

IN THE MATTER OF : BEFORE THE  
**METEEB LLC, T/A BP GAS STATION** : HOWARD COUNTY  
Petitioner : BOARD OF APPEALS  
 : HEARING EXAMINER  
 : BA Case No. 16-012C

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**DECISION AND ORDER**

On February 13, 2017, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the conditional use petition of Meteeb LLC, t/a BP Gas Station (Petitioner) for retroactive approval to enlarge and modify an existing Motor Vehicle Fueling Facility with a storage area and office addition, and to add truck rental and glass service uses, in a B-2 (Business: General) Zoning District, filed pursuant to § 131.0.N.24 of the Howard County Zoning Regulations (HCZR).

**A Preliminary Matter**

The Department of Planning and Zoning's February 6, 2017 technical staff report (TSR) noted multiple deficiencies in the petition and conditional use plan (CUP). These deficiencies include: 1) an absence of information about the truck rental (U-Haul truck rentals) and the vehicle glass service uses operating behind the existing building (a three-bay garage and convenience store) and which are not depicted on the CUP, 2) a failure to show dedicated parking spaces for the truck rental and vehicle glass service uses, and 3) noncompliance with minimum parking requirements for the Motor Vehicle Facility, based on the CUP's failure to depict the required

number of spaces. The TSR consequently recommended approving the requested enlargement subject in part to the CUP being amended to include the missing items.

Petitioner did not introduce an amended CUP into evidence at the hearing despite notice to do so. Rather than deny the petition or continue the hearing, and considering the existence of an approved Site Development Plan for the use based on multiple Hearing Authority approvals (See Finding No. 8), the Hearing Examiner worked with Petitioner to produce a very rough amended CUP, the sole purpose of which was to denote the availability of land area to accommodate the necessary amendments (Exhibit 1) (see Finding #13). At the conclusion of the hearing, the Hearing Examiner informed Petitioner that the petition would be approved subject to the condition that Petitioner shall contact Kent Sheubrooks, DPZ's Division of Land Development (DLD) chief, or his representative, no later than 14 calendar days from the date of the decision, to schedule a meeting to discuss updating the Site Development Plan as required by this decision and order and as further required by county laws and regulations.

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Petitioner certified to compliance with the notice, posting, and advertising requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure.

Sung Kook Chun, Esquire, represented the Petitioner. Munawar Choudhery testified in favor of the petition. No one appeared in opposition to the petition.

**FINDINGS OF FACT**

Based upon the petition, plan and all evidence of record, the Hearing Examiner finds the following facts:

1. Property Identification. The 1.41-acre subject property is located in the 2<sup>nd</sup> Election District on the north side of Baltimore National Pike about 235 feet west of Executive Center Road. It is referenced as Tax Map 0024, Grid 0006, Parcel 849, and is also known as 8720 Baltimore National Pike (the Property).
2. Property Description. The Site is currently improved with a 2,220sf, one-story building containing a three-bay garage and convenience store, two raised fueling islands with four pump dispensers, and a canopy covering the fueling area. Attached to the rear of the building are a 15'x8' storage shed and a 20'x8' office, which appears to be a converted storage container. The Hearing Examiner observed a white tent structure in the service area in front of these structures as well as several vehicles. This comports with DPZ's site inspection observation (p. 8 of the TSR) that truck rental, vehicle storage and vehicular glass service uses are operating under a "canopy" behind the main building.
3. Paving areas to the sides of the building and behind are used for vehicle circulation, vehicle storage, vehicle rental, and vehicle glass service. There is a refuse container in the northeast corner of the paved/concrete pad area behind the building. The remainder of the Property, which drops about 10 feet in elevation from the southwest lot line to the northeast lot line, is wooded. The vegetation along the southwesterly lot line ends just south of the refuse

4. Vicinal Uses and Properties. The adjacent properties on the north side of Baltimore National Pike are also zoned B-2. To the north, Lot PAR E of Parcel 47 is improved with a shopping center. Between the shopping center structure and parking lot and the Property is the center's stormwater management facility. To the east, the unimproved Lot PAR J of Parcel 848, is wooded. A stream runs through Lot PAR J and a portion of this area is subject to a Forest Conservation Easement. Farther to the northeast, across Executive Center Road, is Lot PAR H, the site of a large motor vehicle sales facility. To the south, across Baltimore National Pike, is Lot PAR A of Parcel 1042. This B-2 and POR-MXD-3 property is the site of the Howard County Ridge Road Shop maintenance facility. The western Parcel 49 is the site of a motor vehicle purchasing business.

