



The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

Note: Staff reports can be accessed at <http://mncppc.ig2.com/Citizens/Default.aspx>

Special Exception 301 Tobacco (Marlton Plaza)

SE-4859

REQUEST	STAFF RECOMMENDATION
A special exception to allow a tobacco shop into an existing 1,750-square-foot space within Marlton Plaza Shopping Center.	With the Conditions Recommended herein: <ul style="list-style-type: none">• Approval of Special Exception SE-4859

Location: On the northbound side of US 301 (Robert Crain Highway), south of its intersection with Fairhaven Avenue.

Gross Acreage: 5.93

Zone: CGO

Zone Prior: C-S-C/R-P-C

Dwelling Units: 0

Gross Floor Area: 1,750 sq. ft.

Lots: 0

Parcels: 1

Planning Area: 82A

Council District: 09

Municipality: None

Applicant/Address:
301 Tobacco
9540 Crain Highway
Upper Marlboro, MD 20772

Staff Reviewer: Dominique Lockhart
Phone Number: 301-952-3411
Email: Dominique.Lockhart@ppd.mncppc.org



Planning Board Date: 05/19/2022

Planning Board Action Limit: N/A

Staff Report Date: 05/05/2022

Date Accepted: 03/16/2022

Informational Mailing: 02/14/2022

Acceptance Mailing: 03/14/2022

Sign Posting Deadline: N/A

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at

http://www.mncppcapps.org/planning/Person_of_Record/.

Please call 301-952-3530 for additional information.

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jeremy Hurlbutt, Supervisor, Zoning Review Section,
Development Review Division

FROM: Dominique Lockhart, Planner II, Zoning Review Section,
Development Review Division

SUBJECT: Special Exception SE-4859
301 Tobacco (Marlton Plaza)

REQUEST: A special exception to allow a tobacco shop into an existing 1,750-square-foot space
within Marlton Plaza Shopping Center.

RECOMMENDATION: **APPROVAL with conditions**

NOTE:

The Planning Board has scheduled this application on the consent agenda for transmittal to the Zoning Hearing Examiner on the agenda date of May 19, 2022.

You are encouraged to become a person of record in this application. Requests to become Persons of Record should be submitted electronically by email to: ZHE@co.pg.md.us. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

1. **Location and Site Description:** The subject property is located on the northbound side of US 301 (Robert Crain Highway), south of its intersection with Fairhaven Avenue. The business will be located on the site and occupy a tenant space at 9540 Crain Highway, in the Commercial, General and Office (CGO) Zone. The proposed occupied tenant space is 1,750 square feet in the Marlton Plaza Shopping Center.
2. **History and Previous Approvals:** The subject property is located on Tax Map 118 in Grid D-4 and contains a total of 5.93 acres of land. The subject property was recorded by plat among the Prince George's County Land Records, in Plat Book NLP 104 page 50, on March 9, 1978. The tobacco shop will be located in the Marlton Plaza Shopping Center in a 1,750-square-foot tenant space. No changes to the structure are proposed. On June 9, 1977, Detailed Site Plan DSP-83054, for Parcels A-1 along with adjoining Parcels A-2, A-3, and A-4, were approved for use as an Integrated Shopping Center.
3. **Neighborhood and Surrounding Uses:** The subject property is bounded to the north by Fairhaven Avenue, with commercial uses in the CGO Zone beyond. To the west is US 301 and vacant property in the Agricultural-Residential Zone beyond. To the east is vacant land and residential uses, and senior housing residential is to the south, with primarily residential uses beyond. The immediate uses surrounding the subject property are as follows:

North— Fairhaven Avenue

East— Vacant land in the Residential, Single Family-95 (RSF-95) Zone, and beyond are single-family residences in the RSF-95 Zone

South— Marlton Plaza Senior Housing in the CGO Zone.

West— US 301

4. **Request:** The applicant requests to allow a tobacco shop in an existing 1,750-square-foot tenant space within Marlton Plaza Shopping Center.
5. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	CGO (C-S-C, R-P-C)	CGO (C-S-C, R-P-C)
Use(s)	Vacant	Tobacco Shop
Acreage	5.93	5.93
Parcels	1	1
Gross Floor Area	1,750	1,750

6. **Required Findings:** The application was pending before the effective date of April 1, 2022, of the current Prince George's County Zoning Ordinance and was accepted on March 13, 2022, per Section 27-1703(a):

Any development application, including a permit application or an application for zoning classification, that is filed and accepted prior to the effective date of this Ordinance may be reviewed and decided in accordance with the Zoning Ordinance and Subdivision Regulations in existence at the time of the acceptance of said application. An application for zoning classification decided after the effective date of this Ordinance must result in a zone set forth within this Ordinance.

Based on the above section, the subject application is being reviewed according to the applicable zoning standards for the subject property and is pursuant to the prior Zoning Ordinance.

A special exception is subject to the general findings for approval of all special exceptions contained in Section 27-317(a) of the prior Zoning Ordinance. Part 4 of the Zoning Ordinance also includes additional required findings for specific uses. A tobacco shop is subject to the additional findings of Section 27-415.01 of the prior Zoning Ordinance. The analysis of all the required findings for approval are provided below.

In support of the application, the applicant filed a statement of justification (SOJ) submitted March 13, 2022, incorporated by reference herein.

General Special Exception Findings—Section 27-317(a) provides the following:

(a) 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 of the Prince George's County Code, as set forth in Section 27-102(a)(1-15) of the prior Zoning Ordinance, are generally to protect the health, safety, and welfare of the public, to promote compatible relationships between various land uses, to guide orderly development, and to ensure adequate public facilities and services. The proposed use and site plan align 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 conformance with the requirements and regulations set forth in Subtitle 27. Most notably, a tobacco shop is a permitted use subject to the requirements in Section 27-415.01.

(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.

Special Exception SE-4859 conforms to this finding. The proposed use of the property as a tobacco shop will not substantially impair the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*.

- (4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

The special exception area is designated to the in-line space in the shopping center. Staff finds that the proposed use will allow for a safe internal flow of pedestrians on-site, as well as the safe ingress and egress of vehicles throughout the shopping center. The location of the shopping center along US 301 will not adversely affect 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; and**

Staff finds that the proposed location of this use within an existing shopping center will not be detrimental to the use or development of adjacent properties or the general neighborhood. The business will be located in a currently vacant tenant space, and no alterations to the building or size of the space is proposed.

- (6) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan.**

The proposed site plan is exempt from the tree conservation plan.

- (7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).**

There are no regulated environmental features located on the property and no on-site regulated environmental features will be impacted. The site contains less than 10,000 square feet of woodland and no disturbance is proposed on the subject property. This finding has been met.

Specific Special Exception Requirements:

Section 27-415.01 –Tobacco shops, electronic cigarette shops or a retail tobacco business.

- (a) Tobacco shops, electronic cigarette shops, or a retail tobacco business may be permitted by Special Exception, subject to the following:**

- (1) The structure in which the use is proposed shall be located at least three hundred (300) feet from any school, library, park, recreational facility, and historic site, resource, or district identified on any applicable Historic Site and District Plan, a National Register Site, or an Historic District. This provision shall not apply to a Retail Tobacco Business within a Recreational or Entertainment Establishment of a Commercial**

Nature with Video Lottery Facility uses in accordance with Section 27-548.01.04 of this Subtitle;

This criterion has been met. The distances of the nearest school, library, park, recreational facility, and historic site, resource, or district are not located within 300 feet of the subject property.

- (2) In its final decision to approve a Special Exception for the use, the Council may impose other reasonable requirements deemed necessary to safeguard the health, safety, morals, and general welfare of the community, taking into account the character of surrounding properties and the general neighborhood, and any other uses on the subject property;**

The proposed tobacco shop will be located in a currently vacant storefront. No changes to the exterior of the building are proposed, which would impact the surrounding properties or the general neighborhood.

- (3) No Special Exception shall be permitted for a tobacco shop, electronic cigarette shop, or a retail tobacco business located within 2,000 feet of another tobacco shop, electronic cigarette shop, or a retail tobacco business. In addition, the use shall be limited to specified daily hours of operation, which shall be from 10:00 a.m. until 10:00 p.m. This provision shall not apply to a Retail Tobacco Business or Retail Tobacco Businesses within a Recreational or Entertainment Establishment of a Commercial Nature with Video Lottery Facility uses;**

The nearest tobacco shop is located 26,822 feet from the premises. The hours of operation for the tobacco shop will be 10:00 a.m. to 10:00 p.m.

- (4) Tobacco shops, electronic cigarette shops or retail businesses shall not be accessory uses;**

The proposed tobacco shop will not be an accessory use.

- 7. Parking Regulations:** In accordance with the parking and loading regulations contained in Section 27-568(a)(5)(c) of the prior Zoning Ordinance, the parking requirement for this special exception use is the retail standard of one space per 250 square feet of gross leasable area that applies to the integrated shopping center as a whole. The number of parking spaces required for the entire site is a total of 321 spaces, and 325 spaces are currently provided. There is a parking excess total of four spaces for the entire shopping center. The required parking is provided for the proposed use.
- 8. 2010 Prince George's County Landscape Manual Requirements:** The special exception qualifies for an exemption from the 2010 *Prince George's County Landscape Manual* pursuant to Section 1.1(d), as no site changes are proposed with this application.

9. **Prince George's County Tree Canopy Coverage Ordinance:** Staff finds that due to the limited scope of this special exception, and that there will be no site disturbance, the proposed plan is exempt and not subject to tree canopy coverage requirements.
10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** Parcel A-1 is exempt from the Woodland and Wildlife Habitat Conservation Ordinance, due to the site containing less than 10,000 square feet of woodland. The proposed work will be interior only for the change of use. Since the change of use does not involve a grading permit, a standard letter of exemption is also not required.
11. **Signage:** A sign package was not submitted with this application. There will be renovations limited to the interior space. Therefore, this application does not require review of the sign regulations.
12. **Referral Comments:** The following referrals were received and are incorporated herein by reference. All comments are addressed on the site plan, or as part of this technical staff report:
 - a. Maryland Department of Transportation, State Highway Administration, dated March 16, 2022 (Woodroffe to Lockhart)
 - b. Permit Review Section, dated March 25, 2022 (Hughes to Lockhart)
 - c. Environmental Planning Section, dated March 25, 2022 (Sinn to Lockhart)
 - d. Environmental Planning Section, dated April 6, 2022 (Nickle to Lockhart)
 - e. AT&T, dated March 30, 2022 (Azzam to Lockhart)
 - f. Historic Preservation Section, dated April 13, 2022 (Stabler, Smith, and Berger to Lockhart)
 - f. Subdivision Section, dated April 18, 2022 (Gupta to Lockhart)

RECOMMENDATION

A special exception use is considered compatible with uses permitted by-right within the Commercial Shopping Center (C-S-C) and Residential Planning Community (R-P-C) Zone if specific special exception criteria are met per the prior Zoning Ordinance. 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 this particular location as proposed, would not have adverse impacts above and beyond those inherently associated with the special exception use, regardless of its location within the C-S-C Zone.

Based on the applicant's statement of justification, the analysis contained in the technical staff report, associated referrals, and materials in the record, the applicant has demonstrated conformance with the required special exception findings, as set forth in Section 27-317 and Section 27-415.01, for a tobacco shop, of the prior Prince George's County Zoning Ordinance, in this

instance. Therefore, staff recommends approval of Special Exception SE-4859, 301 Tobacco (Marlton Plaza), subject to the following condition of approval:

1. Prior to signature approval of the special exception site plan, the following revision shall be made:
 - a. Clearly show all property line bearings and distances for Parcel A-1.