

DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND

OFFICE OF THE ZONING HEARING EXAMINER

ERR-001-2025

DECISION

Application:	Validation of Permit Issued in Error
Applicant:	Hofmann Brothers Towing, Inc
Opposition:	None
Hearing Dates:	June 18, 2025, July 16, 2025, and August 19, 2025
Hearing Examiner:	Maurene Epps McNeil
Decision Date:	September 11, 2025
Recommendation:	Approval with Conditions

NATURE OF PROCEEDINGS

(1) ERR-001-2025 is a request for validation of Permit No. U14196 issued in error in 1967 by the predecessor to the Department of Permitting, Inspections and Enforcement (“DPIE”) to allow the Applicant to operate a “towing wrecked vehicle and sales of used cars” business in the RR (Rural Residential) Zone. Applicant is asking for the matter to be reviewed under the provisions of the current Edition of the Zoning Ordinance, and there is nothing in the law or in the administrative practices of this body that precludes this request. Applicant also asks that the District Council allow it to substitute the uses from those in the permit it seeks to validate to the most similar uses in the current Zoning Ordinance. This Examiner does not agree with this request, for the reasons noted *infra*.

(2) The subject property is approximately 2.36 acres in size, composed of Parcel 15 (recorded in the Prince George’s County Land Records in Liber 38740 Folio 37), Parcel 16 (recorded in the Prince George’s County Land Records in Liber 38740 Folio 46), Parcel 76 (recorded in the Prince George’s County Land Records in Liber 33134 Folio 11), and Parcel 78 (recorded in the Prince George’s County Land Records Liber 33134 Folio 16). It is located on the north side of Sandy Spring Road and identified as 7808 Sandy Spring Road, Laurel, Maryland.

(3) No one appeared in opposition to the request at the initial hearing held by this Examiner. An additional hearing was held at the request of Thomas Harrah, who appeared virtually at the original hearing and was unable to hear all of the testimony or testify himself. He is not opposed to the instant request but wanted to share some concerns. (August 19, 2025 T. 4)

(4) At the close of the first hearing, it was determined that an additional hearing would be necessary, given technical difficulties. The second hearing was continued at the request of the Applicant and Mr. Harrah. The record was left open at the close of the third

hearing to allow Applicant to submit revised Statement of Justification. It was submitted on August 28, 2025, and the record was closed at that time.¹

FINDINGS OF FACT

(1) Applicant is certified by the State Department of Assessments and Taxation to conduct business within the State of Maryland. (Exhibit 22). It applied for a Use and Occupancy Permit (UO-00106-2025) and discovered that they would need to seek approval of the instant Application when Michelle Hughes, a permit review supervisor with the Maryland-National Capital Park and Planning Commission, provided the following comment:

It has come to my attention that the above-mentioned permit was erroneously recommended for approval by the Maryland-National Capital Park and Planning Commission. The permit was subsequently issued by the Department of Environmental Resources on December 18, 1967, to operate a towing wrecked vehicles and sales of used cars. The property is currently zoned R-R... and is located at 7808 Sandy Spring Rd, Laurel.

The property came into R-R zoning on April 24, 1961, and remains the same in the current and prior zoning ordinance. All developments, not in conformance with the R-R zone that existed prior to annexation, became nonconforming as of April 24, 1961. Any change of occupant/ownership since that date would have required a new use and occupancy permit for continuation of use. An issued certificate of occupancy for towing wrecked vehicles and used car sales was issued in 1967, after the annexation of zoning for the RR Zoning therefore, it was issued in error.

Based on the above information, permit U14196 was issued in error by the Department of Environmental Resources Community Standards Division (currently DPIE) with the recommendation by Maryland-National Capital Park and Planning Commission to operate a towing service and used car sales. You will be contacted to commence "Validation of Permit Issued in Error" as outlined in Section 27-258 of the prior Prince George's County Zoning Ordinance, as Prince George's County sets forth the "Validation of Permit Issued in Error" process.

