

IN RE: PETITION FOR SPECIAL EXCEPTION *

(8888 Waltham Woods Road)

9th Election District

5th Councilman District

North Plaza I, LLC, II, LLC, III, LLC

Legal Owners

CEC Entertainment, Inc.

Lessee

Petitioners

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2014-0233-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Exception filed for property located at 8888 Waltham Woods Road. The Petition was filed on behalf of the owners of the subject property, North Plaza I, LLC, II, LLC, III, LLC, and the lessee, CEC Entertainment, Inc. ("Petitioners"). The Special Exception petition seeks relief pursuant to §422.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to use the herein described property for an Arcade in a Pizza Restaurant/Family Entertainment Center with more than four (4) coin operated amusement devices. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 2.

Appearing at the hearing in support of the petition was Blake Dickinson and Deborah Shannon. Raymond D. Burke, Esquire, from Ober, Kaler, Grimes & Shriver, and David Karceski, Esquire, from Venable LLP, represented the Petitioners. There were no Protestants in attendance and the file does not contain any letters of opposition. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received.

ORDER RECEIVED FOR FILING

Date 7/28/14

By Sen

The subject property is 31.5716 acres and is zoned BL. The site is improved with a large strip shopping center, and the Lessee proposes to open a Chuck E. Cheese franchise at the center. As it does at its two other locations in Baltimore County, the franchisee/lessee would offer a variety of coin-operated games and amusement devices for the children attending parties and events at the restaurant. Ms. Shannon, lessee's representative, stressed that all of the amusement devices would be appropriate for families and children, and would be rated as such by a national video game organization. The Petitioners require special exception relief to operate the arcade within the Chuck E. Cheese restaurant.

SPECIAL EXCEPTION LAW

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People's Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. Here, the owners' representative, Blake Dickinson, testified via proffer that B.C.Z.R. §502.1 was satisfied and that the use would not in any way be detrimental to the community. I concur and will grant the Petition.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 28th day of July, 2014, that the Petition for Special Exception under §422.1.A of the Baltimore County Zoning Regulations ("B.C.Z.R."), to use the herein described property for an Arcade in a Pizza Restaurant/Family Entertainment Center with more than four (4) coin operated amusement devices, be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

Date

7/28/14

By

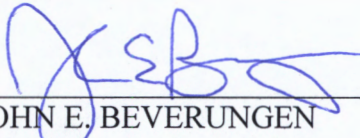
Sen

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners 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.

JEB/sln



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 7-28-14

By bw

KEVIN KAMENETZ
County Executive



LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

July 28, 2014

Raymond D. Burke, Esquire
Ober, Kaler, Grimes & Shriver
100 Light Street
Baltimore, Maryland 21202

RE: Petition for Special Exception
Case No.: 2014-0233-X
Property: 8888 Waltham Woods Road

Dear Counsel:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: David Karceski, Esquire,
Venable, LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 8888 WALTHAM WOODS ROAD, BALTIMORE, MD. 21234 which is presently zoned BL
 Deed References: 21157/369 10 Digit Tax Account # 18-00-003190
 Property Owner(s) Printed Name(s) NORTH PLAZA I, LLC, NORTH PLAZA II, LLC & NORTH PLAZA III, LLC

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1 a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine Whether or not the Zoning Commissioner should approve

2 X a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for under Section 422.1. A BCZR

An arcade in a Pizza Restaurant/Family Entertainment Center with more than four (4) coin operated amusement devices is

3 a Variance from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s)

Contract Purchaser/Lessee:

CEC ENTERTAINMENT, INC. BY DEBORAH SHANNON, ASST. SEC.

Name- Type or Print

Deborah Shannon

Signature

4441 W. AIRPORT FRWY. IRVING TX.

Mailing Address City State

75062 972.258.5457 DSHANNON@CECENTERTAINMENT.COM
 Zip Code Telephone # Email Address

Attorney for Petitioner:

Raymond Daniel Burke

Name- Type or Print

Raymond Daniel Burke

Signature Over Kaler Grimes & Striver

100 Light St. Balto. Md

Mailing Address City State

21202 410-347-7392 rdburke@over.com
 Zip Code Telephone # Email Address

Legal Owners (Petitioners):

NORTH PLAZA I, LLC, NORTHPLAZA II, LLC &

NORTH PLAZA III, LLC by CRC Manager, LLC, Manager of each

Name #1 - Type or Print

Name #2 - Type or Print

By: Gene C. Parker, Jr., Vice President

Signature #1

Signature #2

1427 CLARKVIEW RD, STE. 500, BALTIMORE, MD

Mailing Address City State

21209 410-296-4800 GeneP@crcrealty.com
 Zip Code Telephone # Email Address

Representative to be contacted:

Raymond Daniel Burke

Name - Type or Print

Raymond Daniel Burke

Signature Over Kaler Grimes & Striver

100 Light St. Balto. Md 21202

Mailing Address City State

21202 410-347-7392 rdburke@over.com
 Zip Code Telephone # Email Address

CASE NUMBER 2014-0233-X

Filing Date 5/7/14

Do Not Schedule Dates:

