



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # **5**
03/25/04

MEMORANDUM - SPECIAL EXCEPTION

DATE: March 18, 2004
TO: Montgomery County Planning Board
VIA: Carlton Gilbert, Zoning Supervisor *CG*
Development Review Division
FROM: Sue Edwards, I-270 Corridor Team Leader,
Community-Based Planning Division (301-495-4518)
SUBJECT: Board of Appeals Petition S-2538 (Special Exception),
John and Lynn Chukoski request a special exception
for automobile, truck and trailer rental, outdoors in the
C-2 Zone, 19705 Waters Road, Germantown Master
Plan
FILING DATE: January 6, 2004
PUBLIC HEARING April 5, 2004 at the Hearing Examiner

STAFF RECOMMENDATION: DENIAL of the Special Exception because it does not meet the general conditions found in Section 59-G-1.21 (4) and (5) and specific conditions found in Section 59-G-2.09 (a)2, (a)3, b(2), b(3), and b(5) of the Montgomery County Zoning Ordinance.

PROJECT DESCRIPTION

The applicants, John P. and Lynn Chukoski, propose a special exception to permit an outdoor automobile truck and trailer rental business at 19705 Water Road, Germantown, Maryland. The 37,026 square foot parcel is zoned C-2. This business has operated in this location within an existing building on a part time basis for more than 10 years.

The applicant states that he only recently became aware of the requirement to seek a special exception for this use based upon a verbal notification by the Montgomery County Department of Permitting Services.

The applicant rents U-Haul trucks and trailers of varying sizes. The trucks could be as wide as 7.5 feet by 20-22 feet long. The operator keeps 3-6 trailers and 6-10 trucks in inventory at any given time. The business also sells packing materials and supplies. The applicant has also amended the Statement of Operation (see Attachment A) to include rental of 8-10 automobiles such that the total number of customers does not exceed 25 per day.

Approximately 20 parking spaces are provided on site for the rental business and other businesses operating on the property. Figure 1 is an aerial photograph of the subject site and the adjoining commercial properties.

Background- Technical staff reviewed the application prepared and submitted by the applicant on October 3, 2003. The staff recommendation was approval with conditions binding the applicant to all submitted statements and plans; requiring hard surface material and a raised curb throughout the property; and prohibiting parking of rental vehicles along Waters Road. The staff recommendation was based on the ice cream parlor and international market operating on the site at that time. One adjoining property owner, the Academy of the Child, registered opposition to the initial special exception application.

The matter was heard by Hearing Examiner David R. Podolsky on October 11, 2002 before being remanded to Park and Planning technical staff. At issue was whether the applicant wished to be reviewed under section 59-G-2.07, Automobile, light truck and trailer rental, outdoors or section 59-G-2.09, Automobile, truck and trailer rental, outdoor. The distinction between these two categories is the definition of light duty panel trucks which do not have a cab separate from the truck body. The type of vehicles rented from this site meet the definition for section 59-G-2.09. At the hearing in October 2002, all three adjoining property owners opposed the special exception application as written at that time.

ISSUES

The subject property contains three commercial businesses existing by right on this commercially zoned property. These uses are deemed to be lawful by the issuance of a use and occupancy permit by the Montgomery County Department of Permitting Services. The special exception use must coexist with the existing uses for the provision and allocation of parking spaces and must not create unsafe circulation within the site or in the ingress/egress of the site.

Furthermore, truck rental customers are untrained and inexperienced in maneuvering these vehicles. The site and all its existing uses must accommodate turning radii of 50 feet for vehicles of this size. The applicant has not provided a site plan that depicts, to the satisfaction of the technical staff, where the rental vehicles can be parked in such a manner as to not detract from or overburden the existing uses. The narrow configuration of the site requires

that ingress and egress to the site must be made from a single driveway and all parking spaces on the site must not encroach on drive aisles of 20 feet minimum.

Site Description-The subject property is zoned C-2, General Commercial. The property is slightly irregular and rectangular in shape, with approximately 120 feet of road frontage on Waters Road. The width of the property to the rear is approximately 128 feet. Side dimensions are approximately 361 feet in length (Figure 2).

The site is nearly level at Waters Road; the topography of the site slopes gently to the rear where there is an embankment that serves as a common property boundary with the Sugarloaf Shopping Center.

A driveway from Waters Road serves both ingress and egress. A secondary gravel access point on the northern edge of the property adjoining the German property at 19711 Waters Road is to be discontinued.

The property is located approximately 300 feet from the intersection of Waters Road and Wisteria Drive. Waters Road terminates approximately 400 feet from the property boundary. The 1989 Germantown Master Plan depicts this road as Master Plan Road B-5, Locbury Drive with an ultimate right of way of 80 feet and four travel lanes extending from Middlebrook Road to 1,000 feet south of Wisteria Drive. The pavement width of Waters Drive is approximately 15 feet with no sidewalks or improved shoulders.

The 37,000 square foot parcel contains three additional businesses operating from this parcel. Details of parking calculations, area occupied by each use, and number of employees appears in Table 1.

- Country Cone is an ice cream shop occupying approximately 788 square feet of an existing 3,300 square foot building allowed in the C-2 zone by right. Additionally, this use occupies 860 square feet of outdoor patron area.

The business operates daily during periods when school is in session from 3:00 pm to 9:00 pm seven days a week. During summer months when school is not in session, hours are 12:00 pm to 7:00 pm. The indoor use with 228 square feet of patron area requires 6 parking spaces, calculated on 25/1000 square feet of retail use. The parking requirements for the outdoor patron area encompassing 860 square feet is 13 spaces calculated on 15 spaces/1000 square feet.

- Hallal House, a food vendor with fresh meat, fish, and groceries occupies approximately 1,200 square feet of an existing 2,200 square foot frame building. Hours of operation are seven days a week 11:00 am to 7:00 pm with busiest times 3:00-6:00 pm daily. The parking requirements are

calculated on a straight retail use without consideration of the number of employees. The parking requirement is 5/1000 square feet. This use requires 6 spaces.

- Seneca Auto Repair occupies approximately 900 square feet of an existing 2,200 square foot frame building. The auto repair business operates from 8:00 am to 5:00 pm weekdays. The repair business employs 2 technicians. The parking requirement is 5 spaces based on 3.3 /1000 square feet for patrons and 1 space per employee. A site visit on March 17, 2004 revealed that 13 cars were parked or stored within a chain link fence partially enclosing the rear of the property. The site plan delineates this area for truck parking.
- A miniature golf course formerly occupied a portion of the property but was dismantled in 2001.