5. Roads. Baltimore National Pike (US 40) along the Property frontage has three westbound travel lanes and two eastbound travel lanes, which become three eastbound lanes where the Northbound US 29 ramp merges with eastbound US 40. The posted speed limit on westbound US 40 is 45 miles per hour. The right-of-way width varies. The estimated sight distance from the westernmost site entrance is more than 800 feet to the east. Since US 40 is a divided highway, sight distance to the west is not an issue. However, precise sight distance measurements can only be determined through a detailed sight distance analysis. According to the State Highway Administration, traffic volume in 2015 on US 40 east of US 29 was 46,600 average daily trips.

6. Water and Sewer. The Property is served by public water and sewer.

7. General Plan. PlanHOWARD 2030 designates the Property as "Growth and Revitalization" on the Designated Place Types Map. It is designated "Commercial" on the Land

Use Map. US 40 is depicted as an Intermediate Arterial on the Transportation Map of the PlanHOWARD 2030 General Plan.

8. Zoning History.

**BA 547-C**

Petitioner: American Oil Company  
Request: Special permit for a gasoline service station  
Action: Granted, October 30, 1968

**BA 79-49V**

Petitioner: Amoco Oil Company  
Request: Variance to reduce 30-foot front setback to 1.5 feet for construction of canopy over existing pump islands  
Action: Granted, January 3, 1980

**BA 84-3IV**

Petitioner: Amoco Oil Company  
Request: Variance to reduce the 30-foot front setback to 12 feet for the construction of a kiosk  
Action: Granted, December 4, 1984

**BA 93-41 E**

Petitioner: Amoco Oil Company  
Request: Special Exception to expand existing gasoline service station & add compressed natural gas sales  
Action: Granted, November 23, 1993

**BA 01-41 C**

Petitioner: BP Corporation  
Request: Conditional use for a gasoline service station with a 2,280 square foot convenience store and 600 square foot carryout restaurant  
Action: Granted, February 7, 2002

**CE-16-019**

Issued to: Munawar H. Choudhery/Mateeb, LLC  
Violations: The rental of motor vehicles (U-Haul It Trucks) on B-2 (Business: General) zoned property; the storage of shipping containers on B-2 (Business: General) zoned property; addition to or alteration of Conditional Use without Hearing Authority approval  
Status: Pending

9. The Proposed Enlargement and Modification of the Motor Vehicle Fueling Facility

Conditional Use. Petitioner proposes to enlarge and modify the Motor Vehicle Fueling Facility to

add a 15'x8' storage shed addition and a 20'x8' office addition onto the rear wall of the principal building.

10. Permitted Additional Uses on the Same Lot as the Motor Vehicle Fueling Facility.

Petitioner is also proposing new vehicle glass and truck rental uses.

11. The TSR/DPZ Recommendation. DPZ recommends the requested Motor Vehicle Fueling Facility conditional enlargement (the office and storage shed) and the vehicle glass and truck rental uses be granted subject in part to these conditions.

1. The unscreened trash receptacle shall be screened or removed from the Property.
2. Storage uses occurring on the unpaved areas in Area B shall cease.
3. The Conditional Use Plan shall be amended to include:
  - a. Additional parking spaces, as required by Sec. 133.0, for all proposed land uses.
  - b. Pedestrian crosswalk pavement markings between all parking spaces and building entrances.
  - c. The disposal methods for all waste generated by all vehicle repair operations.
  - d. All proposed land uses and square footage [].
  - e. Additional screening or a fence, as determined by the Hearing Authority, in Area A to better screen the area behind the principal building.
  - f. The Conditional Use shall be conducted in conformance with and shall apply only to the Conditional Use, as approved by the Hearing Authority.
  - g. The approved Site Development Plan shall be updated to depict all current site conditions and authorized uses.

12. Munawar Choudhery testified that all auto glasswork is done within the auto repair garage.

13. The Hearing Examiner reviewed the TSR with Mr. Choudhery and his counsel, including all recommended conditions of approval, to facilitate the "markup" of the CUP, during which she imposed multiple conditions of approval.