Reviewer RJD

ORDER RECEIVED FOR FILING

REV 10/4111

Date 7/28/14

By Den

original

EXHIBIT A
Legal Description of North Plaza

BEGINNING FOR THE SAME at a point on the southeast right of way line of Perring Parkway, as shown on State Roads Commission of Maryland plat no. 44256, where said line is intersected by the first or South 66 degrees 52 minutes 30 seconds West 52.80 foot line of the land conveyed by the Bryn Mawr Realty Company to Leonard Stulman and wife by deed dated June 20, 1962 and recorded among the Land Records of Baltimore County in Liber W.J.R. 4005, page 153, running thence binding on said right of way line:

- 1) North 30 degrees 33 minutes 24 seconds East 3.03 feet, thence binding on said right of way line, as shown on State Road Commission of Maryland Plats 44257 and 44259, 9 courses;
- 2) North 45 degrees 37 minutes 44 seconds East 85.56 feet; thence
- 3) North 27 degrees 25 minutes 51 seconds east 241.84 feet; thence
- 4) Northeasterly, by a curve to the right with the radius of 2764.79 feet, the distance of 379.79 feet, the chord of said arc being North 41 degrees 13 minutes 25 seconds East 379.49 feet; and
- 5) North 60 degrees 06 minutes 01 seconds East 60.60 feet; thence
- 6) North 42 degrees 05 minutes 39 seconds East 148.00 feet; thence
- 7) Northeasterly by a curve to the right 613.34 feet, said curve having a radius of 2764.79 feet and a chord of North 55 degrees 47 minutes 39 seconds East 612.08 feet; thence
- 8) North 62 degrees 08 minutes 58 seconds East 155.48 feet; thence
- 9) North 84 degrees 06 minutes 36 seconds East 66.85 feet; and
- 10) South 75 degrees 17 minutes 27 seconds East 34.01 feet to a point on the southwest side of Waltham Woods Road, as shown on the plat of "Kenilworth at Perring Park" recorded among the aforementioned Land Records in Plat Book O.T.G. 31, page 30, thence binding on the southwest and northwest side of said Waltham Woods Road, 6 courses:
- 11) South 27 degrees 51 minutes 02 seconds east 204.21 feet,
- 12) Southerly, by a curve to the right with the radius of 630.89 feet, the distance of 645.00 feet, the chord of said arc being South 01 degrees 26 minutes 16 seconds West 617.27 feet,
- 13) South 30 degrees 43 minutes 35 seconds West 308.17 feet,
- 14) Southwesterly, by a curve to the right with the radius of 660.00 feet, the distance of 283.56 feet, the chord of said arc being South 43 degrees 02 minutes 05 seconds West 281.39 feet,
- 15) South 55 degrees 20 minutes 35 seconds west 114.75 feet, and
- 16) Southwesterly, by a curve to the left with the radius of 740.00 feet, the distance of 381.03 feet, the chord of said arc being South 40 degrees 35 minutes 31 seconds West 376.84 feet to the beginning of the sixth line of the 0.7981 acre parcel of land described in the deed from Rosa J. Kolker and others, to Leonard Stulman and wife, dated December 10, 1965 and recorded among said land records in Liber O.T.G. 4560, page 605, thence binding on said sixth line,
- 17) North 59 degrees 13 minutes 30 seconds West 6.15 feet, thence binding on the fourth or last line of the first parcel of land, as conveyed by white acres, inc. to Leonard Stulman and wife by Deed dated April 25, 1963 and recorded among said Land Records in Liber R.R.G. 4137, page 102, and continuing the same course along the north end of Oakmont Avenue,
- 18) North 59 degrees 13 minutes 30 seconds West 240.00 feet to a point on the northwest side of said Oakmont Avenue and on the eleventh or South 30 degrees 46 minutes 30 seconds West 342.40 foot line of the land conveyed by the Bryn Mawr Realty Company to Leonard Stulman

and wife, as aforesaid, thence binding on the northwest side of said Oakmont Avenue and on a part of said eleventh line,

- 19) South 30 degrees 46 minutes 30 seconds West 92.40 feet, thence still binding on the outlines of said last mentioned land three courses:
- 20) North 23 degrees 07 minutes 30 seconds West 125.00 feet,
- 21) South 66 degrees 52 minutes 30 seconds West 200.00 feet, and
- 22) North 23 degrees 07 minutes 30 seconds West 471.12 feet to the beginning of said last mentioned land, and thence binding on a part of the first line thereof,
- 23) South 66 degrees 52 minutes 30 seconds West 35.91 feet to the place of beginning.

Containing 31.5671 acres of land more or less.

Together with the benefit of the easement established by Access Easement Agreement dated December 28, 2004 and recorded among the Land Records of Baltimore County in Liber 21186, folio 522 by and between Perring Parkway Marketplace, LLC and North Plaza I, LLC, North Plaza II, LLC and North Plaza III, LLC.

