

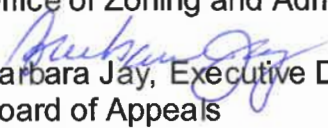


**MONTGOMERY COUNTY BOARD OF APPEALS**

**MEMORANDUM**

October 20, 2023

**TO:** Lynn Robeson, Director  
Office of Zoning and Administrative Hearings

**FROM:**   
Barbara Jay, Executive Director  
Board of Appeals

**SUBJECT:** Case No. S-847-B  
Petition of Southland Corporation

The case record for the above-captioned special exception major modification petition is hereby transmitted to you. The application has been reviewed by our staff and is complete, according to the requirements of Sections 59-A-4.22 of the Zoning Ordinance (2004), as made applicable by Section 59-7.7.1.B.1 of the Zoning Ordinance (2014). A copy of the Board's Resolution formally transferring this matter to your office to schedule and conduct a public hearing, and to issue a written report and recommendation, is attached.

Attachment

**Exhibit 3**  
**S-847-B Major Modification**

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue, Suite 217  
Rockville, Maryland 20850  
<http://www.montgomerycountymd.gov/boa/>  
(240) 777-6600

**Case No. S-847-B**

**PETITION OF SOUTHLAND CORPORATION**

**RESOLUTION TO REFER MAJOR MODIFICATION  
TO THE HEARING EXAMINER TO CONDUCT A PUBLIC HEARING AND  
ISSUE A REPORT AND RECOMMENDATION**  
(Resolution Adopted October 4, 2023)  
(Effective Date of Resolution: October 20, 2023)

Case No. S-847 was granted to the Southland Corporation on December 22, 1982, pursuant to Section 59-G-2.06 and 59-G-1.3(c)(1) of the 1977 Zoning Ordinance (Chap. 59, Mont. Co. Code 1977, as amended) to permit modernization of an existing automobile filling station that was initially approved by the Board of Appeals in 1967 as Case No. CBA-2173. The Petitioner in that case proposed to operate the modernized filling station as a "gas-n-go" in conjunction with a proposed retail convenience store, the latter of which was a permitted use in the underlying (C-2) Zone. On June 1, 1983, the special exception was modified to permit reconfiguration of the curb and landscape area on the east side of the Southland property. On October 14, 1994, the special exception was modified to permit changes necessary to meet the Environmental Protection Agency Stage II Vapor Recovery requirements. Finally, on May 5, 1995, in Case No. S-847-A, the special exception was modified to allow (1) removal of existing concrete islands and dispensers and replacement with multi-product dispensers; (2) installation of a Stage II vapor recovery system; (3) installation of new canopy lighting and pole lights; and (4) replacement of fascia on the existing canopy.

The subject property is Parcel N913, Par C Burtonsville-Seven Eleven Store Subdivision, located at 15585 Old Columbia Pike, Burtonsville, Maryland, in the CRTF-1.5 C-1.0 R-0.5 H-45 Zone.

The Board of Appeals has received an Application for a major modification of this special exception, as well as supporting documentation, from Patricia Harris, Esquire. Under the Board's standard procedures for designating cases, this modification would be Board of Appeals' Case No. S-847-B.

Because Case No. S-847 [S-847-A] was approved prior to October 30, 2014, under Section 59-7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects otherwise. Section 59-G-1.3(c)(2) of the Montgomery County Zoning Ordinance (2004) provides that the Board “must convene a public hearing” to consider a proposed major modification, and that the request is subject to the requirements of Sections 59-A-4.2 and 59-A-4.4 of that Ordinance, which pertain to filing and scheduling requirements. Section 59-A-4.125(a) of that Ordinance states that:

(a) The Hearing Examiner’s Office has the functions and duties of scheduling and conducting public hearings and rendering written reports and recommendations to the County Board of Appeals on the following matters:

- (1) any petition for a special exception; and
- (2) upon request of the Board and with approval of 3 of its members, any other matter pending before the Board.

The Board of Appeals considered Ms. Harris’s submission at a Worksession held on October 4, 2023. Ms. Harris was present at the Worksession. After considering the nature of the request, the Board voted to refer this major modification application to the Office of Zoning and Administrative Hearings for a public hearing and the issuance of a report and recommendation, in accordance with Section 59-A-4.125(a) of the Zoning Ordinance (2004).<sup>1</sup> Accordingly, on a motion by Richard Melnick, Vice Chair, seconded by Alan Sternstein, with Caryn Hines and Laura Seminario-Thornton in agreement, and with John H. Pentecost, Chair, necessarily absent:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that, pursuant to the authority granted in Section 59-A-4.125 of the Montgomery County Zoning Ordinance (2004), the Board refers the above-described major modification to the Hearing Examiner for Montgomery County to schedule and conduct a public hearing, and for the issuance of a written report and recommendation to the Board of Appeals.



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Richard Melnick, Vice Chair  
Montgomery County Board of Appeals

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<sup>1</sup> The Board notes that similar authority exists under Section 59.7.6.2.B.2 of the current Zoning Ordinance, which states in relevant part that “The Hearing Examiner may schedule and conduct a hearing or write a report and recommendation for any other matter pending before the Board of Appeals upon request of the Board of Appeals and with approval of 3 of its members.”

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 20<sup>th</sup> day of October, 2023.

  
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Barbara Jay  
Executive Director

**NOTE:** Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.