F

cc: File



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



February 7, 2007

JAMES T. SMITH, JR. County Executive

# NOTICE OF ZONING HEARING

TIMOTHY M. KOTROCO, Director

NG

Department of Permits and

Development Management

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: 07-346-SPH

10111 York Road

N/east corner of York Road and Halesworth Road 8<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owner: Brenda Mandel

Contract Purchaser: BKL Halesworth, LLC

Special Hearing to approve termination of a previously approved special exception granted in case 90-81-X for a combination fuel service station and food mart. Termination may occur upon final settlement on property between owner and contract purchaser and completion of necessary environmental remediation or property as required and verified by the proper federal and state agencies. If final settlement does not occur on the property, the Special Exception will remain in effect.

Hearing: Friday, March 2, 2007 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

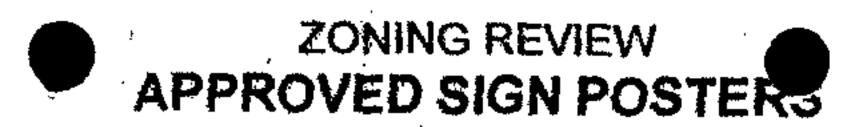
Timothy Kotroco

Director

TK:klm

C: Sebastian Cross, 300 E. Lombard Street, Ste. 1440, Baltimore 21202
Brenda Mandel, 500 Bay View Drive, Ste. 2020, Sunny Isles Beach, FL 33160
BKL Halesworth, LLC, Howard & 25<sup>th</sup> Streets, Baltimore 21218

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 15 2007.
  - (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.



			•
Staff Sergeant Robert A. Black		. Telephone:	410-282-7940
1508 Leslie Road		Cell:	
Dundalk, MD 21222	•	Fax:	410-499-7940
	•	rax.	410-282-7940
Brenda Bond		Telephone:	410-303-9882
143 Brandon Road		Fax:	410-303-8062
Baltimore, MD 21212		F BA.	410-321-9944
	1		
Bruce E. Doak	S	Telephone:	410-823-4470
Gerhold, Cross & Etzel, Ltd.		Fax:	410-823-4473
Suite 100, 320 E. Towsontown Bo	ulevard	the second of the second process.	r en
Towson, MD 21286	•		
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Bill Leddon		Telephone:	410-781-4000
Shannon-Baum Signs, Inc.		Toll Free	800-368-2295
105 Competitive Goals Drive		Fax:	410-781-4873
105 Competitive Goals Drive Eldersburg, MD 21784		*	THE PROPERTY OF A STATE OF THE PARTY OF THE P
the ordinaria transfer of the contract of the contract of		•	
Thomas J. Hoff	,	Telephone:	410-296-3668
406 W. Pennsylvania Avenue	•	East	410-296-5326
Towson, MD 21204	•	· —: <del>:</del>	,
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Linda M. Jones		Telephone:	410-296-3333
Daft-McCune-Walker		Fax:	410-296-4705
200 East Pennsylvania Avenue			
Towson, Maryland 21286		• •	. **
		11-	
Richard Hoffman		Telephone:	410-879-3122
904 Deliwood Drive		Fax:	410-879-3122
Fallston, MD 21047	. •		
Andreas and the second	·.	•••	•
Charles E. Merritt	•	Telephone:	410-665-5562
9831 Magledt Road		Cell:	410-663-5525
Baltimore, MD 21234	•	Fax:	410-663-4315
	YAP.	- <b>**</b> 3	,
Garland E. Moore		Telephone:	410-242-4263
3225 Ryerson Circle		Fax:	410-242-4263
Baltimore, MD 21227	-	•	
	•	•	•
Linda O'Keefe		Telephone:	410-666-5366
523 Penny Lane	•	Fax:	410-666-0929
Hunt Valley, MD 21030	<b>V</b> <sub>5</sub>	Cell:	443-604-6431
,	••		
William D. Gulick, Jr.	,	Telephone:	410-527-1555
McKee & Associates, Inc.	•	Fax:	410-527-1563
5 Shawan Place Suite 1			110 047 1000
Cockeysville, MD 21030	•	•	•
	· :		
Martin Ogle		Telephone:	410-780-5151
16 Salix Court		Fax:	410-780-5188
Baltimore, MD 21220		Cell:	443-629-3411
•		E-Mail	mert1114.aol.com
`*.			
J. Lawrence Pilson, R.S.		Telephone:	410-343-1443
1015 Old Barn Road			
Parkton, Maryland 21120	•		

