

June 21, 2000

MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Jimi Jones, Planning Coordinator

VIA: Arie Stouten, Zoning Supervisor

SUBJECT: NCU-7027-99U

The applicant requests certification of an automobile repair shop with outdoor storage in the R-55 Zone. The applicant states that the auto repair business has existed at this location since 1960 and has operated continuously since that time. The subject property is located on the east side of Wells Avenue, 350 feet southeast of Perry Street. This case was originally heard as NCU-4811-96U and approved by the Planning Board on November 7, 1996 (refer to Attachment 1). The complete chronology of events is as follows:

TIMELINE for NCU-4811-96-U

07-16-58	Lot 23 rezoned from R-55 to I-1 per A-3166
1960	Repair shop opened -- part-time operation (Permit #3715-U issued 02-08-60)
1982	Sectional Map Amendment for PA 68 adopted by District Council retained I-1 Zone
06-23-89	U&O issued to David Van Daalen
1992	CB-30-1992 became effective: Required all auto repair facilities to be screened from abutting residentially zoned property
05-17-94	Zoning on Lot 23 changed from I-1 back to R-55 (Master Plan and SMA approved)
12-19-94	Mr. Vega purchased Lots 22 & 23 from David Van Daalen
10-19-95	Permit #8425-95-CGU (to validate new construction of shed roof over storage area) put on hold by M-NCPPC

07-10-96	Mr. Vega filed application for NCU
07-12-96	AC #96042 approved in conjunction with U&O permit #1980-96-U
10-04-96	Signs posted for public hearing for NCU
10-30-96	Public release of initial staff report for NCU-4811-96-U
11-07-96	Planning Board hearing
12-05-96	Planning Board Resolution No. 96-332 adopted, approving the certification
04-28-97	District Council remanded NCU-4811-96-U back to the Planning Board
10-09-97	Planning Board hearing to address remand
11-06-97	Planning Board Resolution No. 97-293 (attached) adopted, approving the certification with conditions
12-10-97	City of Mount Rainier appealed the Planning Board's decision to District Council
06-23-98	District Council issued an order reversing the Planning Board's decision (attached)
02-03-99	Applicant appealed District Council's decision to the Circuit Court and the Court affirmed the Council's decision to deny the application
01-05-00	Applicant files a new request to certify a less-intense version of the subject use

The applicant's most recent application (NCU-7027-99U) indicates that the use now operates on Lot 23 as originally established in 1960. In addition, the illegal shed has been removed and the applicant further submits that no outdoor storage will occur, the carport on Lot 22 will no longer be used in conjunction with the auto repair facility, and Wells Avenue will not be used for parking or storage of vehicles.

The Planning Board found that the use was legally established prior to the 1994 SMA which rezoned the property from the I-1 to R-55 Zone (Resolution No. 97-293, attached). The District Council's action reversing the Planning Board's decision centered around the illegal expansion of this auto repair facility. The legal establishment of the original use on Lot 23 is not disputed.

Staff notes that the Community Planning Division's comments in a memo dated June 8, 2000, points out that the master plan recommends single-family detached development at a high suburban density (3.5-6.7 dwelling units per acre). The Community Planning Division also provides the following discussion of planning issues:

■During the preparation of the Master Plan, it was noted that while Planning Area 68's commercial corridors were deteriorating, the residential neighborhoods provided anchors for revitalization to occur. The plan went on to note (pg. 16) that *nonresidential uses located within neighborhoods often add unwanted intrusions, such as daytime and nighttime noise, traffic congestion, a shortage of street parking and visual blight. Within neighborhoods, activities which adversely impact the neighborhood or lower residential property values should be mitigated or eliminated by implementing the zoning recommendations.▲The Sectional Map Amendment for Planning Area 68 rezoned the subject property from I-1 to R-55. The rationale provided in the discussion of the CH-15 on page 111 of the plan noted *the piecemeal rezoning of former residential units for industrial uses poses problems for the cohesiveness of the residential neighborhood and has resulted in negative impacts on a number of adjacent residential properties. Since the residential structures remain intact, rezoning to R-55 can re-establish residential uses on the properties which preserves and protects the residential character of the neighborhood.▲ The recommendation to rezone the subject property in the Sectional Map Amendment was overwhelmingly endorsed by the community in public testimony received at the joint public hearing on the Master Plan and SMA.●

Nonconforming uses are often created during Sectional Map Amendments. If a property owner can show that the use was legally established prior to the rezoning, then the use is allowed to remain. At times a use is one that is generally undesirable or controversial. The subject auto repair facility is such a use. Staff has conducted a field inspection of the property and notes that the use is a one-story gray cinder block garage. Although this garage is adjacent to a single-family dwelling, the use does not appear to be a residential structure. The use is industrial in appearance and more in character with its former I-1 zoning. Converting this property to residential development will entail razing the existing structure and constructing (at considerable cost) a relatively small single-family home. If this residential development is desirable on the property, it will take some financial incentives that would include assistance in relocating this small automotive business to the appropriate area. Staff, however, believes that the applicant has met the evidentiary burden for a nonconforming use application. We therefore recommend APPROVAL of NCU-7027-99U.

Attachments