MAI LLC

SURVEYORS

EXHIBIT B
Legal Description of CEC Entertainment
Restaurant Space at North Plaza
BOUNDARY • ALTA/ACSM • TOPOGRAPHIC • CONSTRUCTION • AS-BUILT
Veteran Owned Small Business (SBE No: SB11-4811)

LEASE DESCRIPTION

Chuck-E-Cheese
North Plaza Shopping Center
9th Election District
Baltimore County, Maryland

Commencing from the beginning of the fourth line of the conveyance by deed dated 15 December 2004 from Frank T. Gray, Shale D. Stiller and Walter D. Pinkard, Jr., personal representatives of the Estate of Leonard Stulman to North Plaza I, LLC, a Maryland limited liability company, North Plaza II, LLC, a Maryland limited liability company and North Plaza III, LLC, a Maryland limited liability company, which deed is recorded among the Land Records of Baltimore County, Maryland in Liber No. 21157, folio 369; thence running with and binding on a portion of said fourth line by a curve to the right with a radius of 2,764.79 feet a length of 192.64 feet and being subtended by a chord bearing and distance of N 39 deg. 17 min. 04 sec. E a distance of 192.60 feet; thence crossing the lands of said conveyance, S 48 deg. 43 min. 10 sec. W a distance of 74.85 feet to the true point of beginning of this Lease Description being described as follows:

BEGINNING at a point intended to be the back of the existing wallboard of the lease space being described and running with the back of said wallboard the five (5) following courses:

1. North 41 degrees 29 minutes 04 seconds East a distance of 39.92 feet; thence
2. South 48 degrees 30 minutes 56 seconds East a distance of 34.7 feet; thence
3. North 41 degrees 29 minutes 04 seconds East a distance of 5.0 feet; thence
4. South 48 degrees 30 minutes 56 seconds East a distance of 15.0 feet; thence
5. North 41 degrees 29 minutes 04 seconds East a distance of 51.71 feet to the center of the partition wall between the lease area now being described and the lease area adjoining to the northeast; thence running through the center of said partition wall
6. South 48 degrees 30 minutes 56 seconds East a distance of 123.33 feet to the back of the existing wallboard; thence running with the back of said wallboard
7. South 41 degrees 29 minutes 04 seconds West a distance of 125.52 feet to the center of the partition wall between the lease area now being described and the lease area adjoining to the southwest; thence running through the center of said partition wall
8. North 48 degrees 30 minutes 56 seconds West a distance of 133.79 feet to the back of the existing wallboard; thence running with the back of said wallboard the eight (8) following courses:
9. North 41 degrees 29 minutes 04 seconds East a distance of 33.95 feet; thence
10. North 48 degrees 30 minutes 56 seconds West a distance of 6.6 feet; thence
11. North 41 degrees 29 minutes 04 seconds East a distance of 20.45 feet; thence
12. North 48 degrees 30 minutes 56 seconds West a distance of 10.67 feet; thence
13. South 41 degrees 29 minutes 04 seconds West a distance of 20.43 feet ; thence
14. North 48 degrees 30 minutes 56 seconds West a distance of 6.4 feet; thence
15. South 41 degrees 29 minutes 04 seconds West a distance of 5.07 feet ; thence
16. North 48 degrees 30 minutes 56 seconds West a distance of 15.56 feet to the place of beginning.

CONTAINING 17,500 square feet of space, more or less.

This description was prepared by the undersigned, a
Maryland Registered Property Line Surveyor No. 354

Robert P. Grim

Robert P. Grim, License Renewal 18 Oct. 2014

BOUNDARY • CONSTRUCTION • TOPOGRAPHIC • ALTA/ACSM • AS-BUILT • BUILDING
16951 YORK ROAD • SUITE C • MONKTON, MD 21111 • P (410) 357-8839 • F (410) 357-8839



Item #0233

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

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: 2014-0233-X

Petitioner: North Plaza I, II, III LLC

Address or Location: 8888 Waltham Woods Rd

PLEASE FORWARD ADVERTISING BILL TO

Name: Raymond D. Burke

Address: Ober Kaler Grimes & Shriver

100 Light Street

Baltimore, Md. 21202

Telephone Number: 410-347-7342

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

109896

No.

Date:

5/7/14

PAID RECEIPT

BUSINESS ACTUAL TIME
 5/09/2014 5/08/2014 15:35:19

REG WS05 WALKIN RD05 LRB
 RECEIPT # 736561 5/08/2014
 Dept 5 528 ZONING VERIFICATION
 CR NO. 109896
 Rcpt Tot \$500.00
 \$500.00 CK \$.00 C
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					\$500.00

Total: **\$500.00**

Rec From:

R.D. Burke

For:

zoning hearing - case # 2014-0233-X
CK # 274795

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
 PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

PB

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 7/5/2014

Case Number: 2014-0233-X

Petitioner / Developer: RAYMOND BURKE, ESQ. of OBER KALER~
DEBORAH SHANNON~GENE PARKER, JR.

