



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".

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

(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:dlm

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

1. A SPECIAL EXCEPTION REQUEST TO PERMIT A CAR WASH/USE IN A B&B ZONE PER BALTIMORE COUNTY ZONING CODE SECTION 23A.2 J 419.1.

1. SE FROM THE LOT LINE OF ANY RESIDENTIALLY ZONED PROPERTY.
2. THE TUNNEL & SET OF CAR WASH FACILITIES SHALL BE SET BACK AT LEAST 10 FEET FROM THE FRONT OF THE BUILDING.
3. NO TUNNEL ENTRANCE OR EXIT OF A CAR WASH OPERATION SHALL FACE AN ADJACENT RESIDENTIALLY ZONED PROPERTY NOR INCLUDES THOSE AREAS OF A STREET.
4. THE DEPTH AND EXTENT OF ALL DRIVELANDS FACING RESIDENTIALLY ZONED PROPERTIES SHALL BE FURNISHED WITH MATERIALS THAT IN TESTURE AND COLOR ARE NEARLY THE SAME AS THE SURROUNDING AREAS.
5. 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.

1. STACKING SPACES FOR ROLL-OVER (See Figure 11A)

1. STATION SPACES FOR FULL-COVER (SEE PART 1000)
- 1.1. REQUIRED = 8
- 1.2. PROVIDED = 28
2. SPACES TO DRY VEHICLES
- 2.1. REQUIRED = 2
- 2.2. PROVIDED = 3
3. ADDITIONAL PARKING SPACES
- 3.1. REQUIRED = 2
- 3.2. PROVIDED = 2
4. VACUUM SPACES
- 4.1. REQUIRED = 1
- 4.2. PROVIDED = 18

1.1. FRONTING A PUBLIC RIGHT OF WAY:
1.1.1. REQUIRED = IF
1.1.2. PROVIDED = NA

1.2. SIDE AND REAR YARDS ADJUTTING HIGH RESIDENTIALLY ZONED LAND
1.2.1. REQUIRED = F
1.2.2. PROVIDED = C

1.3. LOCATED WITHIN 50 FEET OF ANY RESIDENTIALLY ZONED PROPERTY
1.3.1. REQUIRED = IF
1.3.2. PROVIDED = NA

ADJACENT BUILDINGS = 33' AND 33'
AVE. WIDTH = 33'
PARKING = 33'

1. FRONT:
1.1. REQUIRED: 15' & 45' 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: 32'

WALL MOUNTED EXTENSIBLE SIGNS
PERMITTED:
 SIZE: THREE TIMES LENGTH OF WALL
 NORTH WALL: 10'2" = 30'0" FT.
 SOUTH WALL: 10'2" = 30'0" FT.
 WEST WALL: 10'2" = 30'0" FT.
 NUMBER (NO MORE THAN 3) PER FACADE
 ALLOWED: 100.

SALE: FENCE THE LENGTH OF WALL.
 NORTH WALL/ SIDE 2 = 80 S.F.
 SOUTH WALL/ SIDE 2 = 80 S.F.
 WEST WALL/ SIDE 2 = 80 S.F.
 HAZARD: 2 INCHES THICK, 1 FEET WIDE
 ALLOCATION: 0.5

PERMITTED:	
SIZE:	75 GIGBT.
HEIGHT:	2K
NUMBER:	1 PER PRINTAGE
ILLUMINATED:	YES
PRODUCED:	
SIZE:	45 GIGBT.
HEIGHT:	1K
NUMBER:	1
ILLUMINATED:	YES

4'0"

4'0"

4'0"

1'0"

1'0"

Green Clean
water works

8' X 5' = 40 SQUARE FEET

7' X 12.25' = 85.75 SQUARE FEET

[illegible]

VICINITY MAP
SCALE: 1" = 1000'

Kimley»Horn
© 2023 PRC-PLAN AND ASSOCIATES INC.
205 WINDYBUSH AVE. SUITE 500, TOMBIGHE, MD 21624
PHONE: 410-742-3472
WWW.KHPLAN.COM

PLAN TO ACCOMPANY
A PETITION FOR A
SPECIAL HEARING

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

2

CAT 100-1000

277

1



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 East 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 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. X a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

See Attachment A.