A board fence 5 feet in height is constructed by the occupants of 19711 Waters Road entirely within their property. The school has planted Leyland cypress trees for screening on its side of the fence. The applicant has a few trees along the property boundary as noted on the hand-drawn site plan. The dumpster for waste generated on the property is improperly sited within the adjoining property at 19711 Waters Road.

A five-foot chain link fence runs the length of the adjoining southern property boundary.

Neighborhood Description- The neighborhood is defined by the four properties with frontage on Waters Road. Adjoining parcels are also zoned C-2 in accordance with the Germantown Master Plan, adopted and approved in 1989. To the north is the 34,400 square foot property of the Academy of the Child Montessori School at 19711 Water Road. The school has operated at this location since 1998. The electrical business run by Mr. Bobby German also occupies a portion of this site. The electrical business has been in place since 1986.

To the south is an air conditioning and heating company which has occupied a 31,000 square foot parcel at 19703 Water Road since December 2000. A fourth vacant parcel is located at the intersection of Waters Road and Wisteria Drive.

Uses adjoining the subject property include the rear of Sugarloaf Shopping Center to the east and the Churchill Executive Park commercial townhouses across Waters Road.

Elements of the Proposal--The proposed truck and trailer rental operates Monday through Saturday between 9:00 am and 4:00 pm. Sunday operations are 9:00 am-noon. The proposed automobile, truck and trailer rental would include up to 25 customers per day. One employee is present during operating hours.

The office portion of the rental business (which includes J & J Amusements) occupies approximately 400 square feet of the existing 3,300 square foot building shared with the Country Cone ice cream store. An additional 820 square feet is designated for storage. Parking for the office uses is 3 spaces based on 3/1000 square feet plus 1 per employee.

The parking area is partially covered with crushed stone. Parking spaces immediately adjacent to buildings are delineated by concrete curb stops and appear as numbered spaces on the Site Plan. Grading appears to be taking place to the rear of the property within 10 feet of the rear perimeter fence where truck parking occurs; this area does not contain delineated spaces. The applicant states that 16 trucks can park in this area.

In the past, U-Haul vehicles have been parked, with permission, on a concrete pad at the corner of Waters Road and Wisteria Drive within County right of way. Temporary signs advertising the U-Haul rental business and Hallal House market were displayed on the rental vehicles. The practice of truck parking appears to be discontinued; temporary "sandwich board" signs were observed in this location on March 17, 2004.

ANALYSIS

Master Plan--The proposal conforms with the General Plan and the 1989 *Germantown Master Plan*. The property is within the Town Center District . With the exception of a small 5-acre C-2 (General Commercial) zoned area, the Master Plan recommends floating zones that require a project plan such as Town Sector, R-MX (Residential Mixed Use), O-M (Office Building Moderate Intensity) or C-T (Commercial Transition). Figure 3 depicts the Master Plan recommendations for this area.

Waters Road, described in the Master Plan as Locbury Drive has a right of way of 80 feet with sidewalks on both sides. The pavement width is currently approximately 15 feet with a paved terminus in the shape of a bulb.

Development Standards- Figure 4 depicts the Zoning for this area of Germantown. Sections of the Montgomery County Zoning Ordinance relevant to this special exception are:

- Sec 59-C-4.35 General commercial
- Sec 59-E-2.2 Size and arrangement of parking spaces
- Sec 59-G-1.21 General conditions for Special Exceptions

- Sec 59-G-2.09 Automobile, light truck, and light trailer rental, outdoors

Section 59-C-4.35 contains the purpose and development standards for the C-2 (General Commercial) zone. The following table compares the development standards for the zone with the proposed special exception use.

	Development Standard	Proposed	Conformance
Purpose	..to provide locations for general commercial uses of various types of retail trades, businesses and services for a regional or local area	Yes	Yes
Building Height	3 stories (42 feet)	1 ½ stories	Yes
Floor area	FAR 1.5	FAR 0.125	Yes
Setbacks	Front: 10 feet Rear: According to adjoining zone No yard less than 3 feet	Front: 22 ft Rear: 85 ft Parking occurs within 3 feet of eastern property boundary	Does not conform with parking setbacks from the property line
Green area	10 percent of area of the lot	10 per cent	Yes
Nuisances	Any use which is found by the board to be a public nuisance, by reason of the emission of dust, fumes, gas, smoke, odor, noise, vibration or other disturbance is and shall be expressly prohibited in the C-2 zone.	No nuisance from the special exception use	Yes

Section 59-E-2.2 contains the size and arrangement of parking spaces, off-street.

	Development Standard	Proposed	Conformance
Arrangement and marking	All off-street parking areas shall be arranged and marked so as to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Individual parking spaces shall be clearly defined, and directional arrows and traffic signs shall be provided as	Wheel stops are provided for a small number of parking spaces; no marking or directional signage	No

	necessary for traffic control. Each space for small size motor vehicle parking must be clearly marked to indicate the intended use.	provided. Number of trucks and trailer parking not delineated	
Size of space	Standard perpendicular spaces shall have minimum dimensions of 8.5 x 18 feet	19 car-sized spaces provided. No truck-sized spaces defined or marked	No
Spaces for handicapped		1 space marked	Yes
Access and circulation	Each parking space shall have access to a street or alley open to use by the public via adequate interior aisles and entrance and exit driveways	Parking encroaches on drive aisles	No
Driveways	Driveways for one-way movements shall be 10 feet wide; entrance and exit driveways shall be separately provided wherever possible; combined two-way movement driveways shall be 20 feet in width.	Parking spaces encroach on drive aisles; de factor driveway exists within 20 feet of adjoining driveway	No
Drainage	All off-street parking shall be drained so as to prevent damage to abutting properties and public streets	Adequate drainage provided	Yes
Lighting	Adequate lighting shall be provided for surface parking facilities used at night	No information provided; facility does not operate at night	Yes
Landscaping	A landscape strip shall be provided adjacent to the street at least 10 feet in width	No landscape strip depicted on site plan	No
Perimeter	Landscaped areas shall be	Complete	No

landscaping	provided along the perimeter of the parking facility at least 4 feet in width	landscaping of the perimeter not shown on site plan	
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The parking tabulation for all uses on site appears in the following table:

TABLE 1

Occupant	Parking Required	Parking Shown on Plan*
<u>Existing:</u>		
Country Cone	19	19
Seneca Auto	5	1
Hallal House	6	0
Total	30	20
<u>Proposed:</u>		
J&J Rental		
- office	2	0
- auto/truck/trailer	25	0
Total	27	0
<u>Existing and Proposed:</u>		
Total	57	20

NOTE: Parking shown on the submitted site plan includes spaces that encroach on drive aisles. The submitted site plan does not depict the required landscaping that will reduce the area for parking. The submitted site plan does not show where rental trucks, trailers, and automobiles will be parked. The submitted plan does not show the location or dimensions of a fenced area to the rear of the property where repair vehicles are stored.