Date of Hearing (Closing): JULY 25, 2014

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
8888 WALTHAM WOODS ROAD (NORTH PLAZA SHOPPING CENTER)
(1) @ 1ST. ENTRANCE W/S WALTHAM WOODS RD. (1) @ 2ND
ENTRANCE W/S WALTHAM WOODS RD. (1) @ 3RD. ENTRANCE W/S
WALTHAM WOODS RD. (1) E/S PERRING PKWY. REAR ENTRANCE
(1) @ FRONT WINDOW (ON-SITE)

Signs were posted on: JULY 2, 2014



1st Entrance W/S Waltham Woods Road

Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)

2ND ENTRANCE
W/S WALTHAM WOODS RD

ZONING NOTICE

CASE # 2014-0233-X

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

ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: FRIDAY, JULY 25, 2014
AT 10:00 A.M.

SPECIAL EXCEPTION TO USE PROPERTY FOR
AN ARCADE IN A PIZZA RESTAURANT/FAMILY
ENTERTAINMENT CENTER WITH MORE THAN
FOUR COIN OPERATED AMUSEMENT DEVICES,
8888 WALTHAM WOODS ROAD

NOT FORWARDED DUE TO WEATHER OR OTHER CIRCUMSTANCES ARE REQUESTED TO CALL 410-331-1000
DO NOT REMOVE THIS SIGN AND POST UNTIL YOU ARE SO ORDERED BY THE CITY OF LAW
HANDICAPPED ACCESSIBLE

3rd ENTRANCE
W/S WALTHAM WOODS RD

ZONING NOTICE

CASE # 2014-0233-X

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THE ZONING COMMISSIONER
IN TOWSON, MD**

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DO NOT REMOVE THIS SIGN AND POST UNTIL YOU ARE SO ORDERED BY THE CITY OF LAW
HANDICAPPED ACCESSIBLE

E/S PERRING PARKWAY,
REAR ENTRANCE

ZONING NOTICE

CASE # 2014-0233-X

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

ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
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8888 WALTHAM WOODS ROAD

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DO NOT REMOVE THIS SIGN AND POST UNTIL YOU ARE SO ORDERED BY THE CITY OF LAW
HANDICAPPED ACCESSIBLE

FRONT WINDOW
(ON-SITE)



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

July 17, 2014

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, the publication appearing on July 3, 2014.

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

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: #2014-0233-X

8888 Waltham Woods Road

NW/s Waltham Woods Road, 240 ft +/- N of E. Joppa Road

9th Election District - 5th Councilmanic District

Legal Owner(s): North Plaza I, LLC, North Plaza II, LLC &

North Plaza III, LLC by CRC

Contract Purchaser/Lessee: CEC Entertainment Inc.

Special Exception: to use property for an arcade in a Pizza Restaurant/Family Entertainment Center with more than four coin operated amusement devices.

Hearing: Friday, July 25, 2014 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
7/003 July 3 985215



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

June 23, 2014

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2014-0233-X

8888 Waltham Woods Road

NW/s Waltham Woods Road, 240 ft. +/- N of E. Joppa Road

9th Election District – 5th Councilmanic District

Legal Owners: North Plaza I, LLC, North Plaza II, LLC & North Plaza III, LLC by CRC

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Hearing: Friday, July 25, 2014 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Raymond Burke, Ober Kaler, 100 Light Street, Baltimore 21202

Deborah Shannon, CEC Entertainment, 4441 W. Airport Frwy., Irving TX 75062

Gene Parker, Jr., North Plaza LLC, 1427 Clarkview Road, Ste. 500, Baltimore 21209

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, JULY 4, 2014.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 3, 2014 Issue - Jeffersonian

Please forward billing to:

Raymond Burke
Ober Kaler Grimes & Shriver
100 Light Street
Baltimore, MD 21202

410-347-7392

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CASE NUMBER: 2014-0233-X

8888 Waltham Woods Road

NW/s Waltham Woods Road, 240 ft. +/- N of E. Joppa Road

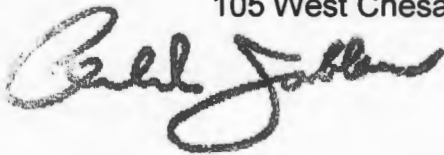
9th Election District – 5th Councilmanic District

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Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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

MEMORANDUM

DATE: August 28, 2014
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2014-0233-X – Appeal Period Expired

The appeal period for the above-referenced case expired on August 27, 2014. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE OFFICE
8888 Waltham Woods Road; NW/S Waltham *
Woods Road, 240' N of E. Joppa Road * OF ADMINISTRATIVE
9th Election & 5th Councilmanic Districts HEARINGS FOR
Legal Owner(s): North Plaza I & II & III, LLC* BALTIMORE COUNTY
Contract Purchaser(s): CEC Entertainment, Inc
Petitioner(s) *
* 2014-233-X

* * * * *

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.

RECEIVED

JUN 16 2014

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of June, 2014, a copy of the foregoing Entry of Appearance was mailed to Raymond Daniel Burke, 100 Light Street, Baltimore, Maryland 21202, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CASE NO. 2014-0233-X

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
7/16/14	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	N/C
_____	DEPS (if not received, date e-mail sent _____)	_____
_____	FIRE DEPARTMENT	_____
6/20/14	PLANNING (if not received, date e-mail sent _____)	N/C
6/9/14	STATE HIGHWAY ADMINISTRATION	NO Obj
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: 7/3/14	
SIGN POSTING	Date: 7/2/14	by O'Keefe
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

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



Maryland Department of Transportation

James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 6/9/14

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

RE: Baltimore County
Item No 2014-0233-X
Special Exception
North Plaza I, LLC, II, LLC III
LLC, Genel. Parker, Jr. & P.
8888 Wettham Woods Road.

