

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

SPECIAL EXCEPTION

4637

DECISION

Application:	Vehicle Salvage Yard, Variances and Alternative Compliance
Applicants:	Walter M. and Henry A. Meinhardt
Opposition:	None
Hearing Date:	July 23, 2013
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval with Condition

NATURE OF REQUEST

- (1) SE 4637 is a request for a Vehicle Salvage Yard¹ on approximately 4.86 acres of land in the I-1 (Light Industrial) Zone, located on the south side of Short Cut Road, approximately 138 feet east of the intersection of Branch Avenue (MD 5) and Robert Crain Highway (US 301), also identified as 7903 Short Cut Road, Brandywine, Maryland. Variances from fence material and front and side yard building setbacks and Alternative Compliance are also being requested.
- (2) The Planning Board did not schedule this Application for public hearing and in lieu thereof adopted the Technical Staff's recommendation of approval with conditions. (Exhibits 12 and 17)
- (3) At the conclusion of the evidentiary hearing the record was kept open for an amended Revised Site Plan and other documents. Upon receipt of these documents the record was closed on September 3, 2013.

FINDINGS OF FACT

Subject Property

- (1) The subject property is irregular in shape and consists of three separate parcels of land (Parcels 84, 110, and 146). The site is improved with two structures. The first structure is a 4,217 square feet one story frame building with three service bays which is located in the southwest corner of Parcel 84. (Exhibit 28) This structure is currently being used for the dismantling and storing of vehicle parts. No building or use and occupancy permit has been applied for regarding this structure nor has any permit been issued. The second structure is a 744 square feet one story concrete block building located at the entrance to the subject property on Short Cut Road on Parcel 146 and is currently being used for storage.

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, "Trailors", or "Mobile Homes", which may include the sale of the parts."

(2) The subject property is primarily cleared and free of vegetation and is currently being used for the storing, parking, and salvaging of damaged vehicles and an access exits from the adjacent nonconforming Ransom Motors I property (located to the south of the subject property) to Short Cut Road.

(3) The subject property has frontage on Short Cut Road. Access to the site is via two driveway entrances one of which is 25 feet wide, used to access Parcel 110, and the other is 50 feet wide, used to access Parcels 84 and 146. There is also an internal access gate located between the common boundary line of Parcel 84 and the abutting Vehicle Salvage Yard, Parcel 255 (Ransom Motors I) to freely maneuver cars between the two properties. This access is now proposed to be closed with an eight-foot-high, steel, screen wall along the southeastern half of the common boundary line.

(4) An eight-foot-high sight-tight metal fence encloses the entire property boundary on the north, east, and part of the west sides of the property. There is no fence behind the existing frame building located along the southwestern side of the property. The existing metal fence along the eastern property line and other areas is poorly maintained and needs to be mended. However, only a six-foot-high chain-link fence exists along the southern property line with an internal access gate located between the common boundary line of Parcel 84 and abutting Parcel 255 (existing Ransom Motors I Vehicle Salvage Yard) to separate the two parcels. There are other six-foot-high chain-link fences with internal gates existing within the proposed site that separate the vehicle dismantling area, the large vehicle parking area (i.e. school buses, trucks, etc.), and the compact car area on the site.

(5) The subject property does not contain any landscaping with the exception of a couple of evergreen trees, one of which is located on the northern and the other located on the western side of the property. These trees are in poor health.

Zoning History

(6) The subject property was rezoned from the General Commercial (C-2) Zone to the I-1 Zone in the September 5, 1978 Sectional Map Amendment (SMA). The property was retained in the I-1 Zone in the 1993 Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B. The subject site has been used in conjunction with the adjacent Certified Nonconforming Use known as Ransom Motors I Vehicle Salvage Yard (Parcel 255) for storing, parking, and dismantling damaged vehicles for many years without a legal permit. On March 12, 2007, the Department of Environmental Resources (DER) inspected the subject property and issued a citation (Case No. Z-1948-9-07) for the violation of §§ 27-253(a)(1) and 4-118(c) for “use of a building, structure and land without a valid use and occupancy permit” for Parcel 84.

Master Plan and Sectional Map Amendment

(7) The July 24, 2013, Subregion V Master Plan and Sectional Map Amendment retained the subject property in the I-1 Zone.