Compatibility, Landscaping and Lighting—The subject property is located in a commercially zoned portion of Germantown. One of the adjoining uses is a private school, institutional in character, though sited in a commercial zone. The proposed use has a responsibility for compatibility with a public or private school in conformance with section 59-G-2.09 (a)(2). The Administrator of the private school has written in opposition to the special exception application (see Community Concerns section of this staff report).

Some landscaping elements are shown on the site plan. Missing landscape elements include a 10-foot wide planted strip across the property frontage and complete perimeter landscaping to screen parking areas for rental automobiles, trucks, and trailers.

Transportation- Staff recommends deferral of the subject special exception application until the traffic impact of the proposed development under the subject special exception petition is adequately addressed to satisfy the transportation-related requirements of the APF test.

Based on the trip generation estimated by staff using appropriate trip generation rates for the proposed rental operation and the existing retail uses on the property, the site would generate more than total 50 peak-hour trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods. A traffic study is required to satisfy the Local Area Transportation Review test (see Attachment B).

On March 16, 2004, the applicant submitted a traffic statement indicating the property is projected to generate fewer than 50 peak hour trips. Staff had requested the information at a meeting on February 26, 2004 with a request return date of March 4, 2004. The traffic statement has not been submitted in a timely manner for staff to review and include the findings in the staff's recommendation. The site is located in the Germantown Town Center Policy Area where there is the job staging ceiling capacity available.

The access to the site is provided from Waters Road, which is connected to Wisteria Drive. Waters Road, master planned B-5 with 80' right-of-way, is constructed with approximately 15-foot wide pavement without any sidewalk. The site plan submitted for the subject special exception application shows two driveways, one for ingress and the other one for egress with parking spaces provided around two buildings. Staff has concerns that the northern driveway is located too close to the existing driveway of the adjoining property.

Staff also has concerns that the internal vehicular circulation system is not adequate and safe since there is conflict between the patron area for the commercial building "A" and the truck/trailer travel path. These issues related to access/internal vehicular circulation and the requirement of LATR review should be adequately addressed by the applicant.

Environment—There are no environmental issues for this proposed use (see Attachment C).

Community Concerns--Adjoining property owners on both sides of the subject property have registered opposition to the truck and trailer rental operation. These property owners were not aware of the applicant's amended Statement of Operation (see Attachment A) to include automobile rentals with a limitation of 25 customers per day.

The Academy of the Child Montessori School at 19711 Waters Road submitted a letter in 2002 concerning traffic and safety concerns and again in 2004 (Attachment D). The School has an enrollment of 70 children with a future

capacity for 120. Operating hours of the School are 7:30 am to 5:00 pm with parents dropping off and picking up children throughout the day. The School has established a paved queuing area on its property used during drop off/dismissal periods 8:30-8:45 am (approximately 20-25 cars), 11:45-12:00 (10-15 cars) and 2:45-3:00 (15-20 cars). The School Administrator cites traffic conflict with trucks that are parked on the western shoulder of Waters Road and with trailers that attempt to turn around in the cul-de-sac at the terminus of Waters Road. The School will be operating a summer camp beginning in 2004 and has concerns about vehicular conflict among the school parents, truck & trailer rentals, and the summer hours for the Country Cone.

Mr. Robert German has operated an electrical contracting company from 19711 Water Road since 1986. He and his brother are the only employees; the business does not receive deliveries nor do customers visit the property. Mr. German noted inaccuracies in the applicant's submitted materials, including absence of a raised curb along the perimeter of the property, the number and frequency of rental customers, and tractor-trailer deliveries to the property which impede vehicular movement on Waters Road. The wood fence separating his property from the applicant's property has been damaged by rental trucks maneuvering between the Country Cone building and the property line. The trash receptacle for all uses at 19705 Waters Road has been placed on a narrow section of Mr. German's property.

The owners of 19703 Waters Road have operated Don Hoffacker's Air Conditioning and Heating, Inc. from this site since December 2000. The Hoffacker's ownership of the property dates to 1992; during this time they observed the applicant's operation of multiple businesses, including truck and trailer rentals. Their statement (Attachment E) to the Hearing Examiner in September 2002 documents long-standing impacts to their business from the applicant's truck and trailer rentals.

Inherent and Non-inherent Adverse Effects

The inherent and non-inherent adverse effects of a special exception on nearby properties and the general neighborhood must be considered.

Section 59-G-1.2.1 of the Zoning Ordinance states:

Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in

conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

The first step in this analysis is defining the boundaries of the general neighborhood; in this case the short length of Waters Road from Wisteria Drive to the small turn around at the terminus of Waters Road. This length of Waters Road is distinct from the adjoining townhouse offices by the lack of an interconnected circulation system and a grassed buffer approximately 20 feet wide.

This enclave of Waters Road contains other commercial businesses such as a heating and air-conditioning contractor, a Montessori School and an electrical contractor, each independent to its own site.

The inherent adverse effects associated with an automobile, truck, and trailer rental business include: storage and maneuvering of a limited number of trucks and trailers; some hard-packed or impervious surface for parking; a management office with customers arriving and departing frequently; and sales and storage area for packing materials, and parking for rental clients.

The amount, location, and layout of the automobile, truck, and trailer rental operation on this site with three existing commercial uses is non-inherent of the use. The parking spaces, drive aisles, ingress and egress of the site for the special exception use is super-imposed over the area of the site occupied by the pre-existing by-right uses. Staff finds that the site plan submitted with this application does not adequately accommodate the special exception use on the site in a safe and efficient manner. The conflict of the special exception use and the existing by-right uses on this site has resulted in non-inherent adverse impacts to adjoining property owners and the businesses they operate.

Staff also finds that the non-inherent adverse effects of this special exception have not been mitigated and require denial of the special exception application.

General Conditions and Specific Standards- As noted in Attachments F and G, the special exception does not meet the General Conditions found in Section 59-G-1.21 (4) and (5) and the Specific Standards found in Section 59-G-2.09 (a)2, (a)3, (b)2, (b)3 and (b)5.

CONCLUSION

This special exception application results from a verbal notification issued by a Montgomery County Department of Permitting Services to correct a violation of parking trucks within the public right of way. While this specific truck parking practice appears to be discontinued, temporary "sandwich board" signs to advertise businesses on the special exception site have been placed in that

same location. Property owners adjoining the subject site have documented numerous instances where the operation of the truck and trailer rental business have adversely impacted their property and business.

The subject site contains three commercial businesses operating by right; the proposed special exception use on the property does not meet the development standards for parking, drive aisles and circulation on the site, perimeter landscaping in addition to the existing uses. The proposed use is not compatible with the adjoining private school.

Staff concludes that the addition of the special exception use to this site creates unsafe circulation within the site and will generate off-site impacts to adjoining properties. Staff recommends DENIAL.

Figure 1	Aerial Photograph of Neighborhood
Figure 2	Site Plan
Figure 3	Master Plan Recommendations
Figure 4	Zoning Map

Attachment A	Amended Statement of Operations
Attachment B	Transportation Memo
Attachment C	Environmental Staff Response
Attachment D	Letter from Montessori School
Attachment E	Letter from Mr. And Mrs. Hoffacker
Attachment F	General Conditions, sec 59-G-1.21
Attachment G	Specific Conditions, sec 59-G-2.09

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Chucoski
19705 Waters Road, Germantown
- J & J Rental
- Country Cone Cafe
- Halal House
- Seneca Auto Care

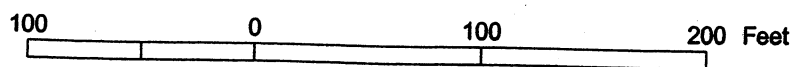
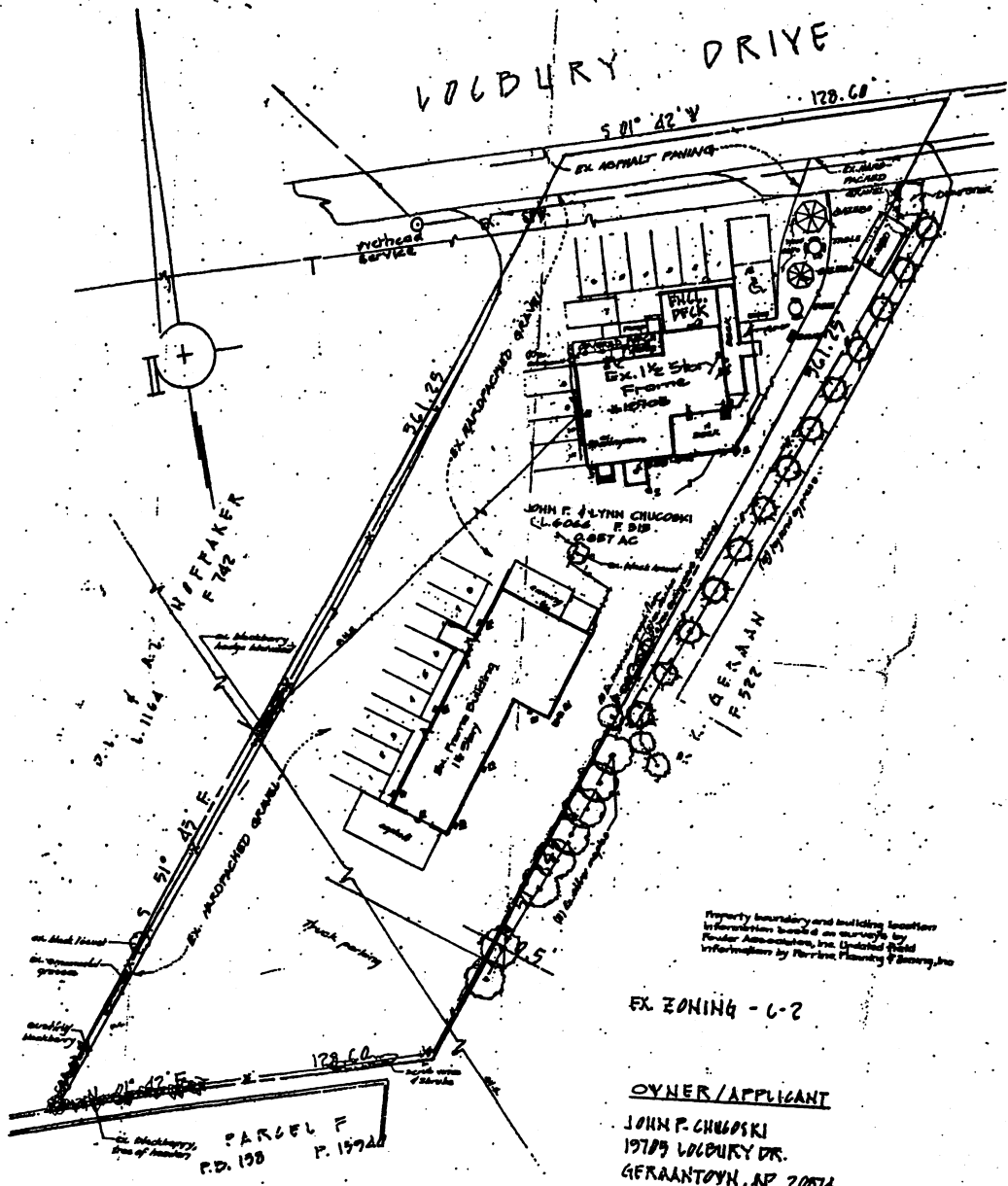


FIGURE 2



Property boundary and building location information based on surveys by Fowler Associates, Inc. Updated field information by Perrine Planning & Survey, Inc.

