

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

SPECIAL EXCEPTION

4783

VARIANCE

4783

DECISION

Application: Vehicle Salvage Yard and Variance
Applicant: CC Clifton Road, LLC./Chuck's Used Auto
Parts, Inc.
Opposition: None
Hearing Dates: May 19, 2017 and July 12, 2017
Hearing Examiner: Maurene Epps McNeil
Disposition: Approval with Conditions

NATURE OF REQUEST

(1) Special Exception 4783 is a request for permission to use approximately 0.99 acre of land in the I-1 (Light Industrial) Zone, located on the west side of Clifton Road, approximately 688 feet south of St. Barnabas Road (MD 414), also identified as 4743 Clifton Road, Temple Hills, Maryland, to operate a Vehicle Salvage Yard. Applicant is also requesting approval of VSE-4783, a two (2) foot variance to Section 27-474(a)(1) of the Zoning Ordinance, which requires a thirty (30) foot side yard setback from adjoining land in any nonresidential zone, for the existing one-story brick building, and a waiver of this setback requirement for the proposed eight (8)-foot-tall sight-tight fence to be located on the property line.¹

(2) The Technical Staff recommended approval of the Special Exception Application with conditions. (Exhibit 17) It was not able to offer comment on the variance request.

(3) No one appeared in opposition to the instant request.

(4) At the close of the final hearing the record was left open to supplement the record with additional documents. The last of these items was received on August 22, 2017 and the record was closed at that time. (Exhibits 31(a)-(m))

¹ The original hearing was continued to allow Applicant to provide notice of the variance request, as required in the Zoning Ordinance.

FINDINGS OF FACT

(1) The Technical Staff provided the following excellent description of the current state of the subject property:

Location and Field Inspection: The subject irregularly-shaped property consists of approximately 0.986 acre of land. It is located on the west side of Clifton Road, approximately 688 feet south of St. Barnabas Road (MD 414), known as 4743 Clifton Road. The subject property is improved with a one-story block building (main building), one-story plywood barn and two metal sea containers that is being used for auto parts storage. The site also has a covered concrete pad that is being used to dismantle vehicle parts on-site. The site is currently used for auto parts sales and storage. The majority of the site is paved asphalt and is used for storage purposes and its associated parking, except for 2,875 square feet along the northwestern side of the property that is left in its natural state as a green area with trees and shrubs. The site has seven on-site and five off-site parking spaces. The seven-space asphalt parking lot is located close to the main building and is screened from the outdoor storage area by an existing 8-foot-high sheet metal fence with a 22-foot-wide gate leading to the storage area. Five of the required parking spaces, including one van-accessible handicapped space, are located within an adjoining access isle on Parcel K pursuant to the joint access easement recorded in Plat Book NLP 128-39. Access into the subject property is from Clifton Road to the east across a portion of Parcel K, abutting the subject property to the southeast, pursuant to the joint access easement.

During the site visit, it was noted that, while the overall parking lot is well kept, some of the asphalt paving in the existing parking area near the western end of the parking lot is crumbling and should be repaired. In addition, there appears to be a grading issue near the western side of the parking lot, close to the 22-foot gate opening, with standing water and mud puddle. This area should also be regraded and repaved. The site has an unmarked loading space that is not paved. The loading area should be paved with dust-free materials....

(Exhibit 17, p. 4)

(2) The subject property is exempt from stormwater management requirements because less than 5,000 square feet are to be disturbed. However, Applicants are required to operate in conjunction with the Stormwater Pollution Prevention Plan approval

by the Department of Permitting, Inspections and Enforcement (“DPIE”). (Exhibit 8) The subject property is also exempt from the requirements of the Woodland and Wildlife Habitat Conservation Ordinance because it has less than 10,000 square feet of woodland on site and there are no previously approved Tree Conservation Plans. (Exhibit 10) The Letter of Exemption expressly stated that the “proposed development activity is for an auto salvage yard [and] [t]his Letter of Exemption is issued solely for that purpose.” (Exhibit 10)

(3) Staff noted there are no regulated environmental features impacted on site and, therefore, a Natural Resource Inventory is not required. (Exhibit 12) The property does not lie within the Chesapeake Bay Critical Area. (Exhibits 14 and 17, p. 50)

Master Plan/Sectional Map Amendment/General Plan

(4) The subject property lies within Planning Area 76A, an area discussed in the 2013 Central Branch Avenue Corridor Revitalization Sector Plan. The subject property lies within the Beech Road Focus Area. The Sector Plan provided the following analysis of that area:

The Beech Road industrial area lies between Gordon’s Corner – a residential neighborhood on the west side of Branch Avenue; St. Barnabas Road; a residential neighborhood east of Temple Hill Road; and the Capital Beltway. While the industrial area has fared better than the commercial strip since its development in the 1950s, the proximity of residential development and the southern barrier of Henson Creek and the Capital Beltway has limited the expansion of industrial uses. Many of the industrial area properties contain older structures, and the public infrastructure shows signs of deterioration. Additionally, development standards of previous decades have created an area with minimal landscaping and screening of operations. Uses include small offices, personal services, retail uses, small warehousing operations, auto auction and services, storage facilities, printing operations, and other light industrial uses.... The light industrial zoning district allows a wide array of commercial and industrial uses, which are not always compatible with each other given operational and environmental impacts.

The older industrial buildings and public infrastructure were built in an era with limited design requirements, resulting in narrow streets without curbs and gutters, buildings built up to street lines without landscape strips or sidewalks, and inadequate on-site parking facilities. Other issues associated with the industrial area include inadequate buffering of residential uses from industrial operations that generate noise and visual pollution, mishandling and

disposal of oil and grease, leaking fuel tanks, and improper disposal of scrap materials.

The focus area was the subject of a recent study that included property inspections and enforcement. The resulting *2010 St. Barnabas-Beech Road Industrial Study and Action Plan* identified ... major issues.... [T]he lack of widespread property maintenance accounted for almost one-third of study area violations. Higher numbers of violations on commercial properties along St. Barnabas Road; fencing and screening violations; illegal signage; and, lack of landscaping, especially along St. Barnabas Road, were also major findings of the study....

(2013 Central Branch Avenue Corridor Revitalization Sector Plan, pp. 46-47)

(5) The above referenced Sector Plan did not include a Sectional Map Amendment (“SMA”). The prior Master Plan and SMA (2000 The Heights and Vicinity Master Plan and Sectional Map Amendment) retained the I-1 zoning of the subject property.

(6) The 2014 General Plan (“*Plan 2035*”) placed the property within the Established Communities. The General Plan provides the following discussion of the Established Communities:

Plan 2035 classifies existing residential neighborhoods and commercial areas serviced by public water and sewer outside of the Regional Transit Districts and Local Centers, as Established Communities. Established communities are most appropriate for context-sensitive infill and low-to medium-density development. Plan 2035 recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries, schools, parks and open spaces), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met.

(2014 General Plan, p. 20)

Neighborhood/Surrounding Uses

(7) The property is surrounded by the following uses:

- North – automobile dealership in the C-S-C Zone
- South – a vehicle storage yard, industrial warehouses, vehicle repair and service in the I-1 Zone
- Southwest – vehicle storage yard in the I-1 Zone
- East – vacant vehicle storage parking lot in the I-1 Zone
- Northwest – small shopping center in the C-S-C Zone

(8) The Neighborhood is defined by the following boundaries: St. Barnabas Road (MD 414) to the north; the Capital Beltway (I-495) to the south; Branch Avenue (MD 5) to the northeast; and Temple Hills Road to the west. The neighborhood contains a mixture of strip commercial development, light industrial uses, and some single-family developments along the eastern and western edges. (Exhibits 17, p.14 and 28, p. 4)

Applicant's Proposal

(9) The State Department of Assessments and Taxation notes that Applicants are in good standing to transact business in the State of Maryland. (Exhibits 31(g) and (h)) Applicant requests permission to operate a vehicle salvage yard in conjunction with an existing used auto parts business that has operated on site since 2003 and is permitted by right in the zone. The salvage operations are to be conducted on a covered concrete pad, shown on the Site Plan, in accordance with the Stormwater Pollution Prevention Plan submitted in the record.

(10) The salvage yard is proposed to use an existing 7,774 - square-foot concrete building for interior storage and a 25,764 – square-foot outdoor storage area.² This square footage requires twelve (12) parking spaces and Applicant's Site Plan shows seven (7) on-site parking spaces and five (5) off-site and adjacent parking spaces.³ (Exhibit 14) There will also be one loading space. The existing chain-link fence will be replaced with an eight-foot-high vinyl screen fence along the northwest, south and southwest sides of the property line to enclose the entire outdoor storage area.

(11) Owners of Chuck's Used Auto Parts testified that this existing business sells auto parts (new, used and rebuilt) and the business is 90% wholesale. (T. 6) They filed the instant request because they wish to salvage parts from vehicles, dismantle them on the concrete pad, smash the roofs of the salvaged cars and have them hauled away by a contractor. There will not be a crusher on site. (T. 12)

(12) The fluids drained from the salvaged vehicles will be disposed of pursuant to the Stormwater Pollution Prevention Plan. (Exhibit 31(i)) The Plan requires routine inspections of the following:

- Spillage
- Cleaning
- Pavement condition
- General cleanup of litter
- Indoor storage of all batteries
- Recycling of lead battery, cable ends and wheel balancing weights
- Fluid removal/recycling/disposal from vehicles
- Off-site recycling of fuels

²Applicant has two sea containers on site in which it houses auto parts. These are not considered buildings and are, therefore, not included in the lot coverage calculations.

³The Plat of subdivision for this site and adjoining parcels notes "[t]here is a joint access easement throughout Parcels "J", "K" and "L" for ingress and egress and parking." (Exhibit 29)

- Removal/disposal of glycols
- Storage of engines/transmissions that have been removed from vehicles in covered areas not exposed to precipitation.

(Exhibit 31(i), p. 5)

(13) The Plan provided the following information on maintenance, spill prevention and response, employee training, dust and debris:

Preventive maintenance inspections will take place daily. Every operational aspect of the Facility will be inspected completely.... These inspections will focus on the conditions of site access roads, buildings, vehicles, dismantling area, ... fluid transfer equipment and containers, areas for material receiving, ... stormwater pollution prevention measures ..., first aid and safety equipment....

This plan identifies sources of pollution, determines ways to reduce, eliminate and prevent pollutants or any materials from polluting stormwater, and it implements a plan of action.... The site manager has the responsibility to ensure this plan is followed to prevent ground surface water pollution.... The primary means of prevention will be daily visual observation of the material being transported to the site and of the Facility....

Response training will be conducted during regular safety meetings.... Training ... shall include but not be limited to ... identification of unacceptable, hazardous and special wastes; ... [h]andling of materials for removal or disposal; [p]rocedures used by disposal subcontractor; [and] [p]roper execution of assigned duties in unloading, dismantling, processing, sorting, [and] job responsibilities....

The Facility entrance, storage area and interior roadways will be inspected and regularly cleaned of litter or debris prior to the close of business each day.... The site is surrounded by a perimeter fence and access gate which is generally impervious to blown trash or floatable debris. Such items are thereby kept on site and will be swept up daily....

Dust is minimized by limiting vehicle access and speed to select areas. Dust generating activities, other than vehicle movement, are performed indoors....

(Exhibit 31(i), pp 6, 8-9)

(14) The hours of operation will be from 8:00 a.m. to 5:00 p.m., Monday through Friday. (T.7) Applicants have six employees – 4 full time and 2 part time. If the request is approved it will hire more full time employees for counter and internet sales. (July 12, 2017 T. 8)

(15) Applicant has storage racks for the auto parts that are nearly 14-feet-tall and can be seen over the 8-foot-tall perimeter fence. (Exhibits 31 (j) and (k) T. 32-33) A condition has been added to lower the height of these racks to ensure that outdoor storage not be visible from the ground level beyond the fence.

(16) The requested use is not subject to all of the provisions of the Landscape Manual since it does not propose the construction, enlargement or extension of a building. (Exhibit 17, p. 7) However, Applicant has preserved 2,875 square feet of green area to the northwest of the site. (Exhibit 14)

(17) Mark Ferguson, accepted as an expert in the area of land use planning explained why some of the requisite parking is off-site:

[T]he property was the subject of a plat of subdivision that was recorded in 1986 and it provided a note on the plat ... that there is a joint access easement throughout Parcels J, K and L for ingress and egress and parking. So effectively the whole of the sites are covered by this easement. I'm not sure how that operates because there are buildings on each of the three parcels. But absent the buildings presumably each of the owners has rights for ingress, egress and parking.

(July 12, 2017 T. 39)

Variance

(18) Pursuant to Section 27-465 of the Zoning Ordinance fences taller than 6 feet high shall not be located in any required yard and must meet the setback for main buildings. However, Section 27-417.03(a)(1) requires that the Vehicle Salvage Yard be enclosed by a fence at least 8 feet high. Applicant is therefore requesting a variance from the requirement in Section 27-465 that the 8-foot-tall fence be set back a total of 30 feet from side property lines since a substantial portion of the fence and gate will be on the property line along the side yards.

(19) Applicant is also requesting a variance from the requirement in Section 27-474(a)(1)(b) of the Zoning Ordinance that all buildings be set back 30 feet from the side yard because a side of the existing building is only 28 feet from the southern property line.

(20) Mark Ferguson, accepted as an expert in the area of land use planning, offered the following reasoning in support of the variance request:

[V]ariance[s] are being sought for the 30' total of the side setbacks required by [Section] 27-474(a)(1).

The existing building on the site is constructed up to the northern property lines; this means that structures requiring setbacks would need to be set back 30' from the southern property lines. Variance is requested for two conditions:

(1) The side of the existing building is set back 28 from the southern property line; a 2' variance is requested to validate the existing condition; and,

(2) Approximately 59' of the 8' fence which is required by [Section] 27-417.03(a)(1) is proposed to be located along the southern property line; a 30' variance is requested for that section of fence, as well as that portion of the gate and fence running perpendicular to the south property line which lies within 30' of it.

Section 27-230 (a) provides that, "A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that: ... [a] specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions; ... [t]he strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and ... [t]he variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan...."

The subject property is compromised by extraordinary situations of ... the conditions of its subdivision and ... by governmental regulation.

The requirement for the first variance condition is engendered by the existing building which was constructed prior to the subdivision of the subject parcel in 1986. The line dividing Parcels L and K needed to be run between two buildings which were (and are) only 40 feet apart. A line between the two structures that preserved access to each needed to create a condition which could not meet the requirement of [Section] 27-474 (a)(1).

The requirement for the second variance condition is engendered by the requirement of [Section] 27-417.03 (a)(1) to replace the existing six-foot fence (which is permitted to run along the property line without regard to setback regulations) by an eight-foot fence (which is

required by virtue of its extra two feet of height to meet the setback regulations)....

The strict application of this subtitle would result in exceptional or undue hardship upon the owner of the property as compliance would require (1) the demolition of a part of the existing structure which has long been existing; and (2) would require the relocation of the existing fence and gate location, substantially restricting operations at the site, including incapacitating the concrete area required for the safe recovery and recycling of fluids from wrecked vehicles....

Because the development proposed is in accordance with the recommendations of the General Plan and the Sector Plan ..., the approval of the requested variance will not impair their purpose, intent or integrity....

(Exhibit 28, pp. 12-13)

Agency Comment

(21) The Technical Staff recommended Approval of the Application, reasoning as follows:

The fundamental purposes of the Zoning Ordinance ... are to protect the health, safety and welfare of the public and promote compatible relationships between the various types of land uses.... [T]he proposed use is similar in nature to the uses that have long existed on the site. The one-story auto parts storage building and sales has been on-site since 2003. Prior to this use, the site was used for woodworking, also industrial in nature. The property is located in an exclusively industrial area, well removed from residential properties. While the subject property abuts commercial uses along the northern and northwestern boundaries, those uses are an auto dealership and the rear of a strip shopping center, neither of which are incompatible with the use upon the subject property. Furthermore, the operations on the site will be screened from the surrounding properties with an eight-foot-high sight-tight fence which will provide privacy for this property and prevent the public from viewing the outdoor area. Thus, approving this request ensures that a necessary industrial use remains in a predominantly industrial area and will not stymie development of unrelated, or otherwise ... incompatible properties in commercial or residential zones. For these reasons, staff believes that the applicant's site plan conforms with the requirements of the Ordinance and presents no conflicts with the fundamental purposes of this Subtitle

The proposed use meets the specific criteria for a vehicle salvage yard... [w]ith the recommended conditions....

A vehicle salvage yard will not substantially impair the integrity of the... subsequent sector plan... [which] envisions this area as a community-scaled commercial area that supports the residential neighborhoods... by creating adequate on-site parking, landscaping and sidewalks, and buffering of residential uses from industrial operations.... The subject property is neither visible nor does it use the internal streets of the residential section of the neighborhood. It is set back far from any residential uses. The site is consistent with the land use recommendation of the General Plan, master plan, and/or sector plan....

The appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances showing that the use would have adverse impacts above and beyond those inherently associated with such a special exception use, irrespective of its location within the zone. Staff has not found that to be the case in this instance.

(Exhibit 17, pp. 8-10)

(22) DPIE noted the need for a Stormwater Pollution Prevention Plan but otherwise had "no objection" to the request. (Exhibit 17, p. 53)

(23) The State Highway Administration had no comment on the request since no work is proposed in a state-owned right-of-way. (Exhibit 17, p. 57)

LAW APPLICABLE

(1) Section 27-107.01(a)(252) of the Zoning Ordinance defines a "Vehicle Salvage Yard" as

A facility for the reclamation or storage of wrecked or abandoned vehicles or parts from vehicles, "Trailers," or "Mobile Homes," which may include the sale of the parts.

(2) A Vehicle Salvage Yard is a permitted use in the I-1 Zone pursuant to the approval of a Special Exception in accordance with Sections 27-317 and 417.03 of the Zoning Ordinance.

(3) Section 27-317 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).
- (b) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:
- (1) where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or
 - (2) where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.

(4) Section 27- 417.03(a) provides as follows:

- (a) A vehicle salvage yard may be permitted, subject to the following:
- (1) The use shall be enclosed by a solid, sightly, light-tight wall or fence at least eight (8) feet high, and found to be satisfactory by the District Council;
 - (2) The fence shall not be constructed of corrugated metal or fiber glass, or sheet metal;
 - (3) Outdoor storage shall not be visible from the ground level beyond the fence; and
 - (4) Interior storage shall be located within a fireproof building.

(5) The request must also satisfy the purposes of the I-1 Zone, set forth in Section 27-469(a) of the Zoning Ordinance:

- (a) **Purposes.**
- (1) The purposes of the I-1 Zone are:
 - (A) To attract a variety of labor-intensive light industrial uses;
 - (B) To apply site development standards which will result in an attractive, conventional light industrial environment;
 - (C) To create a distinct light industrial character, setting it apart from both the more intense Industrial Zones and the high-traffic-generating Commercial Zones; and
 - (D) To provide for a land use mix which is designed to sustain a light industrial character.

(6) A variance may be granted if it satisfies the provisions of Section 27-230(a) of the Zoning Ordinance. That Section provides as follows:

- (a) A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:
- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;
 - (2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and
 - (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

(7) "Practical difficulties" has been defined in Carney v. Baltimore, 201 Md. 130, 137 (1952), as follows:

The expression “practical difficulties or unnecessary hardship” means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are not necessary to carry out the spirit of the ordinance and which are of such a degree of severity that their existence amounts to a substantial and unnecessary injustice to the applicant. Exceptions on the ground of “practical difficulties or unnecessary hardships” should not be made except where the burden of the general rule upon the individual property would not, because of its unique circumstances, serve the essential legislative policy, and so would constitute an entirely unnecessary and unwanted invasion of the basic right of private property.

(8) Finally, an area variance (such as the ones requested herein) need only satisfy the “practical difficulties” standard. See, Richard Roeser Professional Builders, Inc. v. Anne Arundel County, 368 Md. 294, 793 A.2d 545 (2001)

(9) The Court of Appeals provided the standard to be applied in the review of a special exception application in Schultz v. Pritts, 291 Md 1, 432 A2d 1319, 1325 (1981):

Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the [administrative body] that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. . . . But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal.

The record in this case reveals “no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan”. It would, therefore, be proper to grant the request, once the conditions addressed below are satisfied.

CONCLUSIONS OF LAW

(1) The general purposes of the Zoning Ordinance are listed in Section 27-102(a) and Special Exception 4783 is in harmony with the applicable purposes, for the reasons provided:

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

By operating a Vehicle Salvage Yard in an industrial zone, Applicants are providing a service to members of the public who need vehicle parts or wish to salvage old or destroyed vehicles. It is, therefore, promoting the health, safety, convenience and welfare of the present and future inhabitants of the County. Morals and comfort are not impacted by the Applicant's proposal.

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

The 2013 Central Branch Avenue Corridor Revitalization Sector Plan recommended improved buffering of residential uses from industrial ones and the configuration and location of the subject property sufficiently buffers it from the residential properties in the neighborhood. The requested use satisfies this criteria. Accordingly, this purpose is met. The 2014 General Plan promotes "context-sensitive infill and low-to medium-density development" such as that proposed in this request.

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

The Applicant's proposal does not impact any residential uses for reasons noted above. There are no privacy issues as the subject property will be fenced and those properties adjoining it are within the I-1 and C-S-C Zones.

