

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed SE-4618 requesting an auto salvage yard with a 20,000-square-foot building that will be used for storage and retail sales of parts in accordance with Subtitle 27 of the Prince George’s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on June 18, 2009, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is a rectangular-shaped lot located at the terminus of Fairmont Heights Drive on the north side of Oates Place in Fairmont Heights. The site is unimproved; however, it is currently operating as a vehicle storage yard. A portion of the site which has been cleared is filled with wrecked vehicles. The property is heavily screened on three sides by existing woodland. Access is via Fairmont Heights Drive, a substandard roadway which connects to Sheriff Road.

B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	I-1	I-1
Use(s)	Vehicle storage yard	Vehicle salvage yard
Acreage	3.17	3.17
Lots	Lot 39 and p/o Lot 40	Lot 39 and p/o Lot 40

C. **History:** In 1988, the District Council approved Zoning Map Amendment A-9555-C rezoning the subject property from the R-55 Zone to the I-1 Zone. The 1993 *Approved Master Plan and Sectional Map Amendment for Landover and Vicinity (Planning Area 72)*, retained the subject property in the I-1 Zone. Lots 39 and 40 were the subject of Preliminary Plan of Subdivision 4-93008 approved by the Prince George’s County Planning Board on May 13, 1993 (PGCPB Resolution No. 93-116).

D. **Master Plan Recommendation:** This application conforms to the general industrial land use recommendations of the 1993 *Approved Master Plan and Sectional Map Amendment for Landover and Vicinity (Planning Area 72)*. The site is located within Employment Area 3.

The 2002 *Approved Prince George’s County General Plan* places this 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. The proposal is consistent with the General Plan’s goal to enhance industrial employment areas.

E. **Request:** The applicant is proposing an auto salvage yard with a 20,000-square-foot building that will be used for storage and retail sales of parts.

F. **Neighborhood and Surrounding Uses:** The neighborhood is defined by the following boundaries:

- North—Reed Street
- South—Sheriff Road
- East—Cabin Branch Drive
- West—Addison Road

The neighborhood is industrial in nature with auto-related uses, metal fabrication and general contracting uses to the north and east. The site is bounded by the rights-of-way of Oates Place, Huskwood Avenue, Palmwood Street and Laurelwood Avenue. Immediately to the west and north are abandoned/vacant properties zoned R-55, farther to the west is a church zoned R-55; directly to the south is an auto towing yard in the C-M Zone, farther to the south along Sheriff Road is a church zoned C-M. The applicant's statement of justification indicates the church property south of the subject property is vacant; a field visit by staff was inconclusive.

G. **Specific Special Exception Requirements for an Auto Salvage Yard:**

Section 27-417.03(a) of the Zoning Ordinance permits a vehicle salvage yard 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;**

The applicant is proposing a ten-foot high, sight-tight fence.

- (2) **The fence shall not be constructed of corrugated metal or fiber glass, or sheet metal;**

The fence is proposed to be constructed of wood. The fence details shall include the fence height.

- (3) **Outdoor storage shall not be visible from the ground level beyond the fence; and**

During a field visit, certain locations of wrecked vehicles stored outside appeared to be stacked higher than ten feet, which is the maximum fence height proposed. If the special exception is approved, a condition should be included to limit the height of outdoor storage so as not to exceed the height of the fence.

- (4) **Interior storage shall be located within a fireproof building.**

The site plan indicates a 20,000-square-foot building is proposed. The building is intended to enclose a retail business operating in conjunction with the salvage use. The applicant's Statement of Justification indicates the building will be constructed at some point in the future, and at that time it will fully comply with this requirement. In the interim, no indoor storage is proposed.

H. ***Prince George's County Landscape Manual Requirements:*** Because the proposal includes a 20,000-square-foot structure, the site is subject to *Prince George's County Landscape Manual* requirements. The site is subject to the following sections of the Landscape Manual; 4.2 (Commercial and Industrial Landscape Strip); 4.3.a (Parking Lot Landscape Strip), 4.4 (Screening Requirements) and; 4.7 (Buffering Incompatible Uses). Subsequent to the Urban Design Section's memorandum dated April 21, 2008, the applicant revised the landscape plan. Zoning staff met with the Urban Design staff to review the revisions. The Urban Design Section determined the revised landscape plan is in general conformance with the applicable sections of the Landscape Manual if the special exception is approved. The following conditions are recommended prior to signature approval:

1. **The landscape plan shall be revised to indicate the Limits of Disturbance a minimum of 25 feet from the right-of-way line of Palmwood Street, in compliance with Section 4.2 of the County Landscape Manual.**
2. **The calculation for the Fairmont Heights Drive landscape strip shall be revised to indicate the linear feet of street frontage, not including driveway. The calculation for the linear feet of parking facility adjoining a residential zone shall be deleted.**
3. **The proposed eight-foot high gate shall be identified on the site and landscape plans, and details shall be provided.**

I. **Sign Regulations:** No signage is proposed with this application. If the applicant intends to provide signage its location must be identified on the site plan. In addition, area and height details must be provided to ensure conformance with Part 12 of the Prince George's County Zoning Ordinance.

J. **Parking and Loading Requirements:** Section 27-568 of the Zoning Ordinance requires one parking space for every 1,000 square feet of gross storage area of the first 10,000 square feet, plus one additional space for each additional 10,000 square feet. A note on the site plan indicates the total proposed gross storage area of the salvage yard is 67,298 square feet. The applicant is required to provide a total of 16 parking spaces, including one handicap van accessible space. The minimum required number of parking spaces is shown on the site plan; however, only the length of the spaces is provided. No dimensions at all are provided in the parking schedule. The site plan and parking schedule should include the full dimensions of the standard parking spaces provided. The site plan also indicates that one loading space is provided, in accordance with Section 27-582 of the Zoning Ordinance. The loading space should be relocated so it does not prevent access to

and from the site. In addition, the site plan should identify handicap access to the building (a depressed curb is provided only as a detail on the site plan). It appears from the site plan that vehicles must travel over a sidewalk to enter or exit the vehicle storage/salvage area. The location of the sidewalk should be clarified, and any other features in that location (i.e., a depressed curb) should be identified. The sidewalk width should also be provided.

- K. **Planning Board Analysis:** With the exception of the Town of Cheverly, none of the referral replies received by staff had any objection to the application.

A vehicle salvage yard is permitted in the I-1 Zone with a special exception. Two master plan guidelines regarding buffering and screening are identified that are applicable to the proposal:

Employment areas should be separated from living areas by the use of appropriate buffering, designed and placed to minimize sight (including lighting and signing), sound and dust.

Screening should be provided for outdoor storage areas on existing and future industrial properties adjacent to residential properties and for employment areas bordering roads, with the condition that such screening be of sufficient height and type to block the stored material and equipment from view at ground level.

The applicant has submitted a copy of the approved stormwater management concept plan and the approval letter. The special exception site plan and TCPI notes will be revised to include the concept approval number.

The Department of Public Works and Transportation (DPW&T) indicates that Fairmont Heights Drive, between Sheriff Road and Oates Place will require improvements to provide for a 36-foot-wide urban road with curb and gutter within the existing 50-foot-wide right-of-way (ROW). In addition, execution of a covenant agreement is required for the future improvement of Oates Place, Huskwood Avenue and Palmwood Street to urban road standards, at developer expense, at such time as directed by the County. DPW&T is further requiring, in addition to conformance with their typical standards and specifications, that all areas within the rights-of-way of Oates Place, Hushwood Avenue, Palmwood Street and Laurel Avenue along the site frontage be cleared of debris, and that a barricade be provided prohibiting access to Oates Place from Fairmont Heights Drive. It was noted that a review of the traffic impact study was conducted, although no further comments regarding the study were provided.

The Planning Board was primarily concerned with the provision of safe and convenient access to the site from Fairmont Heights Avenue, which currently functions as a substandard roadway. With an increased pavement width (required by DPW&T), the Board finds that safe access can be provided.

The Town of Cheverly: The Town of Cheverly submitted a letter dated March 31, 2008, indicating strong objection to the proposed vehicle salvage yard. The town believes that the

proposal will impair the integrity of the master plan; result in a significant impact to the transportation system; and, compromise the water quality of the Lower Beaverdam Creek. In addition, the town does not find that the applicant will adequately buffer the property to mitigate noise, dust or other undesirable impacts resulting from the vehicle salvage operation.

The Town of Fairmount Heights: The Town of Fairmount Heights submitted a letter dated April 16, 2009, indicating support of the proposed vehicle salvage yard. The town finds the use is appropriately located in an industrial zone in proximity to other industrial uses. In addition, the town finds that the proposed ten-foot high fence and required landscaping will provide adequate screening for the adjoining properties.

- L. **Other Issues:** The vehicle salvage yard is proposed to be located on Parcel 39 and part of Parcel 40. The remaining part of Parcel 40 is under separate ownership and is occupied with an auto towing yard. The transfer of part of Parcel 40 created an illegal subdivision which is required to be remedied with a new preliminary plan of subdivision. A preliminary plan of subdivision is also required since the proposed development exceeds the approved trip cap.
- M. **Required Findings:** Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purposes of this Subtitle;

The purposes of Subtitle 27, as set forth in Section 27-102, are generally to protect the health, safety and welfare of the public and promote compatible relationships between various land uses. The proposed uses and accompanying site plan, in conjunction with the recommended conditions, are in harmony with the purposes of this subtitle.