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

THE PETITIONER MUST USE ONE OF THE SIGN POSTERS ON THIS APPROVAL LIST. ANY REPOSTING MUST ALSO BE DONE BY ONE OF THESE APPROVED POSTERS. IF YOU WISH TO SELECT A POSTER NOT SHOWN ON THE LIST ABOVE, PRIOR APPROVAL BY THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT/ZONING REVIEW IS REQUIRED.

THIS DEPARTMENT IS NOT ASSOCIATED WITH ANY OF THE ABOVE POSTERS, NOR DO WE RECOMMEND ANY SPECIFIC ONE. WE DO SUGGEST THAT YOU CONTACT A NUMBER OF THEM TO COMPARE PRICES SINCE THEIR CHARGES MAY VARY.

- Conforms with a plan for the entire site as reviewed by the Directors of Planning, Public Works, and Permits and Development Management;
   and
- b. Is located in a B.L., B.R., B.M., M.L. or M.H. Zone or a PUD; and
- c. Meets the requirements set forth in Section 405.4 or, in the judgment of the Director of Permits and Development Management, would be done in such a manner that the station would be improved to be more in keeping with the purposes of Section 405.4; and
- d. In cases where a provision of Bill No. 172-1993 conflicts with the terms or conditions of a prior special exception, the project may be subject to special hearing at the discretion of the Director of Permits and Development Management.
- After a public hearing, the Zoning Commissioner may authorize expansion of the station beyond the confines of the site, subject to the provisions of 405.6.A.1 above.
- 3. Any of the "uses in combination with" fuel service stations listed in Section 405.4.E may be added to any such station, provided that a special exception is granted and the provisions of Section 405.4 are met.
- 4. Any structure or expansion of the use that is shown on a plan approved prior to the effective date of Bill No. 172-1993 shall be considered as being in compliance with Section 405.4.A.2.a.
- B. Portable "A" or "sandwich board" signs shall be removed within three months of the adoption of this provision.

## 405.7 Abandoned fuel service stations.

- A. Finding. The County Council recognizes that at times the public need for fuel service stations at particular locations ceases, and those stations become abandoned. An abandoned fuel service station is one which, intentionally, is not in actual and continuous operation as defined in Section 405.7.B. The County Council further recognizes that an abandoned fuel service station which is left to deteriorate can become a threat to the health, safety and welfare of the community, can have a blighting influence on surrounding properties and can cause a deterioration of the use, value and enjoyment of property in the immediate neighborhood.
- B. Notice of presumption of abandonment. Whenever the owner or agent of any fuel service station has ceased or terminated the use of the premises as a fuel service station, the owner or agent shall notify the Director of Permits and Development Management within 30 days after the termination. Notwithstanding the failure of the owner to notify the Director, any fuel service station which has not been in actual and continuous operation as a station for a period of 12

consecutive months shall be presumed to be abandoned and right to resume the use is thereby terminated. For purposes of this section, "continuous operation" shall mean operation as a fuel service station at least eight hours per day, five days per week.

- C. Termination of special exception. Any special exception for the operation of a fuel service station shall become void upon notice of abandonment by the owner or upon proof of abandonment after notice and hearing pursuant to Section 500.7 of the zoning regulations. Any special exception for a fuel service station shall terminate at the time of the conversion to another use.
- D. The premises (including landscaping) of any fuel service station which is not in continuous operation or which is abandoned shall be continuously maintained in the same manner as is required under these regulations for operating fuel service stations.
- E. Proceedings to require removal.
  - 1. Whenever it shall be determined by the Director of Permits and Development Management that a fuel service station has not been in continuous operation and that the premises have not been continuously maintained, the Director shall issue a notice to the owner or agent to repair, correct or take other appropriate action to remedy the specific deficiencies enumerated in the notice.
  - 2. If the deficiencies have not been corrected within a period of 90 days following the date of the notice, the Director of Permits and Development Management shall refer the matter to the Zoning Commissioner for a hearing, pursuant to Section 500.7, to require removal.
  - 3. If, after notice and hearing pursuant to Section 500.7 of the zoning regulations, it is determined that a fuel service station has not been in continuous operation and not continuously maintained and corrected according to prior notice, and if it is further found that by reason of the continued vacancy, the structure and grounds lack reasonable or adequate maintenance, thereby causing deterioration and blighting influence on nearby properties and thereby depreciating the enjoyment, use or value of the property in the immediate vicinity to such an extent that it is harmful to the public health, welfare, safety, comfort or convenience of the neighborhood in which the station is situated, the Zoning Commissioner shall order the station's removal. For purposes of the subsection, "removal" shall mean the removal by the owner of all aboveground structures, including paving, and removal or abandonment in place of underground tanks in compliance with the provisions of COMAR 26.10.10.02 and § 33-7-103 of the Baltimore County Code. [Bill No. 137-2004]
- 405.8 Conversions of abandoned stations. One of the purposes of this subsection is to promote the conversion of vacated fuel service stations to other uses; therefore, if a fuel service station has been abandoned as such, but is converted to another use, no

fuel service station structure, equipment or appurtenances necessary or appropriate to the new use need be removed.

# Section 405A Storage of Damaged or Disabled Motor Vehicles on Service Garage Premises [Bill No. 43-1969]

Damaged or disabled motor vehicles may be stored on the premises of any conforming service garage or nonconforming use service garage, provided that any outdoor storage of such motor vehicles shall be subject to the following requirements:

- 405A.1 Screening. All such vehicles shall be screened from off-site view by walls (including building walls) or fences at least eight feet in height. However, a screening wall or fence less than eight feet high, but not less than six feet high, existing on the date of enactment of this provision may serve in lieu of such eight-foot wall or fence. All surfaces of such walls or fences facing residential zones or premises shall be finished or, in the discretion of the Zoning Commissioner, vine-covered or otherwise improved by the use of planting.
- 405A.2 Paving. The storage area shall be paved with permanent all-weather materials over suitably compounded and compacted base materials, and shall be properly drained.

# Section 406 Golf Driving Range, Miniature Golf and Baseball Batting Range [BCZR 1955; Bill No. 26-1988]

406.1 All lighting installations shall be such and be so arranged as not to increase traffic hazards or to cause direct or glaring reflection into adjoining premises.

# Section 406A Tennis Facilities [Bill Nos. 62-1978; 31-1984; 26-1988]

406A.1 A tennis facility may be established as a principal use in an R.C. or D.R. Zone only if it is owned by a homes or residents' association, as defined in the Comprehensive Manual of Development Policies adopted pursuant to Section 504 of these regulations, by a neighborhood improvement association, or by a neighborhood tennis club. For the purposes of this subsection, a "neighborhood improvement association" is an incorporated association, the purpose of which is to promote the common good and general welfare of its members, who reside within the association's boundaries as defined in its charter or bylaws; a "neighborhood tennis club" is a nonprofit incorporated association, the purpose of which is to own or maintain a tennis facility

4-22 04 - 15 - 2005

Editor's Note: This provision was enacted on April 15, 1969 (Bill No. 43-1969).



JAMES T. SMITH, JR. County Executive

March 12, 2007

WILLIAM J. WISEMAN III

Zoning Commissioner

SEBASTIAN CROSS, ESQUIRE GILDEA & SCHMIDT, LLC 600 WASHINGTON AVENUE, SUITE 200 TOWSON, MD 21204

Re: Petition for Special Hearing
Case No. 07-346-SPH
Property: 10111 York Road

Dear Mr. Cross:

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

for Baltimore County

JVM:pz

Enclosure

c: James Matis, Matis Warfield, 10540 York Road, Suite M, Hunt Valley, MD 21030 Bruce Mortimer, President, Anderson Motors LLC, dba Anderson Honda, 115 West 25<sup>th</sup> Street, Baltimore MD 21218

# PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

PETITIONER'S SIGN-IN SHEET

STATE, ZIP	8 01/	CIM	. 21 248 Bace Norinear Anoerson Automobilen								
CITY, S		Hart Vall	SAU MURE, NO								
ADDRESS	600 Washing he 54,200	We Road	1 LES 25514 Sq.								
NAME	50 hustian Cross	511	Bluck Moramer. ANDER								

