

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1734 Merritt Blvd.)		
12 th Election District	*	OFFICE OF
7 th Council District		
MP63, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Brinker of Baltimore County, Inc.	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2016-0057-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of MP63, LLC, legal owner of the subject property, and Brinker of Baltimore County, Inc., lessee (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to approve a ground-mounted freestanding enterprise sign for a pad site in a shopping center.

Appearing at the public hearing in support of the request was J.J. Jamadar, Matthew Destino, Peter Obrecht and professional engineer Joseph Ucciferro. David H. Karceski, Esq. represented the Petitioners. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). The issues raised by those agencies will be included as conditions in the Order below. The zoning review office submitted a memorandum dated September 2, 2015, concerning whether the parking requirements for a pad site must be calculated separate and apart from the overall shopping center of which they are a part. On October 22, 2015, the Director of that office (Carl Richards) indicated that if the pad site

and the shopping center are in common ownership, the pad site would not be evaluated on its own for calculation of the necessary number of parking spaces.

The subject property is zoned BM-CT and contains the Merritt Park Shopping Center. The overall site is in excess of 13 acres, although the “pad site” at issue in this case is approximately 20,000 sq. ft. As shown on the plan, Petitioners propose to construct a Chili’s restaurant at the site. Mr. Ucciferro testified (via proffer) that the site for the restaurant is located at the periphery of the center’s large parking lot. He also noted the site would be enclosed on three sides, which would also feature significant landscaping, as shown on the illustrative site plan. Exhibit 5. In these circumstances, the subject property qualifies as a “pad site,” a term counsel noted was not defined in the B.C.Z.R. Even so, the longstanding practice is to consider freestanding commercial sites within a larger shopping center to be “pad sites,” and I believe the subject property easily fits within that category. Pad sites are permitted (again by institutional precedent) to have an enterprise sign, such as that proposed by Petitioner. See Exhibit 3. As such, the petition will be granted.

THEREFORE, IT IS ORDERED this 2nd day of November, **2015** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to approve a ground-mounted freestanding enterprise sign for a pad site in a shopping center, be and is hereby GRANTED.

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. Petitioners must provide landscaping or vegetation at the base of the proposed enterprise sign, as shown on the illustrative site plan which was admitted as Petitioners' Exhibit 5.
3. Petitioners must provide lighting and landscaping at the site as determined in the sole discretion of the Baltimore County Landscape Architect.

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

JEB:sln

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County