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

The proposed use is in general compliance with *Prince George's County Landscape Manual* requirements. No variances, waivers or departures are necessary to implement the proposed special exception. However, the applicant will be required to file for a new preliminary plan of subdivision. Pursuant to Preliminary Plan of Subdivision 4-93008, no development is approved for Lots 39 and 40. Condition 4 of the preliminary plan states:

“No building permits shall be issued for this subdivision which would generate peak hour trips.”

Hence, prior to the issuance of any building permits, a new preliminary plan must be approved. The applicant is further required to make site plan revisions to bring the special exception into conformance with Sections 27-296, 27-317 and 27-417.03 of the Zoning Ordinance. Revisions not previously noted are identified below:

1. Clearly delineate the complete boundaries of Parcels 39 and 40
 2. Clearly delineate the limits of outdoor storage
 3. Provide a north arrow
 4. Provide the setback from the south property line for the fence adjacent to the stormwater management facility
 5. Identify the gate between the parking and vehicle storage area and indicate the width of the gate
 6. Show the internal circulation of the vehicle salvage area
- (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 Map Plan, the General Plan.**

This application is in conformance with the *1993 Approved Master Plan and Sectional Map Amendment for Landover and Vicinity (Planning Area 72)* which places the subject property within the I-1 Zone and Employment Area 3. The proposal is also consistent with the 2000 General Plan since the use represents an enhancement to an existing industrial use. Thus, 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.**

None of the responses from any referring agencies indicated that the proposed vehicle salvage yard, subject to specific conditions, would adversely affect the health, safety or welfare of residents or workers in the area. In consideration of the Department of Public Works and Transportation's requirement for the improvement of Fairmont Heights Drive, the proposal for a vehicle salvage yard will not pose unanticipated capacity or safety issues on adjacent roadways. Based on testimony provided at the hearing, the Board was unable to conclude, definitively, that the proposed stormwater management facility will result in improved water quality over what currently exists. In addition, a noise study was not conducted prior to the Planning Board hearing; therefore, it could not be definitively concluded that the noise generated by the proposed use would not adversely impact 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.**

The proposed use is bounded on every side by public rights-of-way. Across the rights-of-way to the north, south and east are other industrial uses. The residentially zoned properties immediately to the west are vacant. The site is in compliance with the *Prince George's County Landscape Manual* and the Woodland Conservation and Tree Preservation Ordinance. Screening will be accomplished by existing woodland and a ten-foot high sight-tight fence.

The special exception, if approved, is regulated not only by the Prince George's County Zoning Ordinance, (Sections 27-317, 27-417.03) but also by the State of Maryland, Department of Transportation, Subtitle 04, Chapter 08 (Junkyard Licensing and Control Authority). Failure to operate the proposed use in accordance with these regulations may carry penalties as severe as revocation of operating licenses and revocation of the special exception. Nevertheless, the Board does not find this criterion has been met.

A special exception use, not unlike a comprehensive rezoning, is accorded a certain presumption of validity. It is considered compatible with uses permitted by right within the zone, as long as specific criteria are met. Unless unique adverse impacts are identified, the special exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, at the particular location proposed, would have adverse impacts above and beyond those inherently associated with the special exception use, irrespective of its location within the zone. In this case, testimony provided at the public hearing indicated that due to the topography of the site and its relationship to adjacent residential zones, in addition to the proximity of Lower Beaverdam Creek, an environmentally sensitive resource, the proposed salvage yard would indeed create greater adverse impacts at the proposed location than it would in another location within the same zone. For this reason the Board does not find this criterion has been met.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

The property is subject to the provisions of the Prince George's Woodland Conservation and Tree Preservation Ordinance, because the gross tract area of the site is greater than 40,000 square feet, and there are more than 10,000 square feet of existing woodland. The applicant submitted a Type I tree conservation plan, which has been reviewed by the Environmental Planning Section. The memorandum stated that the total requirement based on the proposed tree clearing is 1.16 acres. The requirement is proposed to be met with 0.16 acres of on-site preservation and one acre of fee-in-lieu. The site contains stream, wetland, and 100-year floodplain. No disturbances to the on-site regulated areas are proposed. The existing woodland within the on-site 100-year floodplain and stream buffer will be fully preserved.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and recommends to the District Council for Prince George's County, Maryland that the above-noted application be DENIED.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Cavitt, seconded by Commissioner Parker, with Commissioners Cavitt and Parker voting in favor of the motion, with Clark absent, Squire temporarily absent, and with Vaughns abstaining at its regular meeting held on Thursday, June 18, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of July 2009.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator