IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(311 International Circle) 8th Election District	*	OFFICE OF
3rd Council District	*	ADMINISTRATIVE HEARINGS
LSOP 3MD 4, LLC c/o Greenfield Partners, LLC	*	FOR BALTIMORE COUNTY
Petitioner	*	**Case No. 2015-0203-SPHA**

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows: (1) to amend the previously approved site plan in Case No. 97-559-SPHA; (2) to confirm the continuation of the non-conforming use of commercial parking in the R.C. 6 zone; and (3) to determine whether the storage of communication equipment (accessory use) must be located within permanent containment structures. In addition, a Petition for Variance (sought in the alternative if the petition for special hearing is not granted) pursuant to B.C.Z.R. §209.7.D seeks to permit storage of communication equipment (accessory use) outside of permanent containment structures.

The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1. Appearing at the public hearing in support of the requests was Gerard J. Wit, Iwona-Rostek-Zarska and Valek Zarski. G. Scott Barhight, Esq. and Jennifer Busse, Esq. represented the Petitioner. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the

Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP).

The subject property is improved with a commercial office park complex, situated at the intersection of Shawan Road and I-83. This property is zoned OR-1, OT & RC-6, and as pertains to this case concerns two parcels of land: Lot 2A, Parcel 1, approximately 14.12 acres, and Lot 2, Parcel 2, approximately 2 acres. Parcel 1 is improved with three large, multi-story office buildings. Parcel 2 is unimproved, but contains an existing commercial parking lot. Petitioner proposes to use Parcel 2 for storage of certain telecommunications equipment and parking of work vans that will be loaded and unloaded from the storage area.

PETITION FOR SPECIAL HEARING

The first aspect of special hearing relief seeks confirmation of the non-conforming use status of the commercial parking in the R.C. 6 zone. The R.C. 6 zone encompasses only a small portion of Parcel 2, as shown on the site plan. Though the zoning of this portion of Parcel 2 has changed throughout the years (i.e., D.R.-1, R.C.-4, R.C.-6) it has always had a residential classification. Site plans submitted in connection with 1995 and 1997 zoning cases (Ex. Nos. 2B & 3B) indicate this portion of the site was used for "commercial parking," and improved with "bituminous paving" to accommodate vehicles.

Petitioner also noted that Baltimore County issued many years ago a "use permit" for commercial parking in the residential zone, though Petitioner's engineer (Iwona Zarska) testified that county staff could not locate those documents in the archived files. Since it appears that the commercial parking was permitted by Baltimore County and has continued without interruption, the Petitioner has established a non-conforming use for commercial parking in the small R.C.-6 zoned portion of Parcel 2.

The other aspect of the special hearing request concerns whether the electronics equipment must be stored within permanent storage enclosures per B.C.Z.R. §209.7.D, which contains "performance requirements" for the O.T. zone. Like much of the B.C.Z.R., this section is not a model of clarity, and would appear in successive sentences to both permit and prohibit outside storage of "materials and supplies." The O.T. zone regulations are designed to ensure "a high quality environment in regards to health, safety and aesthetics." B.C.Z.R. §209.7. In this case, the DOP undertook a thorough analysis of the site and surrounding neighborhood, and has suggested certain fencing and landscaping be provided to complement the neighborhood. In my opinion, these are sound recommendations, and will ensure that the use is appropriate for the site and will not be detrimental to the health, safety and/or aesthetic concerns of the surrounding community.

THEREFORE, IT IS ORDERED this 7th day of May, 2015, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) to amend the previously approved site plan in Case No. 97-559-SPHA, in accordance with the terms of this Order and the site plan submitted herein; (2) to confirm the continuation of the non-conforming use of commercial parking in the R.C. 6 zone; and (3) to determine that the storage of communication equipment (accessory use) need not be located within permanent containment structures, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. §209.7.D to permit storage of communication equipment (accessory use) outside of the permanent containment structures, be and is hereby DISMISSED AS MOOT.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.

2. Petitioner must comply with the ZAC comment of DOP, a copy of which is attached hereto.

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

_____Signed_____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln