

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(6901 Security Blvd.)		
1 st Election District	*	BOARD OF APPEALS
1 st Council District		
	*	OF
Set the Captives Free Outreach Center, Inc.		
Successor to Blue Ocean Seoul Plaza, LLC	*	BALTIMORE COUNTY
Legal Owner		
	*	Case No. 18-161-SPH

* * * * *

OPINION

This case comes before the Board of Appeals of Baltimore County on an appeal of the Opinion and Order of the Administrative Law Judge dated February 21, 2018 (the “Order”) approving an amendment to the previous order and site plan in Case No. 1988-0200-A to allow the existing automotive service center/garage to be subdivided and exist on a separate lot of record; and to confirm a refinement to the 4th Refined CRG Plan for Security Square Shopping Center, subject to certain conditions contained in the Order.

The petition was filed by the prior owner, Blue Ocean Seoul Plaza, LLC. Shirley and Jeff Supik noted a timely appeal of the Order.

This Board convened a *de novo* hearing on June 28, 2018 to hear the matter. Timothy M. Kotroco, Esquire appeared on behalf of Petitioner/Appellee. J. Carroll Holzer appeared on behalf of Appellants Supik and Security Wards, LLC by Howard Brown. People’s Counsel also appeared. Prior to the hearing, Appellee filed a Motion to Dismiss the appeal for lack of standing. At the hearing, Appellants moved to postpone the hearing. Counsel for Petitioner advised the Board that the subject property was sold to Set the Captives Free Outreach Center, Inc. (hereafter, “STCFOC”) on June 22, 2018. Accordingly, the parties agreed to the postponement.

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The Board reconvened on January 8, 2019. Mr. Kotroco appeared on behalf of Petitioner/Appellee. Dino LaFiandra, Esquire, appeared on behalf of Appellants Supik, the Liberty Road Community Council, Inc., (“LRCC”), and Security Wards, LLC/Howard Brown. People’s Counsel did not participate.

BACKGROUND

The property of which the subject site is a part, consists of 93± acres, all zoned BM-CT originally developed in the 1960’s as Security Square Mall, a regional shopping center. As was common practice at the time, individual parcels, particularly those of anchor department stores, were owned by the occupant, the mall area owned and leased by the developer, and the entire property subject to reciprocal agreements and cross easements governing shared parking and maintenance. In this case, the reciprocal agreement (the “Construction, Operation and Reciprocal Easement Agreement” or “COREA”) is no longer in effect, and as a result, each parcel is discrete and its use, standing alone, must comply with applicable regulations. The subject property, a 12± acre parcel, is known as Parcel B Lot 1 on the plat of Security Square Shopping Center (Petitioner’s Exhibit 7), and once housed the J.C. Penney department store and a separate free standing building that was a GEICO auto claims service center.

Petitioner, a church, wishes to subdivide the GEICO parcel as a 2.04 ± acre stand-alone parcel since it is not to be used for church purposes. No new construction is contemplated. The request is to amend the prior CRG plan to create the new lines of division and confirm a refinement of the previously approved plan to reflect the new lot; and to amend the prior zoning in Case No. 1988-0200-A. The original approval was made by a committee known as the County Review Group (“CRG”), and the approved plan, known as the “CRG Plan”. Under the Code, appeals of CRG plans were made to this Board. (See Baltimore County Code, 1978, 1988/89

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Cumulative Supplement; §22-61). Even if approved by this Board, Petitioner must submit the plan to the Development Review Committee (“DRC”), an advisory committee of departmental representatives, for further review and direction, to bring the property into compliance with other current regulations.

TESTIMONY AND EVIDENCE

Petitioner called one witness, Richard E. Matz, a civil engineer, licensed by the State of Maryland who was accepted as an expert in Baltimore County zoning and development.

Mr. Matz introduced a number of exhibits about the mission of STCFOC, its proposed uses within the Penney’s building and existing improvements on the site. A colored site plan illustrated the existing and proposed lot lines. (Petitioner’s Exhibit 6B). Relative to the overall mall site, the property is barely visible from any public road and abuts the ramp from I-695 to I-70.

Mr. Matz, who had recently visited the site, also introduced photographs showing the seemingly abandoned GEICO building and adjoining parking field, part of which is fenced and rented to a training school for truck drivers. Petitioner does not intend to use or retain the GEICO building for church purposes, and to render that parcel taxable, requires a separate tax parcel and account. Mr. Matz testified that doing so would also simplify commercial transactions, such as sale and financing, for both the Petitioner’s property and any subsequent owner of the GEICO parcel. There is no new construction proposed and all proposed uses are permitted within the zone. Mr. Matz further testified that there is adequate parking on each resulting parcel to support its proposed use, excluding from the tally any land devoted to the trucking school. For one tenant in the Penney’s building, a gym, Mr. Matz calculated parking based on limitations imposed by the Fire Department rather than those imposed by the BCZR. However, the lease for the gym

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has been terminated, and there is ongoing litigation to remove this tenant. Mr. Matz testified that the plan meets the special hearing criteria and is in keeping with the zone.

Protestants' counsel called Stephen Warfield, a licensed professional engineer who was accepted as an expert in civil engineering, Baltimore County zoning and development. Mr. Warfield testified regarding parking and procedural requirements that he deems required for plan approval.

As to parking, Mr. Warfield offered a recorded non-exclusive parking easement involving the subject property and the adjoining movie theater (Protestants' Exhibit 3), alleging the shared spaces subject to the easement should not be available to satisfy the parking requirements for the proposed church use. He also disputed Mr. Matz' calculations and application of the parking regulations, but recalculated parking spaces required by the Zoning Regulations for the existing gym use.

As to the procedure that should be employed, Mr. Warfield posited that a plan, red-lined to show proposed revisions, be submitted to the Development Review Committee ("DRC") along with the requisite checklist, to amend the prior approved CRG plan.

Protestant Shirley Supik testified on behalf of the LRCC after Rule 8 documentation was accepted. The thrust of the opposition turns not on an objection to the proposed use or parking, but on the piecemeal nature of the redevelopment. The LRCC and the Supiks personally want a comprehensive redevelopment proposal for the entire mall property involving all the separate owners and parcels. Mrs. Supik testified to her efforts to communicate with other owners, in particular Mr. Brown, and that no dialogue, other than with Petitioner, had been forthcoming over a two-year period.

Mr. LaFiandra proffered that to approve the petition now might adversely affect future

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parking on the parcels owned by Security Wards, LLC/Howard Brown, despite the fact that this property enjoys an abundance of excess parking at this time.

Following the close of testimony, the Board deliberated on Petitioner's Motion to Dismiss, which it denied.

DECISION

The Board has reviewed the briefs and arguments set forth by all parties in this matter as well the applicable provisions of the Baltimore County Code and Zoning Regulations. A public deliberation was held on February 21, 2019.

The Board determined that, as an appeal of a prior zoning case, the decision of the Administrative Law Judge is within the jurisdiction of the Board. The Board also found that an appeal of a CRG plan amendment is also within the Board's jurisdiction, as an appeal of a matter delegated to the Office of Administrative Hearings under Baltimore County Code §3-12-105 and predecessor § 22-57(a) of the 1978 Code.

Upon review of the testimony and evidence, the Board found that the creation of the proposed GEICO 2.04 ± acre lot meets applicable regulations as a discrete, stand-alone lot, subject to review by the Development Review Committee. The Board further found that because the non-church based uses are in a state of flux, with at least one lease having been terminated and subject to ongoing eviction proceedings, the adequacy of parking could not be determined with certainty, but that the church and its associated accessory uses must comply with all zoning requirements at the time of issuance of an occupancy permit. As to the availability of the parking spaces subject to the easement agreement with the movie theater, the Board determined that such easement is, by its terms, *non-exclusive*, and not restricted to a particular use. As such, there is no prohibition on those spaces being counted to satisfy required parking for the church. Lastly,

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the Board held that the Supiks are proper parties who have standing to have brought this appeal, and the remaining Appellants are entitled to participate in these proceedings. See *People's Counsel for Baltimore County v. Crown Development Corp.*, 614 A.2d 553, 328 Md. 303, 317 (Md., 1991)

ORDER

THEREFORE IT IS this 8th, day of March, 2019,

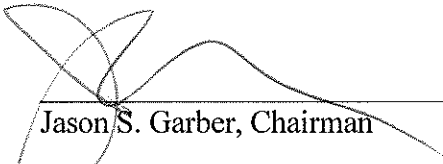
Board of Appeals of Baltimore County, hereby

ORDERED that the decision of the Administrative Law Judge dated February 21, 2018, approving the Petition for Special Hearing to Amend the Previous Zoning Order and Site Plan in Case No. 1988-0200-A to allow the existing automobile service garage to be subdivided and exist on a separate lot of record; and to confirm a refinement to the 4th Amended CRG Plan, Security Boulevard, Security Square Shopping Center, be and is hereby **APPROVED** subject to review of the plan by the Development Review Committee, and further subject to any conditions in the Order of the Administrative Law Judge which remain unsatisfied.

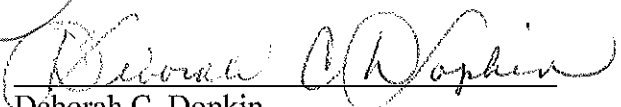
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Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Jason S. Garber, Chairman



Deborah C. Dopkin



Joseph L. Evans



Board of Appeals of Baltimore County

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March 8, 2019

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Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: In the Matter of: *Set the Captives Free Outreach Center, Inc. – Legal Owner*
(Blue Ocean Seoul Plaza, LLC – Previous Owner)
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Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Set the Captives Free Outreach Center, Inc.
Shirley and Jeffrey Supik
Liberty Road Community Council, Inc.
Howard Brown/Security Wards, LLC
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Jeff Mayhew, Acting Director/Department of Planning
Michael Mohler, Acting Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law