

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

SPECIAL EXCEPTION

4859

DECISION

Application:	Tobacco Shop
Applicant:	301 Tobacco
Opposition:	Adrienne Thomas, et al.
Hearing Date:	July 20, 2022
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

NATURE OF PROCEEDINGS

(1) Special Exception 4859 is a request to operate a Tobacco Shop in an existing Shopping Center (Marlton Plaza) on approximately 5.93 acres of land in the C-G-O (Commercial General and Offices)/C-S-C (Commercial Shopping Center)/R-P-C (Planned Community) Zones, located in the southeast quadrant of the intersection of Crain Highway (US Route 301) and Fairhaven Avenue, also identified as 9540 Crain Highway, Upper Marlboro, Maryland. The gross floor area of the instant Application is 1,750 square feet.¹

(2) The Technical Staff recommended approval with a condition (Exhibit 18) and the Planning Board adopted the recommendation of the Technical Staff as its own. The Applicant has complied with the Technical Staff condition.

FINDINGS OF FACT

Subject Property

(1) The subject Property is a vacant retail space at the southern end of the Marlton Plaza Shopping Center, which occupies a 6-acre tract in the southeast quadrant of the intersection of Crain Highway (US Route 301) with Fairhaven Avenue.

Neighborhood/Surrounding Uses

(2) Existing uses in the Marlton Plaza Shopping Center include a freestanding McDonald's restaurant, a freestanding church, and in the line of shops, a Food Lion Grocery Store, a Fish and Chicken Restaurant, a Liquor Store, a Sandwich Restaurant, a Chinese Carryout Restaurant, a Dry

¹ The Application was filed prior to the effective date of the 2022 Zoning Ordinance and has been reviewed pursuant to the provisions of the 2018 Zoning Ordinance and the C-S-C/R-P-C Zones.

Cleaner, a Walgreen's Drug Store, Beauty Supply Store, a Nutrition Store, a Restaurant, a Pizza Delivery Restaurant, a Dance Studio, a Barber, and a Veterinary Clinic. The proposed Special Exception area is located towards the southern end of the Shopping Center, fronts on the main pedestrian aisle along the fronts of the stores and is specifically located between the Nutrition Store and the Red Zone Blitz Restaurant.

Across Fairhaven Avenue to the north is a Shell Gas Station and a Car Wash and abutting the Shopping Center to the south is the Lodge at Marlton Apartment for the Elderly.

Access to the Shopping Center is available from Fairhaven Avenue and from a pair of ramps from Crain Highway/(US Route 301), which is at a much higher grade than the Shopping Center; the ramps function as right-in, right-out entrance.

Most of the remaining land area of the defined neighborhood is occupied by single-family dwellings at varying densities, though the higher density core of the Marlton Community is located at the eastern end of Heathermore Boulevard, which contains multi-family dwellings, attached single-family dwellings, a school, and an undeveloped area of commercial (LCD (Legacy Comprehensive Design)/L-A-C (Local Activity Center)) zoning.

(3) The neighborhood of the subject Property was not defined by the Technical Staff in its Staff Report. Applicant's expert Land Planner described the neighborhood as being similar to (though slightly larger than) the "West Marlton" component of the Marlton R-P-C Plan, and more specifically having the following boundaries:

North –	Charles Branch;
East –	Pepco right-of-way.
South –	Duley Station Road;
West –	Crain Highway (US Route 301)

Master Plan and Sectional Map Amendment

(4) The site is located in Planning Area 82A. The applicable Master Plan is the Approved Subregion 6 Master Plan and Sectional Map Amendment, approved on July 24, 2013.

The Master Plan's Future Land Use Map designated the subject Property for a Commercial land use.

The Approved 2013 Sectional Map Amendment retained the subject Property in the previously-existing C-S-C Zone and substantively amended the conditions of the R-P-C Marlton Plan, though none of those amendments affected the use or development of the subject Property.

The 2022 Countywide Map Amendment reclassified the subject Property to the corresponding C-G-O Zone, and deleted the R-P-C component.

The Growth Policy Map in the May, 2014 General Plan placed the Property in the Established Communities category. The subject Property is too small to be seen on the printed Generalized Future Land Use Map, but is curiously indicated as being “Residential Low” on the PG Atlas GIS site.

The Property is not within a Priority Preservation Area.

Zoning History

(5) The subject Property is located on Tax Map 118 in Grid D-4 and contains a total of 5.93 acres of land. The subject Property was recorded by plat among the Prince George’s County Land Records, in Plat Book NLP 104 page 50, on March 9, 1978. The Tobacco Shop will be located in the Marlton Plaza Shopping Center in a 1,750-square-foot tenant space. No changes to the structure are proposed. On June 9, 1977, Detailed Site Plan DSP-83054, for Parcels A-1 along with adjoining Parcels A-2, A-3, and A-4, were approved for use as an Integrated Shopping Center.

Applicant’s Proposal

(6) The proposed use for SE-4859 is the establishment of a Tobacco Shop in an in-line store location within the existing Shopping Center at 9540 Crain Highway. No exterior alterations are proposed.

LAW APPLICABLE

(1) The Application was pending before the effective date of April 1, 2022, of the current Prince George’s County Zoning Ordinance and was accepted on March 13, 2022. Per Section 27-1703(a):

Any development Application, including a permit Application or an Application for zoning classification, that is filed and accepted prior to the effective date of this Ordinance may be reviewed and decided in accordance with the Zoning Ordinance and Subdivision Regulations in existence at the time of the acceptance of said Application. An Application for zoning classification decided after the effective date of this Ordinance must result in a zone set forth within this Ordinance.

Based on the above section, the subject Application is being reviewed according to the applicable zoning standards for the subject Property and is pursuant to the prior Zoning Ordinance.

(2) §27-107.01(a) 236.2 defines a Tobacco Shop:

A retail store where the primary "Use" is the retail sale of, for off-site consumption, tobacco products, tobacco smoking accessories, and related tobacco items.

(3) A Tobacco Shop is permitted in the C-S-C/R-P-C Zone by Special Exception in accordance with the requirements of § 27-415.01 and § 27-317 of the Zoning Ordinance.

(4) Sec. 27-317. - Required findings.

(a) A Special Exception may be approved if:

- Subtitle;
- (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).

(5) Section 27-415.01 states:

(a) Tobacco Shops, electronic cigarette shops, or a retail tobacco business may be permitted by Special Exception, subject to the following:

(1) The structure in which the use is proposed shall be located at least three hundred (300) feet from any school, library, park, recreational facility, and historic site, resource, or district identified on any applicable Historic Site and District Plan, a National Register Site, or an Historic District. This provision shall not apply to a Retail Tobacco Business within a Recreational or Entertainment Establishment of a Commercial Nature with Video Lottery Facility uses in accordance with Section 27-548.01.04 of this Subtitle.

(2) In its final decision to approve a Special Exception for the use, the Council may impose other reasonable requirements deemed necessary to safeguard the health, safety, morals, and general welfare of the community, taking into account the character of surrounding properties and the general neighborhood, and any other uses on the subject Property.

(3) No Special Exception shall be permitted for a Tobacco Shop, electronic cigarette shop, or a retail tobacco business located within 2,000 feet of another Tobacco Shop, electronic cigarette shop, or a retail tobacco business. In addition, the use shall be limited to specified daily hours of operation,

which shall be from 10:00 a.m. until 10:00 p.m. This provision shall not apply to a Retail Tobacco Business or Retail Tobacco Businesses within a Recreational or Entertainment Establishment of a Commercial Nature with Video Lottery Facility uses.

(4) Tobacco Shops, electronic cigarette shops or retail businesses shall not be accessory uses.

CONCLUSIONS OF LAW

(1) Section 27-317(a) requires that the Use and Site Plan be in harmony with the general Purposes of the Zoning Ordinance, §27-102, the general Purposes of the C-S-C Zone, §27-446(a) the specific Purposes of the C-S-C Zone, §27-454(a)(1), and the Purposes of the R-P-C Zone, §27-538(a)(1).

(2) The general Purposes of the Zoning Ordinance are listed in §27-102(a). The instant Application is in harmony with the general Purposes 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 proposed Tobacco Shop will be located in a currently vacant in-line location within the Marlton Plaza Shopping Center. The location will meet the intent of CB-92-2015, which sought to restrain the then-ongoing proliferation of vape shops and Tobacco Shops by introducing the various separation provisions codified within §27-415.01, which are discussed in detail below.

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

The relevant Plans which apply to the subject Property are the 2014 General Plan, the 2013 Approved Subregion 6 Plan and Sectional Map Amendment, the Marlton R-P-C Plan, and a number of Functional Master Plans, including the Green Infrastructure Plan, the County Master Plan of Transportation, the Public Safety Facilities Master Plan, The Historic Sites and Districts Plan, and the Water Resources Functional Master Plan.

General Plan

As noted above, the General Plan classified the subject Property in its Growth Policy Map² in the Established Communities category, and the Generalized Future Land Use Map³ designated it for Residential Low land use.

² M-NCP&PC, *Plan Prince George's 2035 – Approved General Plan* (May, 2014), p. 107.

³ *General Plan*, p. 101.

“Established Communities” are described by the General Plan as “the County’s heart – its established neighborhoods, municipalities and unincorporated areas outside designated centers,”⁴ and recommends that, “Established communities are most appropriate for context-sensitive infill and low- to medium-density development....”⁵

“Residential Low” land use is described by the General Plan as, “residential areas up to 3.5 dwelling units per acre. Primarily single-family detached dwellings.”⁶ It is noted, however, that the Generalized Future Land Use Map is generally intended to replicate the recommendations of the Master Plan or Sector Plan in force at the time of the approval of the General Plan, though in this case it apparently did not: The Subregion 6 Master Plan, in force prior to the adoption of the General Plan, recommended “Commercial” land use instead of the “Residential Low” designation on the PGAtlas GIS site. And, the note under the Generalized Future Land Use Map directs the reader that, “by definition, this map should be interpreted broadly and is intended to provide a countywide perspective of future land use patterns. To identify the future land use designation for a specific Property, please refer to the Property’s relevant approved sector or master plan.”⁷

Given its proposed location in the line of stores in an existing Shopping Center, the approval of the subject Application would constitute context-sensitive infill.

Master Plan and Marlton R-P-C Plan

As noted above, the applicable Master Plan is the *Approved Subregion 6 Master Plan and Sectional Map Amendment*, approved on July 24, 2013. The loose-inserted Future Land Use Map, recommends the Marlton Plaza Shopping Center for commercial land use, which the proposed Tobacco Shop will conform to.⁸

The existing Shopping Center is noted in the Plan text as being one of the commercial Shopping Centers within the Subregions which is located at a “strategic location,”⁹ but did not alter any of the previous Plans’ guidance for the immediate area of the center. The Plan does contain an extended section discussing the Marlton Community and amending the official Marlton R-P-C Plan, but none of the discussion nor any of the amendments address or affect the area of the Marlton Plaza Center, which is fully developed in accordance with the original Plan’s vision.

Because the proposed Application is consistent with the Master Plan’s land use recommendation and the Marlton R-P-C Plan’s vision, the approval of the subject Tobacco Shop would be in harmony with the recommendations of the Master Plan and the Marlton R-P-C Plan.

⁴ *Ibid.*, p. 106.

⁵ *Ibid.*, p. 20.

⁶ *Ibid.*, p. 100.

⁷ *Ibid.*, p. 101.

⁸ M-NCP&PC, *Approved Subregion 6 Master Plan and Sectional Map Amendment* (July, 2013), loose insert.

⁹ *Master Plan*, p. 56.

Other Applicable Functional Master Plans

The Special Exception area is not mapped as containing any Regulated Areas of the County's Green Infrastructure Network; as such, the subject Application conforms to the Green Infrastructure Plan.

With regard to the Historic Sites and Districts Plan, no historic sites or resources are located within the immediate vicinity of the subject Property; as such, the approval of the subject Application will have no adverse impact on this Functional Master Plan.

The Water Resources Functional Master Plan addresses broad regulatory policy and large-scale watershed planning, and as such makes no recommendations which are directly applicable to the subject Application.

No proposed sites for Public Safety facilities are in the area affected by the subject Application.

The Countywide Master Plan of Transportation does not contain any facilities which will be affected by the proposed occupancy of the Tobacco Shop in an existing space within the existing Shopping Center.

