



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 10-105

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco
File No. SE-4673

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed SE-4673 requesting a Special Exception to operate a vehicle parts and tire store with installation facilities in the C-S-C Zone and a parking lot in the R-55 Zone to serve the use in the adjacent commercial zone 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 September 23, 2010, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property is located at the intersection of Scott Key Drive and Foster Street, with a small amount of property frontage on Marlboro Pike, in District Heights. The site is comprised of approximately 10,641 square feet (0.30 acre) of land and is zoned C-S-C (Commercial Shopping Center) and R-55 (One-Family Detached Residential). It is currently improved with a two-story brick building used as a vehicle parts and tire store with four installation service bays, a storage shed, and a parking lot to serve its customers. The main entrance of the building is on Scott Key Drive. The main building on the subject property is located within the C-S-C Zone. The parking associated with this use is located across a 20-foot alley, in the R-55 Zone. The entire site is paved with nine existing parking spaces.

During the field inspection, it was noted that the property had an unauthorized freestanding sign along Marlboro Pike and few tire sale banner signs hanging from the service bay along the property frontage on Scott Key Drive. The applicant is currently providing full installation services to its customers without an approved special exception. Also, it was noted that a few cars were queued on the driveway on Scott Key Drive waiting to be serviced. This may cause traffic congestion on Marlboro Pike and Scott Key Drive. This is also a significant safety issue for bicyclists and pedestrians crossing the road. The second floor of the existing building and the shed on the north side of the property are currently used for vehicle parts and tire storage. The property has frontage along Scott Key Drive, Foster Street, and Marlboro Pike. Access to the site is via driveway entrances on Scott Key Drive and Marlboro Pike and a 20-foot alley from Foster Street. The driveway apron is also used for vehicle parking and vehicle repair. Parking for patrons arriving by vehicle is also provided on a separate lot behind the main structure.

B. Development Data Summary

	EXISTING	APPROVED
Zone(s)	C-S-C & R-55	Unchanged
Use(s)	Vehicle Parts and Tire Store	Vehicle Parts and Tire Store with installation
Acreage	0.30	Unchanged
Lots	15 & parts of lots 2 & 3	Unchanged
Parcels	N/A	N/A
Square Footage/GFA	10,771	Unchanged
Dwelling Units	N/A	N/A

- C. History:** The subject property (Lot 15 in the C-S-C Zone) was acquired by the District Heights Volunteer Fire Department (DHVFD) in August 1944. The fire house building was first constructed in 1946. Two subsequent additions to the main building were done, one in 1954 and another in 1962. In 1961, the adjacent parking lot property (part of Lots 2 and 3 in the R-55 Zone) was conveyed to DHVFD by deed, less and except 625 square feet of land from Lots 2 and 3, which were conveyed to the Perpetual American Savings and Loan Association (PASALA), but also together with those 325 square feet of land conveyed to DHVFD by PASALA. Upon ownership, the existing parking lot, across the 20-foot alleyway adjacent to the subject property, was established prior to 1970 to serve the former District Heights Volunteer Fire Department uses. In 1981, a new deed, including a plat of survey in Liber 5455 and Folio 739 and 747, was recorded to reflect the exchange of land between DHVFD and PASALA.

The proposed use is an adaptive re-use of the of the former District Heights Volunteer Fire Department building and its adjoining parking lot. No new construction is being proposed as part of this special exception application. The existing building on the subject property was originally constructed and used as a fire house and social hall from 1949 until September 2008. In December 2008, the applicant purchased the building and the parking lot from the District Heights Fire Department. Upon acquisition of the property, in February 2009, a Certificate of Occupancy Permit, 39603-2008-U, was obtained to operate the site as a vehicle parts or tire store without installation facilities. At the time of permit approval, it was specifically noted in the permit comments derived on January 13, 2009 by the Maryland-National Capital Park and Planning Commission, Permit Review Section, that the subject property is not to have any installation facilities. If the applicant decides to expand his business to include installation, an approval of a special exception (SE) has to be obtained. However, Tire Deport, LLC has been performing tire installation without an appropriate permit. Moreover, the applicant has been performing tire installation outside of the building. On June 3, 2009, Prince George's County Code Enforcement authorities issued a citation for providing installation services on the property without the approval of a special exception and a legal use and occupancy permit. The applicants' failure to comply with existing requirements and various other regulations resulted in the issuance of a court order on December 15, 2009, from the District Court of Maryland for Prince George's County, enjoining the applicant to comply with Zoning Ordinance issues. On December 23, 2009, the Prince

George's County Fire/EMS Department, Fire Prevention Unit, issued a correction order for various fire safety deficiencies. The correction order directed that a fire protection engineer be consulted to ensure safety compliance. The applicant is now seeking this special exception approval to legalize the tire installation facilities as part of his overall service to its customers and a departure to address deficiencies regarding the setback of a loading area and the height requirement for a doorway entrance to the interior loading space.