Dear Ms. Lewis:

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. 2014-0233-X.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in dark ink, appearing to read "Steven D. Foster".
Steven D. Foster, Chief
Development Manager
Access Management Division

SDF/raz

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.roads.maryland.gov

OBER | KALER
Attorneys at Law

Ober, Kaler, Grimes & Shriver
A Professional Corporation
100 Light Street
Baltimore, MD 21202
410.685.1120 Main
410.547.0699 Fax
www.ober.com

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JUL 23 2014

July 22, 2014

OFFICE OF ADMINISTRATIVE HEARINGS

Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue
Suite 103
Towson, Maryland 21204

Raymond Daniel Burke
rdburke@ober.com
Direct Phone: 410.347.7392
Direct Fax: 443.263.7592

Offices In
Maryland
Washington, D.C.
Virginia

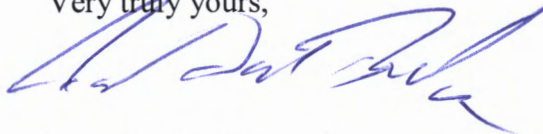
Re: *Petition for Zoning Special Exception*
Case No.: 2014-0233-X8888 Waltham Woods Road

To Whom It May Concern:

Enclosed is a Petitioner's Statement for filing in connection with the above referenced matter scheduled to be heard on Friday, July 25, 2014.

Thank you for your assistance.

Very truly yours,



Raymond Daniel Burke

RDB/smr

cc: Baltimore County Zoning Review Office
2822645 v.1

7-25
10am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: June 20, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED

JUN 23 2014

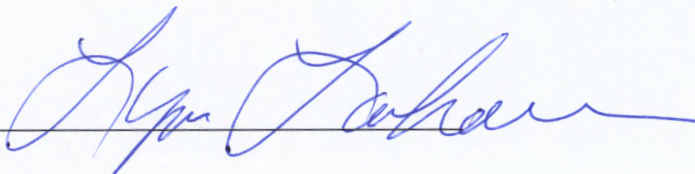
SUBJECT: Zoning Advisory Petition(s) for
Item No: 2014-233

OFFICE OF ADMINISTRATIVE HEARINGS

The Department of Planning has reviewed the above referenced zoning items and has no comments.

For further questions or additional information concerning the matters stated herein, please contact Lynn Lanham at 410-887-3480.

Prepared By: _____



LL/ka

c: John Beverungen, ALJ
Peter Max Zimmerman

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: July 16, 2014

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 16, 2014
Item No. 2014-0233, 0258, 0259, 0260, 0261, 0262 and 0263

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

DAK:CEN
cc:file

G:\DevPlanRev\ZAC -No Comments\ZAC06162014 -.doc

Real Property Data Search (w3)

Guide to search

Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption				View GroundRent R				
Account Identifier:				District - 09 Account Number - 1800003190							
Owner Information											
Owner Name:				NORTH PLAZA I LLC NORTH PLAZA II LLC ET AL				Use: Principal Residence:		COMM NO	
Mailing Address:				1427 CLARKVIEW RD BALTIMORE MD 21209				Deed Reference:		/21157	
Location & Structure Information											
Premises Address:				8858 WALTHAM WOODS RD BALTIMORE MD 21234-2402				Legal Description:		31.721 WALTI 600 N	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:			
0071	0008	0620		0000				2014			
Special Tax Areas:						Town: Ad Valorem: Tax Class:			No		
Primary Structure Built 2001			Above Grade Enclosed Area 67938			Finished Basement Area			Property Land Area 31.7200 AC		
Stories	Basement	Type MARKET	Exterior	Full/Half Bath	Garage	Last Major			2001		
Value Information											
			Base Value		Value As of 01/01/2014		Phase-in Assessment As of 07/01/2013				
Land:			13,180,000		13,180,000						
Improvements			17,820,000		19,894,800						
Total:			31,000,000		33,074,800		31,000,000				
Preferential Land:			0								
Transfer Information											
Seller: STULMAN LEONARD				Date: 12/21/2004				Pr			
Type: NON-ARMS LENGTH OTHER				Deed1: /21157/ 00369				De			
Seller: STULMAN LEONARD				Date: 09/04/1992				Pr			
Type: NON-ARMS LENGTH OTHER				Deed1: /09350/ 00201				De			
Seller:				Date:				Pr			
Type:				Deed1:				De			
Exemption Information											
Partial Exempt Assessments:			Class			07/01/2013			07/01/2		
County:			000			0.00					
State:			000			0.00					

Municipal:	000	0.00 0.00	0.00 0.
Tax Exempt:		Special Tax Recapture:	
Exempt Class:		NONE	
Homestead Application Information			
Homestead Application Status: No Application			

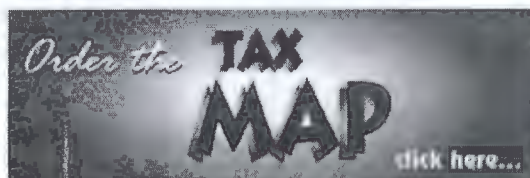
Baltimore CountyNew Search (<http://sdat.resiusa.org/RealProperty>)District: **09** Account Number: **1800003190**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).

