

<b>IN RE: PETITION FOR SPECIAL</b>	*	BEFORE THE
<b>EXCEPTION</b>		
SE side of Washington Blvd., 262.17'	*	OFFICE OF
N of c/line of Old Washington Road		
13 <sup>th</sup> Election District	*	ADMINISTRATIVE HEARINGS
1 <sup>st</sup> Councilmanic District		
<b>(4111 Washington Boulevard)</b>	*	FOR
Hendricks Commercial Property, LLC	*	BALTIMORE COUNTY
<i>Legal Owner</i>		
Vehicles for Change	*	
<i>Contract Purchaser</i>		
Petitioners	*	<b>Case No. 2012-0257-X</b>

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings as a Petition for Special Exception filed for property located at 4111 Washington Boulevard. The Petition was filed by the legal owner of the subject property, Hendricks Commercial Property, LLC, and Martin Schwartz, authorized representative for Vehicles for Change (“Petitioners”). The Special Exception Petition seeks approval for a used motor vehicle outdoor sales area, separate from the sales agency building, pursuant to Baltimore County Zoning Regulations (“B.C.Z.R.”) Section 236.4. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the hearing on behalf of the Petitioners were Martin Schwartz, authorized representative for Vehicles for Change, and Paul Lee with Century Engineering, the firm who prepared the site plan. Jason T. Vettori, Esquire with Smith, Gildea, & Schmidt, LLC, attended and represented the Petitioners. Two interested citizens, William and Faith Hermann, attended the hearing, but they were not opposed to the requested relief, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Planning on May 10, 2012, which indicated that the proposed use has the potential to create significant adverse impacts to the residential community located south of the subject property on the opposite side of Old Washington Boulevard. In addition, that Department also set forth a list of proposed restrictions and conditions pertaining to the operation of the business.

Testimony and evidence revealed that the subject property is 2.047 acres and zoned BR. It is approximately two miles from the existing location of the business, which was the subject of a recent zoning case. (See 2011-0258-SPHXA). The operation of a used car dealership is permitted in the zone by special exception, and former Administrative Law Judge Kotroco in his previous Order provided a thorough description of the nature of Petitioner's business, and that will not be repeated here.

The uncontroverted testimony and evidence from Petitioners' engineer Paul Lee, indicates that the proposed use would not have any detrimental impacts on the B.C.Z.R. § 502 criteria. Therefore, I am convinced that the use proposed at the subject location would not have any adverse effects above and beyond those inherently associated with such a special exception use, irrespective of its location within the zone. See, *Schultz v. Pritts*, 291 Md. 1 (1981) and *People's Counsel v. Loyola College*, 406 Md. 54 (2008). Nor would the used car operation be detrimental to the nearby residential and commercial uses in its vicinity. In fact, the neighboring homeowners closest to the facility indicated by letter that they were supportive of this project. Exhibit 4B.

As noted earlier, the Department of Planning submitted an extensive list of proposed conditions for this operation. That Department's concerns were addressed individually by Petitioner's counsel and engineer, and while some have merit, others I believe are impractical

and/or unsafe. For example, the suggestion that only Washington Blvd. be used for vehicular access would lead to dangerous traffic conditions along that road, and the citizens at the hearing concurred and explained that there is a limited sight distance at that point. In any event, I have incorporated certain of the Department of Planning's comments as conditions to this Order.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence offered, I find that Petitioners' Special Exception request should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this   31   day of May, 2012 that Petitioners' request for Special Exception to approve a used motor vehicle outdoor sales area, separate from the sales agency building, pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") Section 236.4, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. All compressors that are used for vehicle service and repair should be contained within the building and designed to prevent adverse noise impacts on the residential community.
3. All dumpster and trash enclosures should be located away from Old Washington Boulevard, and shall be positioned as close to the building as is practicable.
4. The parking or display of motor vehicles along Washington Boulevard in front of the subject building and between Washington Boulevard and the existing fence at the northeast corner of the site shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/pz