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| IN RE: PETITIONS FOR SPECIAL HEARING | * | BEFORE THE |
| AND SPECIAL EXCEPTION | | |
| (2326 Sparrows Point Road) | * | OFFICE OF |
| 15 th Election District | | |
| 7 th Council District | * | ADMINISTRATIVE HEARINGS |
| SGAS Holdings, LLC | | |
| <i>Legal Owner</i> | * | FOR BALTIMORE COUNTY |
| 7-Eleven, Inc., <i>Contract Purchaser</i> | | |
| Petitioners | * | Case No. 2016-0023-SPHX |

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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 Special Exception filed on behalf of SGAS Holdings, LLC, legal owner and 7-Eleven, Inc., contract purchaser (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to abandon the Special Exception approved by the Baltimore County Board of Appeals in Case No. 1966-0062-X, allowing for the use of the property as a truck terminal. A Petition for Special Exception was filed pursuant to §§ 405.2.B.1, 405.3 and 405.4 for uses in combination, a “Fuel Service Station” on an individual site and a “Convenience Store” with a sales area that is larger than 1,500 sq. ft., as more particularly described in the plan to accompany the zoning petition.

Appearing at the public hearing in support of the requests was Brianne Wilson of 7-Eleven and professional engineer Joseph Ucciferro. Chris Corey, 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. Zoning Advisory Committee (ZAC) comments were received from the DOP, and its recommendations will be included as conditions in the Order below.

Special Hearing

The petition for special hearing merely seeks to extinguish as a formal matter a special exception granted in 1966 permitting a trucking facility at the property. Witnesses were unsure if such a facility ever operated at the site, although the present commercial uses (a bank and a 7-Eleven store) date back to the 1970's. As such the petition will be granted.

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People's Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. No such evidence was presented in this case and the petition will be granted.

Mr. Ucciferro testified via proffer that Petitioners satisfy B.C.Z.R. § 502.1 and I concur. The site is 1.5 acres, which far exceeds the minimum lot size provided in the B.C.Z.R. In addition, he confirmed that after investigation Petitioners determined there are no abandoned fuel service stations within a one mile radius of the site. Finally, Basic Services Maps (Exhibit 6A-6C) were submitted which reflect the property is not located within a mapped area indicating a deficiency in public infrastructure (i.e., sewer, water and roads).

THEREFORE, IT IS ORDERED this 7th day of October 2015, by this Administrative Law Judge, that the Petition for Special Hearing to abandon the Special Exception approved by the Baltimore County Board of Appeals in Case No. 1966-0062-X, allowing for the use of the property

as a truck terminal, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Exception pursuant to B.C.Z.R. §§ 405.2.B.1, 405.3 and 405.4 to allow a fuel service station on an individual site and a convenience store with a sales area that is larger than 1,500 sq. ft., as uses in combination, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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 comply with the DOP ZAC comment which is attached hereto and incorporated herein.

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