[\(http://imsweb05.mdp.state.md.us/website/mosp/\)](http://imsweb05.mdp.state.md.us/website/mosp/)☐ Loading... Please

Loading... Please Wait.

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CASE NAME

CASE NUMBER 2014-0233-X

DATE 7/25/2014

PETITIONER'S SIGN-IN SHEET

[illegible]

Case No.: 2014-0233-X

Exhibit Sheet

Petitioner/Developer

Protestant

EW
8-28-14

slw
7-28-14

No. 1	Petitioners' Statement	
No. 2	Plan	
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PETITIONER'S

EXHIBIT NO. 1

IN RE:
PETITION FOR SPECIAL
EXECEPTION
8888 WALTHAM WOODS ROAD
NW/S Waltham Woods Road
240 ft. +/- N of E. Joppa
North Plaza Mall
9th Election District
5th Councilmanic District

North Plaza I, LLC
North Plaza II, LLC
North Plaza III, LLC
CEC Entertainment, Inc.

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS OF
BALTIMORE COUNTY
Case No.: 2014-0233-X

PETITIONER/TENANT

* * * * *

PETITIONERS' STATEMENT

The Petitioners, North Plaza I, LLC, North Plaza II, LLC and North Plaza II, LLC, ("North Plaza") and the Tenant, CEC Entertainment, Inc., ("CEC"), by their undersigned counsel, pursuant to Sections 422.1 and 423 of the Baltimore County Zoning Regulations, have petitioned for special exception as an arcade, so as to to provide and exception to the number of amusement devices and children's rides permitted on the subject property:

1. North Plaza owns the North Plaza Shopping Center, which is identified in the Legal Description submitted as Exhibit A to the Petition, and has entered into a Lease Agreement with CEC, pursuant to which CEC intends to operate a Chuck E. Cheese restaurant in the retail space designated on the Plat submitted with the Petition, and as is identified in the Legal Description submitted as Exhibit B to the Petition.
2. The Chuck E. Cheese 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.

3. CEC operates two (2) other restaurants in Baltimore County pursuant to special exceptions. *See* Case Nos. 91-318-XA and 91-426-XA. These special exceptions, which were established by Orders of the Baltimore County Zoning Commissioner dated May 3, 1991 and July 17, 1991, granted an arcade to the restaurant operations, and provided a variance from prior B.C.Z.R Sec. 233.2 to permit up to fifty (50) coin-operated children's rides among the unlimited number of amusement devices.
4. On October 22, 2008, the Baltimore County Zoning Commissioner, following a special hearing arising from the re-issuance of licenses for the amusement devices, again determined that both of these Chuck E. Cheese restaurant locations constituted an arcade, and, therefore, are entitled to "an unlimited number of amusement devices." The Commissioner further ruled that, among the amusement devices, CEC was "permitted up to 50 coin operated children's rides" under current zoning regulations. Copies of the Findings of Fact and Conclusions of Law in Case Nos. 2008-0567-SPH and Case No. 2008-0568-SPH are attached hereto as Exhibits 1 and 2. When the Westview location was expanded in 2010, the Zoning Commissioner issued the same special exception for the expanded restaurant. *See* Case No. 2010-0323-SPHX.
5. Section 422.1 of the Baltimore County Zoning Regulations provides as follows:

A.

Amusement devices are permitted as of right in the B.L., B.M. and B.R. Zones when used in combination with (1) a tavern; (2) a bowling alley; (3) a hotel or motel; (4) billiard or pool rooms; (5) skating rink; (6) airport; (7) boatyard/marina; (8) bus, train, boat terminal; (9) community building; (10) racetrack; (11) restaurant; (12) miniature golf; (13) truck stop; (14) swimming pool; (15) social, fraternal or veteran clubs; (16) indoor tennis and racquet clubs; (17) public bathing beaches; or (18) other uses which the Zoning Commissioner finds, after public hearing, to be entertainment, leisure or recreation oriented; and provided, however, that no more than four amusement devices shall be permitted unless a special exception for an arcade is obtained.

B.

One amusement device, or two such devices if the net floor area of the location's interior space actually devoted to the principal use exceeds 1,500 square feet, is permitted as a matter of right in the B.L., B.M., B.R and M.L. Zones when in combination with uses which are not entertainment, leisure or recreation oriented. The square footage required by this subsection need not be devoted exclusively to the amusement device or devices.

[Bill No. 96-2005]

C.

Amusement devices are permitted as of right in the Manufacturing, Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office and Office Zones when used in combination with, and accessory to, any entertainment, leisure or recreation oriented principal use provided for in Section 422.A, provided that:

1.

The amusement devices are located on the same lot as the principal use.

2.

