

<b>IN RE: PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE OFFICE
E side of Gilroy Road, at the southern		
terminus of Gilroy Road, 2,500' S of	*	OFFICE OF ADMINISTRATIVE
Golden West Drive		
<b>(Gilroy Road)</b>	*	HEARINGS FOR
8 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	BALTIMORE COUNTY
Gilroy, LLC	*	<b>CASE NO. 2011-0364-SPH</b>
Petitioner		

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**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings for Baltimore County pursuant to a Petition for Special Hearing filed by Gilroy, LLC, Property Owner/Petitioner. The Petitioner requests confirmation that the proposed use of subject property constitutes a “construction equipment storage yard” and/or for such other relief as may be deemed necessary by the Administrative Law Judge of Baltimore County. The subject property and requested relief are more particularly shown on Petitioner’s Exhibit No. 1, the Plat to Accompany the Petition for Special Hearing.

Appearing at the requisite public hearing held for this case was Robert Webbert, principal of Gilroy, LLC (Property Owner/Petitioner). The Petitioner was represented by Lawrence E. Schmidt, Esquire of Smith, Gildea & Schmidt, LLC. Also appearing was Geoffrey Schultz (Professional Land Surveyor) of McKee & Associates, Inc., who prepared the Plat to accompany the Petition. There were no Protestants or other interested persons present.

Testimony and evidence presented was that the subject property is an unimproved parcel of land approximately 13.5 acres in area, zoned ML-IM. The property is located in the Cockeysville/Hunt Valley community of Baltimore County. It is immediately bordered on the west side by the Baltimore Harrisburg Expressway (Interstate I-83) and to the south the Warren

Road interchange to that highway. To the north, the property abuts other office/manufacturing properties which are located to the south of the Hunt Valley Industrial Park. To the west, the property abuts lands owned by State Highway Administration (“SHA”). There are no residential uses in the immediate vicinity.

Gilroy, LLC is an affiliate of Gray & Son, Inc., a well know construction/contracting business in Baltimore County. Mr. Webbert is a principal with Gray & Son. Gray & Son’s main office is located not far from the subject property, near a quarry property (known for many years as the “Genstar Quarry”) adjacent to Padonia Road.

The subject property was recently acquired by Gilroy, LLC and is proposed for use by the Gray & Son company. No buildings or other structures are immediately contemplated as part of the proposed use. Instead, an area of the property (approximately 6.24 acres), will be utilized as a construction equipment storage yard. That is, Gray and Son anticipates using a portion of this land for storage purposes associated with its construction business.

As was noted at the hearing, a construction equipment storage yard is defined under Baltimore County Zoning Regulation (“B.C.Z.R.”) Section 101.1 as “the use of any space, whether inside or outside a building, for the storage of construction equipment or machinery, including landscaping equipment and associated materials.” Pursuant to land use regulations for the ML zone in B.C.Z.R. Section 253.1.B.3, construction equipment storage yards are permitted by right in that zone. Further, B.C.Z.R. Section 253.1.E permits a combination of permitted uses listed within the ML zoning regulations as permitted by right in that zone. In addition to construction equipment storage yards, other uses permitted by right in the ML zone include, “building material storage or sales yards” and “utility storage yards.” Indeed, Gray and Son’s operation may be considered as permitted by right as a combination of permitted uses.

A detailed description of the nature of the work performed by Gray and Son and the proposed items to be stored at the site was provided at the hearing. It was asserted that the Company's operation falls within three specific construction activities. Specifically, the Company contracts with public and private clients to construct and install utilities, including storm drains and other infrastructure. In addition, the Company builds and paves roads. Finally, the Company provides general excavation services for its clients. For its business, the Company has acquired the site and anticipates storage of construction equipment and material, including but not limited to the following: millings, pipe (including concrete, steel and plastic), fittings, pre-cast concrete structures, man holes and inlets, top soil, clay, stone, stockpile material, extra dirt, grates, cast frames and fencing. All of these items easily fall within the construction equipment materials and/or the landscaping materials which are stated in the definition of "construction equipment storage yard."

Based upon the testimony and evidence offered, it is apparent that the proposed use and nature of the business falls within the construction equipment storage yard definition. I therefore find that the proposal for use of this site by Gilroy, LLC (i.e. Gray & Son, Inc.) is permitted by right in the ML zone. As noted above, there were no Protestants present at the hearing. Zoning Advisory Committee ("ZAC") comments were received from State and County agencies which reviewed the petition. Most of these comments were in the nature of a "no comment" but substantive remarks were offered by the State Highway Administration (the immediate neighbor) and the Department of Environmental Protection and Sustainability ("DEPS"). Neither written comment offered by these respective agencies opposes the request, as to the proposed use, however both identify potential issues which may arise when/if the site is developed and/or improvements are constructed thereon in the future. As noted above, no structure or building is

proposed on the property at this time. Ultimately, certain improvements will be made to the site in order to provide vehicular access. The issues identified by DEPS and SHA are more properly addressed when permits for access are required or the site is further improved. Thus, the written ZAC comments are at this point deemed advisory. As to the narrow issue presented by the instant Petition for Special Hearing, I find that the Petitioner has satisfied its burden and that relief requested should be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this matter held, and after considering the testimony and evidence offered, I find that Petition for Special Hearing shall be GRANTED.

THEREFORE, IT IS ORDERED by the undersigned Administrative Law Judge of Baltimore County, this 29<sup>th</sup> day of September, 2011, that the Petition for Special Hearing to confirm that the proposed use of subject property as described herein constitutes a “construction equipment storage yard”, be and is hereby GRANTED.

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

Signed  
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TIMOTHY M. KOTROCO  
Administrative Law Judge for  
Baltimore County

TMK:dlw