(8) The 2002 Prince George's County General Plan designates the subject property as a possible future Brandywine Community Center. A Community Center designation provides for residential densities and a mix of uses in areas where compact development is recommended. The policy for Centers is to: "promote the development of mixed residential and nonresidential uses at moderate to high densities and intensities in context with surrounding neighborhood and with a strong emphasis on transit-oriented design."

Neighborhood and Surrounding Uses

(9) The subject property is located on the east side of the intersection of Branch Avenue (MD 5) and Robert Crain Highway (US 301) within an industrial zoned land area. The neighborhood is predominantly industrial. Much of the industrial land in the area is owned by and used by the Applicant's other business, Brandywine Auto Parts. Other lands along Short Cut Road, to the east of subject property, are zoned R-M (Residential Medium Development) with limited commercial uses necessary to serve the dominant residential uses.

(10) The neighborhood, as generally agreed with by the Applicant's expert land planner, Mr. Joe Del Balzo, is defined by the following boundaries:

North - Brandywine Road (MD 381)

West - Robert Crain Highway (US 301)

South - Cedarville Road

East - Timothy Branch Stream Valley

(11) The subject property is surrounded by the following land uses:

North - Bounded by Short Cut Road, and beyond is Brandywine Auto Parts sales office, in the I-1 Zone.

West - Sunoco Gas Station and south of that is undeveloped vacant land in the I-1 Zone.

South - Abuts Ransom Motors I, a Nonconforming Use Vehicle Salvage Yard, under common ownership in the I-1 Zone.

East - Vacant land which is to be developed residentially as part of approved Comprehensive Design Plan CDP-0902, Villages at Timothy Branch, in the R-M Zone.

Applicant's Proposal

(12) The Applicant seeks approval of a Special Exception to operate a Vehicle Salvage Yard on a 4.86-acre property including storing and dismantling parts from damaged vehicles, and to

validate the existing storage of damaged vehicles in the I-1 Zone. The proposal includes the use of an existing concrete block building located at the entrance of the subject property as a Contractors' Office and an existing frame building located in the southwestern corner of the property for dismantling parts of the damaged vehicles. No new improvements, except for some fencing and construction of a designated parking area, are being proposed on the site.

(13) The Applicant is also requesting a variance from § 27-417.03(a)(2) of the Zoning Ordinance to allow continuous use of the existing eight-foot-high metal fence along the northern, eastern and western property lines and proposes to provide the same new fence along the southern property line. This variance is necessary because the Zoning Ordinance does not allow the use of "corrugated metal or sheet metal" fence for a Vehicle Salvage Yard. In addition, the Applicant is requesting a variance from § 27-474(a) of the Zoning Ordinance which establishes regulations for development in the I-1 Zone, including building setbacks for fences and walls over six-feet in high. Since the existing fence is over six-feet-high, variances of 30 feet for side yard building setbacks for the location of the existing fence and existing frame storage building along the eastern property line and a 15-foot building setback from street for the location of a fence along the northern property line are requested.

(14) The Applicant is also requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, of the 2010 Prince George's County Landscape Manual (Landscape Manual) along the eastern property line to allow a reduction in the width of the required bufferyard and building setback. The Application is subject to Section 4.7 because there is a change of use from a lower to a higher intensity use category.

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 Type 2 Tree Conservation Plan; and
- (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).

(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 and Amended Revised Site Plan (Exhibit 34) are in harmony with the general purposes of the Zoning Ordinance, § 27-102, 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 Applicant operates related uses on adjacent properties. The surrounding area is generally developed with industrial or vehicle related, service commercial uses, including heavy truck and equipment service, a Gas Station, and a Vehicle Salvage Yard, all in the I-1 Zone. In fact, the Applicant operates a Vehicle Salvage Yard adjacent to the subject property, and no violations have been issued regarding health safety or welfare on that site. The proposed Vehicle Salvage Yard will be operated in a similar manner to the existing business. Allowing this use on the subject property will have no adverse effect on public health, safety or welfare in that it will consolidate like uses in an industrial area. Future residents on nearby residentially zoned land will be protected by an eight-foot high, solid, light-tight fence and landscaping. With an approved Special Exception to operate on this site, the Applicant will be able to move goods between this site and their other operations with negligible impact on roads and residential areas.

