STANDARD APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

RECEIVED DEC 7 2004 HARFORD COUNTY

Case No. 5463

Date Filed 11/30/04

Hearing Date

Receipt $700

Shaded Areas for Office Use Only

Type of Application

___ Administrative Decision/Interpretation

___ Special Exception

___ Use Variance

✓ Change/Extension of Non-Conforming Use

___ Minor Area Variance

___ Area Variance

___ Variance from Requirements of the Code

___ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code___

CASE 5463 **MAP** 65 **TYPE** Enlargement of Nonconforming Use & Substitution of Nonconforming Use

ELECTION DISTRICT 01 **LOCATION** 2106 Pulaski Hwy, Edgewood, MD

BY Pais Properties, LLC, 5308 Park Heights Ave., Baltimore, MD 21215

Appealed because an enlargement of a nonconforming use pursuant to Sec. 267-21 and the substitution of one nonconforming use for another pursuant to Sec. 267-20A (3) in the B3 district requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Pais Properties, LLC Phone Number call attorney

Address 5308 Park Heights Avenue, Baltimore MD 21215
Street Number Street City State Zip Code

Co-Applicant ___ Phone Number ___

Address ___
Street Number Street City State Zip Code

Contract Purchaser ___ Phone Number ___

Address ___
Street Number Street City State Zip Code

Attorney/Representative Kevin J. Mahoney, Esquire Phone Number 410-893-7500

Address 11 South Main Street Bel Air MD 21014-1776
Street Number Street City State Zip Code

Rev. 12/02

Land Description

Address and Location of Property 2106 Pulaski Highway, Edgewood, MD 21040;

Pulaski Highway near the intersection of Pulaski Highway and Emmorton Road in Edgewood Maryland

Subdivision _____ **Lot Number** _____

Acreage/Lot Size 0.276AC **Election District** 01 **Zoning** B3

Tax Map No. 65 **Grid No.** 2F **Parcel** 557 **Water/Sewer: Private** _____ **Public** X

List ALL structures on property and current use: 2,524 square foot commercial building

Estimated time required to present case: 1 hour

If this Appeal is in reference to a Building Permit, state number No

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ **No** X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ **No** X

Is this request within one (1) miles of any incorporated town limits? Yes _____ **No** X

Request

SEE ATTACHED

Justification

SEE ATTACHED

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

10 : 11/17/04
13 : 2546
206370

REQUEST:

1. Approval of the Board of Appeals pursuant to Section 267-20A.(3) to substitute one nonconforming use for another.

2. Approval of the Board of Appeals pursuant to Section 267-21 for the extension or enlargement of a nonconforming use.

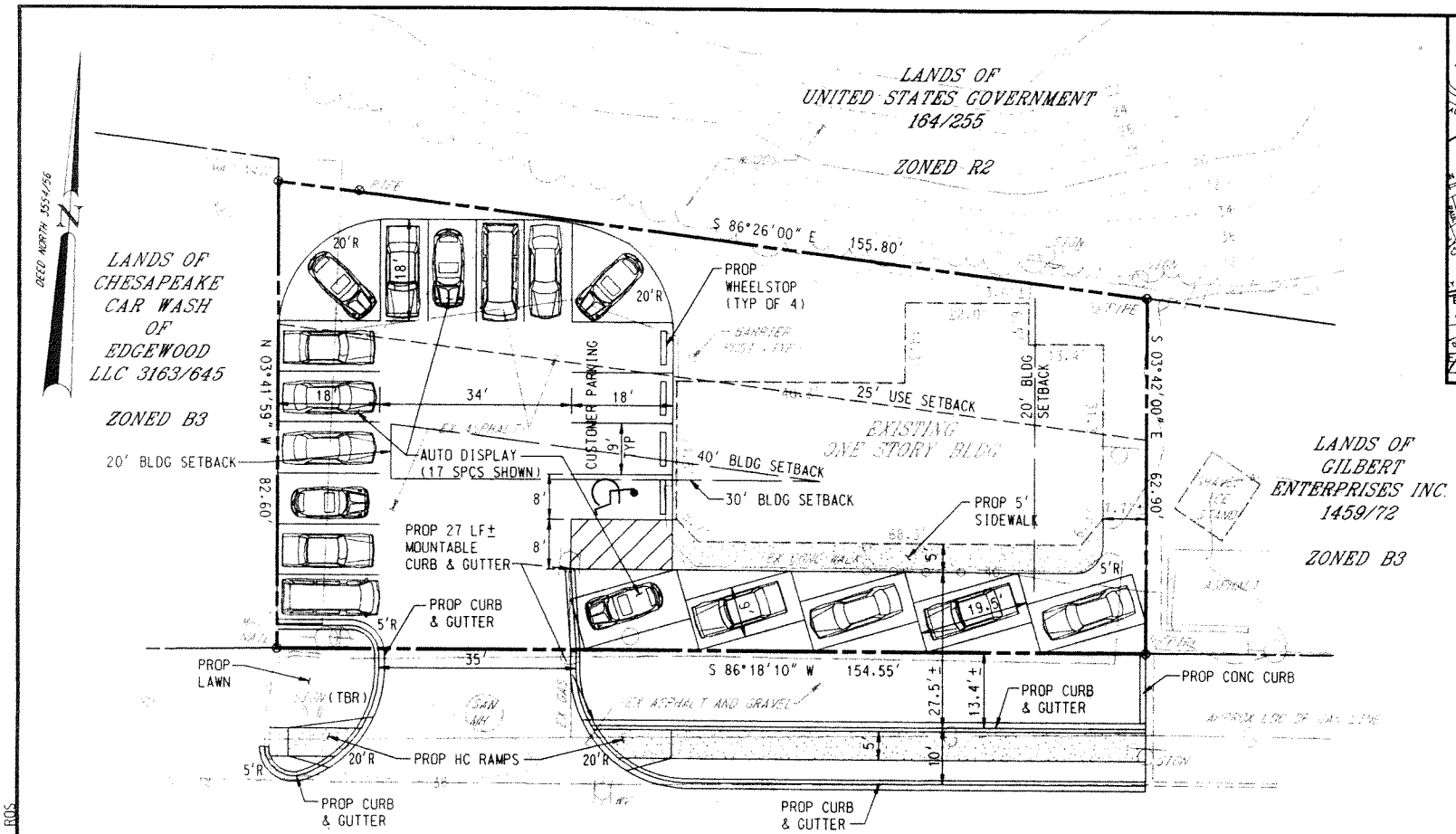
JUSTIFICATION:

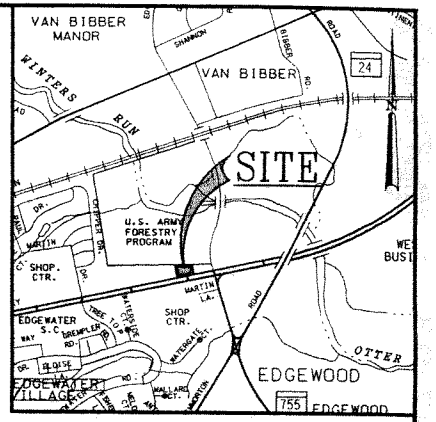
The subject property is a small, narrow strip of commercial property on U.S. Route 40. It is .276 acres in size. The property is improved by a 2,524 square foot commercial building and surrounding parking area. Most recently, the subject property was used as an adult book store which use has ceased operation. Since that time, the former owners of the property have attempted to market the property for various commercial uses without success.

Applicant recently purchased the property and desires to develop it as a used car facility. The existing building does not comply with any of the setback requirements of the current Harford County Zoning Code. Applicant has already commenced substantial cosmetic improvements to the building. Applicant further intends to improve the parking area and the only expansion or enlargement of the nonconforming use proposed is to extend the parking area to the rear boundary of the subject property.

The subject property is bordered on either side by similar commercial properties. To the rear, the property is bordered by a large area of R-2 zoned property which is owned by the U.S. Army. The only improvement on that property is a water treatment facility. The vast majority of the adjoining R-2 property is wetlands which is unlikely to ever be developed. As such, the requested relief would have no adverse impact on surrounding properties.

The proposed use satisfies all requirements of Section 267-20A.(3) and Section 267-21 as well as limitations, guides and standards up to Section 267-9I.





VICINITY MAP

1"=2000'

SITE DATA

TAX MAP 65, PARCEL 557

DEED REFERENCE CGH 3554/56

0.2581 ACRE (11,243 SQ FT±)

ZONED B3

EX BLDG = 2,556 SQ FT± = 22.7% COVERAGE OF SITE (35% ALLOWED)

SITE IMPERVIOUSNESS:
EX = 8501 SQ FT± = 75.6% OF SITE
PROP = 9279 SQ FT± = 82.5% OF SITE
(85% ALLOWED)

20' 0 20' 40' 60'

SCALE: 1"= 20'

ENGINEER'S SEAL	SCALE 1" = 20'	DATE 12/02/04
	DR. BY ROS	CH. BY DAR
	PLAT NO.	JOB NO. 2011188.01

FREDERICK WARD ASSOCIATES
www.frederickward.com
P.O. Box 727, 5 South Main Street
Bel Air, Maryland 21014-0727
410-879-2090
410-893-1243 fax
ARCHITECTS | ENGINEERS | PLANNERS | SURVEYORS

SITE PLAN
2106 PULASKI HIGHWAY

FIRST ELECTION DISTRICT
HARFORD COUNTY, MARYLAND

M:/PROJECTS/2041173/ENGR/PRP01.DGN - ROS

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION

J. STEVEN KAII-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

RECEIVED
JAN 18 2005
HARFORD COUNTY COUNC

December 27, 2004

STAFF REPORT

BOARD OF APPEALS CASE NO. 5463

APPLICANT/OWNER:	Pais Properties, LLC 5308 Park Heights Avenue, Baltimore, Maryland 21215
REPRESENTATIVE:	Kevin J. Mahoney, Esquire 11 South Main Street, Bel Air, Maryland 21014
LOCATION:	2106 Pulaski Highway - Edgewood Tax Map: 65 / Grid: 2F / Parcel: 557 Election District: First (1)
ACREAGE:	0.276 of an acre
ZONING:	B3/General Business District
DATE FILED:	November 30, 2004
HEARING DATE:	January 31, 2005

APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.

CODE REQUIREMENTS:

The Applicants are requesting an enlargement of a non-conforming use pursuant to Section 267-21 and the substitution of one non-conforming use for another pursuant to Section 267-20A (3) in the B3/Generanl Business District.

Section 267-21 of the Harford County Code reads:

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions. Provided that:

A. The proposed extension or enlargement does not change to a less-restricted and more intense use.

B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the non-conformity.

C. The enlargement or extension does not violate the height or coverage regulations for the district.

D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.

E. The limitations, guides and standards set forth in Section 267-9I, Limitations, guides and standards, are considered by the Board.

Section 267-20A(3) of the Harford County Code reads:

(3) When authorized by the Board, one non-conforming use may be substituted for another non-conforming use.

Section 267-9I of the Harford County Code entitled Limitation, Guides and Standards will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located along the north side of Pulaski Highway (U.S. Route 40), approximately 350-feet west of Edgewood Road (MD Route 755). A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located within the Development Envelope. The predominant land use designations in this area of the County include Low, Medium and High Intensities, and Industrial/Employment. There are also Neighborhood and Community Centers in the area. The Natural Features Map reflects the Chesapeake Bay Critical Area, Tidal wetlands, habitats of local significance, sensitive species project review area and stream systems. The site is located within the Chesapeake Bay Critical Area and is designated as an Intensely Developed Area (IDA). The subject property is designated as High Intensity, which is defined by the 2004 Master Plan as:

> **High Intensity** - Areas within the Development Envelope where residential development occurs at a density greater than 7.0 dwelling units per acre. Major retail commercial centers and highway-related businesses, such as automobile dealerships and home

improvement centers, are examples of some of the most intensive uses associated with this designation.

Intensely Developed Areas – Areas where residential, commercial, institutional, and/or industrial land uses predominate and where relatively little natural habitat occurs. This is where development will continue to be concentrated.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses in this area of the County are consistent with the 2004 Master Plan. The subject property is located along the north side of Pulaski Highway (Route 40) in the Commercial Revitalization District (CRD). The predominant land use along Route 40 is commercial. Commercial uses include shopping centers, individual retail, restaurants, service uses, auto dealerships and warehouses. Residential uses include single-family dwellings, garden apartments, townhouses, and a mobile home park. There are areas of tidal and non-tidal wetlands. Enclosed with the report is a copy of the aerial photograph (Attachment 6).

The subject property is a long and narrow parcel that is basically rectangular in shape. It has approximately 154± feet of frontage on Pulaski Highway (Route 40) with an average depth of 72± feet. The property is approximately 0.276 of an acre in size and is basically level. The property to the rear or north side of the subject property belongs to the Federal Government and is a large wooded parcel that contains a water treatment plant for Edgewood Arsenal, wetlands and flood plain. The land drops off significantly in elevation behind the subject property. The subject parcel is improved with a 2,524 square foot one story commercial building located to the right or east side of the property. The area immediately in front of the building and to the left side is paved for parking. Enclosed with the report are copies of the topography map, enlargement of the aerial photograph and site photographs (Attachments 7, 8, and 9).

Zoning:

The zoning classifications in the area are consistent with the intent of the 2004 Master Plan as well as the existing land uses. Commercial and industrial zoning includes B3/General Business Districts, CI/Commercial Industrial and GI/General Industrial Districts. Residential zoning includes R2, R3 and R4/Urban Residential Districts. The subject property is zoned B3/General Business District as shown on the enclosed copy of the zoning map (Attachment 10).

SUMMARY:

The Applicants are requesting an enlargement of a non-conforming use pursuant to Section 267-21 and the substitution of one non-conforming use for another pursuant to Section 267-20A (3) in the B3/Generanl Business District.

Section 267-20A(3):

The most recent use of the property was as an adult bookstore. The property has been vacant for over a year. The Applicants propose to use the site as a used car sales lot. This use is permitted within the B3/General Business District, however the building and parking area are non-conforming in relation to the required setbacks. The proposed use will have no greater impact on the adjacent properties then the previous uses on this property. The proposal is consistent with the County's efforts to redevelop the MD Rte. 40 corridor.

Section 267-21 - Enlargement or extension of non-conforming buildings, structures or uses:

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions. Provided that:

A. The proposed extension or enlargement does not change to a less-restricted and more intense use.

The applicants are requesting to expand the existing paved parking area further into the use setback and closer to the rear property line. The property to the west is improved with a car wash. The land adjoining to the north is owned by the Federal Government and is densely wooded with rolling to steep slopes and contains wetlands and flood plain. The encroachment for the parking area will not adversely impact this property.

B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the non-conformity.

The enlargement of the parking area does not exceed 50% of the existing nonconforming use.

C. The enlargement or extension does not violate the height or coverage regulations for the district.

The building is non-conforming to setbacks and will not be expanded by this request. The proposed enlargement is for the parking and display areas. Total impervious surfaces for the building and paving will not exceed the 85% impervious coverage requirement for the B3/General Business District. The applicants will be required to meet the critical area requirements for 10% pollutant loading reduction in the IDA Designation.

D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.

The proposal should have no adverse impact on adjacent properties. The property has frontage on US Route 40 and is only a few hundred feet from a signalized intersection. The entrance improvements will have to be approved by the State Highway Administration

E. The limitations, guides and standards set forth in Section 267-9I, Limitations, guides and standards, are considered by the Board.

These issues will be addressed in the following section of the report.

Section 267-9I:

(1) The number of persons living or working in the immediate area.

This area of the County contains a mix of Residential, Commercial and light Industrial uses. The proposed auto sales use is compatible with other uses in the area.

(2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable *future.*

The property fronts on US Route 40, which is a Principal Arterial –Urban Road. The property is located only a few hundred feet west of a signalized intersection. Ingress and Egress is limited to right in and right out movements. The site plan shows entrance improvements including curbing, sidewalk and a landscaped area to be constructed across the front of the site. The proposal will require site plan approval and permits.

(3) The orderly growth of the neighborhood and community and the fiscal impact on the county.

The subject property is located in the Route 40 Commercial Revitalization District (CRD). The proposed use and improvements to the property are compatible with the intent of the CRD regulations.

(4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

The proposed use is compatible with other uses in the immediate area and should have no impact on the surrounding community pursuant to the issues listed in this section.

(5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Edgewood, Abingdon and Joppa Volunteer Fire Companies will provide fire and emergency protection. The subject property is on public water and sewer facilities. A company of the Applicant's choice shall handle trash collection.

(6) The degree to which the development is consistent with generally accepted engineering and planning principles and practices.

The proposed use will be compatible with the uses in the surrounding neighborhood and is consistent with generally accepted planning principles and practices. The property is located in the Route 40 Commercial Revitalization District and the proposed improvements to the property are consistent with intent of these regulations.

(7) The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.

The proposal will not have an impact on any surrounding uses listed in this section.

(8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.

The proposal is consistent with the adopted 2004 Master Plan.

(9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.

The subject property is near an area designated as Sensitive Species Project Review Area. The property that adjoins the subject property on the north side is federally owned property that contains a water supply and filtration system for Edgewood Arsenal. The proposal should not adversely impact any environmentally sensitive areas.

(10) The preservation of cultural and historic landmarks.

Not applicable to the subject request.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. A detailed site plan shall be submitted to the Department of Planning and Zoning for review and approval thru the Development Advisory Committee.

2. The Applicants shall obtain all necessary permits and inspections for improvements to the existing building and the property.

Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review

Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf