

**IN RE: PETITIONS FOR SPECIAL EXCEPTION
AND SPECIAL HEARING**

NW side of Baltimore National Pike; 80 feet W
of the c/l of Ingleside Avenue
1st Election District
1st Councilmanic District
(5912 Baltimore National Pike)

**Westview Center Assoc., LLC/
Wharton Realty Group**
Legal Owner

CEC Entertainment, Inc.
Lessee

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
*
*
* CASE NO. 2010-0323-SPHX
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by the legal property owner, Westview Center Assoc., LLC/Wharton Realty Group, and the lessee, CEC Entertainment, Inc. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve the amendment of Zoning Case No. 91-426-XA and all other granted zoning relief of the property, confirmation that the overall existing parking is sufficient, and an unlimited amount of amusement devices and 50 coin operated children's rides for the new square footage. The Special Exception is for the proposed 4,400 square foot expansion of Chuck E. Cheese's Pizza Restaurant/Family Entertainment Center with coin operated amusement devices and children's rides as provided in Section 423.1.B of the B.C.Z.R. Petitioner is currently operating under Special Exception Case No. 91-426-XA, granted 1991, and Case No. 2008-0567-SPH, granted October 2008, entitling Chuck E. Cheese's to an unlimited number of amusement devices, no less than 65, with an additional 50 coin operated children's rides. The

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Date 8.19.10

By [Signature]

subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the Special Hearing and Special Exception requests was Deborah Shannon on behalf of Petitioner CEC Entertainment, Inc., and Raymond Daniel Burke, Esquire, attorney for Petitioner. Also appearing in support of the requested relief was Petitioner's land use and zoning consultant, Mitch Kellman, with Daft, McCune Walker, Inc., the firm that prepared the site plan. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is an irregular-shaped property containing approximately 41.983 acres, more or less, zoned B.M.-C.T. (Business, Major with a Commercial, Town-Center district overlay). The property is utilized as a retail shopping center known as the Westview Mall and is situated on the north side of Baltimore National Pike (U.S. Route 40) just east of the Baltimore Beltway (Interstate 695) and west of Ingleside Avenue in the Catonsville area of Baltimore County. There are a number of large retail stores at the location including Value City Department Store, Ross Clothing Store, Sam's Club, Lowe's Home Improvement Warehouse, as well as a bank and fuel service station. A movie theater that existed on the site for many years has been removed. In addition to the aforementioned improvements, Petitioner operates a "Chuck E. Cheese's" restaurant on the subject property at the southern end of the property, near the entrance from Baltimore National Pike. The restaurant operation is part of a nationwide chain that caters to families with young children, and the operation includes an area of child-oriented play, an arcade area, and a "kiddie" area, in addition to the restaurant operation.

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Further evidence was adduced by way of a proffer from Petitioner's attorney, Mr. Burke, and "Petitioner's Statement" that was filed with the original Petition and which is contained within the case file. This evidence revealed that in the 1991 case, then-Zoning Commissioner J. Robert Haines issued an Order on July 17, 1991 which granted a Special Exception for Petitioner's operation at the subject property. Pursuant to that Order, Petitioner was granted "an arcade as provided in Section 423.1.B of the Baltimore County Zoning Regulations," and "a variance from Section 233.2.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a maximum of 50 coin operated children's rides in lieu of the permitted maximum of six coin operated children's rides." In the subsequent case filed in 2008 and heard before the undersigned, Petitioner sought special hearing relief to determine that under the Order issued in the 1991 case, Petitioner's restaurant operation as an arcade is entitled to an unlimited number of amusement devices. In an Order issued October 22, 2008, the undersigned granted the relief, reasoning that Petitioner was granted an arcade under Section 423.1.B of the B.C.Z.R in the 1991 case, and that Section 423.1.B places no specific limitation on the number of machines permitted in an arcade. The undersigned also confirmed that Petitioner is permitted up to 50 coin operated childrens' rides.

At this juncture, as shown on the site plan, in order to better accommodate the growing needs of their guests, Petitioner CEC Entertainment, Inc. is proposing an approximate 4,400 square foot expansion of their existing restaurant building. The addition would increase both the seating and games area. In particular, the restaurant currently has 49 skill/video games and six kiddie rides and this number is expected to increase following the proposed expansion. Because of the expansion of the original special exception site, Petitioner is now requesting a special exception to include this newly proposed 4,400 square foot addition. Petitioner is also requesting

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By PB

special hearing relief to amend the prior zoning cases, as well as confirmation that the overall existing parking is sufficient, and to once again confirm that an unlimited number of amusement devices and up to 50 coin operated childrens' rides are permitted for the new square footage. Mr. Burke proffered that the newly expanded area will have 94 amusement devices, with seven kiddie rides.

In support of the requested relief, Petitioner's land use and zoning consultant, Mr. Kellman, testified that the expansion of the existing building and the attendant increase in amusement devices and kiddie rides would be beneficial to the community and in particular the patrons of the Chuck E. Cheese's restaurant. He offered his expert opinion that the proposal would not be detrimental to the health, safety, or general welfare of the locale, and would not be detrimental or have any negative impacts on the other enumerated special exception criteria set forth in Section 502.1 of the B.C.Z.R.

As to the special hearing request to confirm that the overall existing parking is sufficient at the site, Mr. Kellman stated that the loss of parking as a result of the addition will be relatively minor and will be more than addressed by the remaining existing parking that surrounds the restaurant. He also indicated that, as to the Westview Mall site on the whole, the existing parking will be more than sufficient. He pointed to the removal of the movie theater, which will be replaced with a "Big Lots" retail store. The removal of the theater opens up space on the site for additional parking, even with the addition of a new retail store, and the parking required for the retail store is substantially less than that required for the theater. Hence there will be a net gain of parking and Mr. Kellman opined that the proposed parking will be sufficient for the overall site, and will also be within the spirit and intent of the Order issued in prior Case No. 00-

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By PJ

287-SPHA, which granted a parking variance from Section 409.6 of the B.C.Z.R. for 2,381 parking spaces in lieu of the 3587 spaces required.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Comments were received from the Office of Planning dated June 11, 2010 which indicates the existing macadam paving that will be unnecessary as a result of the building addition should be removed and landscaping installed. A plan showing the proposed landscaping should be submitted to Avery Harden, Baltimore County Landscape Architect, for review and approval. The addition should be architecturally consistent with the existing building.

Turning first to the Special Exception request, I am persuaded to grant the relief. I agree with the uncontroverted testimony of Petitioner's expert, Mr. Kellman, that the addition to the existing Chuck E. Cheese's building and the increase in child and family oriented amusement devices and kiddie rides will not be detrimental to the health, safety, or general welfare of the community and will not have any adverse impacts on the additional enumerated criteria set forth in Section 502.1 of the B.C.Z.R. It appears the addition will provide increased space for customers and will enhance the overall "family" experience at the restaurant.

As to the request for Special Hearing relief, this too shall be granted. After reviewing the site plan and, again, based on the testimony of Petitioner's expert, I find that the proposed parking for the Chuck E. Cheese's and the overall site will be sufficient. Parking will still be available near the restaurant, even after the construction of the addition, and significant parking will be available for the site as a whole as a result of the removal of the movie theater. I have also confirmed previously that as an arcade, Petitioner is entitled to an unlimited number of children and family oriented amusement devices, and up to 50 kiddie rides, which is expressly included in the new square footage of the proposed addition.

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By PJ

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

THEREFORE, IT IS ORDERED this 19th day of August, 2010 by the Deputy Zoning Commissioner, that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") for the amendment of Zoning Case No. 91-426-XA and all other granted zoning relief on the property, confirmation that the overall existing parking is sufficient, and an unlimited number of coin operated children and family oriented amusement devices, and up to 50 coin operated children's rides for the new square footage, be and are hereby **GRANTED**; and

IT IS FURTHER ORDERED that the Special Exception request pursuant to Section 423.1.B of the B.C.Z.R. to include the proposed 4,400 square foot expansion of Chuck E. Cheese's Pizza Restaurant/Family Entertainment Center with an arcade permitting an unlimited number of coin operated children and family oriented amusement devices and up to 50 coin operated children's rides, within the special exception area delineated on the site plan accepted into evidence as Petitioner's Exhibit 1, be and is hereby **GRANTED**.

The relief granted is subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. A plan showing the proposed landscaping shall be submitted to Avery Harden, Baltimore County Landscape Architect, for review and approval prior to the issuance of any building permit.

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Date

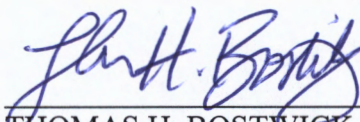
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By

R

3. The addition shall be architecturally consistent with the existing building.

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



THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

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BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

August 19, 2010

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

RAYMOND DANIEL BURKE, ESQUIRE
OBER KALER GRIMES & SHRIVER
120 EAST BALTIMORE STREET
BALTIMORE MD 21202

Re: Petition for Special Hearing and Special Exception
Case No. 2010-0323-SPHX
Property: 5912 Baltimore National Pike

Dear Mr. Burke:

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,

A handwritten signature in black ink, appearing to read "Th. H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: Deborah Shannon, CEC Entertainment, Inc., 4441 West Airport Freeway, Irving TX 75062
Mitch Kellman, Daft, McCune Walker, Inc., 100 East Pennsylvania Avenue, Towson MD 21286



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 5912 (formerly 5780) BALTIMORE NATIONAL PIKE
which is presently zoned B.M-C.T.

(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)

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
(This box to be completed by planner) msk

The amendment of Zoning Case 91-426-XA and all other granted zoning relief on the property, confirmation that the overall existing parking is sufficient, and unlimited amount of amusement devices and 50 coin operated children's rides for the new square footage.

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:

CEC ENTERTAINMENT, INC. (formerly Showbiz Pizza Time, Inc.)

Name - Type or Print

Alice Winters

Alice Winters,

Signature

Asst. Secretary

4441 W. AIRPORT FRWY.

972-258-8507

Address

Telephone No.

IRVING

TX.

75062

City

State

Zip Code

Attorney For Petitioner:

RAYMOND DANIEL BURKE, ESQUIRE

Name - Type or Print

R.D. Burke

Signature

OBER, KALER, GRIMES & SHRIVER

Company

120 EAST BALTIMORE ST.

410-685-1120

Address

Telephone No.

BALTIMORE

MD.

21202

City

State

Zip Code

Legal Owner(s):

WESTVIEW CENTER ASSOC., LLC/WHARTON REALTY GROUP

Name - Type or Print

Signature

Mark Massey

Name - Type or Print

Signature

8 INDUSTRIAL WAY EAST - 2ND FLOOR CONTACT ATTY.

Address

Telephone No.

EATONTOWN

N.J.

07724

City

State

Zip Code

Representative to be Contacted:

MITCH KELLMAN OR ATTORNEY

Name

200 EAST PENNSYLVANIA AVE.

410-296-3333

Address

Telephone No.

TOWSON

MD.

21286

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2010-0323-SPHX

REV 9/15/98

UNAVAILABLE FOR HEARING

Reviewed By D.T.

Date 5/20/10

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Date

8-19-10



Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property
located at 5912 (formerly 5780) BALTIMORE NATIONAL PIKE

which is presently zoned B.M-C.T.

Deed Reference: 18312 / 286 Tax Account # 012315531

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

Proposed 4,400 square foot expansion of Chuck E. Cheese's Pizza Restaurant / Family Entertainment Center with coin operated amusement devices and children's rides, as provided in Section 423.B of the BCZR. Currently operating under Special Exception Case #91-426-XA, granted 1991 with Case #2008-0567-SPH granted October 2008 entitling Chuck E. Cheese's to an unlimited number of amusement devices, no less than 65 with an additional 50 coin operated children's rides.

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.

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:

CEC ENTERTAINMENT, INC. (formerly ShowBiz Pizza Time, Inc.)

Name - Type or Print

Alice Winters

Signature

Alice Winters,
Asst. Secretary
4441 W. AIRPORT FRWY. 972-258-8507

Address

IRVING

TX.

Telephone No.

75062

City

State

Zip Code

Attorney For Petitioner:

RAYMOND DANIEL BURKE, ESQUIRE

Name - Type or Print

[Signature]

Signature

OBER, KALER, GRIMES & SHRIVER

Company

120 E. BALTIMORE ST.

410-685-1120

Address

Telephone No.

BALTIMORE

MD.

21202

City

State

Zip Code

Legal Owner(s):

WESTVIEW CENTER ASSOC., LLC/WHARTON REALTY GROUP

Name - Type or Print

Signature

MARK MASSLY
[Signature]

Signature

8 INDUSTRIAL WAY EAST, 2ND FLOOR - CONTACT ATTORNEY

Address

EATONTOWN

N.J.

Telephone No.

07724

City

State

Zip Code

Representative to be Contacted:

MITCH KELLMAN OR ATTORNEY

Name

200 EAST PENNSYLVANIA AVE.

410-296-333

Address

TOWSON

MD.

Telephone No.

21286

City

State

Zip Code

Case No. 2010-0323-SPHX

REV 07/27/2007 ORDER RECEIVED FOR FILING

Date 8.19.10

By PB

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By D.T.

Date 5/20/10

IN RE:
PETITION FOR SPECIAL HEARING
N/S BALTIMORE NATIONAL PIKE
957 Feet West of Ingleside Avenue
5780 Baltimore National Pike
First Election District
First Councilman District

WESTVIEW CENTER
ASSOCIATES, LLC

LEGAL OWNER/LANDLORD

CEC ENTERTAINMENT, INC.

PETITIONER/TENANT

BEFORE THE
ZONING COMMISSIONER

OF
BALTIMORE COUNTY

Case No.: _____

* * * * *

PETITIONER'S STATEMENT

The Petitioner, CEC Entertainment, Inc., by its undersigned counsel, pursuant to Section 500.7 of the Zoning Regulations of Baltimore County, requests a special hearing before the Zoning Commissioner to consider amending the existing Special Exception which provides that Petitioner's restaurant operation, as an arcade, is entitled to an unlimited number of amusement devices in order to reflect the new square footage following a proposed 4,400sf expansion of the restaurant. Alternatively, Petitioner requests the Zoning Commissioner consider granting a new Special Exception.

1. The Petitioner operates a Chuck E. Cheese restaurant on the subject property, which is located in what is commonly known as Westview Mall Shopping Center, consisting of 41.983 acres plus or minus zoned B.M. – C.T. The restaurant operation is part of a nationwide chain that caters to families with young children, and the operation includes an area of child-oriented play, an arcade area, and a kiddie area, in addition to restaurant operation.

2010-0323-SPHX

2. On July 17, 1991, the Zoning Commissioner issued Findings of Fact and Conclusions of Law which granted a Special Exception for the Petitioner's operation at the subject property. Pursuant to the Special Exception, the Petitioner was granted "an arcade as provided in Section 423.b of the Baltimore County Zoning Regulations," and "a variance from Section 233.2.B of the Baltimore County Zoning Regulations (B.C.Z.R) to permit a maximum of 50 coin operated children's rides in lieu of the permitted maximum 6 coin operated children's rides." A copy of the Findings of Fact and Conclusions of Law is attached hereto as Exhibit 1.

3. On October 22, 2008, the Zoning Commissioner issued a Findings of Fact and Conclusions of Law which determined that "under the Order dated July 17, 1991 (Case No. 91-426-XA), Petitioner's restaurant operation as an arcade is entitled to an unlimited number of amusement devices." In addition, the Zoning Commissioner determined that Petitioner is permitted "up to 50 coin operated childrens' [sic] rides." A copy of the Findings and of Fact and Conclusions of Law is attached hereto as Exhibit 2.

4. In order to better accommodate the needs of their guests, Petitioner is proposing an approximate 4,400sf expansion of their restaurant which would increase both the seating and games area. The restaurant currently has 49 skill/video games and 6 kiddie rides, this number will increase following the proposed expansion.

5. Petitioner is advised that although the Zoning Commissioner approved an unlimited number of amusement devices and up to 50 coin operated children's rides, any expansion of the original special exception site will require another Special Exception.

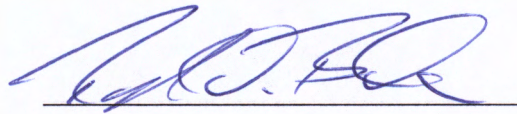
WHEREFORE, the Petitioner requests that the Zoning Commissioner:

(a) Amend the existing Special Exception to reflect its application to the expanded restaurant, and that the expanded restaurant is an arcade that is entitled to an unlimited number of amusement devices and up to 50 coin-operated children's rides;

(b) Grant a new Special Exception providing that the expanded restaurant is an arcade that is entitled to an unlimited number of amusement devices and up to 50 coin-operated children's rides;

(c) Issue Findings of Fact and Conclusions of Law providing that the expanded restaurant is an arcade that is entitled to an unlimited number of amusement devices and up to 50 coin-operated children's rides; or

(d) Grant such relief as deemed appropriate to establish that the expanded restaurant is an arcade that is entitled to an unlimited number of amusement devices and up to 50 coin-operated children's rides.



Raymond Daniel Burke, Esquire
OBER, KALER, GRIMES & SHRIVER
120 East Baltimore Street
Baltimore, Maryland 21202
Direct Dial: 410-347-7392
Direct Fax: 443-263-7592
*Attorneys for Petitioner,
CEC Entertainment, Inc.*



Description

To Accompany Petition

For A Special Hearing

Baltimore National Pike (MD Route 40)

Baltimore County, Maryland

All that certain parcel of land situate in the First Election District of Baltimore County, State of Maryland, containing 41.983 acres, more or less, and more particularly described as follows:

Beginning for the same at a point on the northwest right-of-way line of Baltimore National Pike (Edmondson Avenue), as shown on State Roads Commission of Maryland Plat No. 4366, situate 80.48 feet westerly from the point formed by the intersection of the prolongation of the western right-of-way line of Ingleside Avenue, 103 feet wide, with the northwest right-of-way line of Baltimore National Pike, 150 feet wide, as shown on said plat, said point of beginning also being the beginning of the land which, by deed dated August 25, 1979, and recorded among the Land Records of Baltimore County, Maryland, in Liber E.H.K., Jr. 6068, Folio 786, and was granted and conveyed by Monumental Properties Trust and Monumental Corporation to The Equitable Life Assurance Society of the United States, thence leaving said point of beginning and running and binding on said northwest right-of-way line of Baltimore National Pike as shown on said plat and also as shown on State Roads Commission of Maryland Plat No. 4365 and binding on the first line of the abovementioned deed, referring all courses of this description to the Grid Meridian established in the Baltimore County Metropolitan District, (1) South 72 degrees 19 minutes

34 seconds West 1209.66 feet to intersect the northeast right-of-way line of Interstate 695 (Baltimore Beltway), variable width, as shown on State Roads Commission of Maryland Plat No. 19556, thence leaving said northwest right-of-way line of Baltimore National Pike and running and binding on said northeast right-of-way line of Interstate 695 as shown on the third hereinmentioned plat and also as shown on State Roads Commission of Maryland Plat No. 19555 and binding on the second through fifteenth lines of the abovementioned deed, the fourteen following courses and distances, viz: (2) South 78 degrees 01 minute 19 seconds West 30.13 feet, thence (3) South 73 degrees 36 minutes 11 seconds West 96.17 feet, thence (4) South 82 degrees 07 minutes 59 seconds West 41.74 feet, thence (5) North 87 degrees 00 minutes 32 seconds West 46.41 feet, thence (6) North 80 degrees 38 minutes 48 seconds West 46.34 feet, thence (7) North 73 degrees 04 minutes 11 seconds West 46.22 feet, thence (8) North 63 degrees 34 minutes 40 seconds West 46.09 feet, thence (9) North 61 degrees 48 minutes 43 seconds West 145.96 feet, thence (10) North 58 degrees 27 minutes 59 seconds West 298.97 feet, thence (11) North 59 degrees 27 minute 23 seconds West 298.24 feet, thence (12) North 59 degrees 00 minutes 24 seconds West 183.97 feet, thence (13) North 53 degrees 45 minutes 14 seconds West 56.68 feet, thence (14) North 28 degrees 59 minutes 31 seconds West 35.68 feet, and thence (15) North 46 degrees 20 minutes 42 seconds West 56.57 feet, thence running and, in part, binding on said northeast right-of-way line of Interstate 695 and, in part, on the southern outline of the plat entitled "Westview Park Section 3A" dated July, 1955 and recorded among the aforesaid Land Records in Plat Book G.L.B. 22, Page 22, and also binding on the sixteenth line of the abovementioned deed, (16) North 56 degrees 36 minutes 39 seconds East 158.58 feet to intersect the southwest side of Moorehead Road, 50 feet wide, as shown on the fifth hereinmentioned plat, thence running and binding on said southwest side of Moorehead Road and also binding on the seventeenth line of the abovementioned deed, (17) Southeasterly by a line curving to the left, with a radius of

181.86 feet, for a distance of 22.47 feet (the arc of said curve being subtended by a chord bearing South 36 degrees 45 minutes 43 seconds East 22.45 feet), thence running and binding on the southern outline of the fifth hereinmentioned plat and binding on the southern outline of the plat entitled "Revised Plat of Block C, Westview Park Section 3A" dated May 21, 1957, and recorded among the aforesaid Land Records in Plat Book G.L.B. 24, Page 40, and also binding on the eighteenth through twenty-first lines of the aforementioned deed, the four following courses and distances: (18) North 49 degrees 15 minutes 19 seconds East 50.11 feet, thence (19) North 56 degrees 36 minutes 39 seconds East 106.93 feet, thence (20) North 72 degrees 19 minutes 15 seconds East 331.62 feet, and thence (21) Northeasterly by a line curving to the left, with a radius of 3351.00 feet, for a distance of 896.28 feet (the arc of said curve being subtended by a chord bearing North 64 degrees 39 minutes 30 seconds East 893.61 feet) to intersect the southwest side of Craigmont Road, 60 feet wide, as shown on plat entitled "Resubdivision of a Portion of Craftswood Road, Westview Park Section 1A and a Portion of Craftswood Road and Lot 1A, Block C Westview Park Section 3A" dated July 17, 1956, and recorded among the aforesaid Land Records in Plat Book G.L.B. 23, Page 47, thence running and binding on said southwest side of Craigmont Road and binding on the twenty-second and twenty-third lines of the abovementioned deed, the two following courses and distances, viz: (22) South 33 degrees 33 minutes 07 seconds East 74.66 feet, and thence (23) Southeasterly by a line curving to the left, with a radius of 430.00 feet, for a distance of 84.40 feet (the arc of said curve being subtended by a chord bearing South 39 degrees 10 minutes 30 seconds East 84.26 feet), to the beginning of the second line of the land which, by deed dated November 12, 1957, and recorded among the aforesaid Land Records in Liber G.L.B. 3276, Folio 539, and was granted and conveyed by Westview Shopping Center, Inc., and Bankers Trust Company to Baltimore Gas and Electric Company, thence leaving said southwest side of Craigmont Road and running and binding on the second through the seventh lines of

said deed and also binding on the twenty-fourth through the twenty-ninth lines of the first hereinmentioned deed, the six following courses and distances, viz: (24) Southwesterly by a line curving to the left, with a radius of 19.50 feet, for a distance of 6.11 feet (the arc of said curve being subtended by a chord bearing South 59 degrees 16 minutes 37 seconds West 6.08 feet), thence (25) South 50 degrees 17 minutes 23 seconds West 1.66 feet, thence (26) Southwesterly by a line curving to the right, with a radius of 243.00 feet, for a distance of 54.53 feet (the arc of said curve being subtended by a chord bearing South 56 degrees 43 minutes 08 seconds West 54.42 feet), thence (27) Southwesterly by a line curving to the left, with a radius of 24.50 feet, for a distance of 27.92 feet (the arc of said curve being subtended by a chord bearing South 30 degrees 30 minutes 36 seconds West 26.43 feet), thence (28) South 48 degrees 29 minutes 11 seconds East 128.82 feet, and thence (29) North 41 degrees 30 minutes 49 seconds East 94.49 feet to a 4-inch by 4-inch concrete monument found on the southwest side of Craigmont Road as shown on the plat entitled "Westview Park Section 1A" dated September 15, 1954, and recorded among the aforesaid Land Records in Plat Book G.L.B. 20, Page 92, thence running and binding on said southwest side of Craigmont Road and binding on the thirteenth through thirty-second lines of the first hereinmentioned deed, the three following courses and distances, viz: (30) Southeasterly by a line curving to the left, with a radius of 430.00 feet, for a distance of 249.01 feet (the arc of said curve being subtended by a chord bearing South 77 degrees 08 minutes 08 seconds East 245.57 feet), thence (31) North 86 degrees 16 minutes 23 seconds East 588.62 feet, and thence (32) Southeasterly by a line curving to the right, with a radius of 20.00 feet, for a distance of 31.42 feet (the arc of said curve being subtended by a chord bearing South 48 degrees 43 minutes 37 seconds East 28.28 feet) to intersect the west side of Ingleside Avenue as shown on Baltimore County Bureau of Land Acquisition Plan HRW 58 029 1, thence running and binding on said west side of Ingleside Avenue as shown on said plat and also as shown on Baltimore County Bureau of Land Acquisition

Plan HRW 58 029 2 and also binding on the thirty-third line of the first hereinmentioned deed, (33) South 03 degrees 43 minutes 37 seconds East 517.86 feet, thence running and binding on the west side of Baltimore National Pike as shown on the first hereinmentioned plat and also binding on the thirty-fourth line of the first hereinmentioned deed, (34) South 33 degrees 54 minutes 53 seconds West 127.90 feet to the point of beginning; containing 41.983 acres of land, more or less, as surveyed by Daft-McCune-Walker, Inc., in August 1989.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY
AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

May 18, 2010

Project No. 89106.L (89106.L-1)



Michael D. Martin
5.18.10



Description
To Accompany Petition
For A Special Exception / Special Hearing
Baltimore National Pike (MD Route 40)
Baltimore County, Maryland

Beginning for the same at the end of the second of the following two courses and distances, measured from the point formed by the intersection of the centerline of Ingleside Avenue with the centerline of Baltimore National Pike (MD Route 40), Southwesterly along the centerline of Baltimore National Pike (MD Route 40), 922 feet, more or less, thence Northwesterly 124 feet, more or less, to the point of beginning, thence leaving said point of beginning and running through, over, and across a portion of the lands of the Westview Center Associates, LC, as described in a deed dated June 13, 2003, and recorded in the Land Records of Baltimore County, Maryland, in Liber 18312, Folio 286, referring all courses of this description to the Grid Meridian established in the Baltimore County Metropolitan District, the thirteen following courses and distances: (1) South 70 degrees 26 minutes 36 seconds West 39.15 feet, thence (2) South 72 degrees 12 minutes 37 seconds West 123.02 feet, thence (3) North 85 degrees 40 minutes 51 seconds West 32.51 feet, thence (4) South 72 degrees 47 minutes 40 seconds West 17.99 feet, thence (5) North 17 degrees 20 minutes 37 seconds West 176.67 feet, thence (6) North 62 degrees 31 minutes 13 seconds East 13.35 feet, thence (7) North 63 degrees 41 minutes 00 seconds East 38.56 feet, thence (8) North 69 degrees 13 minutes 10 seconds East 60.23 feet, thence (9) North 71 degrees 40 minutes 35 seconds East 59.32 feet, thence

(10) South 18 degrees 02 minutes 41 seconds East 55.16 feet, thence (11) North 71 degrees 33 minutes 27 seconds East 57.72 feet, thence (12) South 17 degrees 05 minutes 24 seconds East 128.68 feet, and thence (13) South 30 degrees 22 minutes 45 seconds West 24.52 feet to the point of beginning; containing 0.955 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY
AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 27, 2010

Project No. 89106.L (L89106.L)



Michael D. Martin
4/27/10

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 2010-0323-SPHX
Petitioner: CEC ENTERTAINMENT, INC
Address or Location: 5912 BALTIMORE NATIONAL PIKE

PLEASE FORWARD ADVERTISING BILL TO:

Name: MITCH KELLMAN
Address: DAFT McCUNE WALKER INC
200 E. PENNSYLVANIA AVE.
TOWSON, MD 21286
Telephone Number: 410-296-3333

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. _____

Date: _____

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
				Obj	Sub Obj				

Total: _____

Rec
From: _____

For: _____

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

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: # 2010-0323-SPHX

5912 Baltimore National Pike (formerly 5780)

N/West side of Baltimore National Pike, 80 feet west of the centerline of Ingleside Avenue

1st Election District — 1st Councilmanic District

Legal Owner(s): Westview Center Association, LLC, Wharton Realty Group

Contract Purchaser: CEC Entertainment, Inc.

Special Hearing: for an amendment of zoning case 91-426-XA and all other granted zoning relief of the property, confirmation that the overall existing parking is sufficient, and unlimited amount of amusement devices and 50 coin operated children's ride for the new square footage. **Special Exception:** for a proposed 4,400 square foot expansion of Chuck E. Cheese's Pizza Restaurant/Family Entertainment Center with coin operated amusement devices and children's rides, as provide in section 4523.B of the BCZR. Currently operating under Special Exception case 91-426-XA, granted 1991 with case 2008-0567-SPH granted October 2008 entitling Chuck E. Cheese's to a number of amusement devices, no less than 65 with an additional 50 coin operated children's rides.

Hearing: Friday, July 16, 2010 at 2:00 p.m. in Room 104, Jefferson Building, 105 West Chesapeake 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 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.

7/078 July 1

245645

CERTIFICATE OF PUBLICATION

7/11, 2010

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/11, 2010.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

+ - CERTIFICATE OF POSTING

2010-0323-SPHX

RE: Case No.: _____

Petitioner/Developer: _____

CEC Entertainment, Inc.

July 16 2010

Date of Hearing/Closing: _____

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

Attn: Kristin Matthews:

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: _____
5912 Baltimore National Pike (formerly 5780)

July 1 2010

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

July 3 2010

Robert Black
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

ZONING NOTICE

CASE #2010-0323-SPHX

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

Room 104, JEFFERSON BUILDING
PLACE: 105 WEST CHESAPEAKE AVE. TOWSON 21204

DATE AND TIME: FRIDAY, JULY 16, 2010 AT 2:00 P.M.

REQUEST: SPECIAL HEARING FOR AN AMENDMENT OF ZONING

IN CASE 81-426-XA AND ALL OTHER GRANTED ZONING RELIEF
OF THE PROPERTY. CONFIRMATION THAT THE OVERALL EXISTING PARKING
IS SUFFICIENT AND UNIMPEDED AMOUNT OF AMUSEMENT DEVICES AND SO
CAN OPERATE CHAIRMAN WIDE FOR THE NEW SQUARE FOOTAGE. SPECIAL
EASE/BOX FOR A PROPOSED 4,900 SQUARE FOOT EXPANSION FOR CHUCK
E. CARR'S RESTAURANT/FRANK'S ENTERTAINMENT CENTER WITH COIN
OPERATED AMUSEMENT DEVICES AND CHILDREN'S RIDES. AS PROVIDED IN
SECTION 4523-B OF THE CODE. CURRENTLY OPERATING UNDER SPECIAL
EXEMPTION CASE 91-426-XA GRANTED 1991 WITH CASE 2008-0897-SPX
GRANTED OCTOBER 2008 EXEMPTION. CHUCK E. CARR'S TO AMOUNT
OF AMUSEMENT DEVICES. NO LATER THAN 15 WITH AN ADDITIONAL 50 COIN
OPERATED CHILDREN'S RIDES.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 867-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, Director
June 7, 2010
Department of Permits and
Development Management

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: 2010-0323-SPHX

5912 Baltimore National Pike (formerly 5780)

N/west side of Baltimore National Pike, 80 feet west of the centerline of Ingleside Avenue

1st Election District – 1st Councilmanic District

Legal Owners: Westview Center Association, LLC, Wharton Realty Group

Contract Purchaser: CEC Entertainment, Inc.

Special Hearing for an amendment of zoning case 91-426-XA and all other granted zoning relief of the property, confirmation that the overall existing parking is sufficient, and unlimited amount of amusement devices and 50 coin operated children's ride for the new square footage. Special Exception for a proposed 4,400 square foot expansion of Chuck E Cheese's Pizza Restaurant/Family Entertainment Center with coin operated amusement devices and children's rides, as provide in section 4523.B of the BCZR. Currently operating under Special Exception case 91-426-XA, granted 1991 with case 2008-0567-SPH granted October 2008 entitling Chuck E Cheese's to a number of amusement devices, no less than 65 with an additional 50 coin operated children's rides.

Hearing: Friday, July 16, 2010 at 2:00 p.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Handwritten signature of Timothy Kotroco in black ink.

Timothy Kotroco
Director

TK:kl

C: Raymond Daniel Burke, 120 E. Baltimore St., Baltimore 21202
Alice Winters, CEC Entertainment, 4441 W. Airport Freeway, Irving TX 75062
Mitch Kellman, 200 East Pennsylvania Avenue, Towson 21286
Mark Massky, 8 Industrial Way East, 2nd Fl., Eatontown NJ 07724

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JULY 1, 2010.**
- (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, July 1, 2010 Issue - Jeffersonian

Please forward billing to:

Mitch Kellman
Daft McCune Walker, Inc.
200 E. Pennsylvania Avenue
Towson, MD 21286

410-296-3333

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: 2010-0323-SPHX

5912 Baltimore National Pike (formerly 5780)

N/west side of Baltimore National Pike, 80 feet west of the centerline of Ingleside Avenue

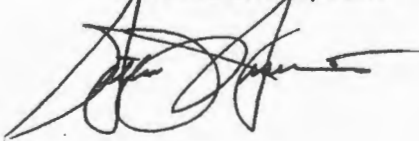
1st Election District – 1st Councilmanic District

Legal Owners: Westview Center Association, LLC, Wharton Realty Group

Contract Purchaser: CEC Entertainment, Inc.

Special Hearing for an amendment of zoning case 91-426-XA and all other granted zoning relief of the property, confirmation that the overall existing parking is sufficient, and unlimited amount of amusement devices and 50 coin operated children's ride for the new square footage. Special Exception for a proposed 4,400 square foot expansion of Chuck E Cheese's Pizza Restaurant/Family Entertainment Center with coin operated amusement devices and children's rides, as provide in section 4523.B of the BCZR. Currently operating under Special Exception case 91-426-XA, granted 1991 with case 2008-0567-SPH granted October 2008 entitling Chuck E Cheese's to a number of amusement devices, no less than 65 with an additional 50 coin operated children's rides.

Hearing: Friday, July 16, 2010 at 2:00 p.m. in Room 104, Jefferson Building,
105 West Chesapeake 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.



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

July 7, 2010

Raymond Daniel Burke, Esq.
Ober, Kaler, Grimes & Shriver
120 E. Baltimore St.
Baltimore, MD 21202

Dear: Raymond Daniel Burke, Esq.

RE: Case Number 2010-0323-SPHX, 5912 Baltimore National Pike

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 20, 2010. This letter is not an approval, but only a **NOTIFICATION**.

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,

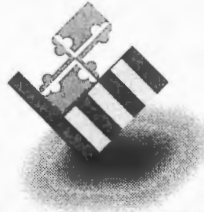
A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Westview Center Assoc.; 8 Industrial Way East, 2nd Fl; Eatontown, N.J. 07724
Mitch Kellman; 200 East Pennsylvania Ave.; Towson, MD 21286
Alice Winters ; CEC Entertainment, Inc.; 4441 Airport FRWY; Irving, TX 75062



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

June 22, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: June 22.2009

Item Numbers 0321, 0322, 0323, 0324, 0325, 0327

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

TB

7-16-10
2PM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: June 11, 2010

RECEIVED

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

JUN 14 2010

SUBJECT: 5912 Baltimore National Pike
INFORMATION:

ZONING COMMISSIONER

Item Number: 10-323

Petitioner: Westview Center Assoc., LLC / Wharton Realty Group

Zoning: BM-CT

Requested Action: Special Exception

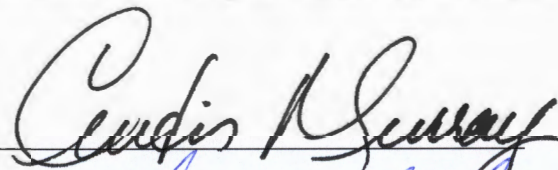
SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan and offers the following comments:

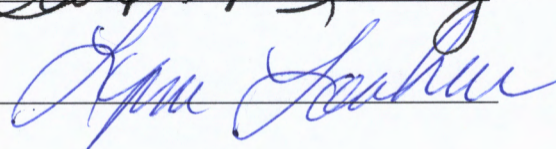
The existing macadam paving that will be unnecessary as a result of the building addition should be removed and landscaping installed. A plan showing the proposed landscaping should be submitted to Avery Harden, Baltimore County Landscape Architect for review and approval. The addition should be architecturally consistent with the existing building.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by:



Division Chief:
AFK/LL: CM



TB 7-16-10
2pm

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUN 28 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: June 28, 2010

SUBJECT: Zoning Item # 10-323-SPHX
Address 5912 Baltimore National Pike
(Westview Center Assoc, LLC/ Wharton Realty Group)

Zoning Advisory Committee Meeting of May 31, 2010

X The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

Reviewer: JWL Date: 6/24/10

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For June 14, 2010
Item Nos. 2010- 290, 293, 322, 323,
325, 326, 328 and 329

DATE: June 2, 2010

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

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-06142010 -NO COMMENTS.doc



State Highway
Administration

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

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6-14-2010

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

RE: Baltimore County
Item No. 2010-0323-SPHX
HS 40 (BALTO. NAT'L PIKE)
5912 BALTO. NAT'L PIKE
CEC ENTERTAINMENT, INC.
SPECIAL EXCEPTION
SPECIAL HEARING

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. 2010-0323-SPHX.

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

Very truly yours,

Tolson Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND SPECIAL EXCEPTION *
5912 Baltimore National Pike; NW/S of * ZONING COMMISSIONER
Baltimore National Pike, 80' W Ingleside Ave *
1st Election & 1st Councilmanic Districts * FOR
Legal Owner(s): Westview Center Assoc, LLC *
Contract Purchaser(s): CEC Entertainment, Inc* BALTIMORE COUNTY
Petitioner(s) *
10-323-SPHX

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

JUN 09 2010

.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June, 2009, a copy of the foregoing Entry of Appearance was mailed to Mitch Kellman, 200 East Pennsylvania Avenue, Towson, MD 21286 and Raymond Burke, Esquire, Ober, Kaler, Grimes & Shriver, 120 E. Baltimore Street, Baltimore, MD 21202, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CHECKLISTComment
ReceivedDepartmentSupport/Oppose
No Comment6-2-10

DEVELOPMENT PLANS REVIEW

nc6-28-10

DEPRM

nc6-22-10

FIRE DEPARTMENT

nc6-11-10

PLANNING

conditions

(if not received, date e-mail sent _____)

6-14-10

STATE HIGHWAY ADMINISTRATION

nc

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: 7-1-10

SIGN POSTING

Date: 7-10-10

PEOPLE'S COUNSEL APPEARANCE

Yes

☒

No

☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes

☐

No

☐

Comments, if any:

see Petitioner's statement

IN RE: PETITION FOR SPECIAL HEARING *

956 feet W of Baltimore National Pike and
Engleside Avenue intersection *
1st Election District *
1st Councilmanic District *
(5780 Baltimore National Pike) *

Westveiw Center Associates, LLC/
Wharton Realty Group *

Petitioner
CEC Entertainment, Inc. *
Lessee

BEFORE THE

DEPUTY ZONING

COMMISSIONER

FOR BALTIMORE COUNTY

Case No. 2008-0567-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Westview Center Associates, LLC/Wharton Realty Group, the legal property owner, and CEC Entertainment, Inc., the lessee. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to determine that, under the Order dated July 17, 1991 (Case No. 91-426-XA), Petitioner's restaurant operation as an arcade is entitled to an unlimited number of amusement devices, or in the alternative, to amend the Order dated July 17, 1991 to provide for the number of amusement devices permitted at Petitioner's restaurant operation, which shall not be less than 65. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing was Alice Winters on behalf of Petitioner CEC Entertainment, Inc., and Raymond Daniel Burke, Esquire, Petitioner's attorney. Also appearing in support of the requested relief was Petitioner's land use and zoning consultant, Mitch Kellman, with Daft McCune Walker, Inc., the firm that

prepared the site plan. There were no Protestants or other interested citizens in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is an irregular-shaped property containing approximately 41.983 acres, more or less, zoned B.M.-C.T. (Business, Major with a Commercial, Town-Center district overlay). The property is utilized as a retail shopping center known as the Westview Mall and is situated on the north side of Baltimore National Pike (U.S. Route 40) just east of the Baltimore Beltway (Interstate 695) and west of Ingleside Avenue in the Catonsville area of Baltimore County. There are a number of large retail stores at the location including Value City Department Store, Ross Clothing Store, Sam's Club, Lowe's Home Improvement Warehouse, as well as a movie theater, a bank, and a fuel service station. In addition to the aforementioned, Petitioner operates a "Chuck E. Cheese" restaurant on the subject property at the southern end of the property, near the entrance from Baltimore National Pike. The restaurant operation is part of a nationwide chain that caters to families with young children, and the operation includes an area of child-oriented play, an arcade area, and a "kiddie" area, in addition to the restaurant operation.

Further evidence was adduced by way of a proffer from Petitioner's attorney, Mr. Burke, and "Petitioner's Statement" that was filed with the original Petition and which was marked and accepted into evidence as Petitioner's Exhibit 2. This evidence revealed that on July 17, 1991 in Case No. 91-426-XA, then-Zoning Commissioner J. Robert Haines issued an Order which granted a Special Exception for Petitioner's operation at the subject property. Pursuant to the Special Exception, Petitioner was granted "an arcade as provided in Section 423.B of the Baltimore County Zoning Regulations," and "a variance from Section 233.2.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a maximum of 50 coin operated children's rides

in lieu of the permitted maximum of six coin operated children's rides." A copy of the Findings of Fact and Conclusions of Law and Order dated July 17, 1991 was submitted with the original Petition and marked and accepted into evidence as Petitioner's Exhibit 2A.

Since establishment of the Special Exception in 1991, Baltimore County has routinely renewed coin operated amusement device licenses to Petitioner at the subject location. Copies of the applications and renewal history going back five years were submitted by Petitioner with the original Petition, and marked and accepted into evidence as Petitioner's Exhibit 2B. Subsequent to the granting of the Special Exception, Petitioner has operated the restaurant with substantially less than the permitted maximum of 50 coin operated children's rides. In fact presently, there are six coin operated children's rides on the premises. Moreover, in light of the Special Exception granting an "arcade," Petitioner also has numerous "amusement devices" on the premises, consisting of children's games and electronic video games; presently, there are 49 such amusement devices on the premises. A list of the children's rides and games on the premises was submitted by Petitioner with the original Petition and accepted into evidence as part of Petitioner's Exhibit 2B, and the current information was confirmed at the hearing by Petitioner.

On March 10, 2008, the Baltimore County Department of Permits and Development Management issued its Certificate of Zoning Approval. This approval was expressly "conditioned upon proper application and approval of any required change of occupancy and/or building permits." Additional comments on the approval provided that Petitioner "MUST FILE FOR SPH BY 5/6/08." A copy of the Certificate of Zoning Approval was submitted by Petitioner with the original Petition, and was marked and accepted into evidence as Petitioner's Exhibit 2C. The time for filing was extended pursuant to an agreement with the Department of Permits and Development Management. Petitioner was also advised that the Department of

Permits and Development Management is unable to administratively determine, without direction from the Zoning Commissioner, that the granted Special Exception provides for any more than four permitted amusement devices in the designated arcade, having only expressly provided for 50 coin operated children's rides.

During a discussion of the relevant B.C.Z.R. provisions, Petitioner's attorney, Mr. Burke, pointed out that under Section 423.A of the B.C.Z.R., "[a]ny number of amusement devices is permitted in an arcade ..." On the other hand, in the absence of an arcade, under Section 230.11 of the B.C.Z.R., it is required that "no more than four devices are used in combination with the principal use." Mr. Burke reiterated that in 1991, Petitioner had previously been granted an "arcade" in the prior Special Exception case under Section 423.B of the B.C.Z.R. This section states that "[a]n arcade is permitted by special exception in the B.L., B.M. and B.R. Zones as the sole principal use or in combination with one or more of the entertainment, leisure or recreation oriented uses provided for in Section 422.A." Unlike Section 423.C.4 of the B.C.Z.R., which directs the Zoning Commissioner to specify the maximum number of amusement devices permitted, Section 423.B of the B.C.Z.R. has no such requirement. Hence, according to Mr. Burke, the number of amusement devices permitted at Petitioner's premises as an arcade is not limited in the zoning regulations.

The Zoning Advisory Committee (ZAC) comments offered no affirmative recommendations concerning the requested relief.

Based on the testimony and evidence presented, I am persuaded to grant the relief as requested by Petitioner. It is evident that in the prior 1991 case, Petitioner was granted an arcade under Section 423.B of the B.C.Z.R. It is also clear that Section 423.B places no specific limitation on the number of machines permitted in an arcade. To that end, I agree with

Petitioner's analysis of the aforementioned sections of the B.C.Z.R. and shall grant the special hearing relief. I am also persuaded that the granting of the relief is within the spirit and intent of the zoning regulations and will have no detrimental effects on the locale or the community. Indeed, Petitioner caters specifically to families with small children, and amusement devices directed to that demographic are consistent with the prior decision granting an arcade, whereby the quantity of those devices would not be limited to a specific number, but would rather be determined by Petitioner's own unique circumstances, given their space availability, business model, and customer base.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of October, 2008 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to determine that under the Order dated July 17, 1991 (Case No. 91-426-XA), Petitioner's restaurant operation as an arcade is entitled to an unlimited number of amusement devices be and is hereby GRANTED. Petitioner is also permitted up to 50 coin operated childrens' rides.

IT IS FURTHER ORDERED that Petitioner's Special Hearing request in the alternative to amend the Order dated July 17, 1991 to provide for the number of amusement devices permitted at Petitioner's restaurant operation, which shall not be less than 65 be and is hereby DISMISSED as MOOT.

The relief granted herein is subject to the following:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

CASE NAME _____
CASE NUMBER 2010-0323-SPHX
DATE 7/16/10

[illegible]

Case No.: 2010-0323-SPHX

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	site plan	
No. 2		
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

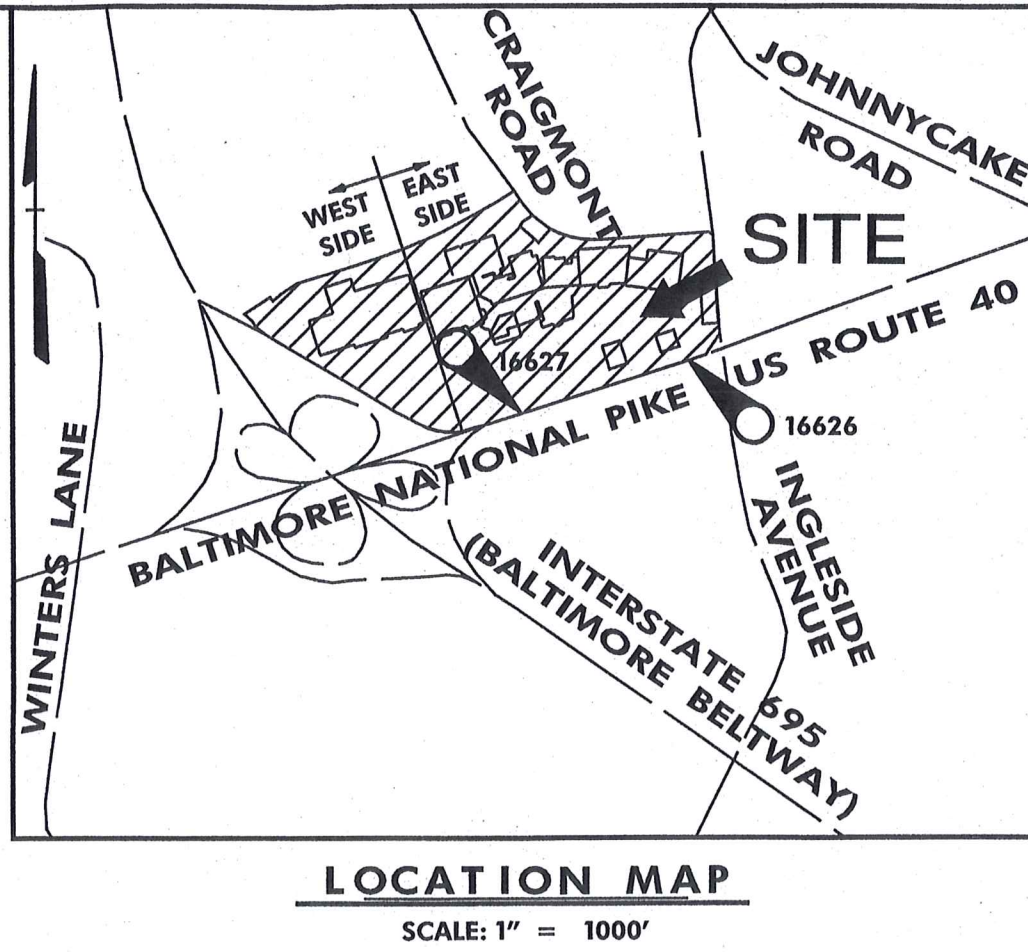
Parking Tabulation	
Shopping Center (including Retail & Restaurants) Approx. 606,758 S.F. ± 5 P.S. / 1000 S.F. ± 3035 P.S.	
Restaurants 4,275 S.F. ± 5 P.S. / 1000 S.F. ± 4 P.S.	
Total Shopping Center	3016 P.S.
Theatre (removal) 2400 SEATS ± 1 P.S. / 4 SEATS ± 0 P.S.	
Note: The Parking Calculations have been awarded with the removal of the Movie Theatre Split and intent approved by Joe Merrey on January 28, 2000	
Total Parking Required	3,016 P.S.
Total Parking Provided	2,405 P.S.