D. Master Plan and General Plan Recommendation

General Plan: The property is located in an area identified in the 2002 *Prince George's County Approved General Plan* as 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. This application is consistent with the 2002 Approved General Plan Development Pattern policies for the Developed Tier.

Sector Plan: The 2009 Approved Marlboro Pike Master Plan and Sectional Map Amendment Planning Area 75A retained the property in the C-S-C and R-55 Zones. The sector plan recommends residential medium land use for Lot 3 and commercial land use for Lot 15 of this property. The approved use will not substantially impair the recommendation of the sector plan. While the existing parking lot is in a residential zone, it predates the recommendation of the sector plan and had served as a use in a commercial zone for many years.

E. Request

SE-4673: The applicant, The Tire Depot, LLC, is requesting a Special Exception to operate a vehicle parts and tire store with installation facilities in the C-S-C Zone and a parking lot in the R-55 Zone to serve the use in the adjacent commercial zone. The requested uses are permitted in the C-S-C and R-55 zones subject to obtaining special exception approval. The applicant is proposing to utilize 4,849 square feet of the first floor of the existing building for its special exception use. Three service bays are being proposed with approximately 2,825 square feet for sales and storage areas. One loading spaces is located within the existing building. The remaining portion of the building, 5,792 square feet of the second floor, is proposed to be used as an auditorium.

F. Neighborhood and Surrounding Uses: The property is surrounded by strip commercial uses oriented to Marlboro Pike in the C-S-C Zone. The north and east sides of the property are developed with single-family detached dwellings in the R-55 Zone.

The neighborhood is defined by the following boundaries:

North—	Cabot Street
South—	Marlboro Pike
East—	County Road
Northwest—	Delano Lane

The uses surrounding the subject property are:

North—Across Foster Street, opposite the subject property, is single-family residential development in the R-55 Zone. West of the single-family residential development, immediately across from Scott Key Drive, is commercial development (i.e. Meineke Mufflers operations) in the C-S-C Zone.

South—Along Marlboro Pike, immediately connecting to the subject property, are commercial developments (i.e. pizza shop, barber shop, video store, etc.) in the C-S-C Zone.

East and southeast—Contiguous to the subject property's parking lot is a property with a vacant Crestar Bank building and its parking lot. Across County Road, opposite the parking lot, are single-family detached developments in the R-55 Zone.

West—Across Marlboro Pike, opposite the subject property, is strip commercial development (i.e. beauty supply store, vacant tune-lube facility, church etc.) in the C-S-C Zone.

G. **Specific Special Exception Requirements for a Vehicle parts and tire store (including installation):** Section 27-417.01 of the Zoning Ordinance sets forth specific special exception requirements for a vehicle parts and tire store (including installation) as follows:

(a) **A vehicle parts and tire store, including installation facilities, may be permitted, subject to the following:**

(1) **All sales and installation operations shall be conducted within a wholly enclosed building, with no outdoor storage;**

The statement of justification and a note on the site plan states that all sales and installation services will be conducted wholly within the enclosed first floor of the building with no outdoor storage. The applicant will remove the existing shed on the property and the area underneath it will be replaced with grass and evergreen trees.

(2) **Installation activity on any motor vehicle shall be completed within forty-eight (48) hours or less. No vehicle may be stored on the property for longer than this period; and**

All installation activities are proposed to be completed within 48 hours or less, and no vehicle will be stored on the property for longer than 48 hours.

(3) **The demolition or junking of motor vehicles is prohibited.**

The applicant is not proposing any demolition or junking of motor vehicles on the subject property.

- H. **Parking Regulations:** Pursuant to Section 27-568 of the Zoning Ordinance, the proposed vehicle parts and tire store requires three parking spaces for every service bay in addition to one parking space for every 500 square feet of additional gross floor area of the building (sales office, and storage). An auditorium requires one parking space for every four seats.

The parking calculations are as follows:

- 3 bays: 3 spaces/bay = 9 spaces
- Sales and storage areas: 2,825 sq. ft. @ 1 space/500 sq. ft. = 6 spaces
- Auditorium (160 seats capacity): 1 space/4 seats = 40 spaces

The applicant's parking schedule is consistent with this requirement. The proposed use requires a total of 55 parking spaces. Only 11 parking spaces are shown on the plan in accordance with pre-1970 standards and 45 spaces were grandfathered; pursuant to Sections 27-584 of the Zoning Ordinance which states:

(a) **The following shall not be required to comply with the provisions of this Part:**

- (1) **Any legally existing use that complies with the previous requirements for parking and loading areas (in effect at the time the use began). If the use is a certified nonconforming use, the parking lot or loading area used with it shall not be reduced, except in accordance with this Part;**
- (2) **Any legally existing use for which any of the parking or loading requirements had previously been waived or reduced by the District Council or the Board of Zoning Appeals, not including departures granted under Section 27-588; and**
- (3) **Any future use occupying the same premises as either of the above, provided there is no expansion or change of use that would require a greater number of parking or loading spaces (per Sections 27-568 and 27-582) than the number of spaces legally existing under the prior regulations. If the use began prior to the establishment of parking or loading regulations for that use, the phrase "number of spaces legally existing under the prior regulations" shall mean the current regulations of this Part (for the prior legally existing use). In both cases, where additional spaces are created, only the area occupied by the additional spaces shall be required to conform to the Design Standards.**

The parking regulation, including its lot coverage, did not come into effect until 1970. The parking lot was constructed in accordance to pre-1970 standards. Since the use of the former fire department began prior to the establishment of parking regulations, the parking space requirements were calculated based on the current regulations and grandfathered 45 spaces for exclusive use of the fire department and its social hall. The proposed use requires ten additional parking spaces.

The applicant is proposing to provide 11 parking spaces, including one van-accessible handicap space for the tire sales and services with installation, which is one space more than required. However, the applicant was initially asked to remove the angular parking space near the northeast side of the parking lot for better design and safer internal circulation. In doing that, only ten parking spaces will be provided on the site plan that meets the pre- 1970 design criteria for size, driveway width, connection to the street, and lot coverage. Based on the testimony at the Planning Board hearing on September 23, 2010, the Planning Board has decided to keep the proposed angular parking space and delete condition number 6(a) at the end of the staff report.

In order to obtain credit for 45 grandfathered parking spaces per the prior use calculation, the applicant provided the following proof documents to demonstrate the existence of the fire department prior to 1949 and its parking prior to 1970:

- A historic aerial map from Prince George's County from 1949 (see applicant's Exhibit A) showing the existence of the former fire department building.
- A sworn affidavit from the former chief of the District Heights Fire Department dated June 21, 2010 (see applicant's Exhibit B) stating that the fire department existed prior to 1949 and the parking lot was constructed prior to 1970.
- A 1944 deed showing the ownership of land by the District Heights Volunteer Fire Department.

Section 27-392 of the Zoning Ordinance sets forth the following findings for a parking lot serving adjacent commercial or industrial zone:

(a) A parking lot which serves a use in an adjacent commercial or industrial zone may be permitted, subject to the following:

- (1) The land proposed for the lot shall either immediately adjoin, or be directly across the street from, the commercially or industrially zoned land to be served;**

The proposed parking lot is located directly across a 20-foot alleyway from the subject vehicle parts or tire store with installation.

- (2) The parking lot shall contain not more than one hundred (100) parking spaces, or twenty percent (20%) of the minimum number of spaces required by Part 11, whichever is less;**

The total number of parking spaces required for the proposed use is 55 spaces. The lesser requirement is 20 percent of the number of spaces required by Part 11 of the Zoning Ordinance. Twenty percent of 55 spaces is 11 spaces. Only ten of the required 55 spaces are being proposed on the adjacent residential parking lot to serve its commercial use.