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

Applicant will be providing some landscaping and attractive fencing. The adjoining uses are also industrial or auto-related. No adverse impact will result from the requested use of the subject property.

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

The continued use of the site with no additional construction will protect the County from fire and other potential dangers. The property is not in a floodplain.

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

Continued use of the property is a positive economic development activity that provides employment and broadens the tax base.

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

The request does not include any new construction. The site is not overcrowded.

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

The use will be designed in a safe manner and will not attract vehicular trips that will result in an unacceptable level of service on the adjacent roadways. It, therefore, meets this purpose.

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

By adding a compatible use to one that has operated successfully on site, Applicant is furthering the social and economic stability of Prince George's County by providing uses of benefit to the motoring public.

(Section 27-317(a)(1))

(2) The purposes of the I-1 Zone are listed in Section 27-469 (a) of the Zoning Ordinance:

- (a) **Purposes.**
- (1) The purposes of the I-1 Zone are:
 - (A) To attract a variety of labor-intensive light industrial uses;
 - (B) To apply site development standards which will result in an attractive, conventional light industrial environment;
 - (C) To create a distinct light industrial character, setting it apart from both the more intense Industrial Zones and the high-traffic-generating Commercial Zones; and
 - (D) To provide for a land use mix which is designed to sustain a light industrial character.

The Application satisfies these purposes since Applicant is requesting a light industrial use in an industrial area, and the request will satisfy the standards of the Zone once the requested variances are addressed. (Section 27-469 (a))

(3) Once the variance requests are granted, and the conditions met, the proposed use will be in conformance with all applicable requirements and regulations of Subtitle 27 of the County Code. (Section 27-317(a)(2))

(4) The proposed use is a light industrial use envisioned for the property in the Master Plan, for reasons noted above. (Section 27-317 (a)(3))

(5) The proposed use of the subject property, surrounded primarily by industrial uses on industrially-zoned properties, will have a positive effect on the health, safety and welfare of residents or workers in the area. (Section 27-317(a)(4))

(6) The requested use on the subject property along with the proposed landscaping and fencing will enhance the use or development of adjacent properties and the general neighborhood. (Section 27-317(a)(5))

(7) A Tree Conservation Plan is not required because the site has less than 10,000 square feet of woodland and does not have a previously approved Tree Conservation Plan. (Section 27-317(a)(6))

(8) There is no proposed construction nor are there any regulated environmental features on site that could be impacted. (Section 27-317 (a)(7))

(9) The subject property does not lie within a Chesapeake Bay Critical Area Overlay Zone. (Section 27-317(b))

(10) The vehicle salvage yard will be enclosed by an existing building and a solid, vinyl fence that will be eight (8) feet in height. (Sections 27-417.03 (a)(1) and (2)) The outdoor storage shall not exceed the height of the fence and, therefore, will not be visible from ground level beyond the fence. (Section 27-417.03 (a)(3)) There will not be any interior storage for the use. (Section 27-417.03(a)(4))

(11) The existing building on the subject property was constructed prior to the subdivision of the parcel in 1986. The subdivision plat and existing building also preclude constructing the 8-foot-tall fence elsewhere than proposed. It would be unreasonable to request Applicant to remove the existing building. Any additional set back of the fence would severely hamper the ability to operate the requested use. The fence and the building do not negatively affect the neighboring properties nor do they impair the intent of a Master Plan that recognized industrial uses for the site. Requiring Applicant to move them would result in an unusual practical difficulty. (Section 27-230(a))

DISPOSITION

Special Exception and Variances are APPROVED, subject to the following conditions:

1. Prior to the issuance of permits, the Applicant shall revise the Special Exception Site Plan to include notes that address the following:
 - a. The parking area by the 22-foot gate opening that leads to the rear storage area shall be regraded and repaired.
 - b. Applicant shall provide an on-site dust-free loading space.
 - c. The height of the outdoor storage shall not exceed the height of the eight-foot-high fence. This shall include stacked vehicles awaiting

salvage. Any existing material on-site which would be visible beyond the fence at ground level shall be removed, and the storage racks shall be reduced in height to ensure this.

- d. Vehicle fluid recovery and all operations on site shall be done in strict compliance with all state and federal regulations and the Stormwater Pollution Prevention Plan. (Exhibit 3(i))
2. The revised Site Plan shall be submitted to the Office of the Zoning Hearing Examiner for approval and inclusion in the record, prior to the issuance of permits.

(Note: The Special Exception Site and Landscape Plan is Exhibit14)