1. Landscaping. The Hearing Examiner determined Petitioner shall install a Landscape Manual "Type B" landscaping along the area marked as "Area A" on the aerial photograph seen on p. 12 of the TSR. The Site Development Plan shall be updated to denote this landscaping.

2. Parking. The CUP submitted with the petition (Exhibit 1) is marked up to depict the approximate location of 12 parking spaces for the existing use and a number of additional spaces for the vehicle rental and auto glass uses. Additionally, one parking space is required for the convenience store, which is much smaller than approved. Based on the Hearing Examiner's site visit, several vehicles are being parked behind the proposed structures, which the Hearing Examiner concluded may be part of the auto glass use, contrary to Mr. Choudhery's testimony that all such work is performed within the service garage. The vehicles observed in this location may also be associated with the truck rental use. Petitioner did not testify about the size of the rental vehicles, so it is unclear to the Hearing Examiner whether the potential parking areas denoted on the "amended" CUP are sufficiently sized. The Site Development Plan shall be updated to denote 13 parking spaces for the conditional use and all parking spaces and areas for the auto glass and vehicle rental uses.

3. The refuse area. The trash receptacle visible in the aerial photograph on pg. 12 of the TSR clearly shows an unenclosed blue dumpster beyond the building. The Site Development Plan shall be updated to depict the fenced screening of the trash receptacle.

4. The CUP was not marked to indicate the use areas and square footages associated with the auto glass use and the vehicle rental uses. The Site Development Plan shall be updated to denote the square footage for the auto glass use and vehicle rental uses, including office space and parking areas and any other component of each use.

5. The CUP was marked to indicate the general location of a pedestrian crosswalk. The Site Development Plan shall be updated to denote the location of pedestrian crosswalk markings.

### **CONCLUSIONS OF LAW**

#### **I. General Criteria for Conditional Uses (§ 131.0.B)**

HCZR §§ 131.0.B.1 & 2 require the Hearing Authority to evaluate whether petitioners have met their burden of proof that the proposed Conditional Use meets these tests: harmony with the General Plan and the overall intensity and scale of use relative to the Site and the streets proposed to give access to the Site.

##### **A. Harmony and Intensity of Use (§§ 131.0.B.1 & .2)**

**1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.**

Policy 10.4 calls for the review and amendment, as appropriate, of the conditional use regulations to reflect updated land use policies to reflect current best practices and policies to minimize the impact of development on the environment, including gasoline service stations. Bill No. 46-2016 (ZRA-159), effective October 5, 2016, amended the Howard County Zoning Regulations Gasoline Service Station provisions by creating a new definition for Motor Vehicle Fueling Facility, repealed the Gasoline Service Station Conditional Use, and created a new Motor Vehicle Fueling Facilities Conditional Use category. The petition complies with § 131.0.B.1.

**2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.**

The nature of the use will not change. Although the intensity of use would likely increase due to the additions, the total floor area of both structures is only a little more than 0.45% of the 1.41-acre Property. There is no evidence that the overall intensity and scale of use is inappropriate, given the location of the site with respect to streets giving access to the site. The petition complies with § 131.0.B.2.

#### **B. Adverse Impacts**

Unlike HCZR §§ 131.0.B.1 and B.2, which concern the proposed use's harmony or compatibility with the General Plan and the on-site characteristics of the proposed use, compatibility with the neighborhood is measured under § 131.0.B.3's six, off-site "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading, (d) access, (e) impact on environmentally sensitive area; and (f) impact on the character and



significance of historic sites. These six adverse impact tests gauge the off-site effects of the proposed conditional use.

Inherent in the assessment of a proposed conditional use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body has determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in a B-2 zoning district or other "permitted" districts. The proper question is whether there are facts and circumstances showing the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional use] irrespective of its location within the zones. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, Petitioner has met its burden of production and persuasion under HCZR § 131.0.B.3 to establish the proposed enlargement use will not have adverse effects on vicinal properties beyond those ordinarily associated with a Motor Vehicle Fueling Facility in a B-2 zoning district or other district where the land use is permitted by conditional use.

**131.0.B.3. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:**

**a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.**

There is no evidence of atypical noise, dust, fumes, odors, intensity of lighting, vibrations, hazard or other physical conditions related to the additions at the proposed site than elsewhere in the B-2 zoning district or other similar zoning districts. There are no residential uses near the facility and the adjacent uses are commercial. The petition complies with § 131.0.B.3.a.

**b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.**

The additions are not visible from Baltimore National Pike and the area behind the building is well screened by existing vegetation, excepting an area along the common lot line with Parcel 49. As a condition of approval, Petitioner shall install a Landscape Manual "Type B" landscaping along the area marked as "Area A" on the aerial photograph seen on p. 12 of the TSR. The Site Development Plan shall be updated to depict/note the screening of the refuse/trash receptacle with appropriate fencing. Subject to these approval conditions, the petition complies with § 131.0.B.3.b.

**c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.**

Nine spaces are shown on the conditional use plan submitted with the petition and the marked up conditional use plan indicates there is sufficient room for additional parking spaces. The Site Development Plan shall be updated to denote 13 parking spaces for the conditional use,

12 for the garage and 1 for the convenience store. Subject to this condition of approval, the petition accords with § 131.0.B.3.c.

**d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.**

No shared driveway access is proposed. The evidence shows the existing ingress/egress drives provide adequate sight distance. There is no evidence that the continued use of these drives would not provide safe access. The petition complies with § 131.0.B.3.d.

**e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.**

The stream to the east on Lot PAR J is about 450 feet distant. Considering the distance between the stream and the additions, there is no greater potential for atypical adverse impact on this stream from the land use than elsewhere. The petition complies with § 131.0.B.3.e.

**f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.**

There are no known historic sites in the vicinity. The petition accords with § 131.0.B.3.f.

## **II. Specific Criteria for Motor Vehicle Fueling Facilities (§ 131.0.O.2)**

A Conditional Use may be granted in the B-2, SC, M-1, M-2, or PEC Districts for Motor Vehicle Fueling Facilities, provided that:

**a. The use will not adversely affect the general welfare or logical development of the neighborhood or area in which the Motor Vehicle Fueling Facility is proposed and will not have a blighting influence as a result of a proliferation of Motor Vehicle Fueling Facilities within a particular area.**

The Motor Vehicle Facility has operated at this site since the 1960s. The minor

enlargement by the two additions will not have a blighting influence as a result of a proliferation of Motor Vehicle Fueling Facilities within a particular area. The petition complies with § 131.0.O.2.a.

**b. The minimum lot size for a Motor Vehicle Fueling Facility is 40,000 square feet. If a Motor Vehicle Fueling Facility is combined with another use on the same lot, the minimum lot size shall be increased in accordance with the provisions of Section 131.0.O.1.k.**

The Property is 1.41 acres, or 61,419sf. Although Petitioner did not amend the CUP to depict the areas of the vehicle glass and truck rental uses, the site can accommodate them. Subject to the condition of approval that the Site Development Plan be updated to depict the location and square footage of these uses, including parking locations, the petition complies with § 131.0.O.2.b.

**c. The lot shall have at least 180 feet of frontage on a public road. If at the intersection of two public roads, the total of the frontage along both roads may be counted.**

The Property has 200 frontage feet on Baltimore National Pike. The petition complies with § 131.0.O.2.c.

**d. Fuel dispensers shall be located at least 300 feet from any school, park, or day care or assisted living facility. This criterion is not applicable to existing Motor vehicle fueling facilities, except that it shall be applicable if an existing motor vehicle fueling facility proposes an enlargement that includes additional fuel dispensers.**

Because the motor fueling facility is an existing use and no additional fuel dispensers are proposed, this standard is inapplicable.

**e. The proposed use shall be located at least 100 feet from any streams, rivers or floodplains. This criterion is not applicable to existing motor vehicle fueling facilities, except that it shall be applicable if an existing motor vehicle fueling facility proposes an enlargement that includes additional fuel dispensers.**

Because the motor fueling facility is an existing use and no additional fuel dispensers are proposed, this standard is inapplicable.

**f. At least 20 percent of the site area shall be landscaped. The landscaping plan shall include plantings which enhance the appearance of the site from public roads and provide appropriate buffering for adjacent uses.**

The CUP, a revised version of the approved Site Development Plan (SDP-94-04), notes that the landscaped area is 49% of the Property area. The petition complies with § 131.0.O.2.f.

**g. Solid walls such as masonry or wood and masonry may be required by the Hearing Authority when the site borders a residential district. When solid walls are required, landscape planting is required on the outside of the wall.**

The Property does not border a residential district. All adjoining properties are commercially zoned. This standard is inapplicable.

**h. Refuse areas shall be fenced or screened from view. The plan shall indicate the disposal methods to be used for all waste material generated by any vehicle repair operations.**

As concluded above, the Site Development Plan shall be updated to depict/note the screening of the refuse/trash receptacle with appropriate fencing. There is no evidence going to Petitioner's methods for disposing of all waste material generated by any vehicle repair operations. As a condition of approval, the Site Development Plan shall be updated to denote all disposal methods. Subject to these conditions, the petition complies with § 131.0.O.2.h.

**i. A proposed site plan shall show that efficient traffic flow and queuing at the pump islands may be accommodated. Access driveways and on-site paved areas shall be designed and located to ensure safe and efficient movement of traffic and pedestrians.**

This standard does not apply because the Motor Vehicle Facility is an existing use and no changes are proposed to the pump islands.

**j. Operation**

- (1) Outside operations shall be limited to the dispensing of motor vehicle fuel, oil, water, pressurized air, the changing of tires and minor servicing. Storage of all automotive supplies shall be within the main structure.**
- (2) Vending machines and the sale of propane are permitted as accessory uses, provided these uses are screened or enclosed if required by the Hearing Authority.**
- (3) The premises shall be maintained at all times in a clean and orderly condition, including the care or replacement of plant materials required in the landscaping plan. The responsibility for compliance with this provision shall be with all parties having a lease or ownership interest in the Motor Vehicle Fueling Facility.**
- (4) Where a Motor Vehicle Fueling Facility is adjacent to a residential district, its hours of operation and a detailed landscaping and screening plan and a lighting plan shall be approved by the Hearing Authority.**

No vending machines or propane sales are proposed. The facility is not adjacent to a residential district. Petitioner must comply with §§ 131.0.O.2.j(1) & (3).

**k. Other Uses**

- (1) Other uses may be located on the same lot as a Motor Vehicle Fueling Facility, including uses permitted in the zoning district as well as car washes and convenience stores, provided that all uses are approved by the Hearing Authority, and;**
- (2) The Minimum lot area is increased to accommodate the combination of uses. At a minimum, the minimum lot size of 40,000 square feet must be increased by an area equal to the gross square footage of floor area, parking area and loading or stacking areas required for the additional uses.**
- (3) In the PEC, M-1 and M-2 districts, the gross floor area of convenience stores shall not exceed 3,500 feet.**

As found above, Petitioner did not introduce an amended CUP to depict the truck rental and vehicle glass use locations on the Property or provide testimony about the nature/scope of the uses, including employee and dedicated parking and stacking areas for these uses. The Hearing Examiner is approving these uses subject to compliance with all approval conditions. The size of the Property is appropriate based on the Hearing Examiner's observations about the uses during her site visit. No new convenience store is proposed. Subject to all approval conditions, the petition complies with § 131.0.O.2.k.

**I. Abandonment**

**(1) The premises (including landscaping) of any Motor Vehicle Fueling Facility which is not in continuous operation or is abandoned shall be maintained in the same manner as is required under these regulations for operating Motor Vehicle Fueling Facilities.**

**(2) A Conditional Use for a Motor Vehicle Fueling Facility shall become void upon notice of abandonment by the owner. If notice of abandonment is not received, but it is determined by the Department of Planning and Zoning that a Motor Vehicle Fueling Facility has not been in continuous operation for a period of twelve months, a revocation hearing shall be initiated by the Department of Planning and Zoning in accordance with the procedures set forth in Section 131.0. For purposes of this subsection, "continuous operation" shall mean operation as a Motor Vehicle Fueling Facility at least eight hours per day, five days per week.**

**(3) If a Motor Vehicle Fueling Facility is abandoned and the Conditional Use becomes void as provided above, all multiple-product dispensers, canopies and other improvements including buildings shall be removed from the site within six months of the date the Conditional Use becomes void.**

These standards are incorporated as approval conditions.

**ORDER**

Based upon the foregoing, it is this **15<sup>th</sup> day of March 2017**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Conditional Use petition of Mateeb LLC, t/a BP Gas Station, to enlarge and modify an existing Motor Vehicle Fueling Facility with two building additions and to add truck rental and glass service uses in a B-2 (Business: General) Zoning District, is **GRANTED**;

**Provided**, however, that:

1. The Conditional Use shall be conducted in conformance with and shall apply only to the Motor Vehicle Fueling Facility Conditional Use enlargement for two additions behind the building, as shown on the conditional use plan, and as further set forth in this decision and order and described in the petition, and not to any other activities, uses or structures on the Property.
2. Petitioner shall contact Kent Sheubrooks, DPZ's Division of Land Development (DLD) chief, or his representative, no later than 14 calendar days from the date of this decision and order to schedule a meeting to discuss updating the Site Development Plan. Petitioner's engineer shall also attend the meeting.
3. Petitioner shall submit an updated Site Development Plan to the Department of Planning and Zoning for processing no later than 90 calendar days from the date of this decision and order.
4. The Site Development Plan shall be updated to depict 13 parking spaces for the Motor Vehicle Facility, as required by § 133.0.
5. The Site Development Plan shall be updated to denote the location and square footage of the areas associated with the vehicle glass and vehicle rental uses and all components of each use, including the number and location of parking spaces.
6. The Site Development Plan shall be updated to contain a note stating that only U-Haul vehicles shall be parked or stored in the U-Haul vehicle use area.
7. The Site Development Plan shall be updated to depict a graphic representation of the type of fence screening for the refuse area/trash receptacle.



8. The Site Development Plan shall be updated to contain a note stating no storage or parking use is permitted on the unpaved areas of "Area B" shown on the aerial photograph on pg. 12 of the TSR and as reproduced on pg. 19 of this decision and order.
9. The Site Development Plan shall be updated to denote the disposal methods for all waste generated by all vehicle repair operations.
10. A Landscape Manual "Type B" landscape perimeter shall be installed along the area marked as "Area A" on the aerial photograph shown on pg. 12 of the TSR and as reproduced on pg. 19 of this decision and order. The Site Development Plan shall be updated to denote the location of this landscape perimeter and shall include a note detailing plant materials.
11. The Site Development Plan shall be updated to depict the type and location of pedestrian crosswalk markings between all parking spaces and building entrances, including markings between the two addition entrances and all parking areas for the truck rental and glass vehicle uses.
12. The approved Site Development Plan shall be further updated as necessary to depict all current site conditions and authorized uses as required by county law.
13. The Site Development Plan shall contain a note stating that no truck rental vehicle will be washed on-site.
14. This decision and order does not approve the white canopy tent use/structure behind the building.
15. No used tire sales are permitted.
16. This decision and order recognizes that county agencies may require a different manner of notation for these approval conditions on the Site Development Plan update.
17. Petitioner shall obtain all required permits, including building permits, for the additions and new uses. Petitioner is on notice that pursuant to Zoning Regulations § 102.0.D, no permit shall be issued for the construction, alteration or use of any structure or lot unless such construction, alteration or use and the related site improvements conform to all requirements of these Regulations.
18. Petitioner shall comply with all applicable federal, state and county regulations and laws.

19. The premises (including landscaping) of any Motor Vehicle Fueling Facility which is not in continuous operation or is abandoned shall be maintained in the same manner as is required under the Zoning Regulations for operating Motor Vehicle Fueling Facilities.

20. A Conditional Use for a Motor Vehicle Fueling Facility shall become void upon notice of abandonment by the owner. If notice of abandonment is not received, but it is determined by the Department of Planning and Zoning that a Motor Vehicle Fueling Facility has not been in continuous operation for a period of twelve months, a revocation hearing shall be initiated by the Department of Planning and Zoning in accordance with the procedures set forth in Section 131.0. For purposes of this subsection, "continuous operation" shall mean operation as a Motor Vehicle Fueling Facility at least eight hours per day, five days per week.

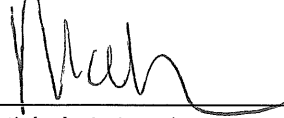
21. If a Motor Vehicle Fueling Facility is abandoned and the Conditional Use becomes void as provided above, all multiple-product dispensers, canopies and other improvements including buildings shall be removed from the site within six months of the date the Conditional Use becomes void.

22. Petitioner is on notice that failure to submit and receive approval of an updated Site Development Plan may result in further code enforcement action.

23. Petitioner is on notice of Howard County Zoning Regulations §131.0.H.3: The use, development or maintenance of a Conditional Use site in violation of the Conditional Use plan, or of any conditions imposed by the Hearing Authority, shall constitute a violation of these regulations and shall be grounds for revocation of the Conditional Use.



HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER



\_\_\_\_\_  
Michele L. LeFaivre

Date Mailed: \_\_\_\_\_

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.