ZONING HISTORY FOR PARKING

1. ZONING CASE No. 00-287-SPHA - PERMITTED 2,381 SPACES IN LIEU OF 3,587 (-1,206).
2. SPIRIT AND INTENT LETTER DATED FEB. 28, 2003 - PERMITTED 2,458 SPACES IN LIEU OF 3,474.
3. SPIRIT AND INTENT LETTER DATED JAN. 19, 2000 - PERMITTED 2,458 SPACES IN LIEU OF 3,053.
4. THIS REQUEST - 2,405 SPACES IN LIEU OF 3,076 (-670).

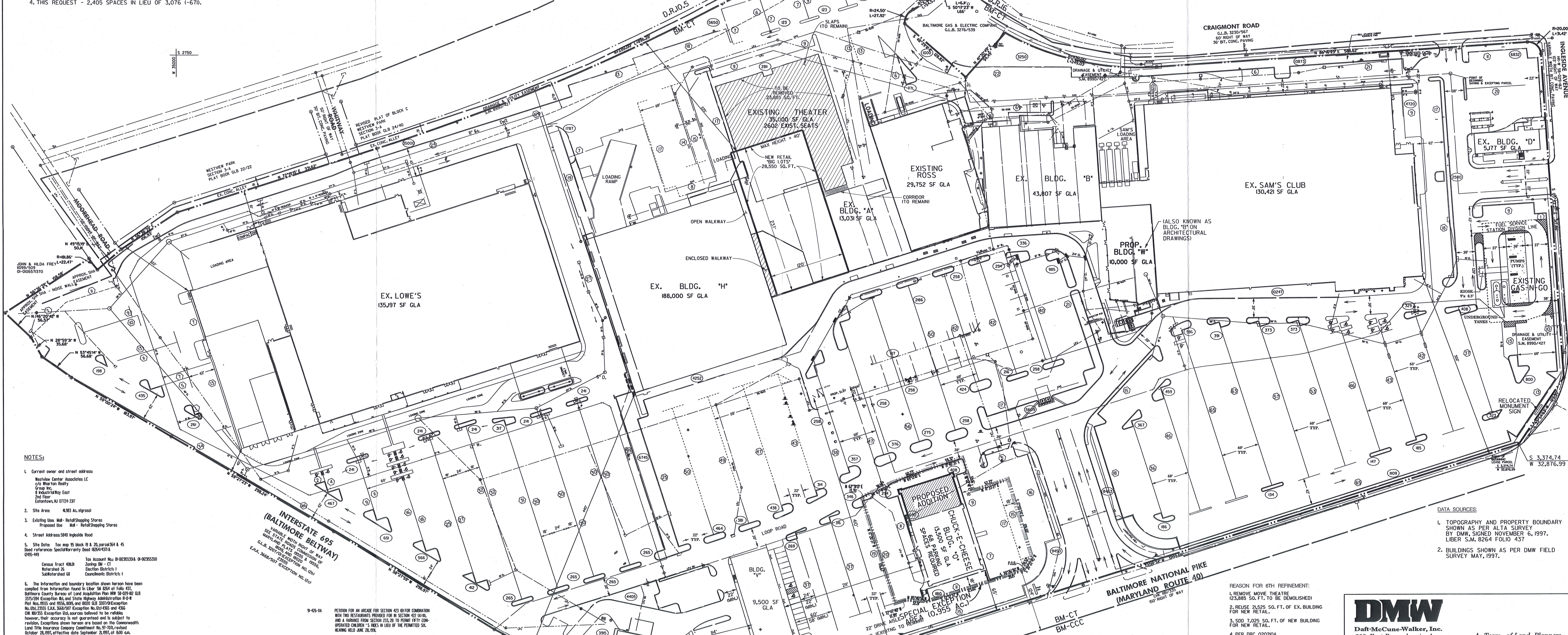
LEGEND

- * OF PARKING SPACES TO BE PROVIDED
- SF OF GROSS LEASE AREA "GLA"
- TRAFFIC FLOW DIRECTIONAL ARROW
- ZONING LINE
- PROPERTY LINE
- AMENITY OPEN SPACE (SF)



LOCATION MAP

SCALE: 1" = 1000'



NOTES:

1. Current owner and street address:
Westview Center Associates LLC
c/o Western Realty
111 West Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-296-3333
Fax: 410-296-4705
2. Site Area: 4.383 Ac. (gross)
3. Existing Uses: Mid - Retail Shopping Stores
Proposed Use: Mid - Retail Shopping Stores
4. Street Address: 5800 Ingleside Road
5. Site Data: Tax map 95 block 8 & 20, parcel 564 & 65
Deed reference: Special Warranty Deed 06/24/2001
06-046

6. The information and boundary location shown herein have been compiled from information from a Liber 5M 8264 of Folio 437, Baltimore County Bureau of Land Acquisition Plan 10W 58-05-02 Q.B. 335/2704 Exception B.U. and State Highway Administration R-24, Part Nos. 1955 and 1955A, 1955B, and 1955C, 1955D, 1955E, 1955F, 1955G, 1955H, 1955I, 1955J, 1955K, 1955L, 1955M, 1955N, 1955O, 1955P, 1955Q, 1955R, 1955S, 1955T, 1955U, 1955V, 1955W, 1955X, 1955Y, 1955Z, 1956A, 1956B, 1956C, 1956D, 1956E, 1956F, 1956G, 1956H, 1956I, 1956J, 1956K, 1956L, 1956M, 1956N, 1956O, 1956P, 1956Q, 1956R, 1956S, 1956T, 1956U, 1956V, 1956W, 1956X, 1956Y, 1956Z, 1957A, 1957B, 1957C, 1957D, 1957E, 1957F, 1957G, 1957H, 1957I, 1957J, 1957K, 1957L, 1957M, 1957N, 1957O, 1957P, 1957Q, 1957R, 1957S, 1957T, 1957U, 1957V, 1957W, 1957X, 1957Y, 1957Z, 1958A, 1958B, 1958C, 1958D, 1958E, 1958F, 1958G, 1958H, 1958I, 1958J, 1958K, 1958L, 1958M, 1958N, 1958O, 1958P, 1958Q, 1958R, 1958S, 1958T, 1958U, 1958V, 1958W, 1958X, 1958Y, 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