EX ZONING - C-2

OWNER/APPLICANT

JOHN P. CHUGOSKI
 19709 WOOLURY DR.
 GERRANTOWN, PA 20814
 301-428-1422

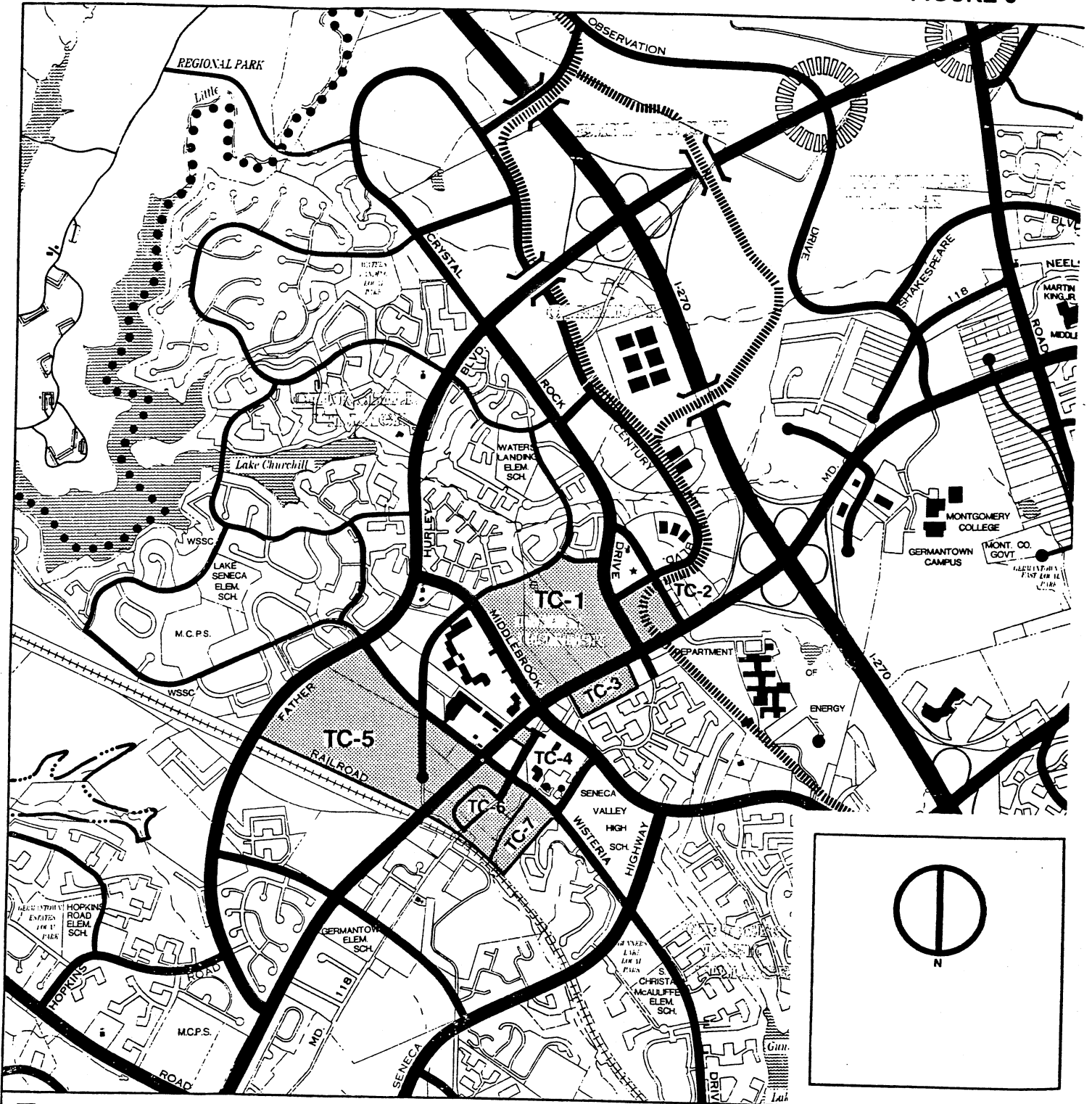
Note: Existence of property corner markers not guaranteed by this survey.

WATERS ROAD U-HAUL
 EXISTING DEVELOPMENT LANDSCAPE & LIGHTING PLAN

SEPTEMBER 04, 2008

EXHIBIT NO. 18 (C)
 REFERRAL NO. S2538
 51 OF 5

FIGURE 3



Town Center: Analysis Areas



Comprehensive Amendment
to the Master Plan for Germantown

Montgomery County, Maryland

The Maryland-National Capital Park and Planning Commission

ATTORNEYS

MARTIN J. HUTT

DIRECT 301.657.0170

MJHUTT@LERCHEARLY.COM

February 2, 2004

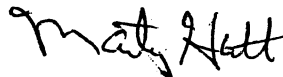
Francoise M. Carrier, Director
Office of Zoning and Administrative Hearings
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

Re: Amendment of Statement of Operations for Petition of
John P. and Lynn C. Chucoski for Special Exception
Case # S-2538

Dear Ms. Carrier:

The above referenced special exception is requesting approval for a special exception to permit the operation of an "automobile, truck and trailer rental" business on the subject property pursuant to the provisions of Section 59-G—2.09. The Petitioner's Statement in Support of the Special Exception and Statement of Operations seeks consent to allow up to twenty-five (25) customers on a daily basis. The Statement of Operations submitted with the special exception application on September 29, 2003, describes the proposed special exception in terms of the current rental operations of trucks and trailers. This letter shall serve to amend Petitioner's Statement In Support of Special Exception Application and Statement of Operations to expressly state that automobiles will also be available for rental , along with trucks and trailers, as part of the special exception's operations if approved. Including automobiles for rental does not change the character or scope of the special exception as described in Petitioner's submission of September 29, 2003 or necessitate any changes to any other of Petitioner's prior submissions.

Very truly yours,

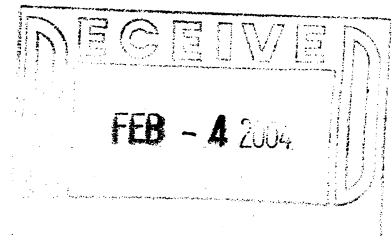


Martin J. Hutt

c.c.

Martin Klauber, Esq.
Sue Edwards, M-NCPPC
Philip Perrine
Craig Hedberg
Donald and Mary Hoffacker
Robert German

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March 17, 2004

MEMORANDUM:

TO: Sue Edwards, Team Leader
Community-Based Planning Division

VIA: Daniel K. Hardy, Supervisor
Transportation Planning

FROM: Ki H. Kim, Planner
Transportation Planning

SUBJECT: Special Exception Application No. S-2538
Vehicle and Truck/Trailer Rental at 19705 Waters Road
Germantown West Policy Area

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review of the subject special exception petition. The subject special exception is for operation of vehicle and truck/trailer rental business at the existing site located at 19705 Waters Road, Germantown.

Staff recommends deferral of the subject special exception application until the traffic impact of the proposed development under the subject special exception petition is adequately addressed to satisfy the transportation-related requirements of the APF test.

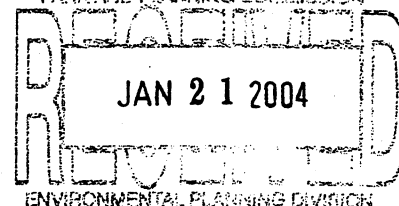
Based on the trip generation estimated by staff using appropriate trip generation rates for the proposed rental operation and the existing retail uses on the property, the site would generate more than total 50 peak-hour trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods. Therefore, a traffic study is required to satisfy the Local Area Transportation Review test. On March 16, 2004, the applicant has submitted a traffic statement indicating the property is projected to generate fewer than 50 peak hour trips. The traffic statement, however, has not been submitted in a timely manner for staff to review and include the findings in the staff's recommendation. Staff requested the information at a meeting on February 26, 2004 with a request return date of March 4, 2004. The site is located in the Germantown Town Center Policy Area where there is the job staging ceiling capacity available.

The access to the site is provided from Waters Road, which is connected to Wisteria Drive. Waters Road, master planned B-5 with 80' right-of-way, is constructed with approximately 15-foot wide pavement without any sidewalk. The site plan submitted for the subject special exception application shows two driveways, one for ingress and the other one for egress with parking spaces provided around two buildings. Staff has concerns that the northern driveway is located too closely to the existing driveway of the adjoining property. Staff has also concerns that the internal vehicular circulation system appears not adequate and safe since there is conflict between the patron area for the commercial building "A" and the truck/trailer travel path. These issues related to access/internal vehicular circulation and the requirement of LATR review should be adequately addressed by the applicant.

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.orgTHE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSIONMEMORANDUM

DATE: January 21, 2004

orig. 9/24/02

TO: John Carter, Community Based Planning Division
 Melissa Banach, Strategic Planning Division
 Tom Vanderpoel, Community Based Planning Division
 Mary Dolan, Environmental Planning Division
 Rick Hawthorne, Transportation Planning Division
 Tanya Schmieler, Park Planning and Development Division
 Gwen Wright, Historic Preservation Unit
 Taslima Alam, Development Review Division
 Sue Edwards, Community Based Planning Team 3

No. comments
 H. J. [unclear]
 EPD 3/16/04

FROM: Sue Edwards
 Community Based Planning Division

SUBJECT: Board of Appeals Petition No. S-2538 (violation)

Special Exception Request: To operate a truck and trailer rental business.

Location: 19705 Waters Road, Germantown

Zone: C-2

Please assign a person on your staff to review the case cited above. Written comments and recommendations are requested by **Monday, March 1, 2004** for the staff report on this case. Staff may sign case files out of the Development Review Division, briefly, for review.

In addition to any other observations, it would be helpful to have your input on the following:

Community Based Planning: 1) consistency with master plan, 2) whether the special exception will adversely affect the surrounding area, 3) any information or recommendation concerning relevant master planning studies or other government action now under way.

Environmental Planning: 1) environmental impact due to topographic or other factors which may cause problems, 2) conformance with tree preservation legislation of Chapter 22-A of the County Code.

Transportation Planning: traffic impact and adequacy of road network affected by request.

Park Planning & Development: impact on existing or proposed park areas.

Development Review: applicable subdivision requirements.



Attachment D

...Bringing forth the genius within

19711 Waters Road • Germantown, Maryland 20874 • Office: 301-601-0991 • Fax 301-421-9698

March 17, 2004

Francois Carrier
Werner Council Office Building
Room 200
100 Maryland Avenue
Rockville, Maryland 20850

Dear Ms. Carrier,

Please be aware that the Board of Directors, teaching staff and parents from our private school strongly oppose the approval of the petition for special exception submitted by John and Lynn Chucoski (case# S-2538), including his recent amendment to permit the addition of up to twenty-five rental automobiles. Several years ago I submitted documentation of our concerns along with a petition of signatures opposing Mr. Chucoski's request for special exception. We are obtaining signatures again this week to petition for denial of the Chucoski's request as it goes to hearing again on April 5, 2004.

Waters Road is a narrow, dead-end street with no turn-around space at the end. Green space and overgrowth separates Waters Road from the townhouse office park on one side of the street, while four commercial properties line the opposite side of the street. The road is not wide enough for two cars to pass each other when traveling in opposite directions. Our businesses back up to the rear of Sugarloaf Shopping Center. Mr. Chucoski's property is about mid-street and our school sits on one side of it just before the end of the street.

Waters Road already handles a two-way traffic flow which is particularly heavy during the hours of 7:30am to 9:00am, 11:30am - 12:00pm, 2:30pm - 3:15pm and 4:30pm - 5:30pm. These times correspond to the arrival and dismissal periods of our students and staff. The early morning and evening hours tend to overlap with the neighboring worker arrival times. We currently serve approximately 70 students ages 2 through 12 years and have plans to grow to approximately 120 students within the next three years. Our school is open year-round and follows a similar schedule during the summer months for a camp program. The students use the full outdoor property, including our driveway for physical education, outdoor beautification projects, and recreation.

During the past several years the activities of the truck rental business operating on Mr. Chucoski's property has, in fact, not been restricted to his own property. Rental trucks and large delivery trucks continue to have a difficult time turning around within the boundaries of the rental facility on Mr. Chucoski's property and often try to use our driveway (without permission) and the end of the street to get out of the tight space he has. With already four other businesses on his property (ice cream/restaurant service, amusement rentals, international market, and auto-body shop) it is nearly impossible for his current traffic to restrict their operations to his property.

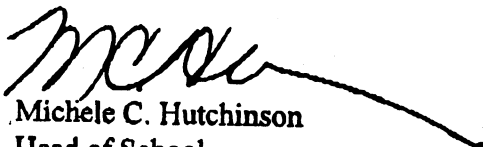
Instead, vehicles are often parked along the street and even turn around at the end of the street or on our grounds.

In addition, you should be aware that Mr. Chucoski does not care for his property nor have any respect for the fact that he shares the street with neighboring businesses. For example, his fence is collapsing in many areas and nails protrude from it onto our playground area. Additionally, he often has an overflowing dumpster in front of his facility, with food and debris protruding outside of the container for days at a time. Vehicles belonging to Mr. Chucoski's businesses, including his own truck, are often parked on the street in front of his property, across the street, at the end of the street, and on the easement at the start of the street. His attempts to compress too much activity and equipment into a modest space makes his property appear overcrowded and dilapidated.

We are concerned that if Mr. Chucoski's special exception is approved, the environment will become unsafe for the children who work and play next door. Inexperienced drivers operating unfamiliar vehicles which are often very large and difficult to control can be particularly dangerous to the children who play and move about freely on our property. Already damage has occurred to our mailboxes, trees, traffic cones and grassy corners of our lot because large delivery and rental trucks are not able to make the turnaround within our circular driveway once they get stuck at that end of the street. The imposing size of the vehicles and the volume of additional traffic which would be traveling on our street every day would be a nuisance to the patrons of our school and other neighboring businesses.

Our school's parents and staff strongly believe that Mr. Chucoski's current operation already poses a significant safety hazard, and approval of the proposed special exception would only increase the potential hazard posed by his non-permitted business. In light of the this and the fact that Mr. Chucoski already has more business than he is able to handle within the boundaries of his property as it regularly spills over onto ours, we would like you deny his petition for a special exception.

Very truly yours,

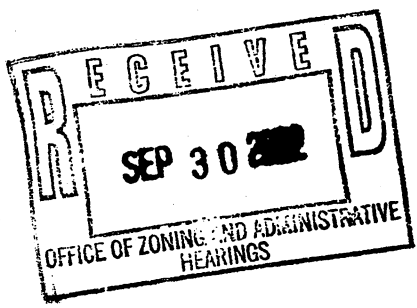

Michele C. Hutchinson
Head of School

cc: Derek Berlage, Chairman, Montgomery County Planning Board
Sue Edwards, Team Leader, Community Based Planning Division
Martin Klauber, People's Counsel, Montgomery County, MD

*Don Hoffacker's
Air Conditioning & Heating, Inc.*

19703 WATERS ROAD
GERMANTOWN, MARYLAND 20874
PHONE: 301-972-0017 FAX: 301-428-3565
MD HVAC # 02-2953

September 26, 2002



Office of Zoning & Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, #200
Rockville, MD 20850

Re: Case No. S-2538

To Whom It May Concern:

I am responding to the above referenced Case Number resulting from your notification, The Board of Appeals for Montgomery County.

A LITTLE HISTORY:

In 1992, my wife and I purchased the parcel of land, with a house, located to the right of Mr. John P. Chucoski's property, which is now occupied by our new facility. It was our plan to remodel the existing dwelling for the purpose of housing our residential air conditioning and heating business, established in 1977. The property and house were nothing short of being in total disarray. We began to clean up the house and grounds, as time would allow. Unfortunately, in the fall of 1994, the house was "torched", and burned almost to the ground. Following this event, the house remains and all the debris on the property were removed from the premises. Since the back portion of our property had become a dumping ground for the residents of Germantown (weekend drop-off spot for old hot water heaters, TV's, old carpet, roofing shingles, furniture, bikes, cabinets, etc., etc., as well as unwanted cats and dogs), we employed a firm to install a "high" fence at this location in an effort to end the activity. It was at this time that we met Mr. Chucoski who addressed us regarding his "interest" in cleaning up his parcel, which was almost as trashed and cluttered as was ours. The company who removed all our debris and house remains also provided the same service with Mr. Chucoski. The ONLY outshed on Mr. Chucoski's property at this time was a very small and "falling down" shed (the kind you see in the back yard of a homeowner). If my memory serves me correctly, it was not long after and this shed was also removed. Mr. Chucoski asked us if he could park vehicles on our parcel, which we had no problem with, since we were now required to meet the Maryland Park and Planning Commission for a long haul. He also held other actives on our property such as renting "moon bounce" tents to promote his Mini Golf and Soft Ice Cream. It is our understanding, and visible observation, that Mr. Chucoski obtained a building permit for an "add on", but he added on to nothing.

EXHIBIT NO. 13
CASE NO. S-2538

OUR STATEMENT:

Today, in this rear building is the Halal House, who receive full animal carcasses (gutted and skinned), which are for sale!

There is the U-Haul Business, which has been nothing less than a great nuisance for our firm. Customers seeking to rent their U-Haul Trucks come to our office first. They park in our parking spaces and walk next door. They park on our grass and walk next door. They park along the road and walk next door. If they happen to park in the "right" place on the other side of Waters Road, our trash company cannot get in or out of our driveway for pickup! They park on a "common area" next to Wisteria Road, along with a big white van with signs to advertise his business attached to it because, Mr. Chucoski personally had this area paved for his use. At one time, Mr. Chucoski had a rather "large sign" for his business, which was planted in concrete right at Wisteria and Waters Road. Not long after we moved into our new building, and shortly after we had seeded the front area and covered with straw to hold the seed in place, a U-Haul customer was returning a "pull behind" trailers. He drove into our parking lot and after being told he was in the wrong place, he tried to back up, unsuccessfully. Since he could not back up the trailer, he elected to drive across our newly seeded front lawn. It had just rained. He literally destroyed our front lawn driving and pulling the trailer across to get to the U-Haul "place" next door.

He currently provides (would we believe they are not rented spaces) parking spaces for four vans of a company know as The Problem Solver.

He has provided an apartment on the top floor of the original building in the past (inhabitants entering and leaving) and it is very likely one still exist!

Had a "church" here as well, since we received some of their mail, which we delivered. This was located in the upstairs of the original structure.

He has a Vending Machine Business. Each month a mile long tractor-trailer makes a visit. Come watch how he gets in and out of this area!

He has the Party Cone Ice Cream business.

When we were building our new building, there was a "We Make Signs" business.

When we were building our new building, there was a Business Machine Repair Business.

There was, and still may be, a Mini Golf Business.

He had plans to put in an Auto Repair Business, in the very rear of the back portion of the add-on building, which was really not added on to anything (auto lifts in building).

Attachment F

General conditions. (Section 59-G-1.21)

- (a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) Is a permissible special exception in the zone.

The proposed use of automobile, truck, and trailer rental, outdoors is a permitted use by special exception in the C-2 zone

- (2) Complies with the standards and requirements set forth for the use in Division 59-G-2. . .

The proposed use does not comply with the standards and requirements found in Sections 4 and 5.

- (3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the commission.

As stated previously, the proposal is consistent with the general and master plan.

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.

The proposed special exception does not involve any building changes or additions; however, the intensity and character of the proposed activity and the traffic and parking conditions generated by the proposed use is not in harmony with the general neighborhood.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The subject site contains three businesses existing by-right in the C-2 zone. The addition of the special exception operation to this site will generate impacts off-site that are detrimental to the use, peaceful enjoyment and economic value of surrounding properties.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed use will not create any adverse vibrations, fumes, odors, dust, illumination or glare. The physical activity generated by the special exception use creates adverse impacts to adjoining property owners.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

No other special exceptions are noted in the commercial portions of the neighborhood.

- (8) Will not adversely affect the health, safety, security, morals of general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed use will not adversely affect the general welfare of residents (there are none), visitors or workers in the general the neighborhood. The welfare of adjoining property owners and their businesses are adversely impacted by this proposed use.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities. . .

Staff notes that the proposal will not require any increase in public facilities or services.

Attachment G

Sec. 59-G-2.09. Automobile, truck and trailer rentals, outdoor.

(a) A lot for the storage and rental of only the following rental vehicles: automobiles, light trailers of such limited size and capacity so as to be capable of being safely towed by a passenger motor vehicle designed for carrying less than 10 passengers, and light and medium duty trucks may be allowed, upon a finding by the board that:

- (1) The use will not constitute a nuisance because of noise, fumes, or odors or physical activity in the location proposed.

The proposed automobile, truck, and trailer rental outdoors will not constitute a nuisance. The rental business does not generate noise, fumes, or odors. Rental vehicles will not be serviced or repaired on the subject site.

- (2) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly.

The use at this proposed location creates a traffic nuisance for adjoining property owners. The proposed rental business is located adjacent to the Academy of the Child private school which directs the queing of vehicles for drop off and dismissal within the school property. Adjoining property owners have experienced conflicts and property damage by turning and maneuvering movements by rental customers who are inexperienced in driving trucks or trailers. These conflicts have occurred due to the narrow width of Waters Drive and the terminus of this road in a cul-de-sac.

- (3) The use at the proposed location will not adversely affect nor retard the local development of the general neighborhood or of the commercial zone in which the lot is proposed considering service required, population, character, density and number of similar uses.

The subject site contains three businesses allowed by right in addition to the rental business. The adjoining properties are zoned for and occupied by commercial uses. There are no other similar or Special Exception uses in the

immediate vicinity. The proposed use, therefore, will not adversely affect or retard local development of the general neighborhood.

(b) In addition; the following requirements must be complied with:

- (1) Gasoline pumps and other service appliances shall not be permitted, nor shall any major repairs, spray paint operation or body or fender repair be permitted; except, that not more than one gasoline pump shall be permitted, but only for the fueling of rental vehicles.

All service, maintenance and repair of rental vehicles takes place off-site.

- (2) Vehicles shall be stored or parked only within a hard surfaced area constructed of material which will assure a surface resistant to erosion and adequately treated to prevent dust emission, surrounded by a raised curb. The curb shall be located so that no vehicle can be parked or stored within 15 feet of any street line, nor within 15 feet of any property line adjoining land in a residential zone, nor within 3 feet of any property line. In a C-2 zone, the entire lot shall be on or near grade with the most traveled abutting street or highway.

The property is partially covered by hard-packed gravel to reduce dust emission and surface erosion. Successive site visits have noted that grading continues to occur to the rear of the property. Vehicles have been observed parked within 3 feet of the property line to 19711 Water Drive. The wooden fence on that property line is erected entirely within the adjacent German property; therefore any parking adjacent to this fence is in conflict with the requirement that all parking be prevented within 3 feet of the property line.

- (3) There shall be at least 20 feet between access driveways on each street, and all driveways shall be perpendicular to the curb or street line.

The submitted site plan for this application shows a gravel area on the northern property line between a gazebo seating area and the existing shed and dumpster (the shed and dumpster are located on the adjoining property) where parked trucks have been photographed. The gravel area has served as a de-facto driveway for circulation purposes. The concrete driveway apron and asphalt paving for the adjoining school is less than 20 feet from the defacto truck parking area on the subject property. The subject application does not meet the driveway spacing required by this section.

- (4) When such use occupies a corner lot, no access driveway shall be located less than 20 feet from the intersection of the front and side street lines of the lot, as defined in section 59-A-2.1, and no such driveway shall exceed 30 feet in width. In areas where no master plan of highways has been adopted, the street line shall be considered to be at least 40 feet from the centerline of any abutting street or highway.

The subject property is not located on a corner lot.

- (5) Product displays, parked vehicles and other obstructions which would adversely affect visibility at intersections or to driveways are prohibited.

Information was not submitted on this specific condition.

Planning staff previously observed rental vehicles parked in the Waters Road public right of way with signs affixed advertising Hallal House and the rental business. This practice appears to have been discontinued, although the concrete pad where the trucks were parked still remains.

- (6) Lighting shall be low level and so arranged as not to reflect or cause glare into any residential zone.

Information was not submitted on this specific condition. The property is surrounded by commercially zoned property.

- (7) When such lot abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the lot shall be screened by a solid wall or a substantial, sightly, solid fence, not less than 5 feet in height, together with a 3-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. The failure of the owner and/or operator to maintain any required plantings so that they exist in a flourishing and healthy condition is grounds for revocation of the occupancy permit. Location, maintenance, vehicle sight distance provisions and the prohibition of advertising upon the screening shall be as provided for in the screening requirements contained in article 59-E. Screening shall not be required on street frontage.

Information was not submitted on this specific condition. The subject property does not abut a residential or institutional premise not recommended for reclassification to a commercial or industrial zone on an approved master plan.