In conclusion, because the proposed Tobacco Shop is not in conflict with the General Plan, the Sector Plan or the applicable Functional Master Plans, approval of the subject Application will be in harmony with the Ordinance's purpose of implementing those Plans.

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

Because this Application proposes the new occupancy within part of an existing Shopping Center on a developed site, it will not create any adverse effect on the adequacy of public facilities.

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

While not a part of new growth or development by virtue of the subject Application only being for the new occupancy of a space within an existing Shopping Center, approval of the subject Application would abet the orderly growth and development of the County by its conformance with the Master Plan's land use recommendation, and thus the subject Application is in harmony with this Purpose of the Ordinance.

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

The subject Tobacco Shop will be in harmony with this Purpose as its occupancy will be part of an existing Shopping Center which was developed in conformance with the various regulations in the Zoning Ordinance to ensure the provision of adequate light, air and privacy for the occupants of the subject Property and for its neighbors. These principles include the provision of sufficient setback distances, and conformance with height limitations in order to allow for access to light and air, as well as the provision of a buffer between the existing center and the residential uses behind it, in accordance with the provisions of the Marlton Development Plan.

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

The subject Tobacco Shop would be in harmony with this Purpose as its occupancy will be part of an existing Shopping Center which was developed in accordance with the various principles that have been codified in the Zoning Ordinance to promote the beneficial relationships between land and buildings, including conformance with the Tables of Permitted Uses for the various zones as laid out in the Ordinance.

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

The subject Tobacco Shop would be in harmony with this Purpose as its occupancy will be part of an existing Shopping Center which was developed in conformance with regulations established in the body of the Zoning Ordinance, as well as other County Ordinances, which are intended to protect from fire, flood, panic and other dangers, namely: the Floodplain Regulations, the Fire Prevention Code, the Building Code, and the Tables of Permitted Uses for the various Zones.

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

Because the subject use is commercial in nature, this Purpose is not directly applicable to this Application.

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

The occupancy of the vacant space in the existing Shopping Center as a Tobacco Shop would be in harmony with this Purpose because it would augment the tax base of the County directly and through the employment provided to its workers.

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

The approval of the subject Tobacco Shop would be in harmony with this Purpose because its occupancy will be part of an existing Shopping Center which was developed in accordance with various principles that have been codified in the Ordinance to ensure the prevention of overcrowding, including the provisions of the Table of Uses that provides for the compatibility of uses, height limits, and setbacks.

(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 approval of the Tobacco Shop would be in harmony with this Purpose because it will not generate new traffic beyond that generated by any other permissible use which could occupy the subject Property, will not generate parking requirements beyond those generated by any other permissible use, nor create new entrances to the existing Shopping Center.

Also, the proposed Tobacco Shop occupancy will be carried out in accordance with the regulations established in the body of the Zoning Ordinance (and other County ordinances) which are intended to lessen the danger and congestion of traffic on roads, such as the requirements for the provision of adequate off-street parking.

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

As the Zoning Ordinance is the principal tool for the implementation of the planning process by enacting legal requirements which implement the planning goals that strive to maintain the social and economic stability of the County, conformance with the requirements and regulations of the Zoning Ordinance will be prima facie evidence of the Application's harmony with this Purpose.

Beyond that, however, the subject Tobacco Shop would promote the economic and social stability of the County by contributing to the tax base, and by conforming to the separation limits provided for by CB-92-2015 and codified in §27-415.01 to prevent the proliferation of Tobacco Shops and vape shops.

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

The proposed Tobacco Shop will simply be a new occupancy in an existing Shopping Center. The approval of the subject Application will have no impact to the natural features in the County: It will not generate noise pollution, and the use will be in compliance with the County's Woodland Conservation policies by virtue of its exemption from a requirement for a Tree Conservation Plan. No steep slopes or scenic vistas will be affected. By conformance to these principles and regulations, the approval of this Application would be in harmony with this Purpose.

The final two Purposes,

- (14) *To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and*
- (15) *To protect and conserve the agricultural industry and natural resources.*

are not directly applicable to the approval of this Tobacco Shop. §27-102(a), §27-317(a)(1)

(3) The instant Application is also in harmony with the specific Purposes of the C-S-C Zone, §27-446(a), as follows:

- (1) *To implement the general purposes of this Subtitle;*

As noted by the foregoing discussion, the subject proposal will implement the general Purposes of the Zoning Ordinance.

