IN RE: **PETITION FOR SPECIAL HEARING**	*	BEFORE THE
(105 Carroll Island Road)		
15th Election District	*	OFFICE OF
6th Council District		
CSG Development, LLC	*	ADMINISTRATIVE HEARINGS
Legal Owner	*	FOR BALTIMORE COUNTY
Carroll Island Realty LLC, by Nilkanth Patel, Member	*	**Case No: 2021-0126-SPH**
	*	
Contract Purchaser		
	*	
Petitioners		

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH)" as a Petition for Special Hearing filed by CGS Development, LLC, Legal Owner and Carroll Island Realty, LLC, by Nilkanth Patel, Member, Petitioners. The Special Hearing was filed to allow the retail sale of baked goods (Dunkin' Donuts Store) pursuant to the Baltimore County Zoning Regulations ("BCZR") § 229.4.A.1 with a drive-through lane.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted.

A Substantive Zoning Advisory Committee ("ZAC") comment was received from the Department of Planning ("DOP") on May 18, 2021. They did not oppose the requested relief, provided their concerns about traffic and limited site distance at the entrance were adequately addressed. On June 10, 2021 an Amended Comment was received from DOP stating that the Petitioner had provided additional information which satisfied those concerns and that they no longer opposed the requested relief.

Mr. Patel appeared in support of the Petition. Timothy Kotroco, Esquire represented the

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Petitioners. Valek Zarski, P.E., of Baltimore Land Design Group, Inc. also appeared. The site plan that he prepared and sealed was admitted as Petitioner's Exhibit 1. He was accepted as an expert in engineering, land use and planning, and in the BCZR. The subject is 1.24 acres and is zoned C.B. (Community Business). It is located in Bowley's Quarters.

Mr. Kotroco explained that Mr. Patel owns and operates the Dunkin Donuts in the Carroll Island Shopping Center. The proposal is to relocate that Dunkin Donuts to an existing strip mall across Carroll Island Road and to add a drive-thru lane. The new Dunkin Donuts store will occupy the space currently occupied by a "Game Stop" store at the end of this strip mall, as depicted in Petitioner's Exhibit 3A. Mr. Kotroco further explained that the peak hours for Dunkin Donuts franchises are the morning hours and that this side of the street is the "a.m." side because motorists pass this side of the street on their way out of the Bowleys Quarters peninsula. Therefore, these residents will be able to turn directly right into this location on their way to work in the morning, whereas the current location requires a left turn across traffic for those morning commuters. As a result, this location will actually improve traffic flow. In response to a question from one of the other commercial tenants in this strip mall, Mr. Kotroco explained that there is sufficient room adjacent to the proposed drive thru lane to accommodate service and delivery vehicles for the adjacent tenants. I also note that there is a full sidewalk running the length of the strip mall that also provides access to the rear service doors of each adjacent business. Mr. Kotroco also noted that all parking and stacking regulations will be met. Finally, he urged that BCZR § 229.4.A.1 should be interpreted to permit drive-thru lanes for restaurants such as this Dunkin Donuts, provided that all other zoning requirements are met. He reasoned that drug stores are generally permitted to have drive-thru lanes for customers picking up prescriptions, and that drug stores are listed in the same sub-section as bakeries.

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Based on the evidence presented I find that the requested relief is within the spirit and intent of the BCZR and will not harm the public health, safety, or welfare. I specifically find that the relocation of this business will actually improve the traffic flow during the morning rush hour. Further, I agree that as a general rule drive-thru lanes are permitted in C.B. zones for businesses such as this Dunkin Donuts, provided that all other zoning regulations are met.

Good cause having been shown it is, THEREFORE, ORDERED this **28th** day of June, **2021** by this Administrative Law Judge that the Petition for Special Hearing to allow the retail sale of baked goods (Dunkin' Donuts Store) pursuant to the BCZR § 229.4.A.1 with a drive-through lane is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

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

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm

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JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

June 28, 2021

Timothy Kotroco, Esquire – tkotroco@gmail.com

RE: Petition for Special Hearing
Case No. 2021-0126-SPH
Property: 105 Carroll Island Road

Dear Mr. Kotroco:

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

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Enclosure
c: CGS Development, LLC – toms701@verizon.net
Carroll Island Road, LLC –nilkanth_patel@yahoo.com