

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(5225 Baltimore National Pike)		
1 st Election District	*	OFFICE OF
1 st Council District		
Yogeswar, Inc.	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Charm City Relief Partners, LLC	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2018-0340-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Yogeswar, Inc., legal owner and Charm City Relief Partners, LLC, lessee (“Petitioners”). The petition was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) to approve the use and development of the subject property as a medical cannabis dispensary.

Sheraz Warraich and Rick Richardson appeared in support of the petition. Andrew H. Robinson, Esq. represented the Petitioners. There were no protestants or interested citizens in attendance. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (“DOP”) and the Bureau of Development Plans Review (“DPR”).

The subject property is approximately 12,164 square feet in size and is zoned BM-CCC. The property is improved with a one-story commercial building (2,077 sq. ft.) and is located in the Catonsville area close to the Baltimore City boundary line. The site is within a community revitalization district, which permits by special exception a medical cannabis dispensary.

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 *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized 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.

Rick Richardson, a professional engineer accepted as an expert, testified via proffer the site plan satisfied all requirements set forth in BCZR § 502.1. He submitted exhibits (Petitioners' Exhibit Nos. 2 & 3) reflecting the nearest school is 1,236 feet away from the subject property while the nearest cannabis dispensary is over two (2) miles away. As such, Petitioners have satisfied the specific location/siting requirements for cannabis dispensaries, and in the absence of any evidence to rebut their prima facie case, the petition for special exception will be granted.

THEREFORE, IT IS ORDERED this 24th day of **August, 2018**, by this Administrative Law Judge, that the Petition for Special Exception to approve the use and development of the subject property as a medical cannabis dispensary, 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 comply with the ZAC comment submitted by DOP and DPR, copies of which are attached hereto and made a part hereof.

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/dlw