The amusement devices are located within a building which houses the principal use or which houses facilities that are incidental to the principal use.

3.

No more than four amusement devices are used in combination with the principal use.

4.

In the Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office, and Office Zones, the principal use is operated as a private club for the benefit of persons who are bona fide members paying dues for the principal use, and the use of the amusement devices is restricted to such members and their guests and is not available for use by the general public or to lessees of said private club.

6. Section 423 of the Baltimore County Zoning Regulations provides as follows:

A.

An arcade is permitted as of right in the B.L., B.M. and B.R. Zones when located in (1) a bowling alley; (2) a hotel or motel; or (3) billiard or pool rooms, or when located in an enclosed mall, provided that public access to the arcade (except for emergency use) may only be via the enclosed concourse. Any number of amusement devices is permitted in an arcade, except that in a billiard or pool room, a maximum of 2 1/2 amusement devices is permitted for each regulation-size billiard or pool table in the room unless a special exception is obtained for a greater number of amusement devices. (As used herein, a "regulation-size billiard or pool table" is a table which requires for its use a minimum floor area of 192 square feet.)

B.

An 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.

C.

An arcade is permitted by special exception in the Manufacturing, Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office

and Office Zones when used in combination with, and accessory to, any entertainment, leisure or recreation oriented principal use provided for in Section 422.A, provided that:

1.

The arcade is located on the same lot as the principal use.

2.

The arcade is located within a building which houses the principal use or which houses facilities that are incidental to the principal use or, notwithstanding the definition of the term "arcade," the arcade is located under an unenclosed permanent roofed structure which is attached to such a building.

3.

The arcade is clearly subordinate in area, extent and purpose to the principal use.

4.

The Zoning Commissioner specifies the maximum number of amusement devices to be maintained in the arcade.

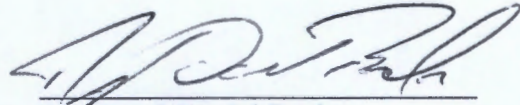
5.

In the Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office and Office Zones, the principal use is operated as a private club for the benefit of persons who are bona fide members paying dues for the principal use and the use of the arcade is restricted to such members and their guests and is not open to the general public or to lessees of said private club.

7. Pursuant to B.C.Z.R. Sec. 422.1A, "no more than four amusement devices shall be permitted unless a special exception for an arcade is obtained."
8. Petitioners seek a special exception as an arcade, which will provide an exception to the limit of four (4) amusement devices provided for in B.C.Z.R. Sec. 422.1, so as to provide for an unlimited number of coin-operated amusement devices, including games and up to fifty (50) children's rides, as has been permitted at the other Chuck E. Cheese restaurant locations in Baltimore County.
9. The special exception as an arcade as to the number of permitted coin-operated amusement devices and children's rides is essential to the nature and concept of the restaurant operation, and has been permitted at the other Chuck E. Cheese restaurant operations in Baltimore County.

WHEREFORE, the Petitioners request that a special exception be granted regarding the limit of four (4) amusement devices contained in B.C.Z.R. Sec. 422.1, so as to permit the tenant, CEC Entertainment, Inc. an unlimited number of coin-operated amusement devices, including games and up to fifty (50) children's rides, as part of its restaurant operation at the subject property.

Respectfully submitted,



Raymond Daniel Burke
OBER, KALER, GRIMES & SHRIVER
100 Light Street
Baltimore, Maryland 21202
Phone: 410-347-7392
Fax: 443-263-7592
Email: rdburke@ober.com

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
956 feet W of Baltimore National Pike and		
Engleside Avenue intersection	*	DEPUTY ZONING
1 st Election District		
1 st Councilmanic District	*	COMMISSIONER
(5780 Baltimore National Pike)		
	*	FOR BALTIMORE COUNTY
Westveiw Center Associates, LLC/		
Wharton Realty Group	*	
<i>Petitioner</i>		
CEC Entertainment, Inc.	*	Case No. 2008-0567-SPH
<i>Lessee</i>		

* * * * *

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.

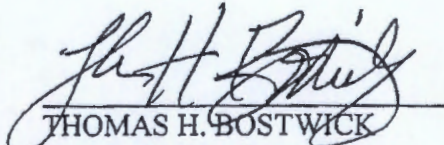
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of October, 2008 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to determine that under the Order dated July 17, 1991 (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

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
N side of Eastern Blvd., at the intersection		
of Eastern Boulevard and Willis Avenue	*	DEPUTY ZONING
15 th Election District		
7 th Councilmanic District	*	COMMISSIONER
(8374 Eastern Blvd.)		
	*	FOR BALTIMORE COUNTY
ORIX Capital Markets LLC/		
D.P. Plaza, LLC	*	
<i>Petitioner</i>		
CEC Entertainment, Inc.	*	Case No. 2008-0568-SPH
<i>Lessee</i>		

* * * * *

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 ORIX Capital Markets, LLC/D.P. Plaza, LLC, 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 May 3, 1991 (Case No. 91-318-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 May 3, 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 34.70 acres, more or less, zoned B.R., with a very small portion zoned D.R.16. The property is utilized as a retail shopping center known as Diamond Point Plaza and is situated on the north side of Eastern Boulevard just east of the Baltimore Beltway (Interstate 695) and is bordered to the north and east by Diamond Point Road in the Essex area of Baltimore County. There are a number of retail stores at the location and Petitioner operates a "Chuck E. Cheese" restaurant on the subject property. 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 May 3, 1991 in Case No. 91-318-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 May 3, 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 11, 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 were received and are made a part of the record of this case. The comment from the Office of Planning dated June 25, 2008 indicates that office does not oppose Petitioner's 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.

