

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1630 E. Joppa Road)		
9 th Election District	*	OFFICE OF
6 th Council District		
Flagship Maryland Propco, LLC	*	ADMINISTRATIVE HEARINGS
aka Spotless Brands	*	
	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>	*	
Petitioner	*	Case No. 2023-0229-SPH &
	*	2024-0123-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of two (2) Petitions for Special Hearing filed on behalf of Flagship Maryland Propco, LLC, legal owner “Spotless Brands” (“Flagship”) for the property located at 1630 E. Joppa Road, Loch Raven (the “Property”). The first Petition for Special Hearing in Case No.: 2023-0229-SPH was filed on October 30, 2023 under Baltimore County Zoning Regulations (“BCZR”), §500.7 to extend the Special Exception approved in Case No.: 2021-0199-X for three (3) additional years pursuant to BCZR, §502.3. The second Petition for Special Hearing in Case No.: 2024-0123-SPH was filed on May 13, 2024, under Baltimore County Zoning Regulations (“BCZR”), §500.7 to: (a) determine “the date of the final order,” for purposes of BCZR, §502.3, in Case No.: 2021-0199-X; and (b) determine that the Special Exception granted in Case No. 2021-0199-X was utilized “within a period of two years from the date of the final order” issued in that case, in accordance with BCZR, §502.3.

In Case No.: 2023-0229-SPH, a hybrid public in-person/virtual Webex hearing was conducted on May 15, 2024 at 105 W. Chesapeake Ave., Rm 205. The Petition was properly advertised and posted. Ray Garganio, Vice President of Construction and Development for

Flagship, and Lee May, also with Flagship, appeared in support of the Petition. Matthew Bishop, PLA, of Kimley-Horn, prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 1). Christopher Mudd, Esquire, and Matthew Alsip, Esquire of Venable, LLP represented the Petitioners. Peter Moulder, Vice President of Associates of Loch Raven Village testified in opposition. Additionally, Jordan Levine, 8725 Loch Raven Blvd., also testified in opposition. At the request of the Petitioner, and due to the filing of Case No.: 2024-0123-SPH on May 13, 2024, a decision on the merits of Case No.: 2023-0229-SPH was held *sub curia*.

In Case No.: 2024-0123-SPH, a public, virtual hearing was held via Webex on September 11, 2024. The Petition was properly advertised and posted. Ray Garganio, Vice President of Construction and Development for Flagship, appeared in support of the Petition. Matthew Bishop, PLA, of Kimley-Horn, prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 8). Christopher Mudd, Esquire, and Matthew Alsip, Esquire of Venable, LLP represented the Petitioners. Peter Moulder, Vice President of Associates of Loch Raven Village, and Jordan Levine, 8725 Loch Raven Blvd. again testified in opposition.

In both Cases, Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and Department of Environmental Protection and Sustainability (“DEPS”) which agencies did not oppose the requested relief. Development Plans Review (“DPR”)/Department of Public Works and Transportation (“DPWT”) provided a ZAC comment in Case No.: 2024-0123-SPH indicating a Landscaping Plan and a Lighting Plan were required.

Petitioner’s Case.

The Property is 0.9651 acres +/- (41,995 sf) and is unimproved due to razing of a former restaurant. (Pet. Ex. 2A-2J). The Property is split-zoned Business, Major (BM), Business,

Roadside (BR) and Business, Local (BL).¹ It is also located within the Baynesville Commercial Revitalization Area and within a Design Review Panel (“DRP”) area. The Property fronts on a busy commercial section of Joppa Rd. adjacent to an ABC Equipment Rental business, a Days Inn, and a NY Fish and Chips restaurant. Located to the east behind the Property is the Injured Workers Insurance Fund (“TWIF”). (Pet. Ex. 2A-2J). Across Joppa Rd. to the west side of Joppa Rd. is a used-car business and other fast-food restaurants.

The Property was the subject of Case No.: 2021-0199-X in which a Special Exception was granted on November 2, 2021 for a roll-over car wash to be constructed and operated as ‘Green Clean Car Wash’ (“Green Clean”). At the time of the 2021 hearing, the vacant restaurant building was still present, on a paved parking lot, with a wooden fence surrounding the Property. At the 2021 hearing, there was no opposition in that Case and no appeal was filed. On September 12, 2023, Green Clean’s counsel filed a request for a 3-year Extension of the Special Exception which was granted the same day. However, on September 22, 2023, People’s Counsel filed a Motion for Reconsideration which was granted on October 4, 2023. As a result, on October 30, 2023, Flagship filed Case No.: 2023-0229-SPH seeking a 3-year Extension. On May 13, 2024, Flagship filed for alterative relief with the Petition for Special Hearing in Case No.: 2024-0123-SPH seeking factual findings regarding the utilization of the Special Exception, and the applicable time period.

In Case No.: 2023-0229-SPH, and Case No.: 2024-0123-SPH, both Mr. Garganio and Mr. Bishop testified on behalf of Flagship, providing a chronology of events. In the 2021 Case, Mr. Bishop was also accepted as an expert in landscape architecture. Mr. Bishop confirmed that the Site Plan he prepared and sealed for the Flagship car wash in both Case No.: 2023-0229-SPH and 2024-0123-SPH, is the same Site Plan he prepared and sealed, and which was approved for Green

¹ See My Neighborhood information.

Clean car wash in the Order and Opinion in Case No.: 2021-0199-X. Mr. Bishop testified that on October 20, 2023, the County approved the Grading and SWM Plans, that on October 23, 2023, the County approved the Environmental Agreement, and that on October 25, 2023, the County approved the Erosion and Sediment Control Plans. He also stated that each of those approved plans were specific to a car wash use. Based on those approved plans, the Grading and SWM Permits were issued on November 18, 2023.

In Case No.: 2024-0123-SPH, Petitioner provided a list of construction and/or construction-related activities which occurred prior to November 2, 2023:

1. March 10, 2021 – DRP public meeting to review design of Green Clean Car Wash.
2. March 25, 2021 – Permits, Approvals and Inspections (“PAI”) issued an agency decision approving the DRP’s recommendation of the Green Clean car wash design. (See Green Clean Ex. 7 – Case No.: 2021-0199-X). No appeal of the PAI decision was taken to Board of Appeals.
3. April 14, 2021 – Based on DRP’s recommendations, Green Clean submitted a revised site plan to DOP as requested for review. Green Clean was specifically requested to create an access easement on the east side of the Property for the benefit of The Days Inn. (See Green Clean Ex. 1 – Case No.: 2021-0199-X).
4. October 5, 2021 – DOP issued ZAC comment recommending approval of Green Clean’s revised site plan addressing the DRP conditions. (Case No.: 2021-0199-X – DOP ZAC comment).
5. October 18, 2021 – Zoning Hearing (public) on Special Exception for car wash in Case No.: 2021-0199-X. There was no opposition.
6. ***November 2, 2021 – Opinion and Order granted Special Exception for car wash in Case No.: 2021-0199-X.***
7. November 16, 2021 – DRC granted Green Clean a limited exemption to construct a car wash as a minor commercial

structure under BCC, §32-4-106 (a)(1)(vi). (See County Records - Case No.: DRC-2021-0154). No appeal was taken of the PAI decision to the Board of Appeals.

8. February, 2022 – Kimley-Horn filed first set of civil engineering plans for Green Clean car wash needed to obtain Grading and SWM Permit:

- a. SWM plans;
- b. Erosion/Sediment Control plans;
- c. Landscaping plan;
- d. Road Improvements plan;
- e. Water, Sewer, Storm Drain plans.

(Testimony M. Bishop, PLA – May 15, 2024 hearing in Case No.: 2023-0229-SPH).

9. December, 2022 – All County agencies approved (above) plans.

(Testimony M. Bishop, PLA – May 15, 2024 hearing in Case No.: 2023-0229-SPH).

10. Jan-March, 2023 – Kimley-Horn filed the first Public Right of Way Agreement and Environmental Agreement.

11. August, 24, 2023 – Flagship purchased Property from Green Clean to build a car wash using same site plan.

12. September 12, 2023 – Green Clean, through Counsel, requested a 3-year extension of the Special Exception.

13. September 12, 2023 – ALJ Mayhew signed and approved the 3-year extension of the Special Exception.

14. September 22, 2023 – People’s Counsel filed a Motion for Reconsideration of the 3-year extension of the Special Exception.

15. October 1, 2023 – Flagship secured and boarded up the vacant restaurant and removed illegal occupants to prepare it for demolition. (Pet. Ex. 2D).

16. October 2, 2023 – Flagship removed limited materials from building in preparation for demolition; performed rough grading; demolished and removed paving and concrete. (Pet. Ex. 2F).

17. October 4, 2023 – Order Granting Special Exception Extension reversed.
18. October 6, 2023 – Flagship removed portions of wood stockade fence and installed a chain link perimeter fence for construction. (Pet. Ex. 2E, 2F). Flagship demolished concrete and paving to disconnect utilities by certified utilities contractor in anticipation of demolition permit. (Pet. Ex. 2G, 2H).
19. October 7, 2023 – retained civil engineers, Kimley-Horn to obtain Grading Permit.
20. October 13, 2023 – Contractor hired by Flagship removed remaining portions of wood stockade fence and installed a second, new fence around the jobsite with vinyl mesh for demolition/construction per County. (Pet. Ex. 2H, 2I, 2J).
21. October 17, 2023 – Kimley-Horn filed a second set of civil engineering plans including Grading, Stormwater Management, and Erosion and Sediment Control plans and a second Environmental Agreement, all in support of a Grading Permit application, as well as paying securities.
22. October 20, 2023 – Flagship retained Chesapeake Contracting Group to construct car wash.
23. October 20, 2023 – DEPS approved the Final Grading Plan and the Stormwater Management Plan. (Pet. Exs. 9, 10).
24. October 23, 2023 – County approved the Environmental Agreement.
25. October 30, 2023 – Flagship retained BGE consultant for coordinating electric and natural gas services for car wash.
26. October 31, 2023 – County approved and signed off on Grading, Stormwater Management and Erosion & Sediment Control plans.
27. November 1, 2023 – County uploaded the approved Grading, Stormwater Management and Erosion & Sediment Control mylars to the Baltimore County permit portal.

28. November 2, 2023 – Zoning Office approved Grading and SWM Permits in Permit Portal.

Between August 24, 2023 to November 2, 2023, Flagship spent \$520,000.00 for construction and construction-related activities including construction work in demolition of the site; engineering fees; architectural drawings; hired a general contractor for the car wash construction; and paid fees for permits and bonds. Due to his involvement with the proposed Green Clean car wash, Mr. Bishop testified that Green Clean undertook construction activities by abating lead paint and asbestos from vacant restaurant, remediating hazardous materials, disconnecting utilities with BGE, and stabilizing the site. It was Mr. Bishop's opinion that all activities undertaken by Green Clean and Flagship prior to sale in August of 2023, were performed with reasonable diligence, and in the pursuit of constructing a car wash. He added that the Grading Permit was specifically for 44,000 sf car wash and was issued based on the approved Grading Plan. (Pet. Ex. 5). Similarly, the SWM Permit was for 0.18 acres drainage area for a future car wash. (*Id.*).

After November 2, 2023, Mr. Garganio testified that Flagship continued to perform construction and construction-related activities in pursuit of the car wash and spent an additional \$120,000.00. A chronology of those activities and the County approvals were provided. (Pet. Ex. 4). In particular, on November 3, 2023, the County approved the Grading Permit and Stormwater Management Permit for a car wash use. (Pet. Ex. 5). The demolition permit for the vacant restaurant was issued December 12, 2023. (*Id.*). In January of 2024, the building permit was placed on hold pending the outcome of this Case. Mr. Garganio explained that, if the building permit had been issued, the car wash would have been open and operating by July, 2024. Mr. Bishop reiterated that the hold on the building permit has delayed construction of the building. (Pet. Ex. 14).

Mr. Bishop opined that while the utilization time period in BCZR, §502.3 begins with the date of the “final order”, that term is not defined in BCZR, and therefore the definition in Webster’s Third New Dictionary controls. Mr. Bishop researched the definition of “final” and found it to mean “not to be altered or undone.” (Pet. Ex. 11). Based on that definition, he then further opined that a “final order” is one that is unappealable. As such, he reasoned that the date of the final order in Case No.: 2021-0199-X is December 2, 2021, 30-days after the appeal period would have run. It was Mr. Bishop’s view that, based on the chronology of construction-related events performed by both Green Clean and Flagship prior to and on November 2, 2023, as well as the construction events performed by Flagship after November 2, 2023, that the Special Exception had been “utilized” under BCZR, §502.3.

Mr. Bishop again referred to Webster’s Third New Dictionary for the definition of “utilize” (“to make use of: turn to practical use or account”) and “construction” (the “process, the art or manner of constructing something”). (Pet. Exs. 12, 13). Toward that end, Mr. Bishop opined that both Green Clean and Flagship have “commenced construction” and have therefore “utilized” the Special Exception under BCZR, §502.3. He clarified that neither substantial completion, nor total completion of construction is required, only commencement of construction. Upon further inquiry, because it could not be confirmed that the Merriam-Webster’s definitions submitted by Flagship were taken from the “most recent” version as required in BCZR, §101.1, when shown the definitions of “utilize” and “construction” from the 2024 Merriam-Webster’s dictionary, Mr. Bishop testified that his opinion would not change in that the construction and construction-related activities by Green Clean and Flagship met those 2024 definitions. (See File). Lastly, it was Mr. Bishop’s professional opinion that if a finding is made in Case No.: 2024-0123-SPH that the

Special Exception was utilized through the construction prior to expiration, there is no need to issue an extension as requested in Case No.: 2023-0199-SPH.

Protestants Case.

Peter Moulder, as Vice President of Associates of Loch Raven Village, testified that his community association is comprised of 1,472 homes located in and around Loch Raven Blvd. and E. Joppa Rd. In support of Protestant's case, Mr. Moulder submitted 10 documents which were admitted into evidence in both Cases. Adopting the argument of People's Counsel as contained in a letter dated July 24, 2023 to the Board of Appeals in a different car wash case (Case No.: 2022-291-XA). (Prot. Ex. 1-4), Protestants argue that a stand-alone car wash is only permitted in a C.R., C.C.C., A.S. or LM overlay district. (Prot. Ex. 1-1 through 1-4). He also provided information that the intersection of Loch Raven Blvd. and E. Joppa Rd. is rated as an 'F' intersection while also submitting a Commercial Revitalization District map exempting the Property from the Basic Services Map. (Prot. Ex. 2-3, 2-4).

Mr. Moulder testified that traffic has increased since 2021. Loch Raven Village Associates is opposed to having another automotive use on E. Joppa Rd. The recent Dunkin Donuts restaurant located on E. Joppa Rd. backs up traffic in the morning. Using the aerial photograph, he pointed out that there is a school bus stop across from the Property. There is also an MTA bus stop. Additionally, a fast-food restaurant is now operating in the former Subway adjoining the Property which adds to the traffic. Mr. Moulder also emphasized that, of significant importance to the community, is potential development of The Days Inn which is located behind the Property, which hotel has had a negative impact on the community for years. Osprey Development proposes to convert the building into 122 apartment units. The community's concern is that if this car wash use is extended under the previously approved Special Exception, then the apartments will not be

developed. On cross examination, Mr. Moulder confirmed that he has been Vice President since 2021, and that he did not participate in the hearing in Case No.: 2021-0199-X due to lack of notice caused by an outdated address for the community association on file with the DOP. He also conceded that the closest home to the Property is ¼ mile away.

In Case No.: 2024-0123-SPH, Mr. Moulder testified that none of the construction activities such as grading, sediment control and demolition, are specific to a car wash use. In his view, the Petitioner could change the use given that no improvements have been constructed. He also testified that the Petitioner should have raised the issue of utilization at the hearing in Case No.: 2023-0229-SPH.

In Case No.: 2023-0229-SPH, Jordon Levine, testified that since 1972, he has been the legal owner of the property at 1825 Loch Raven Blvd. Mr. Levine was formerly head of the Loch Raven Task Force which monitored development in the area. It is no longer active. He recalled that the Green Clean Car Wash proposal did come up with the Task Force and they did not oppose it. However, he testified that the change in surrounding uses since 2021 has caused traffic to increase and, as a result, the current proposal for a car wash should be reviewed again. Mr. Levine also voiced concern that The Days Inn development project may not proceed if a car wash use is allowed at the Property. At the hearing in Case No.: 2024-123-SPH, Mr. Levine again testified in opposition to the car wash use. As a developer, Mr. Levine echoed Mr. Moulder's testimony that none of the construction activities are specific to a car wash.

SPECIAL HEARING

A "special hearing" request under BCZR §500.7 "is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). This regulation gives the Administrative Law Judge the authority to interpret the county

zoning regulations and to grant appropriate relief based on those interpretations. Further, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing [request] would be compatible with the community and generally consistent with the spirit and intent of the regulations.” *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016).

The applicable regulations in BCZR, §502.3 reads as follows:

§ 502.3. - Time limit for utilization of special exception; extensions.