- (3) **The parking lot shall be necessary in order to comply with the minimum requirements of Part 11; and**

The proposed parking lot is necessary in order to comply with the requirements of Part 11. The proposed use requires 55 parking spaces. The former firehouse and its social hall required 45 parking spaces according to current parking regulations. Pursuant to Section 27-584(a)(3) of the Zoning Ordinance, the proposed use is grandfathered 45 spaces since the former use began prior to the establishment of parking or loading regulations. The applicant does not have any space in the C-S-C-zoned part of the lot to provide all of the required parking spaces needed for the proposed use. The applicant is proposing a total of 11 new parking spaces for the proposed use. Ten parking spaces are proposed on the adjacent R-55-zoned property, in addition to one van-accessible handicap space in the C-S-C Zone. Therefore, it is necessary for the applicant to continue using the existing parking lot in the adjacent residential zone, which was formerly owned and use by the DHVFD.

- (4) **The District Council may require additional landscaping and screening to protect adjacent properties against intrusion.**

The subject application is exempt from the requirements of the *Prince George's County Landscape Manual* per Section 27-328.02 of the Zoning Ordinance because no additional gross floor area is being added to the existing building and no new parking spaces are proposed to be created. The proposed screening and landscaping will also soften the appearance of the existing property and protect the existing residents from adverse effect of the proposed use.

I. **Loading Requirements:**

Section 27-582 of the Zoning Ordinance requires one loading space for retail sales and service (per store) comprised of 2,000 sq. ft. to 10,000 sq. ft. of gross floor area (GFA).

One loading space is required for the subject 4,849-square-foot tire sales and services with installation facilities. The site plan shows one loading space as required, but the loading space does not meet the height and setback requirements per Sections 27-578(a)(b) and 27-579(b) of the Zoning Ordinance. Therefore, a departure from design standards is requested as part of this application.

J. **Landscape Manual Requirements:** Section 27-328.02, Landscaping, buffering and screening, of the Zoning Ordinance states, in part:

Except for uses which do not require the construction, enlargement, or extension of a building, all land uses requiring the approval of a Special Exception shall comply with the landscaping, buffering, and screening requirements set forth in the

Landscape Manual through the approval of a landscape plan. In approving a Special Exception, the District Council may require additional landscaping, screening, or buffering if it determines that the amount required by the Landscape Manual is insufficient to adequately protect adjacent uses.

The Zoning Ordinance exempts the proposal from compliance with the landscaping, buffering, and screening requirements of the Landscape Manual as it does not involve any construction, enlargement, or extension of a building.

Although the proposal is exempt from the Landscape Manual, the applicant was asked to provide some shrubs and an ornamental tree along the northern side of the building and along Foster Street adjacent to the parking lot. The applicant is proposing an eight-foot-wide landscape strip, comprised of evergreen trees, along its parking lot next to Foster Street. The proposed landscaping will provide environmental as well as aesthetic benefits to its surrounding residential property. It will create a barrier from unwanted noise and contribute to cleaner air. The proposed buffering will reduce negative impacts of the more intense auto service use on the less intense adjacent retail and residential uses. Furthermore, it will improve the view of residential developments from the adjacent parking lot used for commercial purposes.

The applicant is proposing some of its landscaping in the public utility easement (PUE) along Foster Street and in the public right-of-way on Scott Key Drive. These streets are maintained by the municipalities. However, the applicant shall be responsible for maintaining landscaping within the PUE and public right-of-way.

The applicant's lot coverage for the existing parking lot located in the residentially-zoned property is 77 percent because it was grandfathered as pre- 1970 development, while the current requirement is a maximum of 60 percent. The site presents a view of large expanses of pavement for its parking areas and some visual relief should be provided by adding landscaping at various junctures throughout the parking area. The applicant shall provide landscaping on all available areas of the site in order to provide visual relief from the large expanse of asphalt. The applicant shall provide landscaping on either side and in front of the three parking spaces on the southern tip of the parking lot. (See Staff Exhibit A). Due to the location of the parking at the rear of the site, it was further recommended that directional signage be provided to inform patrons that parking is located in the rear of the building. Furthermore, the applicant shall provide lighting on the site and the applicant shall indicate where light fixtures are to be placed and provide a color detail of the full cut-off, downward-facing light fixtures with the materials labeled in plain English.

K. Sign Regulations: The applicant is proposing a new building sign for the vehicle parts and tire store with installation services and its auditorium. The applicant's sign is a 140-square-foot awning which will be affixed to the front face of the existing 12-foot-high by 51 feet long or 612-square-foot metal grate that was used by the former District Heights Volunteer Fire Department as their building sign. With respect to the sign size, the applicant's actual signage is only 140 square feet, which is slightly less than the permitted sign area, when calculated based on the Zoning Ordinance. The applicant's signage however is deemed to be larger because the awning

is being mounted on an existing metal grate; therefore, the entire dimension becomes part of the sign area calculation.

Under the regulations of Section 27-613(c)(3)(B)(ii) of the Zoning Ordinance, the area of signs on a building shall be not more than two square feet of each one linear foot of width along the front of the building, to a maximum of 400 hundred square feet. As the width of the subject building front is 70.5 feet, the building is permitted a maximum of 141.1 square feet of signage. Based on this interpretation, the applicant's proposed sign is 612 square feet. Consequently, the applicant is requesting a departure of 472 square feet of sign area as part of this application.

- L. **Zone Standards:** The proposed use is in the C-S-C and R-55 Zones. The site plan, with the approved requests for departures, along with recommended conditions, will be in conformance with all zoning requirements and regulations.

M. **Further Planning Board Findings and Other Entities**

The City of District Heights: The proposed site is located within the municipality of District Heights. The City was not in support of the proposed special exception request. The City's memorandum dated January 13, 2010 expresses various concerns regarding the existing operation of the tire sales and installation business at the subject property. The major issues highlighted in the memorandum are:

- The applicant's failure to comply with various regulations such as: performing tire installation without the appropriate permit.
- Performing tire installation outside of the building which represents hazards to foot and vehicular traffic.
- Storing tires in non-compliant storage areas.
- Installing an oversized awning sign on the building which did not comply with existing sign regulations.
- Allowing a driveway and loading zone in a residential area.
- Failure to display a use and occupancy permit.
- Lack of documentation regarding annual testing of the fire protection system.
- The applicant's inattentiveness to multiple fire safety violations per the Prince George's County Fire/EMS Department.
- The applicant's poor record of demonstrating an interest in the welfare and safety of the neighbors.

Upon the submission of the special exception application, the Planning Board has been working closely with the applicant to address the city's concerns mentioned above and other outstanding issues. All referral comments and correspondence that was submitted for the subject application was faxed to the attorney representing the city. A revised plan was submitted to the City of District Heights planner along with the revised statement of justification for the special exception, departure from design standards and departure from sign design standards. The applicant scheduled a meeting with the city on July 21, 2010. Subsequent to the meeting, a revised memorandum dated August 2, 2010, the City of District Heights stated that the city is unable to support the proposed special exception and related departures because "of the applicant's repeated non-compliance with the county's zoning and the city's current enforcement ordinances." However, at the time of the Planning Board hearing on September 23, 2010, the city's Vice Mayor, Mr. Eddie Martin testified that, the City's Chief of Police, and the code inspector Mr. John Lamarre and the Vice Mayor had verbally worked out an agreement with the owner to comply with the site plan as approved by the District Council. If the applicant deviates from the original plan mentioned on the approved site plans, then the special exception can be revoked.

The Prince George's County Fire/EMS Department: In a memorandum dated July 26, 2010, the Prince George's County Fire/EMS Department stated that the proposed site development creates minimal impact to the services of the Fire/EMS Department in the area of fire protection. This plan is adequate to satisfy the requirement of Subtitle 4 of the County Building Code specification to emergency vehicle access. However, it is noted that the owner provides life safety assessments from a Maryland licensed fire protection engineer.

A Correction Order from the Prince George's County MD Fire Prevention Unit for fire safety violations dated June 1, 2010 which states that upon re-inspection of the tire sales business for correction orders dated December 23, 2009, January 18, 2010, and May 4, 2010, all issues regarding complaints/special inspection have been resolved at this time. Even so, it is recommended that the applicant consult a licensed fire protection engineer to better ensure full life safety guidelines compliance.

Subdivision: There was a lot line adjustment for parts of Lots 2 and 3 by deed which was recorded in land records in Liber 5455 at Folio 739 in 1981. Part of Lots 2 and 3 on the site plan are not in conformance with the recorded deed of lot line adjustment and this shall be corrected according to the deed.

Community Planning: The site is located in an area identified in the 2002 General Plan as 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 proposed application conforms to the land use recommendations of the 2009 approved sector plan for Marlboro Pike, Planning Areas 75A and 75B.

The following master plan issues are relevant to the review of this case:

- The 2009 Marlboro Pike sector plan recommends residential medium land use for Lot 3 and commercial land use for Lot 15 of this property.
- In the public facilities chapter (p.74) of the 2009 Marlboro Pike sector plan, one of the strategies under the goal of making Marlboro Pike a safe and inviting atmosphere for community residents (p.73) is to "assess vacant public facilities that exist within the area to determine if they could serve as other community uses."
- The southern portion of the property falls within an "activity node" Design Guideline area between priority Areas 4: Silver Hill Cultural Triangle and 5: Health and Wellness Center of the Marlboro Pike Plan (pp. 96-97). According to the Design Guidelines on p. 95 of the plan, "The activity nodes are the centers in which major investments and redevelopment will occur to create corridor focal points. Activity nodes should be lively, populated areas with high quality design."
- The northern portion of the property falls within a "neighborhood" Design Guideline area. The design guidelines chapter states: "The neighborhood areas include communities behind the properties that front Marlboro Pike and lie along the corridor. Neighborhood areas should focus on design elements that are comfortable and enhance the community atmosphere." (p. 95)
- The 2009 Marlboro Pike sector plan and sectional map amendment, which were approved by the County Council, updates the recommendations of the 1985 master plan for Suitland-District Heights. The 2009 plan development pattern establishes the corridor into activity nodes (commercial redevelopment areas), transition areas (secondary locations for new development) and neighborhood conservation areas (established residential communities). The plan recommends clusters of commercial development supported by the residential neighborhoods surrounding the commercial uses.

Permit Review: The Planning Board is calling for the addition of various notes on the site plan, including notes regarding DDS-597 and DSDS-664, and a note on the site plan indicating that the site is exempt from Section 27-328.02 Landscaping, buffering, and screening of the Zoning Ordinance, should be demonstrated on the site plan. Conditions of approval have been added for minor changes to the site plan.

Transportation Planning: The Transportation Planning Section reviewed the application and made following comments regarding transportation impacts, which the Planning Board adopts as findings for the reasons provided:

Using information in the "Guidelines for the Analysis of the Traffic Impact of Development Proposals" and the Trip Generation Manual (Institute of Transportation Engineers), the following

comparison of potential uses in the zone and the trip generation of the requested use has been prepared.

Comparison of Estimated Trip Generation, SE-4673, 0.30 acres								
Zoning or Use	Units or Square Feet	AM Peak Hour Trips			PM Peak Hour Trips			Daily Trips
		In	Out	Total	In	Out	Total	
Existing Zoning								
C-S-C	2,030 SF retail	9	6	15	12	12	24	223
R-55	1 residence	0	1	1	1	0	1	9
Proposed Use								
Tire Store	4 bays	5	3	8	6	8	14	124
Difference		-4	-4	-8	-7	-4	-11	-108

In general, the use has a lower trip generation than a general retail use that would be allowed by right. There are no recent traffic counts available in the area. Nonetheless, since the proposed use is less traffic-intensive than the zoning would normally permit, the approval of the special exception would appear to pose minimal transportation adequacy issues.

Several issues with general circulation need to be noted:

- The sidewalks along Marlboro Pike are in poor condition, and obstacles exist within this site that interferes with pedestrian traffic, possibly causing pedestrians to enter the vehicular travel lanes in order to avoid them. It is advised to coordinate with trails staff within the Transportation Planning Section to determine the needs at this location.
- The Scott Key Drive intersects Marlboro Pike at a severe skew angle. There are no curbs or sidewalk on Scott Key Drive at this location, and there is also no striping that would indicate where the travel lane should be located. This poses a safety issue for traffic entering and exiting this use, and should be corrected.

Marlboro Pike is a master plan collector facility. Adjacent to the subject site, the approved Marlboro Pike sector plan and sectional map amendment recommends the use of the "main street" typical section as termed in that plan. Given that existing Marlboro Pike currently operates with four lanes and a continuous left-turn lane, it is appropriate to consider that the "main street" cross-section using the median would be utilized, and therefore, a right-of-way of 100 feet or 50 feet from centerline should be considered as the ultimate right-of-way for Marlboro Pike. It is requested that the plan be modified to correctly indicate the ultimate right-of-way as 50 feet from centerline. No existing or proposed structures, nor any parking spaces, are located within this ultimate right-of-way.

The departure from design standards is being requested to provide the required loading space on residentially-zoned land. The departure from sign design standards is being requested to seek relief from requirements that limit the size of the sign. Neither departure poses a direct transportation issue.

Trails: The Transportation Planning Section had a similar list of concerns mentioned above regarding improvements of sidewalks along Marlboro Pike and pedestrian safety concerns with the Scott Key Drive intersection. They recommend that the applicant provide safety striping in a zebra pattern to clearly delineate a space between the vehicle travel lanes on Scott Key Drive and the building to make a buffer area between the building and the travel lanes. The applicant should also provide a ladder-style patterned crosswalk across Scott Key Drive at the Marlboro Pike intersection to clearly indicated and enhance pedestrian crossing. Finally, the applicant should reconstruct a portion of sidewalk and the entire sidewalk should be delineated as a minimum five-foot-wide sidewalk along the entire property frontage of Marlboro Pike.

The applicant's revised site plan addressed issues at the Scott Key Drive intersection. The sidewalk along Scott Key Drive is not subject to modification by the Department of Public Works and Transportation (DPW&T). The applicant proposes to construct a five-foot-wide sidewalk behind a curb and gutter along Scott Key Drive. This sidewalk appears to be adequate for the proposed use.

The applicant will remove sections of guardrail that block a sidewalk on Marlboro Pike and remove a curb return that will improve the sidewalk along the property frontage.

The Planning Board finds that the proposal meets the requirements of Subtitle 27 for the approval of a special exception from the standpoint of non-vehicular circulation and transportation.

The Department of Public Works and Transportation (DPW&T): The subject property is located at the intersection of Scott Key Drive and Foster Street, which is maintained by the City of District Heights, and part of Marlboro Pike is maintained by the county. Right-of-way dedication and frontage improvements in accordance with DPW&T Urban Collector Road Standards are required for Marlboro Pike. Additionally, the ultimate right-of-way for Marlboro Pike must be shown on the detailed site plan in accordance with the master plan of the area. All improvements on the right-of-way shall be in accordance with DPW&T standards. Furthermore, they indicated that the landscaping bed at the intersection of Marlboro Pike and Scott Key Drive, with the public-right-of-way, must be low-growing and not interface with sight distance.

The State Highway Administration (SHA): SHA offered no comments about the special exception.

Special Projects: The Special Projects Section offered no comments on the special exception request.

Environmental Planning: The site is not subject to the Prince George's County Woodland Conservation and Tree Preservation Ordinance.

Historic Preservation: The proposed special exception for the tire store with installation and parking has no effect on identified historic sites, resources, or districts.

O. **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 purpose of this Subtitle;

The fundamental purposes of the Zoning Ordinance, as found in Section 27-102, are to protect the health, safety and welfare of the public, and promote compatible relationships between the various types of land uses. The applicant has worked with the Planning Board to address concerns and issues associated with this application which would have been the basis for potential conflict with the general purposes of this Subtitle. With the revised plan and conditions of approval, the Planning Board believes that the proposed use will be 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 subject property is located in the C-S-C and R-55 Zones, which permits the proposed vehicle parts and tire store (including installation facilities) and a parking lot to serve the use in an adjacent commercial zone as a special exception. With the recommended conditions, the use will conform to all 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;

The January 2009 Marlboro Pike Preliminary Sector Plan and Proposed Sectional Map Amendment for Planning Area 75A retained the property in the C-S-C and R-55 Zones. The sector plan recommends residential medium land use for Lot 3 and commercial land use for Lot 15 of this property.

This application is also consistent with the 2002 General Plan Development Pattern policies for the Developed Tier. The quality and character of the existing neighborhood will be substantially enhanced by the proposed public improvements of curbing and sidewalks and by the proposed landscaping at Scott Key Drive and Foster Street. The renovation of existing public infrastructure will also promote safe pedestrian connectivity, minimize the opportunities for vehicle/pedestrian conflicts, and provide better pedestrian and vehicular safety at the intersection of Scott Key Drive and Marlboro Pike. By these features, this proposal is in conformance with the goals of the

General Plan for the Developing Tier. This proposed use also meets the goal of using vacant public facilities to serve the community by allowing a viable business to occupy the site of a formerly vacant and obsolete public facility. 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;

The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area. In fact, the applicant's proposal will improve the existing pedestrian and vehicle access at the intersection of Scott Key Drive and Marlboro Pike. Currently, the Scott Key Drive intersection is offset from Marlboro Pike with no curb or sidewalk on Scott Key Drive. Specifically, the applicant's proposal would extend curb and gutter from Foster Street down to Marlboro Pike. This new site design will channelize traffic flow to a single, defined access point onto Marlboro Pike. The applicant is also proposing to extend the sidewalk down the new curb to provide a safe pedestrian connection from Foster Street down to Marlboro Pike. The applicant will cut back the existing guardrail on Marlboro Pike to allow for a wider and non-obstructed sidewalk area. In addition to the above improvements, the applicant is proposing additional landscaping along the 111 feet of frontage of the rear parking lot, to buffer the residential uses across Foster Street. Additional plant units are proposed to be incorporated along the west side of the building to further breakup and soften the views of the existing concrete building. With the incorporation of the proposed landscaping, curb/gutter, and sidewalk improvements, the overall appearance and safety of the property is significantly improved for the benefit 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

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. This area along Marlboro Pike and Scott Key Drive has been developed with commercial uses such as that being proposed by the applicant. The applicant's proposed use will not be so intensive that it would adversely affect the residents or workers in the neighborhood, nor would it be detrimental to the use of the adjoining properties provided that all installation occurs only inside the existing building. The Planning Board has required a condition to prohibit outdoor installation. Both the City and the Prince George's County Department of Environmental Resources (DER), Property Standard Group has raised concerns regarding vehicles queuing in the intersections of Marlboro Pike and Scott Key Drive. The Planning Board has required a condition to prohibit queuing on the street. The proposed landscaping will also significantly improve the overall appearance of the existing property.

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

The subject property is exempt from the Prince George's County Woodland Conservation Ordinance because it is less than 40,000 square feet in size and has no previous tree conservation (TCP) approvals.

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 APPROVED, subject to the following conditions:

1. Prior to approval of a use and occupancy permit, the applicant must provide documentation that the site was inspected by a Maryland licensed fire protection engineer to ensure compliance with full life safety guidelines as outlined in the Prince George's County Code. The inspection certification shall be signed and dated by a qualified professional fire protection engineer and submitted to the Department of Environmental Resources (DER), Permit Review Section at the time the building permit application is reviewed.
2. The applicant shall be responsible for maintaining landscaping within the public utility easement (PUE) and public right-of-way.
3. No tire installation shall occur outside the building or on the driveway located at the intersection of Scott Key Drive and Marlboro Pike.
4. Queuing on the public street shall be prohibited.
5. The metal grate structure shall be removed from the building and the proposed canopy sign, meeting the requirements of the Zoning Ordinance, shall be placed directly on the building.
6. Prior to the certification of the special exception, the site plan shall be revised to include the following:
 - a. The parking lot shall be modified to include additional landscaping on the either side and in front of the three parking spaces on the southern tip of the parking lot to provide visual relief from the expanses of asphalt. (See staff exhibit A)
 - b. The site plan shall demonstrate how the site will be lighted. The location of such lighting shall be indicated on the site plan and a color detail of a full cut-off, downward facing fixtures with the materials clearly labeled.
 - c. Signage plans shall be revised to include directional signs assisting traffic flow to parking located at the rear of the site.
 - d. General note no. 28, "Note" shall be revised to read "existing parking spaces were constructed prior to 1970."

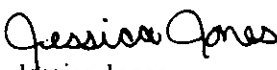
- e. General note no. 21 "existing building area: square footage for shed area" shall be removed from the site plan. The total building area shall be 10,641 square feet.
- f. The dimensions of the proposed awning sign shall be shown on the plan.
- g. The ultimate right-of-way (ROW) shall be labeled along Marlboro Pike.
- h. The site plan shall clearly indicate the types of planting that shall be provided in all new planting areas and along the Scott Key Drive right-of-way.
- i. A note indicating approval of DDS-597.
- j. Measurements of all property lines for part of Lot 2 and 3 shall be corrected according to the deed recorded in Liber 5455 at Folio 739 in 1981.

* * * * *

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 Clark, with Commissioners Cavitt, Clark, Vaughns, Squire and Parker voting in favor of the motion at its regular meeting held on Thursday, September 23, 2010, in Upper Marlboro, Maryland.

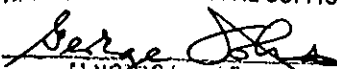
Adopted by the Prince George's County Planning Board this 21st day of October 2010.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Acting Planning Board Administrator

PCB:JJ:TA:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 10/6/10