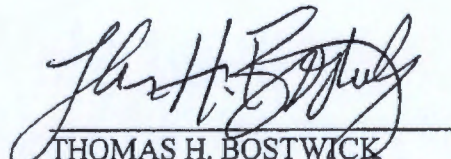
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of October, 2008 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to determine that under the Order dated May 3, 1991 (Case No. 91-318-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 May 3, 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.

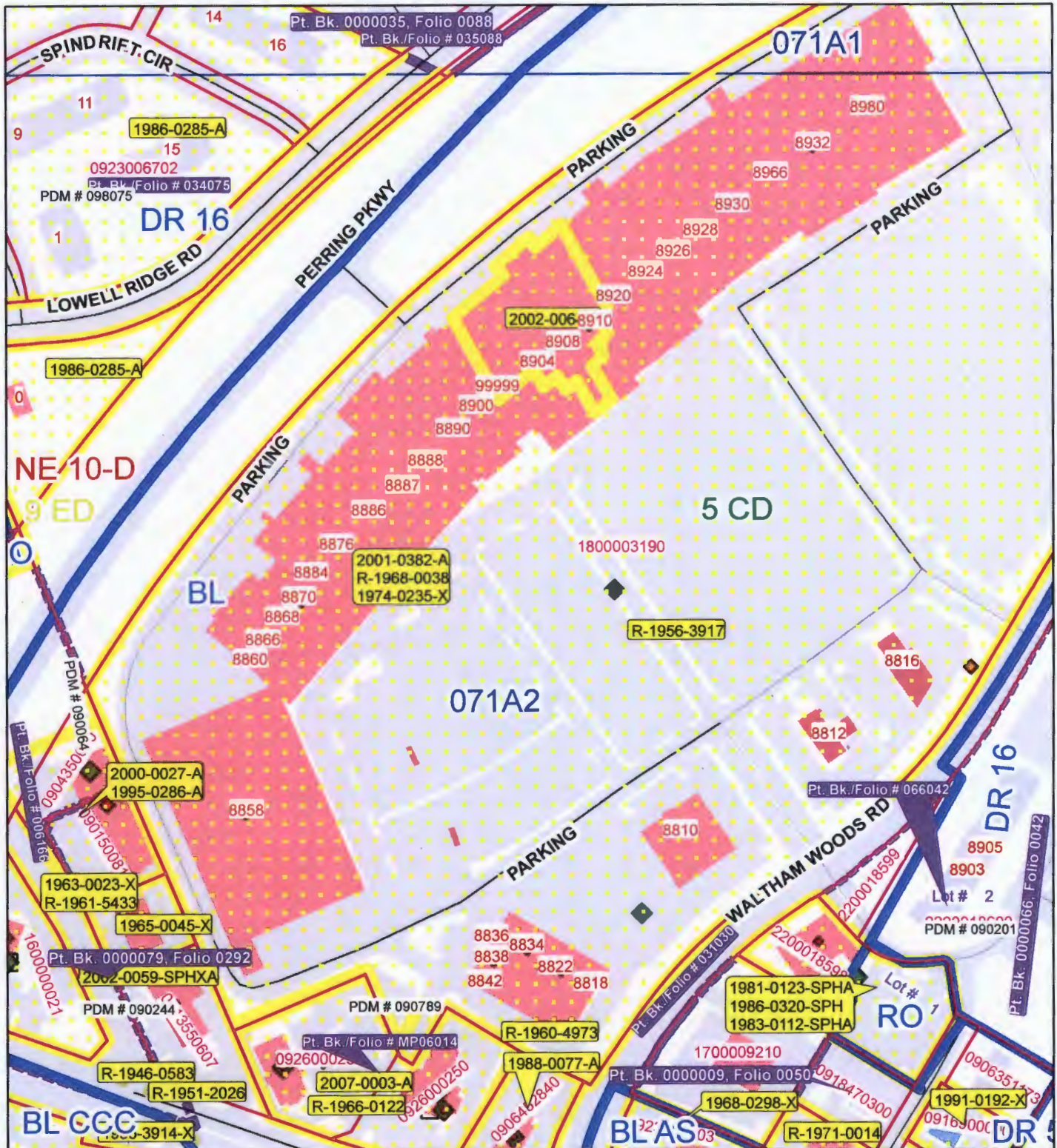
Any appeal of this decision must be made within thirty (30) days of the date of this Order.



THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

8888 Waltham Woods Road, North Plaza Mall



Publication Date: 5/7/2014



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 50 100 200 300 400 Feet

1 inch = 200 feet

Item #0233