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

The 2002 General Plan for Prince George’s County placed the subject property in the Developing Tier and within the Brandywine Center. The 1993 Approved Subregion V Master Plan placed the property in the Employment Area “C,” Brandywine/Mattawoman Industrial Area, noting that the subject property was part of “one of the last large, uncommitted, general industrial areas remaining in the first tier of suburban jurisdictions, surrounding Washington, D.C.” (p. 81). This area, and the subject property have long been recommended for Light Industrial land use, and the 1993, 2009, and 2013 Sectional Map Amendments all placed the subject property in the I-1 Zone. The I-1 Zone is designed to provide land of a “light industrial

character setting it apart from both the more intense Industrial Zones and the high-traffic-generating Commercial Zones...” (§ 27-469(a)(1)(C)) The proposed Vehicle Salvage Yard provides a light industrial use on the subject property implementing the Master Plan recommendations.

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

The proposed Vehicle Salvage Yard will need very little in terms of public facilities. The use will not require the extension of water and sewer facilities. Very little activity will occur on the property. Vehicles are stored on the lot with parts removed as needed. The parts themselves will be taken to another property for sale. No public facilities will be burdened by this low intensity use.

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

The Applicants operate businesses in the surrounding area that this Vehicle Salvage Yard will support. Goods for sale will be removed from this site and sold at nearby facilities with little need to travel on the surrounding road network. Locating the Vehicle Salvage Yard so near the point of sale is orderly growth that recognizes the need for industry and business in the County. The needs of housing and agriculture are unaffected by the instant proposal as the property is neither planned for nor appropriate for either use.

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

The Vehicle Salvage Yard is an open air facility. An open frame building exists in the southwestern corner of the property abutting land that is currently wooded, but is industrially zoned. More auto-related uses are further west. Property to the east is in a residential zone, but will be separated from the use by an eight-foot tall, light-tight fence and twenty feet of proposed landscaping. The Vehicle Salvage Yard will have no impact on 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;

No additional buildings are proposed. This use will be located close to the Applicant's other related uses, including Ransom Motors I—an existing Certified Nonconforming Vehicle Salvage Yard—and Brandywine Heavy Trucks and Equipment. These are compatible uses, all located in a light-industrial land area, in the I-1 Zone. Adequate landscape buffering and screening is provided from streets and from adjacent residentially zoned land. While no adverse impacts are expected, this buffering, landscaping and screening will protect future area residents from any adverse impacts of the Vehicle Salvage Yard.

(7) To protect the County from fire, flood, panic, and other dangers;

No evidence suggests that the use would create panic or other dangers.

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

The proposal is for a light industrial use, not housing. However, the healthy living environment of adjoining residentially zoned land is ensured by setbacks, landscaping and screening provided onsite.

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

According to the Applicant, this family run business employs more than two hundred workers and has operated in the County for more nearly 90 years. Allowing it to grow on this property will provide a continuing benefit to the County's tax base and employment structure.

(10) *To prevent the overcrowding of land;*

The I-1 Zone requires a minimum of 10 percent green area. The Amended Revised Site and Landscape Plans satisfy this requirement. An existing frame building occupies the southwest corner of the property. The remaining property will be used for outdoor storage of salvaged vehicles, completely enclosed within a light-tight, solid fence behind landscaping. No new buildings are proposed. The Applicant has simply outgrown its adjoining Vehicle Salvage Yard and is seeking additional land to store vehicles awaiting salvage. No overcrowding of land results from this proposal.

(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 proposal will have no perceptible impact on US 301/MD 5. The property fronts on Short Cut Road and all traffic will enter and exit the site via the driveway on Short Cut Road. Goods will be moved from this site across Short Cut Road on a fairly infrequent basis. The Transportation Planning Staff of the Maryland National Capital Park and Planning Commission found that the proposal would have no impact on the transportation system from a health, safety and welfare standpoint. There is a proposed transit facility connecting Charles County with the Branch Avenue Metro Station. This facility is proposed to run parallel with and adjacent to US 301/MD 5. The Transportation Planning Staff found that this proposal will have no impact on that proposed facility. Exhibit 12

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

The I-1 Zone is provided in the County, in part, to insure that a diverse economic and social structure exists to support the County, providing a balance to residential and commercial uses. The Vehicle Salvage Yard furthers that diversity and provides economic stability.

(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 subject property contains significant environmental features. Operation of a Vehicle Salvage Yard is subject to state licensing. No undue noise is evident on the existing Vehicle Salvage Yard (Ransom Motors I) immediately adjacent to the subject property.