A special exception which has not been **utilized** within a period of two years from the date of the **final order** granting same, or such longer period not exceeding five years, as may have been specified therein, shall thereafter be void. The Zoning Commissioner or, on appeal, the County Board of Appeals, in connection with the grant of any special exception, shall fix within the foregoing limits the period of time for its utilization. Any party to the proceedings may, by so specifying, appeal from either the order of the Zoning Commissioner or of the County Board of Appeals as the case may be, solely as to the reasonableness of the period of time allowed or, alternatively, may have such question determined in conjunction with any appeal from the grant or refusal of the application for a special exception. After a final order granting a special exception, the Zoning Commissioner, **at any time prior to expiration of the period of time authorized for its utilization**, may grant one or more extensions of such period, provided that a maximum time for utilization of the special exception is not thereby extended for a period of more than five years from the date of the final order granting same.

(Emphasis Added).

A. Case No.: 2023-0229-SPH.

Based on the express language in BCZR, §502.3 above, in order for Flagship to be granted an extension, the Order extending such time for utilization would have had to have been granted “prior to the expiration of the period of time authorized for its utilization.” This language does not provide relief if the Petition for Special Hearing was *filed* prior to the expiration; only that an

Extension Order was issued granting the same. Here, the Extension Order was rescinded on October 4, 2023 and no subsequent Extension Order was issued prior to either of the proposed expiration dates (November 2, 2023 or December 2, 2023). For this reason, the Petition for Special Hearing in Case No.: 2023-0229-SPH must be denied.

B. Case No.: 2024-0123-SPH.

In the alternative, Petitioner contends that an extension is not needed under BCZR, §502.3 if findings of fact are made that the Special Exception was utilized within 2 years from the date of the final order.

(1) The Date of Final Order.

Flagship contends that there is an automatic 30-day extension of the authorization period before a Special Exception is void, because a Motion for Reconsideration and/or an appeal could have been filed. Flagship believes that the date in the final Order is not as written (November 2, 2021), but rather 30 days later (December 2, 2021). Under this theory, the Special Exception would not expire on November 2, 2023 but rather on December 2, 2023. This argument is not persuasive.

First, the express language in BCZR, §502.3 is “the date of the final order” which can be no date other than the date written in the Order (i.e., November 2, 2021). Second, if the County Council had intended to include an additional period of time to account for the possible filing of a Motion for Reconsideration and/or an appeal, the Council could have included such language. Given the absence of additional time, the plain reading of BCZR, §502.3 does not provide for the possibility, or potential for, further litigation. However, it is true that in cases where litigation has been filed by way of Motion or appeal, the time period for use of a Special Exception is tolled. The Appellate Court of Maryland, in *National Waste v. Anne Arundel County*, 135 Md. App. 585, 763 A.2d 264 (2000), held that the time period to use a Special Exception is extended and tolled

during the time where litigation is ongoing and which precludes such utilization. Citing 4 Ziegler, *Rathkopf's The Law of Zoning and Planning*, (§50.03 (4th ed. Rev. 1994)), the Appellate Court in *National Waste* held that the time period to use the Special Exception is tolled during litigation “for a period equal to the time that elapsed...as a result of litigation.” (*Id.* at 763 A.2d 277; *Rathkopf*, §50.04). In *National Waste*, as here, no permit had been issued during the period in which the use was authorized.

The Appellate Court in *National Waste* found the case of *Fromer v. Two Hundred Post Associates*, 32 Conn. App. 799, 631 A.2d 347 (1993) to be particularly instructive. In *Fromer*, a wetlands permit, which had been conditioned on the developer obtaining a zoning permit and commencing significant activity within one year of issuance of the permit, had expired by the passage of time because it was being appealed at each step of the process. The Court in *Fromer* held that “...appeals from the granting of the necessary permits to conduct that activity were not resolved within the time period during which the activity was required to begin, that time period is tolled until all litigation is completed.” (*Fromer* at 349). The Court in *National Waste*, citing both *Cardinale v. Ottawa Reg'l Planning Comm'n*, 89 Ohio App. 3d 747, 627 N.E.2d 611 (1993) and *Belfer v. Bldg. Comm'r of Boston*, 363 Mass. 439, 444, 294 N.E. 2d 857, 860 (Mass. 1973), reasoned that if the time period for the use of the special exception, variance or permit were *not* tolled during the time period to conclude litigation of the same, that would effectuate an expiration by the passage of time of the approvals which were the subjects of the lawsuits. Without a tolling period, there would be no adjudication on the merits and the approval would simply expire.

Applying *National Waste* here, given that no Motions or appeals were filed after the November 2, 2021 Order, the notion that an extra 30 days could be tacked onto the end of the authorization period because an appeal might have been – but was never filed - seems directly

contrary to the Appellate Court’s holding. For these reasons, the “date of the final order” in Case No.: 2021-0199-X was November 2, 2021, and the expiration date for the Special Exception was November 2, 2023.

(2) Utilization.

In regard to the issue of whether Green Clean and/or Flagship used the Special Exception prior to its expiration on November 2, 2023, the relevant part of BCZR, §502.3 reads as follows:

* * * *

A special exception which requires any **construction** for its **utilization** shall be deemed to have been used within its authorized time if such **construction** shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligencce.

(Emphasis Added). As with the undefined word “final” above, the words ‘utilization’ and ‘construction’ are not defined in BCZR. In accordance with BCZR, §101.1, Merriam-Webster Unabridged (2024) defines the terms ‘utilized’ and ‘construction’ as follows:

uti·lize *transitive verb* \ 'vü-tə- līz

: to make useful : turn to profitable account or use : make use of :
convert to use

<a cheese factory *utilizes* milk from scores of
farms — *American Guide Series: Arkansas*>

<the ability of an organism to *utilize* oxygen — H. G.
Armstrong>

<*utilize* the services of existing agencies — Frederick
Graham>

con·struc·tion

* * * *

2 a. : the act of putting parts together to form a complete integrated object : FABRICATION<during the *construction* of the bridge>

b(1) : the form or manner in which something has been put together : DESIGN<several ships of similar *construction*><an analysis of the *construction* of a time bomb>

Mr. Bishop opined that Green Clean and Flagship construction activities which occurred prior to November 2, 2023, met with both these definitions. I find that since November 2, 2021, and through and including November 2, 2023, the construction activities by Green Clean and Flagship, were synonymous and continual, without reasonable interruption or delay. I further find that such activities meet the definitions of “utilize” and “construction”, and all were conducted in pursuit of building the same car wash which was approved in the Site Plan in Case No.: 2021-0199-X.

The holding in *National Waste* also provides guidance on the type of construction and construction-related activities showing utilization of the Special Exception, Variance or permit approval. The Court in *National Waste* recognized that (as here), although construction in *Preseault v. Wheel*, 132 Vt.247, 315 A.2d 244 (Vt. 1974) had not begun, the builder in *Preseault* did not sit on his permit, but rather “expended substantial sums of architectural, surveying, and legal fees” and that his “efforts should not be rendered worthless...” (*National Waste* at 763 A.2d 279). As the Court in *National Waste* noted that a limitation placed on the authorization period for a Special Exception, Variance or permit, is needed because some developers would “do nothing” and then belatedly “commence construction distasteful to, and long proscribed by, the municipality.” (*National Waste* at 763 A.2d 279).

Applying that analysis on this issue, I find that Green Clean and Flagship commenced construction prior to November 2, 2023, as required under BCZR, §502.3, based on: the list of activities in Petitioners Ex. 4 entitled “Utilization Timeline”; the site photographs in Case No.:

2023-0299-SPH (Pet. Ex. 4); the site photographs in Case No.: 2024-0123-SPH (Pet. Exs. 2A-2J); the testimony of Ray Garganio, Vice President of Flagship; and the testimony of Matthew Bishop, PLA. The evidence supports the conclusion that Green Clean began construction activities on or after November 2, 2021, and that Green Clean/Flagship continuously and regularly performed the construction activities up to and including November 2, 2023. Prior to receiving permits, and before plans were approved, Green Clean/Flagship had parts of the vacant restaurant removed; boarded and secured restaurant building; demolished areas of paving/concrete; performed rough grading (less than 5,000 sf); disconnected utilities; removed existing wooden fence; and installed 2 sets of fencing. While engaging in actual construction at the site, Green Clean/Flagship simultaneously retained civil engineers to prepare and file 5 types of engineering plans which needed to be approved by the County prior to permits being issued. Both Green Clean and Flagship are in the car wash business and purchased the Property for the purpose of constructing a car wash. The financial investment in not only the Property, but in the pursuit of permits and approvals for the car wash, was not insignificant. This is not a case where a developer was “sitting on” the Special Exception car wash approval and took no action, which is scenario that BCZR, §502.3 was enacted to avoid. I find that the fact specific construction activities articulated herein, coupled with the County approvals of the Plans and issuance of permits, effectuated a utilization of the Special Exception prior to November 2, 2023.

The facts here also confirm that the Protestants did not oppose, or even participate in, any of the public meetings or the Special Exception hearing until May 15, 2024. First, the Protestants did not participate in the public DRP meeting on March 10, 2021. In the PAI letter dated May 25, 2021 for the Green Clean car wash (DRP #637), the Director of PAI writes that the DRP not only held a public meeting but received public comment on Green Clean car wash design:

The DRP met in public forum on March 10, 2021, and after hearing from the applicant and/or representatives and receiving public comment, the DRP panel has determined to recommend approval as more particularly described....

(See Case No.: 2021-0199-X, Pet. Ex. 7).

Second, the Protestants' collective absence at the October 18, 2021 Special Exception hearing in Case No.: 2021-0199-X (which hearing was held virtually) was allegedly due to a failure to update the address for Loch Raven Village Associates with DOP. However, that failure is not justification for relitigating the Special Exception case in 2024. Prior to the Special Exception hearing in 2021, the Property was properly posted with the Zoning signs, and the required newspaper notice was published. If the Protestants had participated in the 2021 hearing and were dissatisfied with the decision, they could have appealed the decision to the Board of Appeals. There was no appeal of the November 2, 2021 Opinion and Order.

Third, Protestants also did not participate in the public DRC meeting on November 16, 2021. As a result of the DRC meeting, the Director of PAI approved a limited exemption from the development regulations under BCC, §32-6-104(a) for the construction of a minor commercial structure. As with the Opinion and Order in Case No. 2021-0199-X, the decision of the Director of PAI could have been appealed to the Board of Appeals. No appeal was filed.

In the hearings for Case No.: 2023-0229-SPH and Case No.: 2024-0123-SPH, Protestants sought to reintroduce issues with traffic and community preference for uses other than automotive or fast food, in an attempt to relitigate the Special Exception case. Unfortunately, that ship has sailed; the only issue is whether the Special Exception was used during the authorized period. It was also clear that the Protestants are most concerned that any potential future development of The Days Inn as the same may not proceed if the previously approved car wash is constructed. Ironically, on the approved Site Plan in Case No.: 2021-0199-X, Green Clean was required to

provide an access easement on the rear of the Property for the benefit of The Days Inn property, which easement is also binding on Flagship. Whether or not future development of The Days Inn is a viable project, is a hearing for another day.

Lastly, the express language of BCZR, §100.1 does not support the argument that a property must have a CR, CCC, AS or IM overlay district in order to have a stand-alone car wash use. Districts are superimposed upon, and provide greater refinement of, zones; zones control the use. BCZR, §100.1 reads in pertinent part:

§ 100.1. - Division into zones and districts.

Baltimore County is hereby divided into zones and districts in accordance with this section.

A. Zones.

1. For the purpose of promoting the health, security, comfort, convenience, prosperity, orderly development and other aspects of the general welfare of the community, zones are intended to provide broad regulation of the use and manner of use of land, in accordance with comprehensive plans.

* * * *

B. Districts.

1. To further the purposes of zones, districts are intended to provide greater refinement in land-use regulation. Districts are superimposed upon zones.

2. Districts are as follows:

* * * *

C. No zone shall be superimposed upon any other zone, but a district may be superimposed upon another district.

As such, the BM, BL, and BR zones control the commercial nature of this Property. Any district overly (not applicable here) would only to serve to refine the purposes of the zones.

THEREFORE, IT IS ORDERED this 24th day of **September 2024** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to BCZR, §500.7 as filed in Case No.: 2024-0123-SPH requesting a determination of the “date of the final order” for the purposes of BCZR, §502.3, in Case No.: 2021-0199-X, for reasons set forth herein, the date of the Final Order is November 2, 2021, and the Special Exception expired on November 2, 2023; and

IT IS FURTHER ORDERED, that the Petition for Special Hearing pursuant to BCZR, §500.7 as filed in Case No.: 2024-0123-SPH requesting a determination that the Special Exception granted in Case No.: 2021-0199-X was “utilized” in accordance with BCZR, §502.3, within a period of two years from the date of the final order issued in that case, based on the evidence presented and for the foregoing reasons articulated herein, the Special Exception was utilized prior to November 2, 2023, and therefore the Special Exception is not void, and may continue to be utilized up through and including the maximum period specified in BCZR, §502.3, plus any and all time periods to account for litigation; and


IT IS FURTHER ORDERED, that the Petition for Special Hearing pursuant to BCZR, §500.7 as filed in Case No.: 2023-0229-SPH, to extend the Special Exception approved in Case No.: 2021-0199-X for three (3) additional years pursuant to BCZR, §502.3 be, and it is hereby, **DENIED.**

The relief granted herein shall be subject to the following:

1. 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.
2. The Petitioner and all subsequent owners shall comply with the DPR ZAC comment filed in Case No.: 2024-0123-SPH, dated May 30, 2024, a copy of which is attached hereto.

3. The Site Plan (Pet. Ex. 8) filed in Case No.: 2024-0123-SPH is attached hereto and incorporated herein.

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


MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:d1m

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: May 30, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0123-SPH

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR: No comment.

DPW-T: No exception taken.

Landscaping: If Special Hearing is successful a Landscape Plan is required per the Baltimore County Landscape Manual and a Lighting Plan is also required.

Recreations & Parks: No comment LOS & No Greenways affected

SHADING RELIEF REQUESTED:

1. A SPECIAL EXCEPTION REQUEST TO PERMIT A CAR WASH USE IN A RM ZONE PER THE COUNTY ZONING CODE (CZM 240.7.115.)

SETBACKS FOR CAR WASH USES IN RM ZONE

1. BEYOND THE LOT LINE OF ANY ADJACENTLY ZONED PROPERTY
2. THE TRAILING END OF LANDSCAPE FACILITY SPACE IS SET BACK AT LEAST 10 FEET FROM THE SUBJECT SIDE YARD
3. THE FRONT YARDLANDSCAPE SETBACK SHALL BE 10 FEET FROM THE FRONT YARDLANDSCAPE SETBACK
4. THE REAR YARDLANDSCAPE SHALL BE 10 FEET FROM THE REAR YARDLANDSCAPE SETBACK

PARKING REQUIREMENTS FOR CAR WASH USES

1. STANDING SPACES FOR ROLL-OVER (CAR WASH USES)
- 1.1. REQUIRED = 4
- 1.2. PROVIDED = 4
2. STANDING SPACES FOR VEHICLES
- 2.1. REQUIRED = 2
- 2.2. PROVIDED = 2
3. LANDSCAPE TRANSITION SPACES
- 3.1. REQUIRED = 2
- 3.2. PROVIDED = 2
4. VANDERBILT SPACES
- 4.1. REQUIRED = 1
- 4.2. PROVIDED = 1

LANDSCAPE TRANSITION AREAS FOR CASH WASHES

- 1.1. FRONT PUBLIC RIGHT OF WAY
- 1.1.1. REQUIRED = 10
- 1.1.2. PROVIDED = 10
- 1.2. REAR PUBLIC RIGHT OF WAY
- 1.2.1. REQUIRED = 5
- 1.2.2. PROVIDED = 5
- 1.3. LANDSCAPE TRANSITION AREAS
- 1.3.1. REQUIRED = 10
- 1.3.2. PROVIDED = 10

FRONT YARD AVERAGING FOR RM ZONE

1. SUBJECT BUILDING = 11,100 SF
2. SETBACK = 10
3. PROVIDED = 10

BUILDING SETBACKS FOR RM ZONE

1. FRONT
- 1.1. REQUIRED = 15.4 FT FROM CENTERLINE OF ROAD
- 1.2. PROVIDED = 15
2. REAR
- 2.1. REQUIRED = 5
- 2.2. PROVIDED = 5
3. SIDE
- 3.1. REQUIRED = 5
- 3.2. PROVIDED = 5

SIGNAGE

WALL MOUNTED OVERHUNG SIGN
 PERMITTED
 USE: SIDE OF THE LENGTH OF WALL
 MAXIMUM HEIGHT = 8 FEET
 MAXIMUM WIDTH = 40 FEET
 MAXIMUM AREA = 320 SQ. FT.
 NUMBER OF SIGNS PER FACADE
 UNLIMITED (SEE)

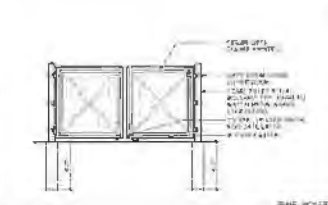
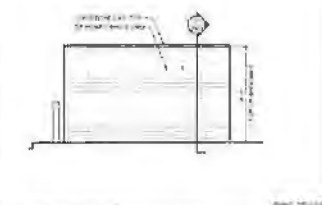
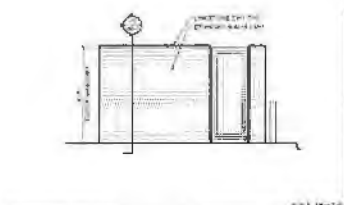
FREE STANDING OVERHUNG SIGN
 PERMITTED
 USE: TRAMP
 HEIGHT = 8 FEET
 NUMBER OF SIGNS PER FACADE
 UNLIMITED (SEE)

FREE STANDING OVERHUNG SIGN
 PERMITTED
 USE: TRAMP
 HEIGHT = 8 FEET
 NUMBER OF SIGNS PER FACADE
 UNLIMITED (SEE)

MONUMENT SIGN



TYPICAL WALL MOUNTED SIGN
 7' X 12.25' = 85.75 SQUARE FEET



7 DUMPSTER ENCLOSURE - ELEVATIONS 3 DUMPSTER ENCLOSURE - ELEVATIONS 2 DUMPSTER ENCLOSURE - ELEVATIONS

TRASH ENCLOSURE DETAILS

BUILDING ELEVATIONS



EAST



NORTH



SOUTH



WEST



VICINITY MAP
 SCALE: 1" = 100'

DATE	11/15/2022
BY	11/15/2022
SCALE	1" = 100'
PROJECT	1630 E. JOPPA ROAD, TOWSON, MD 21286
CLIENT	GREEN CLEAN HOLDINGS, LLC
PREPARED BY	KIMLEY-HORN

Kimley Horn
 1630 E. JOPPA ROAD, SUITE 100
 TOWSON, MD 21286
 TEL: 410.286.1100
 WWW.KIMLEY-HORN.COM



**PLAN TO ACCOMPANY
 A PETITION FOR A
 SPECIAL HEARING**

1630 E. JOPPA ROAD
 PREPARED FOR
**GREEN CLEAN HOLDINGS,
 LLC**
 P. BALTIMORE, CO. MD



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

September 24, 2024

Christopher D. Mudd, Esquire – cdmudd@venable.com
Venable, LLP
210 w. Pennsylvania Avenue
Towson, MD 21204

RE: Petition for Special Hearing
Case Nos. 2023-0229-SPH & 2024-0123-SPH
Property: 1630 E. Joppa Road

Dear Mr. Mudd:

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,

A handwritten signature in black ink that reads "Maureen E. Murphy". The signature is written in a cursive, flowing style.

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw
Enclosure

Peter Moulder – pmoulder49@gmail.com
Jordan Levine – Jordan.levine@me.com
Maria Morales – maria.morales@wmar.com
Nicholas Linehan – nlinehandeign@verizon.net
Emily Jolicoeur – ejolicoeur@baltimorecountymd.gov



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 1630 E. Joppa Road which is presently zoned BL, BM, BR
Deed References: 48374/00494 10 Digit Tax Account # 0901500930
Property Owner(s) Printed Name(s) Flagship Maryland Propco, LLC

(SELECT THE HEARING(S) BY MARKING 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

to extend the special exception approved in Case No. 2021-0199-X for three (3) additional years.

2. a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

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)

TO BE PRESENTED AT HEARING

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:

SEE ATTACHED SHEET

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

SEE ATTACHED SHEET

Name #1 - Type or Print Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Christopher D. Mudd, Esquire

Name- Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 / 410-494- 6365 / cdmudd@venable.com

Zip Code Telephone # Email Address

Representative to be contacted:

Christopher D. Mudd, Esquire

Name - Type or Print

Signature Venable LLP

210 W. Pennsylvania Ave., Ste. 500 Towson MD

Mailing Address City State

21204 / 410-494- 6365 / cdmudd@venable.com

Zip Code Telephone # Email Address

CASE NUMBER 2023-0229 - Filing Date 10/30/2023

Do Not Schedule Dates: _____

Reviewer Mick

SPH

REV. 10/4/11

Attached Sheet 1

**Petition for Special Hearing
1630 E. Joppa Road**

Contract Purchaser/Lessee:

Attn: Ray Garganio
Flagship Maryland Propco, LLC c/o SPOTLESS BRANDS
950 Herndon Parkway
Suite 400
Herndon, VA 20170

By: _____



Name: Ray Garganio
Title: Vice President of Development and Construction
Flagship Maryland Propco, LLC c/o SPOTLESS BRANDS
950 Herndon Parkway
Suite 400
Herndon, VA 20170

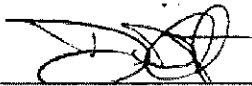
Attached Sheet 2

**Petition for Special Hearing
1630 E. Joppa Road**

Legal Owner:

Flagship Maryland Propco, LLC
6 E. Eager Street, Suite 200
Baltimore, MD 21202

By: _____



Name: Dave Dittman
Title: Vice President of Operations
Flagship Maryland Propco, LLC
6 E. Eager Street, Suite 200
Baltimore, MD 21202

Zoning Property Description for Special Hearing Petition
1630 East Joppa Road

Beginning at a point located on the north side of Eat Joppa Road which has a right of way width of 75 feet at the distance of 315' to the centerline of the nearest improved intersecting street Loch Raven Boulevard which has a right of way width of 95 feet **Thence** the following courses and distances, referred to the Maryland Coordinate System (NAD '83/91):

1. A curve with Chord Bearing South 73 degrees 59 minutes 44 seconds East, Chord Length 160.41', radius 3,786.72' to a point;
2. North 11 degrees 14 minutes 47 seconds West, 300.00' to a point;
3. North 73 degrees 08 minutes 33 seconds West, 142.81' to a point;
4. South 14 degrees 54 minutes 27 seconds East, 300.00' to a point and place of beginning.

Containing an area of 42,038 square feet or 0.9651 acres of land, more or less and being located in the 9th Election District and 6th Council District of Baltimore County Maryland.



2023-0229-SPH

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.*

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/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:

Case Number: 2023-0229-SPH
Property Address: 1630 East Joppa Road
Legal Owners (Petitioners): Flagship Maryland Propco, LLC
Contract Purchaser/Lessee: Spotless Brands

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Venable, LLP c/o Chris Mull
Address: 210 W. Pennsylvania Ave, Suite 500
Towson, MD 21204
Telephone Number: 410-494-6365

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Revised 3/2022

CERTIFICATE OF POSTING

2023-0229-SPH

RE: Case No.: _____

Petitioner/Developer: _____

**Flagship Maryland Propco, LLC
Flagship Maryland Propco, LLC c/o Spotless Brands**

February 14, 2024

Date of Hearing/Closing: _____

**Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204**

Attn: Jeff Perlow:

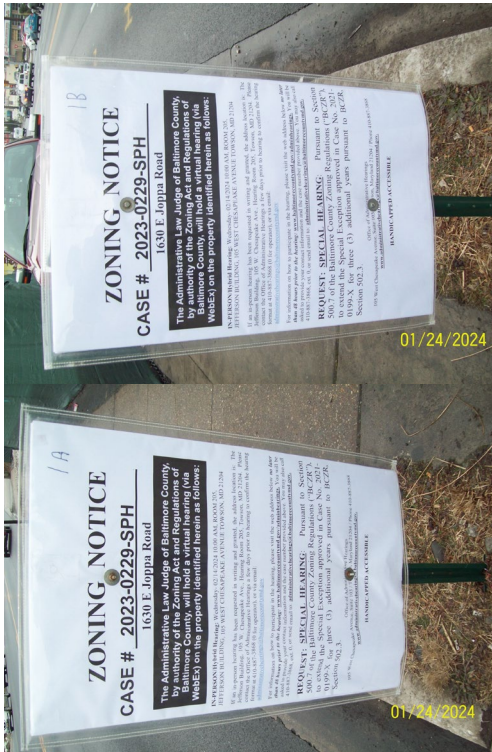
Ladies and Gentlemen:

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: _____

1630 E Joppa Road *SIGN 1A & 1B*

January 24, 2024

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



Sincerely,

 **January 24, 2024**

(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)

CERTIFICATE OF POSTING

2023-0229-SPH

RE: Case No.: _____

Petitioner/Developer: _____

**Flagship Maryland Propco, LLC.
Flagship Maryland Propco, LLC., c/o Spotless Brands**

November 30, 2023

Date of Hearing/Closing: _____

**Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204**

Attn: Kristen Lewis:

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: _____

1630 E. Joppa Road ***SIGN 2***

November 9, 2023

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

Sincerely,

 _____
(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)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 11/9/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-229-SPH

INFORMATION:

Property Address: 1630 East Joppa Road
Petitioner: Flagship Maryland Propco, LLC c/o Dave Dittman
Zoning: BM, BR
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for the following:

Special Hearing -

1. To extend the Special Exception approved in Case 2021-199-X for three (3) additional years.

The subject site is an approximately 41,995 square foot parcel near the East Joppa Road and Loch Raven Boulevard signalized intersection. The site is currently improved with a one-story building, which was previously used as a restaurant, and associated surface parking. The site is along a heavily traveled, auto-oriented section of East Joppa Road. The site is zoned BM and BR, and is currently the subject of Comprehensive Zoning Map Process (CZMP) Issue 6-007, which requests the property be rezoned to BM AS. As of the date of these comments, a Staff Recommendation, Planning Board Recommendation, or County Council Decision have not been made on the Issue.

In 2021, the site was the subject of Zoning Case 2021-199-X, which sought a Special Exception to have a car wash in the BM and BR zones, pursuant to Baltimore County Zoning Regulations (BCZR) Sections 233.3 and 236.2. The Department of Planning supported the requested relief. On November 2nd, 2021, the Special Exception was granted. On September 12th, 2023, counsel for the Petitioners submitted a letter to the Office of Administrative Hearings requesting a three-year extension on the time to utilize the Special Exception, as the Petitioner had been unable to begin construction, primarily because of the Covid pandemic. The Managing Administrative Law Judge granted the extension. On September 22nd, 2023, People's Counsel filed a Motion for Reconsideration, stating that they were not copied on the letter requesting the extension and urging that a Special Hearing was needed before the extension could be granted. As such, the extension was reversed.

The subject site is located within the Loch Raven-Baynesville Design Review Panel (DRP) area. The DRP was established by Section 32-4-203 of the Baltimore County Code, and its goal is to encourage design excellence through the application of design guidelines contained in the Master Plan, the Comprehensive Manual of Development Policies, adopted community plans, and Section 260 of the

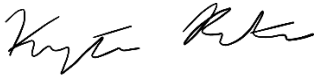
Baltimore County Zoning Regulations, as applicable. The Design Review Panel approved the project and its design in 2021.

The use was supported by the Department of Planning in 2021, has received approval from the Design Review Panel, and is consistent with the auto-oriented nature of this stretch of East Joppa Road. As such, the Department of Planning has no objections to the requested extension, subject to the following conditions:

1. At the time of permitting, the Department of Planning will confirm that the proposed architecture is consistent with the Design Review Panel approval.
2. The site plan submitted with the Petition shows a retaining wall with the note “Proposed wall height to consider future access drive. To be designed by site contractor.” It should be noted that the retaining wall was not shown on the plans reviewed and approved by the Design Review Panel. Additional information on the retaining wall will be needed to determine if DRP review and approval is necessary. Once retaining wall specifications, including height, are determined, contact Mary Kulchytska at 410-887-3482 or mkulchytska@baltimorecountymd.gov for confirmation on if review is needed.

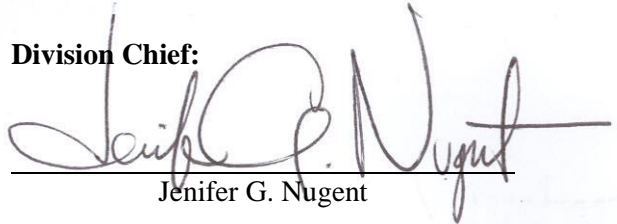
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Christopher D. Mudd, Esquire
David Birkenthal, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People’s Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 13, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0229-SPH
Address: 1630 E JOPPA RD
Legal Owner: Flagship Maryland Propco, LLC

Zoning Advisory Committee Meeting of .

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Additional Comments:

Reviewer: Earl D. Wrenn

Real Property Data Search ()
 Search Result for BALTIMORE COUNTY

View Map View GroundRent Redemption View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 09 Account Number - 0901500930

Owner Information

Owner Name: FLAGSHIP MARYLAND PROPCO LLC Use: COMMERCIAL
 Mailing Address: SUITE 200 Principal Residence: NO
 6 E EAGER ST Deed Reference: /48374/ 00494
 BALTIMORE MD 21202-

Location & Structure Information

Premises Address: 1630 E JOPPARD Legal Description: 1630 E JOPPA RD NS
 TOWSON 21286- 350 W NR PLEASANT PLNS

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
 0070 0017 0745 20000.04 0000 2023 Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1955	3,948 SF		41,995 SF	23

Stories	Basement	Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
		RESTAURANT /		C4		

Value Information

	Base Value	Value		
		As of 01/01/2023	As of 07/01/2023	As of 07/01/2024
Land:	1,094,900	1,094,900		
Improvements	708,300	930,200		
Total:	1,803,200	2,025,100	1,877,167	1,951,133
Preferential Land:	0	0		

Transfer Information

Seller: GREEN CLEAN JOPPA ROAD LLC	Date: 09/13/2023	Price: \$3,096,264
Type: ARMS LENGTH IMPROVED	Deed1: /48374/ 00494	Deed2:
Seller: GRS PROPERTIES LLC	Date: 06/28/2022	Price: \$2,250,000
Type: ARMS LENGTH IMPROVED	Deed1: /47096/ 00103	Deed2:
Seller: Q-C JOPPA ROAD LLC	Date: 10/05/2011	Price: \$1,881,000
Type: ARMS LENGTH IMPROVED	Deed1: /31251/ 00077	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2023	07/01/2024
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00 0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023-0229-SPH

Plotted By: D:\work\2023\10\10\10-48am - K:\BA\DW\14136002-1630 E Joppa Road\CAD\PlanSheets\Special Exception Site Plan\2023-10-27 SITE PLAN.dwg
 This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

ZONING RELIEF REQUESTED:

1. A SPECIAL EXCEPTION REQUEST TO PERMIT A CAR WASH USE IN A BM ZONE PER BALTIMORE COUNTY ZONING CODE SECTION 236.2 & 419.1.

SETBACKS FOR CAR WASH USES IN BM ZONE

1. 50' FROM THE LOT LINE OF ANY RESIDENTIALLY ZONED PROPERTY.
2. THE TUNNEL EXIT OF CAR WASH FACILITIES SHALL BE SET BACK AT LEAST 50 FEET FROM THE NEAREST EXIT DRIVE.
3. NO TUNNEL ENTRANCE OR EXIT OF A CAR WASH OPERATION SHALL FACE AN ADJACENT RESIDENTIALLY ZONED PROPERTY NOT INCLUDING THOSE ACROSS A STREET.
4. THE REAR AND SIDES OF BUILDINGS FACING RESIDENTIALLY ZONED PROPERTIES SHALL BE FINISHED WITH MATERIALS THAT IN TEXTURE AND COLOR RESEMBLE THE FRONT OF THE BUILDING. THE TYPE OF FACADE TREATMENT SHALL BE INDICATED ON THE SITE PLAN AND SHALL BE SUBJECT TO REVIEW BY THE DIRECTOR OF THE DEPARTMENT OF PLANNING, WHO SHALL PROVIDE WRITTEN COMMENTS TO THE APPROVAL AUTHORITY.

PARKING REQUIREMENTS FOR CAR WASH USES

1. STACKING SPACES FOR ROLL-OVER CAR WASH TUNNEL:
 - 1.1. REQUIRED = 9
 - 1.2. PROVIDED = 20
2. SPACES TO DRY VEHICLES:
 - 2.1. REQUIRED = 2
 - 2.2. PROVIDED = 2
3. ADDITIONAL PARKING SPACES:
 - 3.1. REQUIRED = 2
 - 3.2. PROVIDED = 2
4. VACUUM SPACES:
 - 4.1. REQUIRED = 1
 - 4.2. PROVIDED = 18

LANDSCAPE TRANSITION AREAS FOR CASH WASHES

- 1.1. FRONTING A PUBLIC RIGHT OF WAY:
 - 1.1.1. REQUIRED = 10'
 - 1.1.2. PROVIDED = 10'
- 1.2. SIDE AND REAR YARDS ABUTTING NON RESIDENTIALLY ZONED LAND:
 - 1.2.1. REQUIRED = 6'
 - 1.2.2. PROVIDED = 6'
- 1.3. LOCATED WITHIN 50 FEET OF ANY RESIDENTIALLY ZONED PROPERTY:
 - 1.3.1. REQUIRED = 15'
 - 1.3.2. PROVIDED = NA

FRONT YARD AVERAGING FOR BM ZONE

1. ADJACENT BUILDINGS = 11' AND 151'
2. AVERAGE = 81'
3. PROVIDED = 81'

BUILDING SETBACKS FOR BM ZONE

1. FRONT:
 - 1.1. REQUIRED: 15' & 40' FROM CENTERLINE OF ROAD.
 - 1.2. PROVIDED: 81'
2. SIDE:
 - 2.1. REQUIRED: 0'
 - 2.2. PROVIDED: 10'
3. REAR:
 - 3.1. REQUIRED: 0'
 - 3.2. PROVIDED: 52'

SIGNAGE

WALL MOUNTED ENTERPRISE SIGNS:
PERMITTED

SIZE: TWICE THE LENGTH OF WALL
 NORTH WALL: 30'X2 = 60 SQ.FT.
 SOUTH WALL: 30'X2 = 60 SQ.FT.
 WEST WALL: 100'X2 = 200 SQ.FT.
 NUMBER: 3 NO MORE THAN 2 PER FACADE
 ILLUMINATED: YES

PROPOSED

SIZE: TWICE THE LENGTH OF WALL
 NORTH WALL: 30'X2 = 60 SQ.FT.
 SOUTH WALL: 30'X2 = 60 SQ.FT.
 WEST WALL: 100'X2 = 85.75 SQ.FT.
 NUMBER: 3 NO MORE THAN 2 PER FACADE
 ILLUMINATED: YES

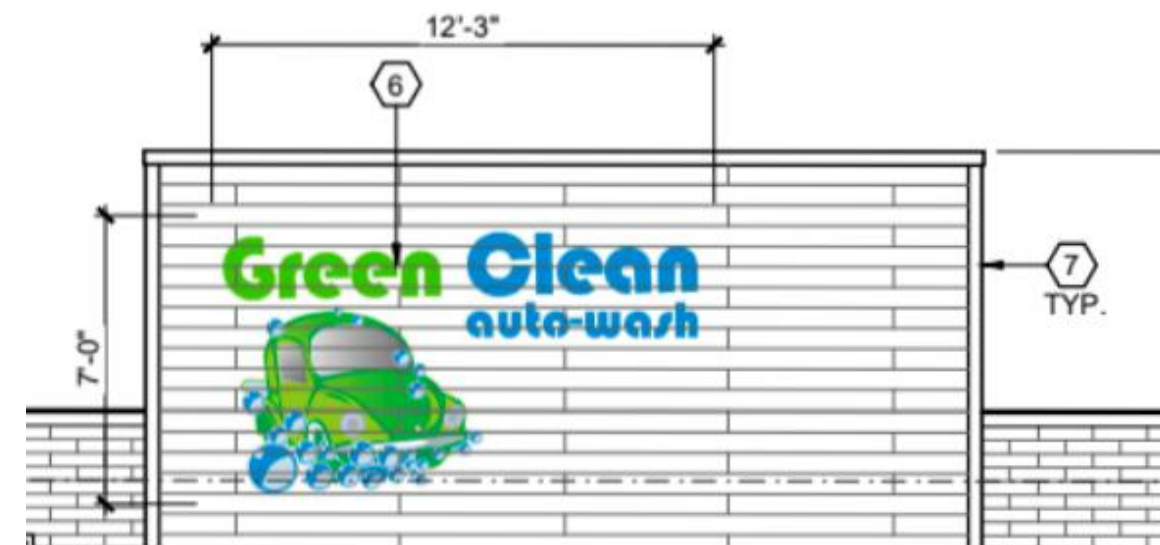
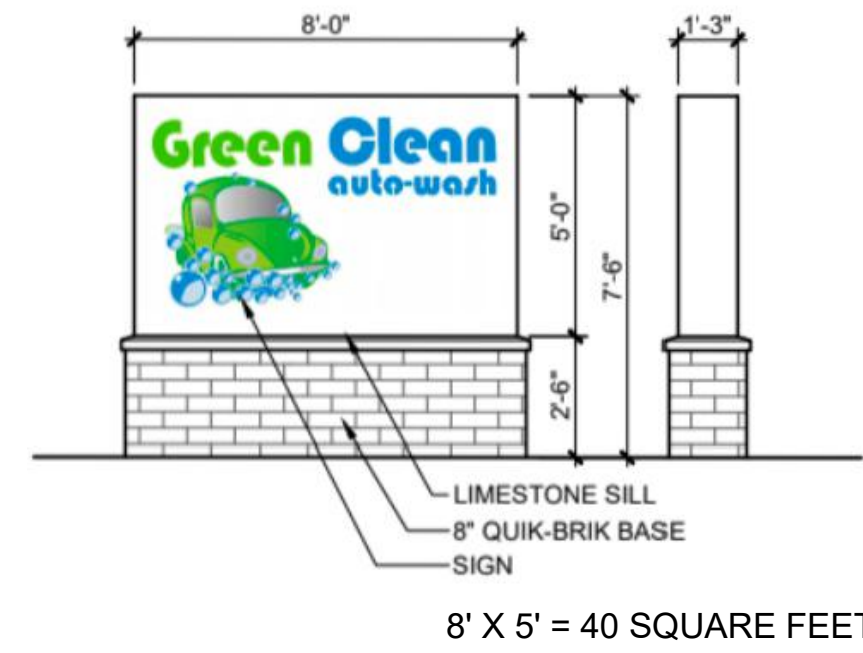
FREESTANDING ENTERPRISE SIGN:

PERMITTED
 SIZE: 75 SQ.FT.
 HEIGHT: 25'
 NUMBER: 1 PER FRONTAGE
 ILLUMINATED: YES

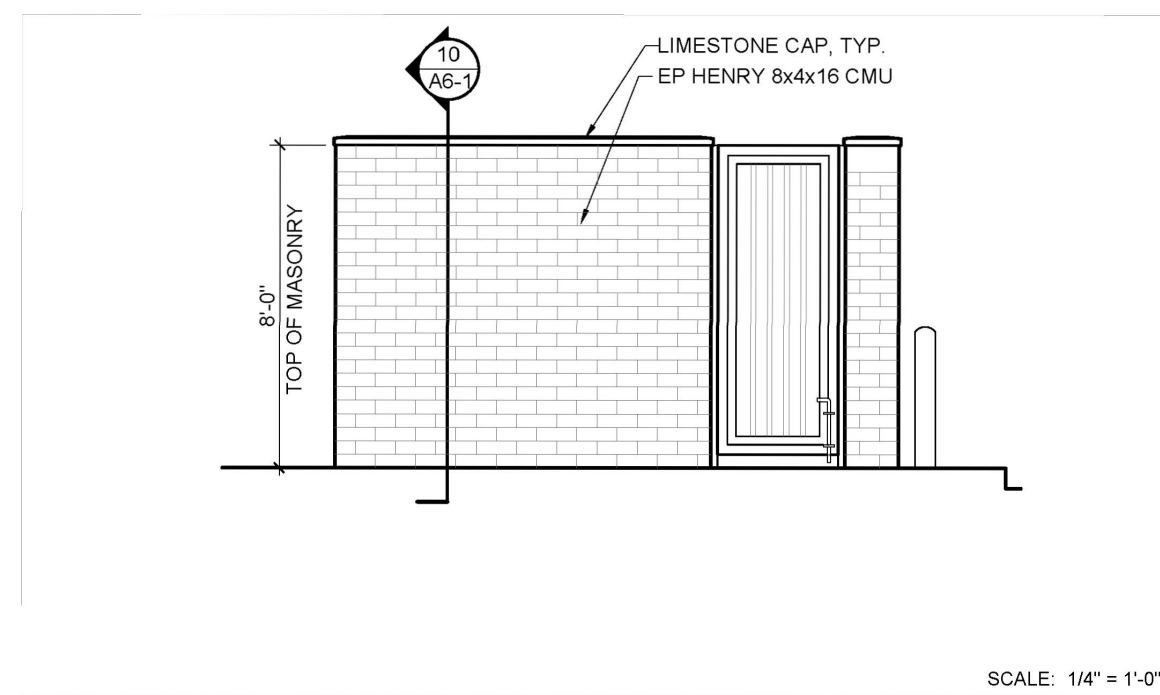
PROPOSED

SIZE: 40 SQ.FT.
 HEIGHT: 7.5'
 NUMBER: 1
 ILLUMINATED: YES

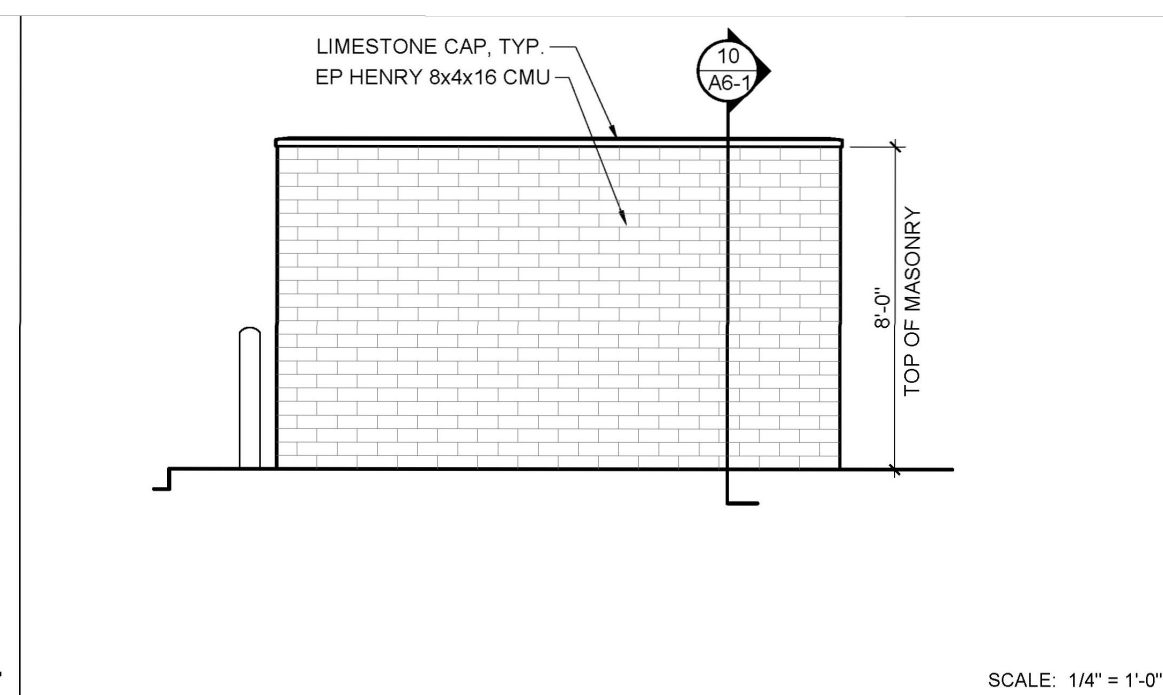
MOUNUMENT SIGN



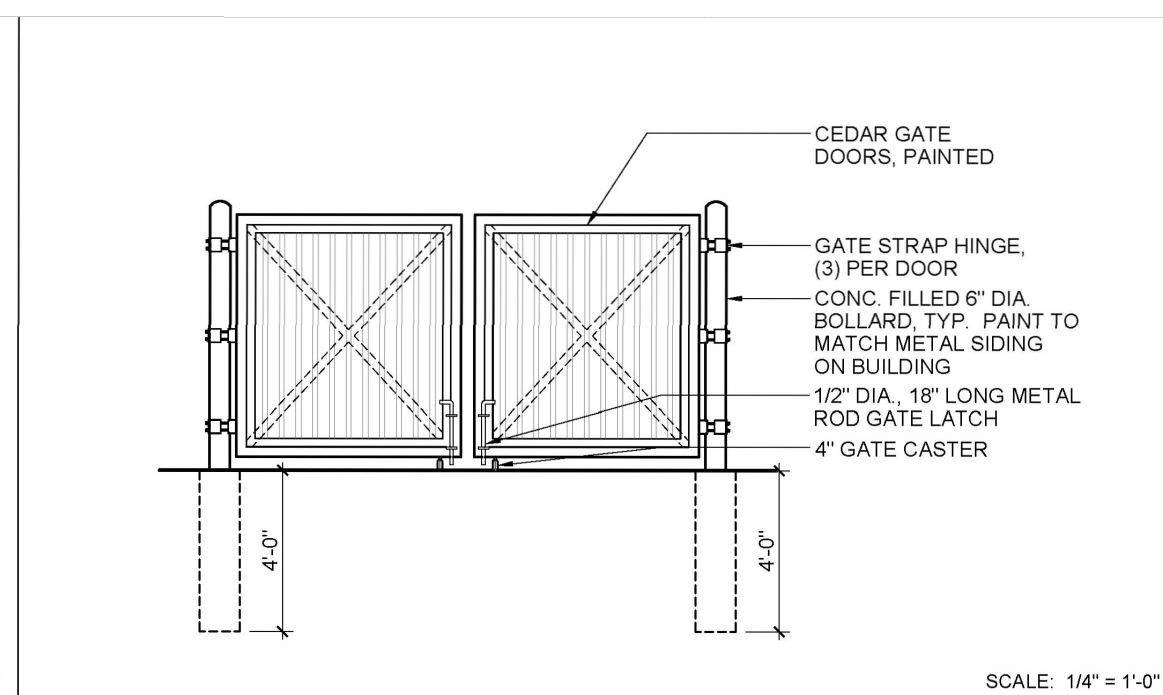
TYPICAL WALL MOUNTED SIGN
7' X 12.25' = 85.75 SQUARE FEET



7 DUMPSTER ENCLOSURE - ELEVATIONS



3 DUMPSTER ENCLOSURE - ELEVATIONS



2 DUMPSTER ENCLOSURE - ELEVATIONS

TRASH ENCLOSURE DETAILS

BUILDING ELEVATIONS



EAST



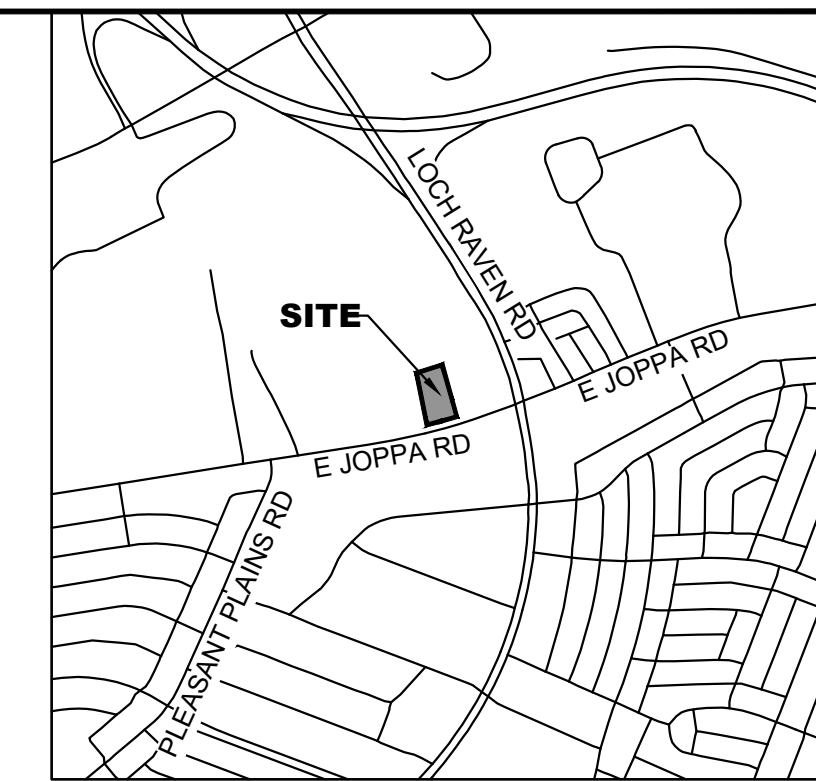
NORTH



SOUTH



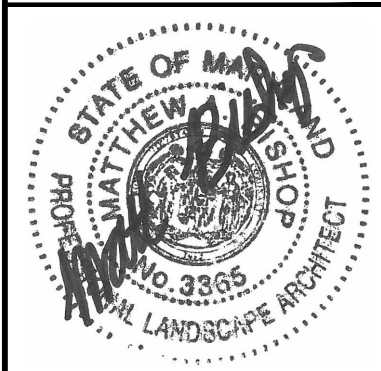
WEST



VICINITY MAP
SCALE: 1" = 1000'

NO.	REVISIONS	DATE	BY

Kimley»Horn
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 PHONE: 443-743-4470
 WWW.KIMLEY-HORN.COM



KHA PROJECT	114136002
DATE	10/27/2023
SCALE	1" = 20'
DESIGNED BY	JPM
DRAWN BY	NCS
CHECKED BY	MAB

PLAN TO ACCOMPANY
A PETITION FOR A
SPECIAL HEARING

COUNCILMANIC DISTRICT - 6 - ELECTION DISTRICT - 9
 1630 E. JOPPA ROAD, TOWSON, MD 21286

1630 E. JOPPA ROAD
 PREPARED FOR
GREEN CLEAN HOLDINGS, LLC
 BALTIMORE COUNTY MARYLAND

Baltimore County - My Neighborhood



Legend 2023-0229-SPH

- 200 Scale Grid
- House Numbers
- Zoning History Cases
- Zoning
- Property
- County Boundary

1:2,257

0 95 190 380 Feet

October 30, 2023

Source: Esri, HERE, Garmin, Intelmap, Incret, Geobase, IGN, Keweenaw, N.C., Ordnance Survey, OpenStreetMap contributors, and the GIS User