(Exhibit 8)

(2) Garner Gourley, the President of Hofmann Brothers Towing Inc, t/a Hofmann Brothers Used Cars, testified in support of the Application. Mr. Gourley started working at the company in 1963, before the property was first placed in the R-R Zone. He was able to purchase the business (but not the property) in 1979. Since there was no change in the use or the occupant at that time, there was no requirement for a new Use and Occupancy Permit. (Exhibit 26; June 18, 2025 T. 14)

(3) Mr. Gourley identified U14196 as the Use and Occupancy Permit issued for the site at the time that his company acquired the business. (Exhibit 2; June 18, 2025 T.15) He stated that the uses on site are the same as those in existence when he first worked for the company in 1963.

¹ The record consists of 30 Exhibits and three transcripts. Exhibit 21 (Letters of Support) was not made part of the record since the signatories were not present at the hearing and, therefore unable to be sworn in as witnesses.

(4) Mr. Gourley identified several photos of his property and noted each fairly and accurately depict the property at the present time. (Exhibit 20; June 18, 2025 T-11-13) He also identified Exhibit 3 as the Site Plan for the business and stated that it accurately depicts what is on site. (June 18, 2025 T. 9) The subject property is surrounded by the following uses: to the north- two farms; to the east- the Arrowhead Mews townhouse residential development; to the south - Tower Federal Credit Union, a Gas Station, and an office building; and to the west- a park and ride site owned by the State Highway Administration. (Exhibit 3; June 18, 2025 T. 10-11)

(5) Mr. Gourley avers that the business has tried to be a good neighbor to the surrounding community. The business primarily tows for the Prince George's County and the Baltimore City Police Departments and does no private towing. (June 18, 2025 T.6) The majority of their towing is done between the hours of 9:00 p.m. and 4:00 a.m. because the police departments have fewer towing businesses to rely on, as most operate during the day. Applicant is unaware of any complaints that have been targeted at the business. The premises are regularly maintained with "fences ... painted twice a year...[,] lawn upkeep ...['] no debris left anywhere around the property [for any length of time, and trees planted.] (June 18, 2025 T. 24-25)

(6) Over the years, the Applicant has expended considerable sums in reliance on the permit issued in error. Applicant employs a fluctuating number of full and part-time employees. At the time of the first hearing, there were approximately ten. (June 18, 2025 T. 14) The business has eight trucks in its fleet, ranging in price from \$115,000 to \$130,000. Applicant must apply annually for licenses from the County (a small business tow license and a medallion license) and one from the State Motor Vehicle Administration (for the used auto sales). In summary, if the permit is not validated, "there would be no business." (Exhibits 6, 18, 19; June 18, 2025 T. 17-21)

(7) Applicant submitted copies of several tow tickets from 2020-2025 reflecting the money it earns due to its ability to operate pursuant to the 1967 permit. (Exhibit 18)

(8) Applicant submitted several exhibits as a small sample of the money expended in reliance on the 1967 Permit between 2018-2025 on utilities, propane, payments to the county, insurance, and other supplies, which totaled nearly \$70,000.00. (Exhibit 23)

(9) Mr. Gourley testified that he is unaware of any fraud or misrepresentation surrounding the issuance of the Use and Occupancy permit in 1967. (June 18, 2025, T. 25)

(10) Mr. Edward Puls testified on Applicant's behalf. He is a retired Police Officer who had occasion to visit Applicant's business frequently in the 1970s because he was involved in car chases that would initiate in Howard County and end in Prince George's . He also visited the business when he ran a multi-year, multi-state undercover stolen car ring, and they needed to use Hofmann Brothers to tow stolen vehicles to its lot. He "inspected the cars there [, ...] found the vehicles to be towed properly and to be stored properly." (June 18, 2025 T. 38) He was never made aware of any allegations of fraud or misrepresentation in the issuance of the 1967 permit, nor of any appeal or controversy regarding its issuance. (June 18, 2025 T. 39-40)

(11) Mr. Eddie Diaz Campbell, accepted as an expert in land use planning, testified that he reviewed and contributed to the preparation of the Statement of Justification, and

adopts it as his own. (June 18, 2025 T. 53-54) He further testified that he reviewed the Use and Occupancy permit that is the subject of this request, searched DPIE's records for other permits, and found the following:

[Hofmann Brothers Towing, Inc. has] been operating since at least 1967, when the Use and Occupancy Permit was issued. Based on the testimony of others here, it appears to have been operating before that....

[The permit] was for a ... towing of wrecked vehicles and operating a used car lot.... [T]he property is currently in the rural residential zone, where auto towing and sale of used cars are not permitted uses. Based on ... my research into this property and the information received from park and planning staff, the property has always been zoned rural residential since 1961 ... when the zoning code first went into effect on the property.

So, in 1967, when the permit was issued, the ... auto towing and used car sales would have, at that time, already not been permitted uses. It's for that reason that the park and planning staff asserted that the permit was issued in error.... The use and Occupancy Permit doesn't say that when it was issued, it was already a non-conforming use. So, we are ... moving forward on the basis that the permit was issued in error.

(June 18, 2025 T. 50-51) Mr. Diaz Campbell further averred there was nothing in the record to indicate that the 1967 Use and Occupancy Permit was procured through fraud or misrepresentation or that there was any appeal or controversy regarding its issuance. (June 1, 2025 T. 54)

(12) Mr. Thomas Harrah lives on Mews Court adjacent to the subject property. He noted that he is not opposed to the request but wanted to share some concerns about the site:

I am concerned that all of the information is not getting out regarding the property and the business conducted there. I moved to the property in September of 1992, and the sales lot was a very small area. And then in December of '92 ... they brought in a large sales trailer and parked it along the property line between Mews Court and the Hofmann property.

Then the parking lot was expanded. They paved with asphalt a section of the parking lot in front of the sales trailer, and then a second time they did additional pavement just slightly below the sales trailer. And apparently, there was no consideration given to runoff of water or whatever onto our property. Our property sits lower than the Hofmann's property, and the addition of the gravel parking lot in the asphalt has created more of a runoff in the area.

And ... we are losing the strip of wooded area between the two properties. There is a line of white pine trees on the Mews Court side of the property, and in recent years we have lost a total of twelve pine trees, due to whatever reason.... And we cannot replace the pine trees, or any trees for that matter, to rebuild the buffer between the two properties, because Comcast has utility lines running along where the tree line is. So we ... are losing our buffer....

And then in the matter of the runoff, in the northeast corner of the property, there is an open storm drain. And that area where the water drains in has a rusty orange color to it, slimy, gooky stuff, in the open drain.... I don't know where that contamination is coming from. But it is rusty, slimy-looking water that drains into that area....

And then another issue is the vehicles that are damaged and set on the lot for periods of time that mosquitoes breed in them.... [W]e were told there's no point in spraying

because of the so-called junk cars that are stored next door [, where] the mosquitoes breed, and the eggs hatch within twenty-four to forty-eight hours. So the Maryland Department of Agriculture discontinued their spraying for mosquitoes in that area....

[A]t the hearing before, there was mentioned that the property is surrounded by a fence. I would like the records to indicate that the fence on the east side of the property between Mews Court and the Hofmann property is being maintained by Mews Court in most sections. There's two sections of fence. We set our fence four inches in from the property line when we [replaced] the fence in the mid-1990s. And then on the higher level, the [Hofmanns'] still have their stockade-type fence, which is not in great repair, between the two properties....

(August 19, 2025 T. 6-10)

(13) Upon cross-examination, Mr. Harrah agreed that he had no expertise in environmental science or botany and was unaware that a grading permit is not required when grading areas of less than 5,000 square feet.(August 19, 2025 T.14-15)

(14) Mr. Diaz Campbell provided further elucidation on the grading that occurred on-site. After reviewing records pertaining to the subject property, he averred the following:

DPIE's permit records [reveal] two environmental engineering permits from 1992 and 1993. Those coincide with the expansion that Mr. Harrah described in that time period. Those numbers are 3400854-1992-0 and 2811389-1993-0. We don't have copies of those records, but ... there weren't any other changes to the site observed from the time period. So that leads me to believe that they ... were issued for the sales expansion. There's also a second increase in paving in 2006, but that was less than 5,000 square feet based on my measurements, so it would not have required a grading permit....