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

The subject property is not one of scenic beauty and there are no natural features on site. Views from the streets and adjacent properties will be protected by the use of an eight-foot high light-tight fence behind 20 feet of landscaped buffering.

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

The subject property is not a farm and has not been envisioned for farming for a long time. In fact, the 1993 Master Plan included it in the Brandywine/Mattawoman Industrial Area and noted that this area has “long been planned to develop with a mix of industrial land uses (p. 81). It is industrially zoned and is intended for light industrial uses, including a Vehicle Salvage Yard, in accordance with Zoning Ordinance requirements. § 27-317(a)(1)

(2) The proposed use and Amended Revised Site Plan, Exhibit. 34, are in harmony with the specific purposes of the I-1 Zone, § 27-469(a)(1), as follows:

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

The I-1 Zone in the County provides a variety of labor intensive light industrial uses, including flex office space and other similar auto and vehicle related uses. This proposed Vehicle Salvage Yard is one such labor intensive use, which, according to the Applicant, will add to its existing, large employment base. The Applicant already operates a Vehicle Salvage Yard on an adjoining property and needs to expand. The most appropriate place to do this is on a similarly zoned adjoining property.

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

The required light-tight screening and landscaping will ensure that the proposed use is attractive. To enhance the site’s attractiveness, the Applicant is placing the light-tight fence 20 feet into the property and placing required bufferyards and landscaped strips between the fence and the property lines and street right-of-way. The Zoning Ordinance and Landscape Manual allow fences to run along property lines with landscaping hidden from view. In this case, landscaping will be seen from adjoining properties, not the fence. This will in fact create a more attractive light industrial environment than the Codes require.

- (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**

This I-1 area is a nice mix of similar light-industrial uses. The Applicant currently operates several similar uses and this proposed Vehicle Salvage Yard fits easily into the character of the industrial area. None of the uses are particularly intense or more traffic-generating commercial uses.

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

The proposed Vehicle Salvage Yard is a light-industrial use and mixes easily with the other similar uses in this industrially zoned area. § 27-317(a)(1)

(3) The proposed use is not in compliance with the Landscape Manual requirements or the specific requirements for this Special Exception use. However, with approval of the additional Applications for Alternative Compliance (AC-13005) and variance requests (VSE-4637), the proposed use and Amended Revised Site Plan (Exhibit 34) will be in conformance with all of the applicable requirements and regulations of this Subtitle. § 27-317(a)(2)

(4) This Application is subject to the Subregion V Master Plan and Sectional Map Amendment, which recommends a light industrial land use for the subject property. The subject property is located within the I-1 Zone, which allows the proposed use subject to the grant of a Special Exception. The proposed use will be consistent with the character of the surrounding industrial uses and it 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. § 27-317(a)(3)

(5) The owners of the subject property also own the adjacent Vehicle Salvage Yard as well as an automobile parts and installation business adjacent to and in the immediately vicinity of the subject property. Adding another salvage use will not have any effect on the health, safety, or welfare of residents or workers in the area as this business will operate in conjunction with the existing Ransom Motor I operation to the south, for the disposal of any fluids drained from the vehicles. A monitoring study will be conducted each year to ensure that the business operates in compliance with applicable environmental standards. For these reasons, the use of subject property will not adversely affect the health, safety, or welfare of residents or workers in the area. § 27-317(a)(4)

(6) The subject site is located within a light industrial zone. The properties adjacent to the subject site include a Gas Station, an existing Vehicle Salvage Yard, Brandywine Auto Parts Sales Office, and the undeveloped residential development approved in Preliminary Plan of Subdivision 4-09003 for the Villages of Timothy Branch development in the R-M Zone. Compatibility between the requested industrial uses with the adjacent residential development is a concern. The Community Planning Division, in a memorandum dated May 20, 2013, stated that screening and landscaping along the property line abutting future residential development is

critical to ensuring the highest degree of land use compatibility. This concern is addressed through the proposed Alternative Compliance request. The existing screening and proposed landscaping will provide sufficient buffering and adequate transition between the proposed industrial use and future residential development. As a result, the proposed use will not be detrimental to the adjacent properties or the general neighborhood. § 27-317(a)(5)

(7) The Environmental Planning Section in its Letter of Exemption dated May 20, 2013, stated that the site is exempt from the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because, while the site is over 40,000 square feet in area, it contains less than 10,000 square feet of woodlands on-site, and therefore, is not subject to the provision of Tree Conservation Plan approval. The site has no previous Tree Conservation Plan approvals. Exhibits 7, 12 and 37 § 27-317(a)(6)

(8) There are no regulated environmental features on the subject property. Exhibit 12. § 27-317(a)(7)

(9) The perimeter of the subject site is currently enclosed by an existing eight-foot-high, solid, green, steel, screen wall along all the boundary lines, except the southern property line, adjacent to the common ownership Nonconforming Vehicle Salvage Yard. Currently, a six-foot-tall chain-link fence exists along this property line which will be replaced with a solid light-tight fence to conform to § 27-417-03(a)(1). There is no wall located behind the existing frame building along the southwestern property line because the building is located right on the property line itself and operates as screening. However, because the wall exceeds the six-foot-height restriction, it must conform to the building setback requirement set by the Zoning Ordinance. Since the existing fence and the frame building are located on the property line, a variance for the building setback requirements is requested for both as part of this Application. § 27-417.03(a)(1)

(10) The Revised Amended Site Plan does not conform to § 27-417.03(a)(2) since the existing screen fence is made of steel panels which are sheet metal, and is not allowed. The Applicant has requested a variance from this requirement to allow continued use of the existing fence, which is substantial and effective. The existing wall is a panelized metal which is 29 gauge steel with a corrosive baked on enamel finish, green in color. The current wall is more likely than other types to rust, develop paint chips, or have individual panels become dented or fall down, which would be unattractive and/or result in a lack of screening if not repaired in a timely fashion. Staff recognizes that, while the existing screen wall is considerable and effective, it could be moderately attractive as long as the Applicant maintains and repairs the wall as necessary along all property lines. Exhibit 12 A note has been added to the Revised Amended Site Plan, Exhibit 34, which states "the existing and proposed screen walls shall be repaired and maintained regularly, in perpetuity". § 27-417.03(a)(2)

(11) The subject site is enclosed by an existing eight-foot-high, steel, screen wall and the terrain is relatively flat; therefore, the outdoor storage area will not be visible from ground level beyond the fence. All walls screen the use from view of the public road and surrounding properties. Moreover, the 13-foot-high frame building along a portion of the southwestern boundary of the site also screens the visibility of the outdoor storage area. Landscaping in

accordance with the Landscape Manual is provided between the fence and the property line.
§ 27.417.03(a)(3)

(12) No interior storage is proposed. § 27-417.03(a)(4)

Variances

(13) The Applicant has requested approval of the following variances:

(a) Section 27-417.03(a)(2) of the Zoning Ordinance states that the fence shall not be constructed of corrugated metal or fiber glass, or sheet metal. The site has an existing eight-foot-high, solid light-tight fence along its northern, eastern and western property lines and an eight-foot-high metal fence is proposed along southern property line, all of which are made of steel panels, which are sheet metal and are not allowed. A variance is requested from this requirement to allow the existing screen wall to be used to satisfy screening requirements.

(b) Section 27-474 of the Zoning Ordinance establishes regulations for development in the I-1 Zone including building setbacks, which also apply to fences and walls over six-feet-high. The site is unable to meet the required setback; therefore, the Applicant has requested variances to the required setback along the western and northern property lines.

(c) Along the western property line, the adjacent property is zoned I-1 and is developed with an automobile filling station. A side yard setback of 30 feet is required per the Zoning Ordinance for the existing eight-foot-high, steel, screen wall and existing frame building. A variance of 30 feet is requested for the existing eight-foot-high, steel, screen wall and the existing 30-foot-high frame building

(d) Along the northern property line, adjacent to Short Cut Road, a setback of 25 feet is required from the ultimate right-of-way line for Short Cut Road and the Amended Revised Site Plan indicates that the existing steel screen wall is to be relocated ten feet outside of the right-of-way to the south to accommodate the required landscape strip, which leaves a 15-foot building setback requirement to be met for the fence location. A variance of 15 feet is requested for the relocated existing eight-foot-high, steel, screen wall.

(14) Variances from the Zoning Ordinance (§ 27-230(a)) may be approved in accordance with the following findings:

(a) A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:

(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

(2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

(15) The subject property does not have exceptional narrowness, shallowness, shape, or exceptional topographical conditions. However the subject property is located in an industrial

area in the Brandywine community. The Applicant or its affiliated companies own a substantial amount of land in the area and other areas which are used in conjunction with the Brandywine Auto Parts business. Many of these properties have steel panel screening that has existed on the property for over 42 years. The adjacent Vehicle Salvage Yard immediately south of the subject site (Parcel 255) is also screened by an eight-foot-tall, solid, green steel, screen wall which is under the common ownership with the subject site. Therefore, it is reasonable to permit the Applicant to keep the same existing steel panel fence on the subject property. This will not only ensure visual consistency of fence in the area, but will also provide security against vandalism, theft of valuable car parts removed from salvaged vehicles, and reduce maintenance. Requiring the existing fence to be replaced with vinyl or wood does not do substantial justice to either the Applicant or other property owners or commuters in the area.

With respect to the issues of setbacks along northern and western property lines, if full setbacks for the existing building and fence were applied to meet the Zoning Ordinance or Landscape Manual requirements, the Applicant would lose approximately 43,255 square feet or 27 percent of the useable area of land. Exhibit 35 For this reason, the variance request would do substantial justice to the property owner in that it would allow the Applicant to use a larger portion of the land for vehicle storage. In addition, removing the fence to meet the setback requirements of the Zoning Ordinance does not in any way improve the intended function of the wall, and the location of the wall will have no discernible impact on other property owners. In fact, it will create a no man's land between the wall and the adjacent property line which will be less likely to be maintained, and will not benefit the adjoining owners. All of these issues are extraordinary situations the Applicant would have to face if they are required to meet the setback requirements of the Zoning Ordinance. § 27-230(a)(1)

(16) The strict application of the setback and specific fence material requirements will create an undue hardship upon the owners of the property. The Applicant contends that requiring the existing screen walls to be removed and replaced with non-metal screening, such as wood or vinyl, would jeopardize the security of its operations. The existing panelized metal fence on the property is custom made and is durable and secure. The gauge of the steel prevents vandals from cutting through it. The existing eight-foot-tall metal fence construction provides security and makes it very difficult to climb over. The required wood or vinyl fence is not durable and is too easy to penetrate. This would, at a minimum, require the Applicant to install a secondary means of security, such as a chain-link fence with barbed wire or electrified fencing in addition to the screen fencing, to protect valuable precious parts from being stolen. Furthermore, the required screening is unnecessarily burdensome to the Applicant because it makes the business less secure and exposes the Applicant and its employees to the threat of criminal activity. Thus the strict application of §27-230(a)(2) will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owners of the subject property. § 27-230(a)(2)

(17) The 2013 Sectional Map Amendment retained the subject property in the I-1 Zone, in accordance with the Master Plan recommendation of light-industrial land use for the property. A Vehicle Salvage Yard is permitted by Special Exception in the I-1 Zone. The Master Plan is generally silent on the issue of fence setback and materials. However, the 2002 General Plan Urban Design Strategy for the Developing Tier states:

Ensure that the design of new development is attractive and vital and that the design of contiguous development maintains or enhances the character of the existing communities. (p.84)

Allowing the fences to be of the same, high quality materials as those on surrounding properties ensures compatibility, enhances the attractiveness of the area and ensures that contiguous development maintains the character of the existing neighborhood.

Additionally, the type of fence proposed is allowed for most uses and in most zones in the County. In fact, as recently as 2010, the District Council amended the Zoning Ordinance to add the use “Private Automobile and Other Motor Vehicle Auctions.” (CB-59-2010) In this legislation, regarding a similar use of vehicle storage, the Council specifically allowed the same type of fence being proposed here. A typical structure of corrugated metal might be expected to rust or become unsightly. The type of material proposed is sturdy and coated with galvanized enamel, far different from unsightly typical metal fencing. Given that the proposed fencing material is allowed on other properties in the immediate neighborhood and the rest of the County, the variances will not substantially impair the intent, purpose, or integrity of the Subregion V Master Plan and Sectional Map Amendment, which retained the subject property in the I-1 Zone for continued industrial use. Moreover, as no new construction is proposed with the addition of the Vehicle Salvage Yard use, granting the requested variance will not impair the integrity of the General Plan or Master Plan in any way and is therefore presumed to be compatible with the surrounding area. § 27-230(a)(3)