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:

Name- Type or Print

Signature

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

Legal Owners (Petitioners):

Flagship Maryland Propco, LLC

Raymond Garganio rgarganio@spotlessbrands.com

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

Signature #1 Signature #2

2 Mid America Plaza, S450 Chicago IL
 Mailing Address City State

60181 / 609-668-4661 / rgarganio@spotless
 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 2024-0123-JPH Filing Date 5/13/2024

Do Not Schedule Dates: _____ Reviewer MSK

ATTACHMENT A

Petitioner seeks a hearing pursuant to 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 prior to “the date of the final order” under BCZR § 502.3.

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 5th Council District of Baltimore County Maryland.



2024-0123-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: 2024-0123-SPH
Property Address: 1630 East Joppa Road
Legal Owners (Petitioners): Flagship Maryland Propco, LLC
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Christopher D. Mull, Esquire
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.

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

No. 229422

Date: 5/13/2024

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					\$ 500

Total: \$ 500

Rec
From:

Venable, LLP

For:

Special Hearing Request
Zoning Case # 2024-0123-SPH
1630 East Joppa Road

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

MTM

CERTIFICATE OF POSTING

2024-0123-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Flagship Maryland Propco, LLC

September 11, 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***

August 21, 2024

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

Sincerely,

 August 21, 2024

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

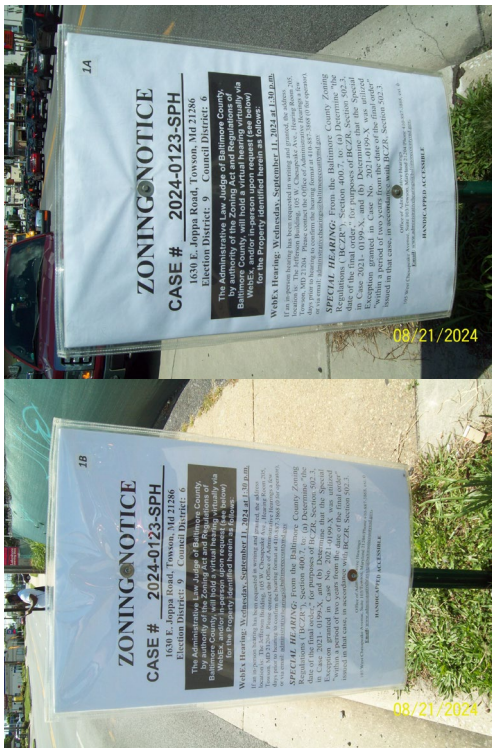
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director **DATE:** May 29, 2024
Department of Permits, Approval, and Inspections

FROM: Derek M. Chastain
Bureau of Building Plans Review

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

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

BPR: No comments

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

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

DATE: June 4, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0123-SPH
Address: 1630 E JOPPA RD
Legal Owner: Flagship Maryland Propco, LLC

Zoning Advisory Committee Meeting of June 4, 2024.

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

Additional Comments:

Reviewer: Earl D. Wrenn

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 6/6/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0123-SPH

INFORMATION:

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

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

Special Hearing -

1. To determine “the date of the final order” for purposes of Baltimore County Zoning Regulations (BCZR) Section 502.3 in Zoning Case No. 2021-0199-X; and
2. To determine that the Special Exception granted in Zoning Case 2021-0199-X was utilized prior to “the date of the final order” under BCZR Section 502.3.

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, but is currently the subject of Comprehensive Zoning Map Process (CZMP) Issue 6-007, which requests the property be rezoned to BM AS. The final Staff Recommendation for the Issue is for the property to maintain its existing zoning. The final Planning Board Recommendation for the Issue is to rezone the property to BM AS. As of the date of these comments, County Council has not made a final decision 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. No community members attended the Hearing before the Administrative Law Judge to oppose the requested Special Exception. 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.

Following the reversal, the site was the subject of Zoning Case 2023-229-SPH, which sought a Special Hearing to extend the Special Exception approved in Case 2021-199-X for three (3) additional years. The Zoning Case went before the Administrative Law Judge on May 15th, 2024, however a decision on the Case has not been made as of the date of these comments.