(August 19, 2025 T. 27-28, 30)

(15) The witness reiterated his belief that the request would not adversely affect the public health, safety, and welfare, despite Mr. Harrah's testimony:

And essentially my opinion's based on my trust of ...[the] engineers and planners ... at the County who are experts in this stuff ...[and] reviewed these permits [and] issued them. And so ... I have to trust that they met all the stormwater regulations that were active at the time.... [T]hose regulations ... can't capture everything, like ... mosquitoes. But ... by following the county laws ... they've met their obligation to protect the ... public interest to the best of their ability.

(August 19, 2025 T. 30)

APPLICABLE LAW

(1) The Application can be approved if it satisfies Section 27-3615 (e) of the Zoning Ordinance, which provides as follows:

(e) Validation of Permit Issued in Error Decision Standards

A validation of a permit issued in error may only be approved if the applicant demonstrates by substantial competent evidence in the record that:

- (1)** No fraud or misrepresentation occurred in obtaining the permit;
- (2)** At the time of the permit's issuance, no appeal or controversy regarding its issuance was pending before any review body;
- (3)** The applicant has acted in good faith on the permit approval, expending monies or incurring other obligations in reliance on the permit; and
- (4)** The validation will not adversely affect the public interest or the health, safety, or welfare of County landowners and residents.

CONCLUSIONS OF LAW

(1) The instant Application is in accordance with Section 27-3615 (b) of the Zoning Ordinance, since the request is to validate a Use and Occupancy permit for a commercial business that was issued in error during the 1960s.

(2) The record reveals that no fraud or misrepresentation was practiced in obtaining the permits as noted by sworn testimony, and as reasonably inferred by the lack of testimony to the contrary. (Section 27-3615(e)(1))

(3) There is no evidence that any appeal or controversy regarding the issuance of the permit was pending before any administrative body at the time of its issuance. (Section 27-3615(e)(2))

(4) The Applicant has acted in good faith, expending over \$ 70,000.00 in the most recent years since its purchase of the subject property in reliance on these permits. (Section 27- 3615 (e)(3))

(5) Finally, the validation will not be against the public interest as the instant Application validates a use that has existed over sixty years generating few complaints by its surrounding neighbors and none from the municipality that would be impacted by the use, and does not detract from the character of the surrounding area which has a substantial amount of other commercial uses as well as residential. (Section 27-3615(e)(4))

(6) Applicant has requested that the uses be changed to equivalent uses currently allowed in the Zone. However, the instant application is one that will certify nonconforming uses under certain circumstances. It is not one that will allow an expansion of nonconformity, which would occur if Applicant is allowed to change the uses from those in existence when the permit was issued.

(7) Mr. Harrah has raised certain concerns about the site, some within Applicant's control. I would therefore recommend that wrecked vehicles not be allowed to stay on site for too long a period of time, and that the pictures of the fencing be added to the record to ensure that the impounded vehicles are not visible off-site.

RECOMMENDATION

It is recommended that the District Council validate the permit issued in error in 1967 that allowed the “operation of a towing or wrecked vehicles and auto sales use on site” (Exhibit 2), in accordance with the Use and Occupancy Site Plan (Exhibit 3), with the following conditions:

- (1) The Use as shown on the 1967 Site Plan shall be Certified as a Non-Conforming Use.
- (2) No wrecked vehicle may be stored on site for more than 90 days.
- (3) Prior to the certification, Applicant shall submit clear pictures of the six-foot-high board on board fence that surrounds the rear of the subject property to verify that it is in good repair and adequately prevents or controls any detrimental effect upon the neighboring properties. If the fence is not in good repair, all deficiencies shall be remedied prior to certification.