Parking and Loading

(18) Section 27-568(a)(7), Schedule of Parking Spaces, requires one parking space for every 1,000 square feet of gross storage area of the first 10,000 square feet, plus one space for each additional 10,000 square feet for a junk yard or Vehicle Salvage Yard. For a Vehicle Salvage Yard of 155,615 square feet, 25 parking spaces are required. Section 27-568(a)(5)(B) requires one parking space for every 500 square feet of gross floor area (GFA) of office space. For a 744-square-foot Contractors’ Office building, two parking spaces are required. The proposed Vehicle Salvage Yard requires a total of 27 parking spaces for the entire use. A total of 27 parking spaces with two spaces being reserved for the physically handicapped are provided. Exhibit 34

(19) Section 27-582(a), Schedule of Loading Spaces, requires one loading space for industry or manufacturing comprising over 2,000 to 25,000 square feet of GFA. For a building with a GFA of 4,961 square feet, one loading space is required. The Amended Revised Site Plan provides one 45-foot by 12-foot loading space. Exhibit 34

Landscape Manual

(20) The instant property is subject to Section 4.2, Requirements for Landscaped Strips along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7 Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the 2010 Prince George’s County Landscape Manual because there is a change of use from a lower to a higher intensity use category. The Amended Revised Site Plan is in compliance with

Sections 4.2, 4.3, 4.4, and 4.9, but does not meet the requirements of Section 4.7 of the Landscape Manual. The Applicant filed a request for Alternative Compliance from Section 4.7, Buffering Incompatible Uses, for a reduction in the width of the required bufferyard and building setback along the eastern property line.

A Section 4.7 Type “D” bufferyard, which includes a 50-foot building setback and a 40-foot landscaped yard, is required along the eastern property boundary adjacent to a vacant R-M zoned property, Parcel 19, within the Developing Tier. The Applicant is seeking relief due to the fact the additional requirements for approval of a Special Exception Vehicle Salvage Yard, in Section 27-417.03(a) of the Zoning Ordinance, includes very definite requirements for screening. It specifies that the use be enclosed by an at least eight-foot-high, solid, slightly, light-tight wall or fence, not constructed of corrugated metal, fiber glass, or sheet metal. The adjacent Parcel 19 is part of the Villages of Timothy Branch Preliminary Plan of Subdivision 4-09003, which was approved showing a 35-foot-wide outlot and a Type “D” 40-foot-wide landscaped bufferyard along this common property line. The proposed outlot is intended to serve as half of a future industrial roadway right-of-way to serve the industrially-zoned parcels to the south of the subject site when Crain Highway (US 301) is upgraded to an access-controlled freeway and the properties lose the ability to access it. The Applicant argues that not only is the full bufferyard and setback proposed to be provided on the adjacent property, but additionally, if this area is eventually utilized as a roadway, no Section 4.7 bufferyard would be required.

Alternatively, the Applicant stated that there is currently an existing eight-foot-high metal panel wall along the eastern line, which meets the Special Exception requirements, except for it's being made of metal. The Applicant proposes to move this wall 20 feet to the west, providing a 20-foot-wide building setback and landscaped yard, with 595 plan units, which is one more than what is required, accounting for the allowed 50 percent fence reduction.

Given the provision of the full required amount of plants, compliance with the specific screening requirements for the Special Exception use, and the approved plans for the adjacent vacant, residentially-zoned property, the Alternative Compliance committee found the Applicant's proposed Alternative Compliance measures to be equally effective as normal compliance with Section 4.7 of the 2010 Prince George's County Landscape Manual, and on April 22, 2013 Alternative Compliance from Section 4.7 of the Landscape Manual was granted, subject to one condition, Exhibit 12, and the Amended Revised Site Plan, Exhibit 34, is in compliance with this condition of approval.

Sign Ordinance

(21) No freestanding signs are proposed for the subject property. Any future signage must be identified on the Amended Revised Site Plan, Exhibit 34, and must meet all area, height and setback requirements.

(22) The proposed use and Amended Revised Site Plan, with the approved request for variances and Alternative Compliance, along with the recommended condition, will be in conformance with all requirements and regulations of the Zoning Ordinance.

DISPOSITION

Special Exception 4637 is **APPROVED**, subject to the following Condition:

(1) The Applicant shall obtain an approved building permit for the existing frame building located along the southwestern side of the property prior to utilizing the structure. Until such time as a permit is obtained, the Applicant shall secure the building in a manner that prevents persons or property from being placed in or entering the structure.

VSE 4637 and Alternative Compliance AC-13005 are APPROVED.

The Approved Amended Revised Site Plan is Exhibit 34