- (2) *To provide sufficient space and a choice of appropriate locations for a variety of commercial uses to supply the needs of the residents and businesses of the County for commercial goods and services;*

The approval of this facility at this location will allow the proposed Tobacco Shop to occupy a useful and convenient site for its service, without unduly contributing to a proliferation of such uses.

- (3) *To encourage retail development to locate in concentrated groups of compatible commercial uses which have similar trading areas and frequency of use;*

Because the proposed Tobacco Shop is a retail business which will be located in a retail Shopping Center, the approval of the subject Application will be in harmony with this purpose of Commercial Zones.

- (4) *To protect adjacent Property against fire, noise, glare, noxious matter, and other objectionable influences;*

The approval of the subject Tobacco Shop will be a new occupancy in an existing building, and will not produce fire, noise, glare or noxious matter as a part of its operation.

- (5) *To improve traffic efficiency by maintaining the design capacities of streets, and to lessen the congestion on streets, particularly in residential areas;*

The approval of the subject Application will not affect traffic efficiency because it is only a new occupancy of an existing space in an existing Shopping Center, and will not generate traffic or parking at different rates than other comparable retail uses.

(6) To promote the efficient and desirable use of land, in accordance with the purposes of the General Plan, Area Master Plans and this Subtitle;

Because the subject Tobacco Shop meets the intent for the commercial land use provided for in the Master Plan, it will fulfill this Purpose for Commercial Zones.

(7) To increase the stability of commercial areas;

The occupancy of the existing vacant space will promote the stability of the remainder of the Shopping Center.

(8) To protect the character of desirable development in each area;

Because the subject Tobacco Shop will meet the separation requirements of §27-415.01, it will not unduly contribute to a proliferation of such uses, and thus the approval of this Application will fulfill this purpose.

The final two purposes,

(9) To conserve the aggregate value of land and improvements in the County; and

(10) To enhance the economic base of the County.

are fulfilled by allowing for the occupancy of an existing developed site that will enhance the tax base and provide additional employment for residents of the County. §27-446(a), §27-317(a)(1)

(4) In addition to the Purposes for Commercial Zones generally, there are also four Purposes for the C-S-C (Commercial Shopping Center) Zone specifically, which are laid out in Section 27-454(a)(1), as follows:

(A) To provide locations for predominantly retail commercial shopping facilities;

As the subject Application proposes the retail occupancy of a retail center, its approval will be in harmony with this purpose.

(B) To provide locations for compatible institutional, recreational, and service uses;

As described above, the subject use is a retail use in an existing retail center, and will not impair the occupancy of the other institutional, recreational and service uses in the neighborhood.

(C) To exclude uses incompatible with general retail Shopping Centers and institutions; and

Because this proposed use is a retail use in a retail Shopping Center, it fulfills this Purpose.

(D) For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.

This Purpose is not applicable to the subject Application. §27-454(a)(1), §27-317(a)(1)

(5) Finally, there are two Purposes for the R-P-C (Planned Community) Zone, which are laid out in Section 27-538(a)(1), as follows:

(a) Purposes.

(1) The purposes of the R-P-C Zone are:

(A) To provide for large-scale, planned, and complete community development; and

The subject Application is located in the Marlton Plaza Shopping Center, which is in one of the three original planned locations for commercial activity in the Marlton community. One of the other two, in East Marlton, has since been replanned for attached single-family development, and the other (the LCD/L-A-C tract at the center of the Marlton core at the east end of Heathermore Boulevard) has been reduced in its planned scope and from the original Plan and has not yet been developed. The existing Marlton Plaza Center however, fulfills the realized portion of the commercial intent of the large-scale, planned Marlton community development.

(B) To provide a procedure for addressing the future development and use of land in existing R-P-C Zones.

The Detailed Site Plan review process for the Marlton Plaza Shopping Center, which is stipulated by the R-P-C regulations was carried out by DSP 83054 and its subsequent revisions. The subject use is in keeping with the approved Detailed Site Plan, and thus is in harmony with this Purpose of the R-P-C Zone. §27-538(a)(1), §27-317(a)

(6) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle no variances or waivers are requested. §27-317(a)(2)

(7) As discussed above, the subject Application is in harmony with the Purposes of the Zoning Ordinance generally to implement the General and Master Plans and to provide for the efficient and desirable use of land in accordance with those Plans. Accordingly, the approval of the subject Application will not impair the integrity of neither the approved Sector Plan nor the County's General Plan. §27-317(a)(2)(3)

(8) The conformance of the subject Application with the principles laid out in the purposes of the Zoning Ordinance, its compliance with the provisions of the Zoning Ordinance, represent a high level of protection against adverse effects to the public health, safety and welfare. Beyond those basic principles, however, the important fact is that the subject Application meets the separation requirements of §27-415.01 (discussed below), and as such will not unduly contribute to a proliferation of tobacco-related uses in the area, thereby protecting the public health. §27-317(a)(4)

(9) The retail commercial character of the proposed use will be wholly harmonious with the other surrounding retail uses in the center, and will thus not be detrimental to the use or development of adjacent properties or the general neighborhood. §27-317(a)(5)

(10) The subject Property is exempt from the requirement for approval of a Tree Conservation Plan. §27-317(a)(6)

(11) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible. No regulated environmental features exist on the subject Property. §27-317(a)(7)

(12) Because the site is not located within the Chesapeake Bay Critical Area, the provisions of §27-317(b) are not applicable to the subject Application.

Tobacco Shop

(13) The nearest school is Rosaryville Elementary School, which is approximately 3,300 feet distant.

Per PG Atlas, the nearest library is the James Hall Research Center (though that is not identified as a library by the Subregion 5 Master Plan), which is approximately 5 miles distant. The Upper Marlboro Branch Library is cited by the Applicant in its Statement of Justification as being the nearest, at over 5 miles distance. Both amply meet the separation requirement.

The nearest park is the Hollaway Estates Park, which surrounds the Rosaryville Elementary School, and is 2,800 feet distant.

Finally, the nearest Historic Site or District of any type is the Holy Rosary Church and Cemetery (County site #82A-015); the limit of its Environmental Setting is located approximately 1,200' from the Special Exception Area.

The subject Property is not within a Recreational or Entertainment Establishment of a Commercial Nature with Video Lottery Facility uses (i.e. the MGM Casino) in accordance with Section 27-548.01.04 of this Subtitle. §27-415.01(a)(1)

(14) The Tobacco N Vape operation in the Marlboro Crossroads Shopping Center at the interchange of Crain Highway (US Route 301) MD 4 is cited by the Applicant in its Statement of Justification as being the nearest, at over 5 miles distance. §27-415.01(a)(3)

(15) The subject Application is for a principal use. §27-415.01(a)(4)

Parking Regulations

(16) In accordance with the Parking and Loading Regulations contained in Section 27-568(a)(5)(c) of the prior Zoning Ordinance, the parking requirement for this Special Exception use is the retail standard of one space per 250 square feet of gross leasable area that applies to the integrated Shopping Center as a whole. The number of parking spaces required for the entire site is a total of 321 spaces, and 325 spaces are currently provided. There is a parking excess total of four spaces for the entire Shopping Center. The required parking is provided for the proposed use.

2010 Prince George's County Landscape Manual Requirements

(17) The Special Exception qualifies for an exemption from the 2010 Prince George's County Landscape Manual pursuant to Section 1.1(d), as no site changes are proposed with this Application.

Tree Canopy Coverage

(18) Due to the limited scope of this Special Exception, and that there will be no site disturbance, the proposed Plan is exempt and not subject to Tree Canopy Coverage requirements.

(19) Parcel A-1 is exempt from the Woodland and Wildlife Habitat Conservation Ordinance, due to the site containing less than 10,000 square feet of woodland. The proposed work will be interior only for the change of use. Since the change of use does not involve a grading permit, a standard Letter of Exemption is also not required.

Signage

(20) A sign package was not submitted with this Application. There will be renovations limited to the interior space. Therefore, this Application does not require review of the Sign Regulations.

DISPOSITION

Special Exception 4859, is APPROVED.

The Approved Site and Landscape Plan is Exhibit 21.