The site has been the subject of multiple past permit applications, including the following:

Permit Number	Proposed Work	Permit Status
CEN22-000132	Grading and paving 44,431 square feet for a future car wash	Issued 11/18/2023
CEN22-000133	Stormwater management for 0.18 acre drainage area for future car wash	Issued 11/18/2023
C22-03588	Construction of a new car wash facility	Open – Zoning Review awaiting determination on Special Exception expiration date
CP23-01126	Cap off sewer line	Issued 11/17/2023
C23-02229	Demolition of vacant restaurant building for future use as a car wash	Issued 12/11/2023
C24-00226	Construction of a retaining wall on the side of the commercial property	Open – EPS Development Coordination Review requesting information on limit of disturbance

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. It should be noted that should there be any changes to the design of the structure/property between the DRP's approval and permitting, re-review by the Design Review Panel may be necessary. For determination or confirmation on if re-review is required, please contact Mary Kulchytka at 410-887-3482 or mkulchytka@baltimorecountymd.gov.

The Department of Planning contacted the representative for the Petition on May 30th, 2024 seeking additional information on the current Zoning Case. In a same-day phone call, the representative provided the Department with a timeline of events for the, including that his clients, Flagship Maryland Propco, LLC, purchased the property from Green Clean Joppa Road, LLC in August/September of 2023. In September of 2023, the previous owner pursued the extension of the Special Exception by letter, which was approved and then reversed. In November of 2023, Flagship Maryland Propco, LLC applied for Zoning Case 2023-229-SPH, which requested a Special Hearing to extend the Special Exception use approved in Zoning Case 2021-199-X for three (3) additional years. The representative for the petition further explained that Zoning Case 2023-229-SPH was scheduled for a Hearing before the Administrative Law Judge for November 30th, 2023, however, the community contacted the Director of Permits, Approvals, and Inspections to oppose the request and requested a new date. The postponement was granted. Due to scheduling conflicts and lack of posting notice of the Hearing, the Case did not go to a Hearing until May 15th, 2024. On May 13th, 2024, prior to the Hearing, the representative for the petition filed this Zoning Case, as he believed the two conversations were intrinsically intertwined. During the

Hearing, questions were raised regarding what was considered the date of the Opinion and Order in Case 2021-199-X and what was considered to be the date work on the property first began. As such, the representative for the petition requested the Administrative Law Judge hold their decision on Case 2023-229-SPH until the Hearing on Case 2024-0123-SPH could be conducted.

During the phone call, the Department of Planning asked the representative for the petition what day he/his clients considered to be the date of the Opinion and Order in Case 2021-199-X and what day he/his clients considered to be the date work on the property first began. The representative explained that the date on the Opinion and Order in Case 2021-199-X is November 2nd, 2021, however, the decision is appealable for thirty (30) days; therefore, the representative stated the date for the expiration of the Special Exception use would be thirty days after November 2nd, 2021. The representative explained that the date for determining if the Special Exception was utilized in time would be the date of issuance of the first related permit, which would be November 17th-18th, 2023, as that's when permits related to sewer cap off, stormwater management, and grading/paving for a new car wash facility were issued.

The Department of Planning's major duties when reviewing a zoning petition primarily include review of the site planning, proposed architecture, lighting, landscaping, signage, site amenities (benches, trash receptacles, bike racks), etc. for conformance with the Baltimore County Master Plan and adopted community plans and design guidelines. For this reason, the Department of Planning defers to the Administrative Law Judge on the Special Hearing matters and determinations on the Opinion and Order in Case 2021-199-X.

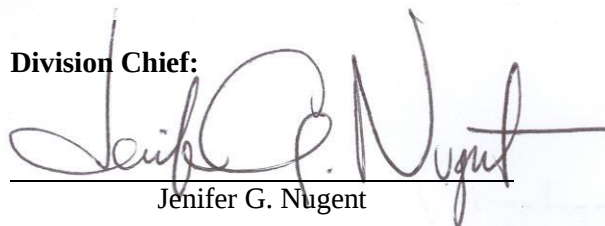
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

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

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
Principal Residence: NO
Mailing Address: SUITE 200 Deed Reference: /48374/ 00494
6 E EAGER ST
BALTIMORE MD 21202-

Location & Structure Information

Premises Address: 1630 E JOPPA RD 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
			41,995 SF	23

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

Value Information

	Base Value	Value	Phase-In Assessments	
		As of	As of	As of
		01/01/2023	07/01/2023	07/01/2024
Land:	1,094,900	1,094,900		
Improvements	0	0		
Total:	1,094,900	1,094,900	1,877,167	1,094,900
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

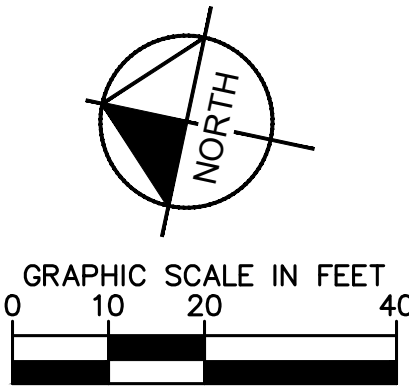
Homeowners' Tax Credit Application Status: No Application Date:

2024-0213-SPH

Baltimore County - My Neighborhood 2024-0213-SPH



Plotted By: Bishop, Matt Sheet: Set: 1630 E. JOPPA ROAD Layout: SITE PLAN April 18, 2024 01:47:39pm K:\BAL_COVA\114136002-1630 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, as an instrument of service, 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 CASE HISTORY

- CASE NO. R-1957-4219-X FOR RECLASSIFICATION OF PROPERTY FROM AN "R-10" ZONE TO A "B-R" ZONE FOR A SPECIAL EXCEPTION TO USE PROPERTY FOR A GASOLINE SERVICE STATION (GRANTED: SEPTEMBER 22, 1987).
- CASE NO. 2021-0199-X FOR A SPECIAL EXCEPTION TO PERMIT A CAR WASH IN A BM AND BR ZONE (GRANTED: NOVEMBER 1, 2021).
- TO EXTEND SPECIAL EXCEPTION CASE NO. 2021-0199-X FOR THREE (3) ADDITIONAL YEARS. APPLICATION PENDING.

CONCEPT LANDSCAPE PLAN CALCULATIONS

Baltimore County Planting Unit Calculation	PU Credit Requirement Rate	Quantity	Required Planting Units (PU)
Condition A Adjacent and Interior Roads			
Adjacent Road	1 PU/ 40 LF	160	4.0
Interior Road	1 PU/ 20 LF	235	11.8
Condition B Parking Lots			
Parking Lot Interior	1 PU/ 12 Spaces	20	1.7
Condition F Service Lanes			
Adjacent to Commercial Properties	1 PU/ 20 LF	235	11.8
Condition H Dumpsters			
Adjacent to Commercial Properties	1 PU/ 15 LF	35	2.3
Total Required Planting Units (PU)			31.5
Baltimore County Proposed Planting Unit Calculation	PU Credit Requirement Rate	Quantity	Proposed Planting Units (PU)
Major Trees Proposed	1 PU/ Tree	24	24
Minor Trees Proposed	1 PU/ 2 Trees	1	0.5
Evergreen Trees Proposed	1 PU/ 2 Trees	28	14.0
Shrubs Proposed	1 PU/ 5 Shrubs	217	43.4
Total Proposed Planting Units (PU)			81.9

SITE PLAN

SCALE: 1" = 20'

GENERAL NOTES

- PROPERTY ZONED: BR, BM (BUSINESS ROADSIDE, BUSINESS MAJOR)
ZONING MAP: #070C2
- NET SITE AREA: 41,995-SF OR 0.96 ACRES
- TO THE BEST OF OUR KNOWLEDGE THE SITE IS NOT UNDER ACTIVE ZONING VIOLATION(S).
- ALL EXISTING STRUCTURES ON-SITE HAVE BEEN DEMOLISHED.
- THIS SITE IS NOT LOCATED WITHIN SUFFICIENT BASIC SERVICES MAP AREAS FOR SEWERAGE AND WATER, AND IS LOCATED IN AN "F" RATED AREA FOR TRANSPORTATION, AS SHOWN ON THE 2020 BASIC SERVICES MAPS FOR SEWERAGE, WATER, AND TRANSPORTATION.
- PROPERTY KNOW AS: GRS PROPERTIES, LLC
1630 E JOPPA ROAD
PARCEL: 745
TAX MAP: 70
GRID: 17
- EXISTING USE: RESTAURANT
PROPOSED USE: CAR WASH
- THE PROPERTY IS NOT PART OF AN OVERALL DEVELOPMENT AND DOES NOT HAVE AN ASSOCIATED PLAT.
- THE SITE IS NOT LOCATED IN A 100-YR FLOODPLAIN (FEMA MAP #2400100265F).
- THERE ARE NO WETLANDS WITHIN THE SITE BOUNDARY.
- THE PROPERTY IS OUTSIDE OF THE CHESAPEAKE BAY CRITICAL AREA.
- ALL SIGNAGE SHALL COMPLY WITH SECTION 450 OF THE BCZR OR VARIANCES WILL BE REQUESTED. NO SIGNAGE IS PROPOSED AS PART OF THIS APPLICATION.
- ELECTION DISTRICT: 9TH, COUNCILMANIC DISTRICT: 5TH
- SITE IS NOT A HISTORICAL PROPERTY PER BALTIMORE COUNTY GIS DATABASE
- THERE ARE NO WELLS OR SEPTIC SYSTEMS ON SITE. THE SITE IS SERVED BY PUBLIC WATER AND SEWER.
- WATERSHED: LOWER GUNPOWDER FALLS WATERSHED
- FLOOR AREA RATIO: 3,757 SF/41,995 SF = 0.09
- A FIRE HYDRANT IS PROPOSED ON SITE.
- STORMWATER MANAGEMENT IS REQUIRED FOR THIS SITE.
- LANDSCAPING SHALL BE PROVIDED IN ACCORDANCE WITH THE LANDSCAPE MANUAL AND ALL OTHER MANUALS ADOPTED PURSUANT TO SECTION 32-4-404 OF THE BALTIMORE COUNTY CODE.
- ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITE AND PUBLIC STREETS.
- THERE ARE NO PREVIOUS COMMERCIAL PERMITS FOR THE PROPERTY.
- THE PROPOSED BUILDING WILL NOT EXCEED 40' IN HEIGHT.

- PREVIOUS PERMIT HISTORY:
GRADING: CEN22-000132 ISSUED 11/18/2023
STORMWATER MANAGEMENT: CEN22-000133 ISSUED 11/18/2023
RAZING: C23-02229 ISSUED 12/11/2023



VICINITY MAP
SCALE: 1" = 1000'

APPLICANT/DEVELOPER

FLAGSHIP MARYLAND PROPCO, LLC C/O SPOTLESS BRANDS
950 HERNDON PARKWAY
SUITE 400
HERNDON, VA 20170
ATTN: RAY GARGANIO
PHONE: 609-668-4661
EMAIL: RGARGANIO@SPOTLESSBRANDS.COM

PROPERTY OWNER

FLAGSHIP MARYLAND PROPCO, LLC
6 E. EAGER STREET, SUITE 200
BALTIMORE, MD 21202

LANDSCAPE ARCHITECT/ CIVIL ENGINEER

KIMLEY-HORN & ASSOCIATES, INC.
1801 PORTER STREET, SUITE 401
BALTIMORE, MD 21230
ATTN: MATT BISHOP, PLA
PHONE: 443-792-9995
EMAIL: MATT.BISHOP@KIMLEY-HORN.COM

ARCHITECT

SBA STUDIOS, LLC
1565 DALE FORD ROAD
DELAWARE, OH 43015
ATTN: KEVIN A. CIESZYKOWSKI
TEL: 440-476-8539
EMAIL: KEVIN@SBA-STUDIOS.COM

SITE LEGEND

	PROPERTY LINE
	ROW LINE
	LIMIT OF DISTURBANCE
	BUILDING SETBACK LINE
	LANDSCAPE TRANSITION AREA LINE
	ZONING BOUNDARY LINE
	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR
	EXISTING BUILDING OUTLINE
	PROPOSED BUILDING OUTLINE
	PROPOSED CURB AND GUTTER
	PROPOSED RETAINING WALL AND FENCE
	PROPOSED GUARDRAIL
	PROPOSED VACUUM
	PROPOSED VACUUM EQUIPMENT PAD
	PROPOSED CONCRETE
	PROPOSED PAVEMENT MARKING
	PROPOSED WHEEL STOP
	PROPOSED SIGN
	ZONING CLASSIFICATION
	PROPOSED LIGHT POST
	PROPOSED ADA RAMP
	STANDARD DUTY PAVEMENT

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

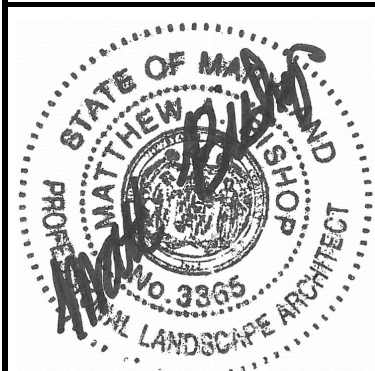
PLAN TO ACCOMPANY
A PETITION FOR A
SPECIAL HEARING

1630 E. JOPPA ROAD

SHEET NUMBER
1

Kimley»Horn

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BALTIMORE COUNTY

MARYLAND

REVISIONS
No. DATE BY

