

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
4741**

DECISION

Application:	Vehicle Sales Lot
Applicant:	4815 St. Barnabas Rd, LLC T/A Jim McKay Auto Mart
Opposition:	None
Hearing Date:	May 14, 2014
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

NATURE OF REQUEST

- (1) Special Exception 4741 is a request for permission to use approximately 0.6 acre of land in the C-S-C (Commercial Shopping Center) Zone, located in the northwest quadrant of the intersection of St. Barnabas Road (MD 414) and Raleigh Road, also identified as 4815 St. Barnabas Road, Temple Hills, Maryland, for a Vehicle Sales Lot.
- (2) The Technical Staff recommended approval with conditions (Exhibit 16) and the Planning Board chose not to hold a hearing and accepted the Technical Staff's recommendations as its own. (Exhibit 29)
- (3) No one appeared in opposition to the instant request.
- (4) At the close of the evidentiary hearing, the record was kept open for revised Site Plans and various agency comments. Upon receipt of the requested documents, the record was closed on June 12, 2014.

FINDINGS OF FACT

Subject Property

- (1) The proposed area of this Special Exception Application is in the southeastern corner of the platted Parcel B, which measures approximately 0.6 acre. Parcel B is partially developed with an existing restaurant in its southwestern corner and a small strip Shopping Center in its northern portion. The central part of Parcel B is vacant.
- (2) The subject property is developed with a one-story, 1,779 square-foot, A-frame building that is set back approximately 35 feet from the right-of-way line of Raleigh Road and

approximately 50 feet from the right-of-way line of St. Barnabas Road (MD 414). The structure was originally built in approximately 1968, and though currently vacant, was previously utilized as a fast food and pizza restaurant. There are current entrances to the site from Raleigh Road, to the north of the existing building, and from St. Barnabas Road, to the south of the building. Both of these entrances are proposed to remain along with the existing paved areas to the north, west and south of the existing building. (Exhibit 36(a))

Master Plan/Sectional Map Amendment/General Plan

- (1) The October 2002 Prince George's County Approved General Plan placed the subject property in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use pedestrian-oriented, medium-to high-density neighborhoods.
- (2) The April 2013 Central Branch Avenue Corridor Revitalization Sector Plan retained the subject property in the C-S-C Zone. There has been no other zoning activity at this site.
- (3) The instant Application generally conforms to the land use recommendations of the 2013 Central Branch Avenue Corridor Revitalization Sector Plan. The subject property is within the Plan identified Beech Road Focus Area. The Sector Plan examines the Beech Road Focus Area to address conflicts between residential, commercial, and industrial land uses. The Plan envisions this area as a community-scaled commercial area that supports the residential neighborhoods by providing locally serving retail, offices, and public uses closely integrated with residential development.

Neighborhood and Surrounding Uses

- (4) The neighborhood, as delineated by the Technical Staff and as accepted by the Applicant, is defined by the following boundaries:

North – Barnaby Run

East – Twenty-Eight Avenue

South – St. Barnabas Road (MD 414)

West – Deer Park Drive

- (5) The subject neighborhood has a dual character. To the north, it is a mix of residential uses (single-family and apartments), while the southern half of the neighborhood consists of strip-commercial uses oriented towards St. Barnabas Road (MD 414).
- (6) The site is surrounded by the following uses:

North – Undeveloped land and a small strip Shopping Center in the C-S-C Zone, beyond which are single-family attached residences in the R-35 (One-Family Semidetached, and Two-Family Detached, Residential) Zone.

East – Across Raleigh Road are a Gas Station and a telephone utility office, both in the C-S-C Zone.

South – Across St. Barnabas Road (MD 414) is a church in the R-R (Rural-Residential) Zone.

West – A fast-food restaurant in the C-S-C Zone, beyond which is a church in the R-R Zone.

Applicant's Proposal

(7) The Applicant proposes to establish a Vehicle Sales Lot on the subject property. Proposed site improvements include milling and overlaying the existing paved areas, removal of some of the paved areas to add landscaping islands, restriping the parking spaces, adding permeable paving and reinforced turf areas to the east of the existing building for vehicle display areas, re-facing the existing pylon sign, adding a bollard fence with gates to enclose the parking and display areas, and adding landscaping. No changes to the existing building are proposed.

LAW APPLICABLE

(1) A Vehicle Sales Lot is permitted as a Special Exception in the C-S-C Zone in accordance with §§27-461(b)(B), 27-417.02 and 27-317(a) of the Zoning Ordinance

(2) §27-461(b)(B) of the Zoning Ordinance permits a Special Exception for a Vehicle Sales Lot, which includes dealer servicing and outdoor storage of vehicles awaiting sale, but excludes the storage or sale of wrecked or inoperable vehicles, except as accessory to the dealership for vehicles awaiting repair, in the C-S-C Zone. The sale of other than new vehicles may only occur on a tract of land containing a minimum of 25,000 square feet. The subject site contains 26,102 square feet.

(3) §27-417.02 provides:

(a) A motor vehicle, boat, mobile home, trailer, and camping trailer sales room or sales lot for operable vehicles may be permitted, subject to the following:

(1) The number and type of vehicles which are permitted on the lot shall be determined on a case-by-case basis, taking into account factors such as gross vehicle weight, vehicle size, the nature of vehicles (commercial, industrial, earth-moving equipment, passenger, or other vehicle type).

(4) Section 27-317(a) provides as follows:

(a) A Special Exception may be approved if:

(1) The proposed use and site plan are in harmony with the purpose of this Subtitle;
(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

(6) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).

(5) The burden of proof in any zoning case shall be the Applicants. §27-142

CONCLUSIONS OF LAW

General Requirements

(1) §27-317(a) requires that the Proposed Use and Site Plan be in harmony with the general purposes of the Zoning Ordinance, §27-102, the general purposes of the Commercial Zones, §27-446(a), and the specific purposes of the C-S-C Zone, §27-474(a)(1).

(2) The instant Application is in compliance with the general purposes of the Zoning Ordinance, §27-102, as follows:

(1) To protect and promote the health, safety, morals comfort, convenience, and welfare of the present and future inhabitants of the County;

There will be no appreciable impact on the health, safety, morals, comfort, convenience, and/or welfare on the present or future inhabitants of the County by the operation of the Vehicle Sales Lot.

(2) To implement the General Plan, Area Master Plans, and Functional Master Plans;

The proposed Vehicle Sales Lot will implement various guidelines of the Branch Avenue Corridor Sector Plan, the Central Branch Avenue Corridor Revitalization Sector Plan and the General Plan. As part of this reuse project, the Applicant will provide new landscaping along the public right-of-way to improve the St. Barnabas Road streetscape, and new ADA sidewalk ramps along its St. Barnabas Road entrance to improve pedestrian and ADA accessibility.

(3) To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;

The building and parking lot on the subject property were constructed in 1968. There are adequate public facilities and services already in existence.

- (4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;***

Currently the subject property is vacant, and the Applicant is proposing to convert a vacant structure to a new office for the proposed Vehicle Sales Lot. This redevelopment provides for orderly growth and recognizes the need for new business in the Temple Hills section of the County.

- (5) *To provide adequate light, air, and privacy;***

There will be no exterior changes, and there will be no adverse impacts to the light, air or privacy of the existing development.

- (6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;***

The building on the subject property was constructed in 1968. It currently sits vacant, but there are a number of auto related businesses located along St. Barnabas Road. The immediately adjacent uses are all commercial uses and non-residential uses.

- (7) *To protect the County from fire, flood, panic, and other dangers;***

The building will be outfitted with the appropriate fire alarm system, as required by the Fire Marshall. The site will also be lighted providing further protection to customers and employees.

- (8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;***

No housing is proposed by the instant Application.

- (9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;***

The proposed use will create new jobs and further broaden the County's tax base.

- (10) *To prevent the overcrowding of land;***

The existing building will remain, and only interior renovations are proposed. The ground improvements include removing areas of existing asphalt to create new areas for landscaping. The sum of the proposed improvements will not overcrowd the land.

- (11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;***

The transportation impact of the proposed use is considered to be de minimus during AM and PM peak hours ...” All elements of the transportation system will continue with their usefulness.

- (12) To insure the social and economic stability of all parts of the County;***

The reuse and revitalization of a vacant property for a new business will help strengthen the social and economic stability for this area of the County.

- (13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;***

All site improvements will occur in areas of existing development. There will be no impact to stream valleys, steep slopes, scenic vistas or any regulated environmental feature.

- (14) To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and***

The subject property does not provide scenic beauty or natural features that need protecting nor does its location render it appropriate for recreational use.

- (15) To protect and conserve the agricultural industry and natural resources.***

This subject property contains no natural resources and is located in a Commercial Zone.

§27-317(a)(1)

(3) The instant Application is also in compliance with the purposes of the Commercial Zone, §27-446(a), as follows:

- (1) To implement the general purposes of this Subtitle;***

The use of this property for the sale of passenger cars and light trucks is in keeping with the general purposes of this Subtitle.

- (2) To provide sufficient space and a choice of appropriate locations for a variety of commercial uses to supply the needs of the residents and businesses of the County for commercial goods and services;***

A maximum of 50 vehicles are proposed for the 12,060 square foot display area and will have sufficient space to supply the needs of residents and businesses of the County.

- (3) *To encourage retail development to locate in concentrated groups of compatible commercial uses which have similar trading areas and frequency of use;***

The proposed commercial use of automobile sales fits into the existing commercial uses already along the St Barnabas corridor which have similar trading area and use frequency.

- (4) *To protect adjacent property against fire, noise, glare, noxious matter, and other objectionable influences;***

The building will be outfitted with the appropriate fire alarm system, as required by the Fire Marshall. The site will also be lighted providing further protection to customers and employees.

- (5) *To improve traffic efficiency by maintaining the design capacities of streets, and to lessen the congestion on streets, particularly in residential areas;***

The roadways adjoining the property will be improved with sidewalks that are ADA accessible which will improve the efficiency of pedestrian traffic, the capacity of existing streets will remain unchanged as this is a revitalization of a previously developed property which is currently vacant.

- (6) *To promote the efficient and desirable use of land, in accordance with the purposes of the General Plan, Area Master Plans and this Subtitle;***

The proposed use and Site Plan will provide for the orderly growth of the county by replacing a vacant and neglected site with a new use and this use will be in accordance with the purposes of the General Plan, the Area Master Plan, and the Central Branch Avenue Corridor Plan.

- (7) *To increase the stability of commercial areas;***

The proposed use will revitalize an existing vacant C-S-C zoned property and its reuse will increase the stability of the commercial area.

- (8) *To protect the character of desirable development in each area;***

The proposed use will improve and protect the character of development within the St. Barnabas Road corridor.

- (9) *To conserve the aggregate value of land and improvements in the County; and***

The proposed use revitalize an existing vacant property thereby conserving land and improvements in the County.

- (10) *To enhance the economic base of the County.***

The proposed development will transform this vacant property into a viable commercial entity that will enhance the economic base of the County). §27-317(a)(1)

(4) The instant Application is also in compliance with the specific purpose of the C-S-C Zone, §27-454(a)(1), as follows:

(1) The purposes of the C-S-C Zone are:

(A) To provide locations for predominantly retail commercial shopping facilities;

(B) To provide locations for compatible institutional, recreational, and service uses;

(C) To exclude uses incompatible with general retail shopping centers and institutions; and

(D) For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.

The Central Branch Avenue Corridor Plan recommends commercial uses for this portion of the roadway, and further retained the site in the C-S-C Zone. The proposed use is compatible with the adjoining uses. The proposal for to establish a vehicle sales lot on the subject property is permitted by Special Exception in the C-S-C Zone. §27-317(a)(1)

(5) The proposed use and the Revised Site and Landscape Plans (Exhibits 36(a) & (b)) are in conformance with all of the applicable requirements and regulations of the Zoning Ordinance. No variances, departures or waivers are required. §27-317(a)(2)

(6) A Vehicle Sales Lot, similar to an automobile dealership, is consistent with similar uses along St. Barnabas Road (MD 414) and conforms to the commercial use proposed by the 2013 Central Branch Avenue Corridor Revitalization Sector Plan. §27-317(a)(3)

(7) The proposed use will not have adverse impacts on the public health, safety and welfare. The proposed use will be developed in accordance with all applicable regulations. The Applicant is proposing to add substantial amounts of landscaping on the site and will generally revitalize this vacant building. The Transportation Planning Section referral reply of January 8, 2014, concludes that the traffic generated by this use could be considered de minimus during the AM and PM peak hours, and would be less trip intensive than the prior use. §27-317(a)(4)

(8) The Revised Site and Landscape Plans, Exhibits 36(a) and (b), demonstrate that the proposed use will not be detrimental to the use or development of adjacent properties or the surrounding neighborhood. §27-317(a)(5)

(9) The site is exempt from the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance and there are no other environmental issues related to the Applicant's proposal. Because the site is less than 40,000 square feet in size and has no previous approved Tree Conservation Plans, a standard exemption letter from the Woodland Conservation

Ordinance was issued by the Environmental Planning Section on August 14, 2013. (Exhibit 27) §27-317(a)(6)

(10) There are no regulated features on the subject property that would require preservation and/or restoration. §27-317(a)(7)

Specific Requirements

(11) The Applicant is proposing to sell only passenger cars and light trucks on the subject property. A maximum of 50 vehicles is proposed. Given the area of the outdoor display area, (12,060 square feet), it appears that 50 standard-sized passenger vehicles can be accommodated in the outdoor display area without encroaching upon the parking areas, drive aisles and landscaping along the north and west sides of the building. §27-417.02

Parking and Loading Standards

(12) The Revised Site Plan, Exhibit 36(a), meets the design standards for parking and loading facilities. 17 parking spaces are required and 19 parking spaces are provided. No loading space is required since the building is less than 2,000 square feet in area.

Landscape Manual

(13) The proposed project is subject to the requirements of Sections 4.2, 4.3, 4.4, and 4.5 of the 2010 Prince George's County Landscape Manual (Landscape Manual) as follows:

Section 4.2 – Requirements for Landscaped Strips along Streets

The project is subject to the requirements of Section 4.2, Requirements for Landscaped Strips along Streets, along its Raleigh Road and St. Barnabas Road frontages. The Revised Landscape Plan (Exhibit 36(b)) provides the appropriate schedule, which demonstrates the requirements being met with the proposed development. As is allowed, slower-growing ornamental trees with lower ultimate heights have been selected for the portion of the frontage where shade trees might eventually interfere with existing overhead wires.

Section 4.3 – Parking Lot Requirements

The Application is subject to the requirements of Section 4.3 of the Landscape Manual, Parking Lot Requirements, because it involves new impervious areas in excess of 7,000 square feet. The Revised Landscape Plan provides a schedule for Section 4.3 Interior Planting which shows the requirements being met. (Exhibit 36(b))

Section 4.4 – Screening Requirements

The Revised Site Plan (Exhibit 36(a)) does not indicate any loading or maintenance areas visible from residential properties and streets, any outdoor merchandise storage, outdoor

merchandise storage areas visible from residential properties and streets, exterior trash facilities, or mechanical equipment visible from adjacent properties, streets, outdoor living and recreation areas, and parking facilities that need to be screened in conformance with these requirements.

Section 4.5 – Stormwater Management Facilities

The Revised Site Plan (Exhibit 36(a)) does not indicate any proposed stormwater management facilities on-site that would require landscaping per this section.

Section 4.9 – Sustainable Landscaping Requirements

The Application is subject to the requirements of Section 4.9 for all proposed plantings. The Revised Landscape Plan (Exhibit 36(a)) includes a Section 4.9 schedule and notes demonstrating conformance with these requirements.

Tree Canopy Coverage

(14) The instant Application is subject to the requirements of the Tree Canopy Coverage Ordinance as it involves land disturbance of more than 5,000 square feet. The Revised Site and Landscape Plans, Exhibits 36(a) and (b), provide a Tree Canopy Coverage Schedule with the calculation for the ten percent Tree Canopy required in the C-S-C Zone based on the entire area of the Special Exception. This requirement is shown being met through the proposed plantings on-site.

Zone Standards

(15) The proposed Revised Site Plan, Exhibit 36(a), meets or exceeds the requirements of the C-S-C Zone.

Sign Regulations

(16) The proposed freestanding sign meets the location requirements of the Zoning Ordinance.

DISPOSITION

Special Exception 4741 is APPROVED.

The Approved Site Plan is Exhibit 36(a) and the Approved Landscape Plan is Exhibit 36(b).