

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

SPECIAL EXCEPTION

4618

DECISION

Application:	Vehicle Salvage Yard
Applicant:	Try It Again, Inc. T/A Kenilworth Foreign Car Parts
Opposition:	Town of Cheverly et al
Hearing Dates	June 10, July 29, and August 19, 2009
Hearing Examiner:	Joyce B. Nichols
Disposition:	Denial

NATURE OF PROCEEDINGS

- (1) Special Exception 4618 is a request for a Vehicle Salvage Yard¹ on approximately 3.15 acres of land in the I-1 (Light Industrial) Zone, located on the north side of Oates Place at the terminus of Fairmont Heights Drive, approximately 350 feet north of Sheriff Road, also identified as 1301 and 1309 Oates Place, Capital Heights, Maryland.
- (2) The Planning Board conducted a public hearing on June 18, 2009 and on July 14, 2009 adopted a Resolution recommending denial of the instant Application. (Exhibit 49) The Technical Staff Report, issued April 20, 2009, recommended approval of the Vehicle Salvage Yard with Conditions. (Exhibit 9)
- (3) The evidentiary hearing was concluded on August 19, 2009, the Application was taken under advisement, and the record was closed on September 15, 2009.

FINDINGS OF FACT

Subject Property

- (1) The subject property is a rectangular shaped lot located at the terminus of Fairmont Heights Drive on the north side of Oates Place outside of the municipal limits of the Town of Fairmont Heights. The site is unimproved and is heavily screened on three (3) sides by existing woodland. Access is via Fairmont Heights Drive, a substandard roadway, which connects to Sheriff Road. The subject property is bounded on all sides by street rights-of-way which have not been constructed:

¹§27-107.1(a)(252) defines a Vehicle Salvage Yard as “A facility for the reclamation or storage of wrecked or abandoned vehicles or parts from vehicles, “Trailers”, or “Mobile Homes”, which may include the sale of the parts.”

Oates Place, Laurelwood Avenue, Palmwood Street and Huskwood Avenue. Prior to the hearing, the Applicant had already removed a portion of the existing woodland. The subject property remains currently 50% wooded and includes a stream, wetlands, and 100 year floodplains. The subject property is in the Beaver Dam Creek watershed of the Potomac River Basin. (Exhibit 22)

(2) A portion of the subject property has been cleared and on April 5, 2006 a Use and Occupancy was issued to the Applicants to operate an “Auto Towing Station, Storage Yard” on the subject property. (Exhibit 45) A Vehicle Towing Station is defined as “A facility for the storage of wrecked vehicles awaiting adjustment of claims following accidents. No dismantling of vehicles shall be permitted on the premises, nor may any vehicle be stored for more than ninety (90) days.” §27-107.1(a) (253). It is incontrovertible that the Applicants have not been operating a Vehicle Towing Station but have been operating an illegal Vehicle Salvage Yard with the dismantling of vehicles and an illegal vehicle crusher on the subject property.

(3) Both the proposed and the existing Vehicle Salvage Yard are located on Parcel 39 and on part of Parcel 40. The remaining part of Parcel 40 is under separate ownership and is presently occupied by a Vehicle Towing Station. The transfer of part of Parcel 40 created an illegal subdivision which must be remedied by the Applicants by obtaining approval of a new preliminary plan of subdivision. (Exhibit 49) This review would also address peak hour vehicle trips and apply the Adequate Public Facilities test prior to recordation of the final plat of subdivision. (Exhibit 33)

Zoning History

(4) In 1988 the District Council approved Zoning Map Amendment A-9555-C rezoning the subject property from the R-55 (One –Family Detached Residential) Zone to the I-1 Zone subject to the following condition: “The subject project shall be maintained in a clean and orderly fashion with the immediate removal of all litter, trash, junk or debris from the property.” Again, it is incontrovertible that the Applicants are in continued violation of this condition of zoning. (T.passim, Exhibits 19 and 63)

Master Plan and Sectional Map Amendment

(5) The subject property is located in Planning Area 72 (Landover) of the 1993 Approved Master Plan and Sectional Map Amendment for Landover and Vicinity. The land use description for the subject property and adjacent areas to the east and northeast is “General Industrial”. Adjacent land to the southeast of the subject property is recommended for “Commercial” land use and “Medium Suburban” land use is recommended for the adjacent areas to the west, southwest and northwest of the subject property. The subject property is located within Employment Area 3. The Master Plan contains two Guidelines regarding buffering and screening which are applicable to the instant Application:

4. Employment areas should be separated from living areas by the use of appropriate buffering, designed and placed to minimize sight (including

lighting and signing), sound and dust.

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

(6) The 1993 Approved Master Plan and Sectional Map Amendment for Landover and Vicinity retained the subject property in the I-1 Zone.

(7) The 2002 General Plan places the subject property in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit supporting, mixed-use pedestrian oriented, medium-to-high-density neighborhoods. The Maryland-National Capital Park and Planning Commission's Community Planning North Division found the instant Application to be "inconsistent" with the General Plan Development Pattern policies for the Developed Tier. (Exhibit 27)

(8) The Preliminary Subregion 4 Master Plan and Proposed Sectional Map Amendment was issued in August, 2009 and the District Council and the Planning Board held a joint public hearing on this Plan on September 14, 2009. Although this Master Plan and Sectional Map Amendment are not yet adopted and are subject to change, the current proposal includes possible changes for the subject property as follows:

The subject property is located within the Marblewood Avenue Industrial Area Redevelopment proposal.

Vision

The Marblewood Avenue Industrial area is envisioned to complement and support the development plans for the Cheverly Metro center and to address in part environmental justice issues raised by the community during the planning analysis process. New land uses will complement the adjacent residential neighborhoods and create a stronger sense of community. Proposed streets will link new development at the Cheverly Metro center with the adjacent communities. Substantial buffers, between the new mixed-use village and adjacent industries, will be incorporated from the natural environmental constraints found within the area.

Redevelopment/Urban Design Approach

The Illustrative Plan provides for expansion of existing industrial uses, while introducing lighter industrial uses along Sheriff Road and Marblewood Avenue that strengthen the area's employment base by providing additional light industrial, business park office space opportunities. Round-about circles along Marblewood Avenue and the extended 64th Avenue prevent trucks from

entering the residential areas and the Town of Cheverly. Extensive buffers are used to separate the industrial uses from the adjacent residential areas and to minimize air and noise quality issues. (Exhibit 56, Plan at p. 322)

The Plan proposed the limitation of industrial uses to those existing uses fronting on Marblewood Avenue and the clearing and remediation of existing industrial sites prior to their residential redevelopment. Policies reflect the desire to respect and restore the areas' wetlands, floodplains and streams and to take advantage of natural features to create buffers between Marblewood Avenue industrial uses and existing and proposed residential communities. (Exhibit 56, Plan pgs. 322-323) The proposed Sectional Map Amendment includes the rezoning of the subject property and much of the surrounding undeveloped residential property to the R-T (Townhouse) Zone. (Exhibit 56, Plan pgs. 440-441)

Neighborhood and Surrounding Uses

(9) The Technical Staff recommends the use of a neighborhood which is bounded on the north by Reed Street, on the east by Cabin Branch Drive, on the south by Sheriff Road, and on the west by Addison Road. The Applicant agrees with this neighborhood. The Opposition argued that this neighborhood is limited artificially so as to highlight the industrial areas and downplay the extensive residential neighborhoods. The Opposition proposes a larger neighborhood which follows the physical boundaries of the Metro Rail Line on the north, Cabin Branch Drive on the east, Sheriff Road on the south and Addison Road on the west.

(10) The neighborhood presented in A-9555 was more limited than is currently proposed by the Technical Staff in that the eastern boundary of the neighborhood was Marblewood Avenue, thus eliminating the entirety of the industrial park located between Marblewood Avenue and Cabin Branch Drive. Indeed, the Applicant in A-9555 argued that this smaller neighborhood was too extensive and urged the adoption of a neighborhood bounded on the north by Englewood Drive/Reed Street, on the east by Marblewood Avenue, on the south by Sheriff Road and on the west by Farmingdale Avenue. It is this very limited neighborhood which was adopted in A-9555.

(11) This Examiner finds both that the neighborhoods currently proposed by the Technical Staff, the Applicant and the Opposition are all overly expansive and that the neighborhood adopted in A-9555 is too constrictive. Therefore the neighborhood accepted in the instant Application is bounded on the north by Englewood Drive/Reed Street, on the east by Marblewood Avenue, on the south by Sheriff Road and on the west by Addison Road.

(12) The neighborhood is predominately residentially zoned, with approximately 60% of the residential property developed and utilized as single family detached residences and with the remainder of the residentially zoned area undeveloped and wooded. Commercial and industrial uses are located along Marblewood Avenue.

(13) The subject property is surrounded on the north, northwest and southwest by undeveloped woodlands and single family detached residences and a church, all in the R-55 Zone, on the southeast by a Vehicle Towing Station and a church in the C-M (Commercial Miscellaneous) Zone, on the east, across the unbuilt right-of-way of Laurelwood Avenue, 100 year floodplain and Lower Beaver Dam Creek, by a sheet metal fabricator and a Jiffy John facility in the I-1 Zone, and on the northeast across the unbuilt right-of-way of Palmwood Road, a large contractor's storage yard in the R-55 and I-1 Zones.

Applicant's Proposal

(14) The Applicants, Donna and Neal Lee, via one of their corporate or partnership alter egos, own 5612 J Street in the Town of Fairmont Heights. They are currently operating a Vehicle Salvage Yard without a valid Use and Occupancy Permit at this location, and are subject to an order from the Commission for Animal Control prohibiting the keeping of dogs onsite.

(15) The Applicants would like to move their current operation from the J Street property to the subject property and discontinue the Vehicle Salvage Yard use at J Street within 60 days after the issuance of a Use and Occupancy for a Vehicle Salvage Yard at the subject property. The Town of Fairmont Heights is in support of this relocation to property located outside their municipal boundaries. (Exhibit 16)

(16) The Applicants are seeking the approval of a Vehicle Salvage Yard, including a 20,000 square foot pre-fabricated building, a 14,600 square foot concrete pad, a 32,700 square foot gravel storage area, a 9,400 square foot asphalt parking lot, a stormwater management pond, 10 foot tall noise abatement wall around the majority of the perimeter of the property and woodland landscaped areas.

(17) The instant Application is subject to the provisions of the Prince George's County Woodland Conservation Ordinance. The instant Application would require the retention of 1.16 acres of woodland. The Applicants are proposing the demolition of all of the on-site woodland with the only woodland retention being 0.16 acres in the 100 year floodplain and stream buffer. The Applicants are proposing to substitute the removal of the additional one (1) acre of on-site woodland with the payment of a fee-in lieu to be used elsewhere in the County. (Exhibit 22)

(18) The Applicants are currently operating an illegal Vehicle Salvage Yard and vehicle crusher on the subject property. (T passim, Ex. 55)

APPLICABLE LAW

(1) The instant Application for a Vehicle Salvage yard is permitted in the I-1 Zone by Special Exception in accordance with the requirements of §27-417.03 and §27-317 of the Zoning Ordinance.

(2) Section 27-417.03 provides as follows:

- (a) A vehicle salvage yard may be permitted, subject to the following:
 - (1) The use shall be enclosed by a solid, sightly, light-tight wall or fence at least eight (8) feet high, and found to be satisfactory by the District Council;
 - (2) The fence shall not be constructed of corrugated metal or fiber glass, or sheet metal;
 - (3) Outdoor storage shall not be visible from the ground level beyond the fence; and
 - (4) Interior storage shall be located within a fireproof building.

(3) Section 27-317 requires that the following findings be made prior to the grant of any Special Exception:

- (a) A Special Exception may be approved if:
 - (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;
 - (2) The proposed use is in conformance with all the 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;
 - (4) The proposed use 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
 - (6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

(4) A Special Exception use should be approved unless it can be demonstrated that “there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone.” Schultz v. Pritts, 291 MD. App. 1, 432 A.2d 1319, 1331 (1981); *See also*, Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253(1995).

CONCLUSIONS OF LAW

(1) The proposed use is not in harmony with the purposes of I-1 Zone as follows:

(A) *To attract a variety of labor-intensive light industrial uses;*

The Applicants anticipate a maximum of 5-7 employees which is not a labor intensive employment use.

(B) *To apply site development standards which will result in an attractive, conventional light industrial environment;*

Exhibit 55, the Revised Site Plan, proposes the total destruction of the wooded areas and either cementing, asphaltting, graveling or erecting a building over most of the entirety of the 3.15 acre site and the establishment of a 10 foot in height noise abatement wall surrounding the exterior of the property at the 25 feet building restriction line, excluding the stormwater management pond. The Amended Landscape Plan, Exhibit 40b, provides insubstantial, slow growing landscaping along the west and southwest boundaries of the property with no landscaping proposed along the northern or eastern property lines. The 10 foot noise abatement walls will be clearly visible from the residential properties to the south, west and north and, across the Lower Beaver Dam Creek and 100 year floodplain to the east. The 10 foot walls will remain a visual intrusion into the neighborhood during all seasons.

- (C) *To create a distinct light industrial character, setting it apart from both the more intense Industrial Zones, and the high-traffic-generating Commercial Zones; and*

The proposed uses fails to create a distinct light industrial character as 10 foot tall noise abatement walls are required to attempt to meet the maximum noise standards around the perimeter of the property, creating a massive visual intrusion.

- (D) *To provide for a land use mix which is designed to sustain a light industrial character.*

The subject property is surrounded by a Vehicle Salvage Yard to the south, a Contractors' Office and Storage Yard to the north and 100 year floodplain, the right-of-way for Laurelwood Avenue and the Lower Beaver Dam Creek to the east. The proposed Vehicle Salvage Yard will not provide for a land use mix but will merely intensify the harmful effects of existing uses. §27-469(a)(1), §27-317(a)(1)

- (2) The proposed use is also not in harmony with the general purposes of the Zoning Ordinance as follows:

- (1) *To protect and promote the health, safety, morals comfort, convenience, and welfare of the present and future inhabitants of the County;*

The instant Application raises concerns pertaining to environmental justice, transportation, impairment of the integrity of the 1993 Master Plan and Sectional Map Amendment for Landover and Vicinity, noise pollution and compromising the water quality of the Lower Beaver Dam Creek which were not adequately addressed by the Applicants, giving rise to the conclusion that the instant proposal will not promote the health, safety, morals, comfort, convenience, or welfare of the present and future inhabitants of the County. (T.passim)

- (2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

As discussed infra, the instant Application is not in conformance with the 2002 General Plan and impairs the integrity of, and is not in conformance with the 1993 Master Plan and Sectional Map Amendment for Landover and Vicinity.

- (3) *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

As discussed infra, the proposed uses will have a uniquely negative impact on the existing and future residents of this area. (T.passim)

- (4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;*

The instant proposed industrial use is not in conformance with the development guidelines established by the 1993 Master Plan and Sectional Map Amendment and adversely affect the environment and the uses and development of residentially zoned properties in the neighborhood. The subject property continues to be in violation of its terms of conditional rezoning, A-9555-C. (Exhibit 63)

- (5) *To provide adequate light, air, and privacy;*

- (6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

The instant Application will provide privacy in a negative manner by the establishment of 10 foot tall noise abatement walls around the perimeter of the subject property which will be both visibly intrusive and may actually serve to funnel the on-site noise to higher elevations, making the proposed use disruptive to the residential properties located at higher elevations. (Exhibit 55)

- (7) *To protect the County from fire, flood, panic, and other dangers:*

The instant proposal is not in conformance with emergency service requirements and may adversely affect the water quality of the Lower Beaver Dam Creek and the Anacostia River. (Exhibits 29 & 30, T.passim)

- (8) *To promote sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;*

The resultant noise, vibrations, visual impact, water quality and transportation problems created or exacerbated by the proposed use will adversely affect the provision of housing in a suitable and healthy living environment within the instant neighborhood.

- (9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;*

Contrary to the 1993 Master Plan and Sectional Map Amendment, the proposed use will not provide desirable employment and a broad and protected tax base.

(10) To prevent the overcrowding of land;

Not applicable to the instant Application.

(11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;

The proposed access to the subject property is via a substandard street; it will be adversely affected by the inadequacy of emergency services, and the undeveloped surrounding streets will require attention and maintenance. (Exhibits 24 & 29)

(12) To insure the social and economic stability of all parts of the County;

The proposed use will erode the existing social fabric of the neighborhood while failing to create any substantive economic stability for the County.

(13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;

The proposed use will create undue noise and water pollution and will adversely affect the Lower Beaver Dam stream valley, wetlands, and 100 year floodplain.

(14) To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and

The proposed use will create a three (3) acre walled enclosure while denuding the subject property of mature woodlands in lieu of providing open or recreational space.

(15) To protect and conserve the agricultural industry and natural resources.

Not applicable to the instant Application. §27-102(a), §27-317(a)(1)

(3) Both the existing paramedic and ladder truck services are inadequate to service the proposed uses. (Exhibit 30) §27-317(a)(2)

(4) The Transportation Planning Section found site access to be via a substandard road which also has the potential to pose unanticipated safety issues on adjacent roadways.

Circulation within the site is acceptable. Access to the site is an issue, however. Fairmont Heights Avenue is a platted 50-foot right-of-way street, which is consistent with the County's secondary residential street standard, and the plan indicates that the site would receive its access via this street. None of the surrounding streets presents a better alternative for access. This is a concern because vehicle salvage utilizes truck access to some degree, and a roadway that is substandard for

industrial uses affords poor access for trucks to the site. It is desirable for safe and convenient access that a continuous 46-foot travel way to be provided from the site to Sheriff Road.

The site is not within or adjacent to any Master Plan roadway facilities. (Exhibit 29) §27-317(a)(2)

(5) The Department of Public Works and Transportation concurs with this assessment and further notes additional issues with Oates Place, Huskwood Avenue, Palmwood Street and Laurelwood Avenue. (Exhibit 24) §27-317(a)(2)

(6) The Opposition questioned the efficiency of both the proposed Stormwater Management facility and the lack of any detailed plan to insure that no pollutants or runoff reaches the wetlands. Opposition testimony pointed out that the proposed Stormwater Management facility was rated to accept 3.5 inches of rainfall per month and would not be sufficient for the rainfall as recently as May and June, 2009 which averaged 10 inches per month. (Exhibit 52) July 29, 2009 T pgs. 90-95. The Applicants presented no evidence to counter these allegations that the proposed Stormwater Management plan is inadequate to protect Lower Beaver Dam Creek, a tributary to the Anacostia River. Due to its proposed location, the issue of back flushing was raised but the Applicants also failed to address this potential for environmental damage as well. §27-317(1)(2)

(7) While the Applicants admit that there will be spillage and leakage of pollutants including petroleum based products onto the subject property, they fail to provide sufficient evidence of safeguards that these poisonous effluents will be contained and will not leak contaminants into the soil and from there into the floodplain and the Anacostia River Basin. (Exhibit 49)

(8) The Applicant's Noise Study suggests that if extraordinary containment measures are taken through the maintenance of 10 foot high noise abatement walls around the parameter of the proposed use including those areas adjacent to residential zoned property, and if the Applicants only operate the measured equipment at the measured locations, and if all equipment is maintained so as not to exceed manufacturers specifications, and if no additional equipment is used at any time, and if the prefab structure alleviates the noise levels as assumed, then and only then will the noise levels be contained at the property boundaries at levels which do not exceed State maximum noise levels. (Exhibit 54) Inherent in this opinion were a myriad of variables, the slightest change of any one of which would result in a collapse of this house of cards. Mr. Ehrlich, Applicants Noise Expert, very carefully limited his opinion to the facts as offered to him by his clients, the Applicants, and issued the caveat that his opinion was solely predicated on the information provided by his clients and the he did not consider the circumstances should any changes to the variables occur. No actual measurements were taken; the opinion given was based on computer modeling alone. (July 29 T.pgs. 42-47, August 19 T.pgs. 4-19)

(9) Mr. Ehrlich did not consider any background noise from the existing Vehicle Salvage Yard, Pessoa's Contractor's Storage Yard or any of the other industrial/commercial uses and thus failed to address the neighbors' concerns that existing noise are currently unacceptable and which would be

exacerbated by the proposed use. (T.passim)

(10) In addition to the issue of unacceptable desired levels of noise, the Opposition articulated concerns about vibrations generated by the vehicle crusher potentially causing damage to their homes similar to that damage already having occurred from existing industrial uses in the area. The Applicants failed to provide any evidence dispelling these concerns. (Exhibit 53, July 29 T.pgs. 95-99)

(11) Environmental justice was raised and argued by the Opposition and the Applicants failed to provide any evidence or argument to counter these allegations. (Exhibit 56(a), August 19 T.pgs. 19-36)

(12) The 1993 Master Plan and Sectional Map Amendment for Landover and Vicinity (Planning Area 72) recognized that the majority of the subject property was wooded and designated the subject property as “Major Employment Area” within the Beaver Heights Industrial Area. (MP pgs. 60-65)

“In 1973, the County had attracted a growing portion of the metropolitan area’s “storage activity” gains and employment related to manufacturing, wholesaling, construction, and transportation. The Planning Area had absorbed one-third of the County’s gains in industrial expansion in the 1960’s. Quality, in preference to quantity, was prescribed for the future industrial development of the Planning Area. There was a presence of unattractive and inefficient commercial and employment areas in the Planning Area. The industrial sector tended to be heavily oriented toward the processing and distribution of goods, rather than toward manufacturing and office activities. A balanced industrial development and the upgrading of employment areas and industrial uses were needed. During the 1980’s, development of office and R&D uses occurred in the New Carrollton Triangle and the Brightseat Strip; however, a balance in job opportunities continues to be needed.

Potentials existing in employment and industry are directly related to the impact of Metro, Landover Mall, and the strong locational benefits of the Planning Area in the metropolitan area. A key factor is the encouragement of necessary support related to this potential, in the form of better living areas, access, public facilities and services, and employment areas. Other important issues, regarding both employment areas and better living areas are the detrimental effects of trucking related to industrial firms in the area and the negative physical image of the employment areas themselves.

Concept

The Plan concept for employment areas is to continue to supplement existing development with quality growth in more intensive manufacturing and industrial park uses. The balancing of development, better site planning, controlled access and truck routing, buffering to protect adjacent living areas from nuisance factors related to industrial operations, and intensifying better employment opportunities for local residents in the future are central to the concept.”

(13) The 1993 Master Plan and Sectional Map Amendment for Landover and Vicinity adopted the following Guidelines relevant to the development of the subject property:

2. Employment area sites should be developed and maintained in accordance with an overall design plan, based on the principles of proper site design.
3. New, expanded or redeveloped employment areas should be parklike in nature, with landscaping and well-sited structures, and served by well-designed internal circulation systems.
4. Employment areas should be separated from living areas by the use of appropriate buffering, designed and placed to minimize sight (including lighting and signing), sound and dust.
5. Screening should be provided for outdoor storage areas on existing and future industrial properties adjacent to residential properties and for employment areas bordering roads, with the condition that such screening be of sufficient height and type to block the stored material and equipment from view at ground level.
6. Industrial land developers should be encouraged to preserve natural amenities and to incorporate natural features into their development proposals.
7. In industrial area, the land dedicated to meet the open space requirements should not consist solely of floodplains, steep slopes, wetlands, and/or unstable soils.
10. Employment area proposals should include an analysis of anticipated internal circulation, as well as any potential impact of the development on the local and regional transportation system, with attention to public transit, auto trips, and the movement of goods and materials.
11. The on-site separation of employment area traffic (automobile parking and truck loading and standing areas) shall be encouraged.
12. Where possible, access roads to employee areas should border or pass around, not through, residential neighborhoods; and appropriate techniques should be used to separate these access roads from residential areas.
13. Curb cuts from individual parcels onto surrounding street are to be avoided. Instead, parcels are to be served by internal access roads.

14. Structures which are devoted entirely to warehousing should be confined to internal parcels within employment areas and not be visible from surrounding highways. Structures which are a combination of offices and warehousing may be permitted on parcels adjacent to highways as long as the office portion fronts the highway.

The proposed use is not in compliance with these Guidelines and will substantially impair the 1993 Master Plan for Landover and Vicinity. §27-317(a)(3)

(14) The 2002 General Plan envisions the Developed Tier as a network of sustainable, transit supporting, mixed use pedestrian-oriented, medium-to-high-density neighborhoods. The proposed use is inconsistent with and not in conformance with the General Plan. (Exhibit 27) §27-317(a)(3)

(15) As articulated, and inclusive of the evidence adduced in the record, the proposed use will adversely affect the health, safety and welfare of area residents. §27-317(a)(4)

(16) As set forth above, and inclusive of the evidence adduced in the record, the proposed use will be detrimental to the use or development of adjacent properties and the general neighborhood. §27-317(a)(5)

(17) Exhibit 41 is an approved Tree Conservation Plan for the proposed use. §27-317(a)(6)

(18) The Applicants have failed to meet their burden of proof as set forth in Schultz.

(19) Mr. Lee's testimony was less than forthcoming or reliable, to the degree that many of his statements were merely self-serving, not credible and potentially untruthful as a result of his lack of candor.

(20) Due to the Applicants failure to operate the uses at the J Street site and at the subject property in accordance with the law, credence cannot be given to their assertions that they will operate the proposed use in accordance with all laws and regulations.

DISPOSITION

Special Exception 4618 is DENIED.