



# st. barnabas-beech road industrial study and action plan

The Maryland-National Capital Park and Planning Commission

Prince George's County Planning Department

[www.pgplanning.org](http://www.pgplanning.org)



June 2010



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# I. executive summary





Located just inside the Capital Beltway and south of Branch Avenue (MD 5), the St. Barnabas-Beech Road study area encompasses a strip commercial corridor and a small industrial center flanked by mid-to-late twentieth century residential and commercial development. As with many of the county's post-World War II commercial areas, new investment has moved away from St. Barnabas Road to farther-out suburbs, leaving behind obsolete commercial buildings, older infrastructure, and a corridor designed primarily for automobiles. The Beech Road industrial area has fared somewhat better since its development in the 1950s, but the proximity of residential development and the southern barrier of Henson Creek and the Capital Beltway has limited the expansion of industrial uses. Many of the industrial area properties also contain older structures, and its public infrastructure shows signs of deterioration. Additionally, development standards of previous decades have created an area with minimal landscaping and screening of operations areas.

Although many of the aesthetic issues associated with St. Barnabas Road and the Beech Road industrial area pertain to declining markets and inadequate development standards in the past, enforcement of existing standards is a major problem. Area code enforcement issues have been identified repeatedly in sector plans across the past three decades, and it is clear that lack of regular, systematic inspections in this commercial and industrial area has permitted a culture of noncompliance to flourish. Budget constraints have diminished inspection activity, and limited enforcement has resulted in a range of widespread violations, including:

- > Businesses operating without valid Use and Occupancy (U&O) permits.
- > A proliferation of illegal signs.
- > Poor screening of parking lots and industrial operations.
- > Vehicles obstructing public rights-of-way.
- > Illegal dumping along major streets.
- > Trash on properties.
- > Eroded and damaged parking lots.
- > Environmental hazards.

Although St. Barnabas Road and Beech Road serve as the focal points of this study, many findings can be generalized to other commercial and industrial areas of the county that share similar development histories. The study recommendations highlighted below address not only the appearance and operations of study area businesses but consider the Prince George's County Department of Environmental Resources' (DER) existing staffing and budget limitations and the need to develop creative solutions and new approaches to enforcement in the face of these limitations. Many of the recommendations should be immediately implementable, and some of the strategies anticipated by the study already have begun, including contracting with a third-party consultant for targeted inspection services, proposals for new legislation, production of public information material, and the creation of a multi-faceted revitalization program.

## Process

Study recommendations resulted from a multi-year process that included:

- > Staff inventory of existing conditions and issues.

- > Meetings with community groups and area stakeholders.
- > Extensive consultation and coordination between The Maryland-National Capital Park and Planning Commission (M-NCPPC) and DER.
- > Study area property inspections performed by a private third-party consultant.
- > Regular discussions with the District 8 Council Member’s office.

Additional details about the study process and outcomes of each of the above items can be found in Chapter IV.

## Major Findings

During the course of the project, two major issues emerged: (1) the need for improved code enforcement; and (2) the need for public education about the county’s zoning and property maintenance standards for commercial and industrial properties. To address the first issue, M-NCPPC and DER retained a consultant to perform a concentrated inspections “sweep” of the study area.<sup>1</sup> The consultant’s major findings included:

- > Over half of study area businesses are operating without valid U&O permits.
- > Illegal signs were pervasive throughout the study area, with the highest concentration along St. Barnabas Road and the western end of Beech Road.
- > Failure to follow site plans and failure to install appropriate landscaping was common, especially on commercial properties along St. Barnabas Road.
- > Fencing and screening violations occur throughout the study area.
- > Property maintenance issues were widespread and accounted for almost one-third of study area violations.
- > Some environmental issues exist in the study area, including mishandling of oil and grease, leaking fuel tanks, and improper disposal of scrap tires.
- > Properties with vehicle-related uses have high numbers of violations.
- > Commercial properties along St. Barnabas Road have more violations than properties in the Beech Road industrial area.

The consultant also observed in the field that many business owners appeared to have limited knowledge of the county’s requirement to obtain a U&O and several other zoning and property maintenance requirements. The lack of printed or online material about the county’s requirements for commercial and industrial properties also made it difficult for business owners to access easily-understandable materials that would help them understand basic appearance and operational standards.

The M-NCPPC, DER, and the consultant team discussed all of the major findings and worked to develop strategies to address these issues. These discussions, however, revealed another signifi-

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<sup>1</sup>As contract employees, the third-party inspectors did not have authority in the field to issue Notices of Violation and citations. Instead, the consultant’s inspectors noted all potential violations and reported these suspected violations to DER. DER inspectors then performed follow-up verification inspections in which Notices of Violation officially were issued.

cant issue: DER’s limited resources, which has prevented the agency from conducting regular, proactive inspections of commercial and industrial properties.

Additional information about study area issues and a detailed analysis of the consultant team’s findings can be found in Chapter V and Appendix A.

## Key Recommendations

Working together, M-NCPPC, DER, and the third-party consultant devised a set of recommendations to address the aesthetic, operational, environmental, and land use/zoning issues that exist in the study area. Recommendations also include consideration of administrative, program, and information management issues relating to DER’s current inspections operations.

Study recommendations generally fall into four categories:

- > New regulations to control the appearance and operation of businesses in the study area.
- > Outreach to business owners and public education efforts.
- > Programmatic and administrative changes at DER that encourage a new approach to utilizing existing resources.
- > Programmatic and administrative changes at DER that may require additional resources.

Prioritized study recommendations are summarized in Table 1 below. Detailed explanations of all recommendations and proposed strategies can be found in Chapters VI and VII.

Table 1. Study Recommendations	
High Priority	
>	Revive DER’s regular commercial-industrial inspections program and conduct systematic field inspections for building code, zoning code, and property maintenance violations.
>	Prioritize U&O permit enforcement in commercial and industrial areas.
>	Amend the Prince George’s County Code to give DER the authority to issue a cease and desist order to a business operating without a valid U&O.
>	Improve enforcement of the county’s sign regulations.
>	Conduct routine inspections of any businesses for which hazardous materials violations have been noted.
>	Prepare and implement new regulations to address aesthetic and operational issues associated with vehicle-related businesses.
>	Prepare and disseminate clear and concise U&O permit information materials that clarify landlord and tenant responsibilities.
>	Study code enforcement programs and procedures in other jurisdictions to identify best practices and potential organizational improvements.
>	Update the county’s sign regulations to limit the amount of window area that may be covered by signs.

> Develop a revitalization program for the area that would help business owners locate potential funds for improvements.
> Initiate a sector plan and sectional map amendment for the St. Barnabas-Beech Road area to recommend and establish appropriate land use policies and revitalization strategies for the area.
> Develop a system that allows online public access to permit-related forms and online permit applications.
<b>Medium Priority</b>
> Repair deteriorated public infrastructure in the study area.
> Require all county businesses to obtain a business license.
> Enact legislation that would penalize landlords for failing to ensure that tenants obtain valid U&O permits.
> For commercial and industrial properties, continue to initiate correction or clean-up efforts by county government if available enforcement options fail.
> Ensure that vehicle-related businesses control the amount of stormwater discharged from their properties.
> Consider revising the citation system to issue separate citations for each identified violation on a particular property.
> Conduct a study of current U&O permit fee rates to determine whether revenues from this program support program costs.
> Improve monitoring of subleasing of buildings and properties.
> Upgrade DER inspections software and hardware to improve data management systems.



## II. study background and purpose







The St. Barnabas-Beech Road Industrial Study and Action Plan focuses on a commercial and industrial district located between Branch Avenue (MD 5), St. Barnabas Road, Temple Hill Road, and the Capital Beltway near the Branch Avenue Metro Station (see Map 1). Bisected by Beech Road, this area is home to a range of light industrial and commercial uses, including auto sales and storage, auto parts sales, limited warehousing, and personal services.

The study area's current land uses date back to the 1950s, when farmland first was subdivided for commercial and industrial uses. Five decades of commercial and industrial development in typical mid- and late twentieth-century suburban forms has resulted in a small, defined industrial center operating adjacent to an arterial roadway lined with retail, service, and restaurant uses. Today, however, the community is witnessing the unintended outcomes of past practices, as aesthetic, operational, and environmental impacts now affect area businesses and limit prospects for new investment along St. Barnabas Road and within the industrial area.

Over the past few years, the Prince George's County Department of Environmental Resources (DER) and The Maryland-National Capital Park and Planning Commission (M-NCPPC) have identified a number of properties within the study area as having code violations, including businesses operating without valid Use and Occupancy permits (U&Os), violations of approved site plans, activities inconsistent with the issued U&O, accumulated debris/dumping, inadequate screening and landscaping, and illegal signage. These violations have created a landscape of disorder that also affects area neighborhoods and diminishes future economic prospects for the area.

Given the area's history as an industrial center and the current outcomes of late twentieth-century development patterns, new approaches are needed to ensure the viability of existing businesses, encourage private owners to reinvest in their properties, and attract new commercial and industrial operations. A single, regulatory-based strategy, such as rezoning, will not suffice. This study makes a set of coordinated recommendations that will support area goals and promote cooperation between the public and private sectors to create a better business environment in the St. Barnabas-Beech Road area.

## Study Background and Goals

In 2009, the Prince George's County Council approved the *Branch Avenue Corridor Sector Plan and Sectional Map Amendment*, which focuses on Branch Avenue, an older commercial corridor that runs just north of the St. Barnabas-Beech Road study area. This sector plan also proposes a number of recommendations for revitalization of the St. Barnabas Road corridor. County decision makers and planning staff recognized the impact that the St. Barnabas-Beech Road industrial area could have on the success of the Branch Avenue sector plan's revitalization strategies,

and noted that an intensive study of this commercial/industrial area was needed to support and supplement the actions anticipated by the Branch Avenue sector plan.<sup>2</sup>

### Map 1. Study Area Boundary



Source: M-NCPPC GIS Data

Initiated in the first quarter of FY 2009, the St. Barnabas-Beech Road Industrial Study and Action Plan was designed to look comprehensively at the properties in this commercial/industrial area, note areawide issues, and develop a set of strategies to improve the appearances and operations of businesses within this small area. Study goals include:

- > Identifying conditions that detract from the appearance of the study area.
- > Examining impacts of industrial and commercial operations on existing businesses, adjacent residential neighborhoods, and the environment.

<sup>2</sup>The *Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment* (2009) makes the following recommendation:

*Conduct a study of the industrial land uses adjacent to the St. Barnabas commercial corridor for impacts on the commercial and residential uses within the area, and develop an action plan to mitigate the impact. Target the area for extensive, systematic code inspection and enforcement to eliminate code violations, discourage repeat offenses, promote better property maintenance, and improve environmental quality in the industrial zone (p. 54).*

- > Understanding existing regulations and public agency administrative practices that may create barriers to code compliance.
- > Developing strategies to promote more attractive and compatible uses that will support revitalization of the St. Barnabas Road corridor.

Several existing plans include issues analysis and recommendations for the St. Barnabas-Beech Road area. The county’s General Plan sets policies for the entire county planning area, and smaller master and sector plans provide area-specific recommendations to implement these policies. Most of the study area, however, lies in a piece of the county that has not seen a new master plan or sector plan since the most recent update of the General Plan in 2002. The subsections that follow contain brief summaries of relevant plans, organized by plan hierarchy rather than chronologically. Although many of these plans are dated, their issues discussions and recommendations demonstrate that problems with the St. Barnabas Road-Beech Road area have persisted for decades.

## Relationship to Existing Plans

### Countywide Plan

#### **2002 Prince George’s County Approved General Plan**

The 2002 *Prince George’s County Approved General Plan* provides a broad policy framework for planning in all areas of the county. This plan divides the county into three “policy tiers”: the Developed Tier, the Developing Tier, and the Rural Tier. Preferred land uses and densities vary according to tier. The St. Barnabas-Beech Road study area lies inside the Capital Beltway in the Developed Tier, a category that includes much of the county’s older residential, commercial, and industrial development. Policy goals for Developed Tier communities include encouraging medium-density mixed-use redevelopment and infill and improving the appearance of area corridors through new design standards and development.

### Master and Sector Plans

#### **Adopted and Approved Master Plan for Subregion VII (1981)**

Prince George’s County is divided into seven subregions for planning purposes. The St. Barnabas-Beech Road study area falls within Subregion VII, which extends eastward from the Potomac River to Joint Base Andrews Naval Air Facility Washington, Tinker’s Creek in the Clinton area, and Piscataway Creek in the south. This subregion covers a broad spectrum of environments, ranging from rural lands in the south to the urban configurations of inner-Beltway communities. The last comprehensive master plan for Subregion VII was approved in 1981, although several smaller plans have updated its recommendations during the past two decades.

The Subregion VII master plan reveals that many of the problems that exist today along St. Barnabas Road and in the Beech Road industrial area were present—although in lesser degrees—three decades ago. Most of the study area’s commercial and industrial development occurred in the 1950s, 1960s, and 1970s, and the results of this development were beginning

to be felt, particularly in light of the increased suburban development pressures throughout Subregion VII in areas outside of the Capital Beltway. As newer residential and commercial construction drew more people to the suburbs, older suburban areas within the Capital Beltway began to decline. The Subregion VII master plan identifies the St. Barnabas Road corridor as one of several strip commercial developments that are “functionally inadequate to serve adjacent or nearby residential areas” given their age, highway-oriented design, and failure to incorporate uses that would help make them focal points of a community.<sup>3</sup> Recommendations for aging commercial corridors, such as St. Barnabas Road, include controlling the expansion of existing strip commercial centers and limiting new commercial development to well-defined, strategically-located “community activity centers.”<sup>4</sup>

The Subregion VII plan also discusses issues associated with the Beech Road industrial area, identified in this plan as the 70-acre “Silver Hill Industrial District.”<sup>5</sup> According to this plan, the Beech Road area’s “primary problems are conflict with nearby residential development, poor site design, and negative visual impact.”<sup>6</sup> The plan goes on to assert that the area’s “poor site design and negative visual impacts . . . act as a deterrent to community acceptance of new or expanded employment areas by giving credence to fears of detrimental impact on surrounding land uses.”<sup>7</sup> Recommendations for the industrial area focus on limiting its expansion, providing appropriate buffers between industrial uses and adjacent residential neighborhoods, and improving the overall appearance of the area through better site planning and building design.

#### **Approved Master Plan and Sectional Map Amendment for The Heights and Vicinity (Planning Area 76A) (2000)**

The Heights master plan, although approved in 2000, currently guides development in the Beech Road industrial area. This master plan divides the planning area into focus areas, one of which is an employment area defined as the “Silver Hill Industrial Area.” The boundaries of this focus area correspond with the industrial portion of the St. Barnabas-Beech Road study area. Echoing the earlier Subregion VII master plan, the sector plan describes issues associated with the Silver Hill Industrial Area as negative impacts on nearby residential communities, “overuse and inappropriate use of sites,” and “negative visual impact.”<sup>8</sup> The plan identified these problems as a “result of the site developing over many years in a piecemeal fashion without a comprehensive development plan.”<sup>9</sup> Recommendations for this industrial area include:

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<sup>3</sup>*Adopted and Approved Master Plan for Subregion VII (Henson Creek Planning Areas 76A & 76B and South Potomac Planning Area 80)*, p. 87.

<sup>4</sup>*Ibid.*

<sup>5</sup>*Ibid.*, p. 91.

<sup>6</sup>*Ibid.*

<sup>7</sup>*Ibid.*

<sup>8</sup>*Approved Master Plan and Sectional Map Amendment for The Heights and Vicinity (Planning Area 76)*, p. 81.

<sup>9</sup>*Ibid.*

- > Limiting the expansion and intensification of non-residential uses.
- > Rezoning properties lining the northern side of Beech Road from I-1 (Light Industrial) to C-O (Commercial Office) in order to provide an appropriate transition between a residential neighborhood and the industrial development.<sup>10</sup>
- > Ensuring that development on the southern side of Beech Road near Henson Creek is “carefully sited to preserve natural amenities associated with the Henson Creek Stream Valley.”<sup>11</sup>
- > Requiring properties abutting residential zones to provide appropriate screening (which may be in addition to what is required by the Landscape Manual).

### **Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment (2009)**

The Branch Avenue sector plan area includes the stretch of St. Barnabas Road that runs through the northwestern portion of the St. Barnabas-Beech Road study area. The plan identifies several issues associated with this corridor:

- > St. Barnabas Road is “visually unappealing,” with commercial development that does “not provide the necessary retail services that the adjoining community needs.”<sup>12</sup>
- > The retail market for this area is very limited due to the age and obsolescent design of commercial buildings and shopping centers, the small size of most commercial parcels, and the appearance of the public realm.<sup>13</sup>
- > Most of the office space in this area is small Class B and C space within multi-tenant buildings, and limited demand exists for new office space.<sup>14</sup>

Recommended strategies for the St. Barnabas commercial environment include:

- > Rezoning some C-M (Miscellaneous Commercial) properties to C-S-C (Commercial Shopping Center) in order to limit future development of new vehicle-related businesses along St. Barnabas Road.
- > Encouraging (and assisting) owners of “substandard” properties along St. Barnabas Road to apply for grants and loans to help them improve the appearance of these properties.<sup>15</sup>
- > Developing continuous, well-maintained sidewalks and bicycle lanes along St. Barnabas Road.

As noted above, this plan also recognizes the impact that the Beech Road industrial area has on the St. Barnabas Road corridor and recommends that a study of land uses in this area be conducted and that this area be targeted for systematic code enforcement.

<sup>10</sup>C-O zoning already existed on the northwestern side of Beech Road near its intersection with Branch Avenue. This rezoning extended the C-O zoning around the curve in Beech Road to increase the extent of this buffer/transitional area. As of May 1, 2010, these parcels remain vacant.

<sup>11</sup>*Ibid.*, p. 84.

<sup>12</sup>*Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment*, p. 15.

<sup>13</sup>*Ibid.*, p. 21.

<sup>14</sup>*Ibid.*

<sup>15</sup>*Ibid.*, p. 55.





### III. study area overview and context



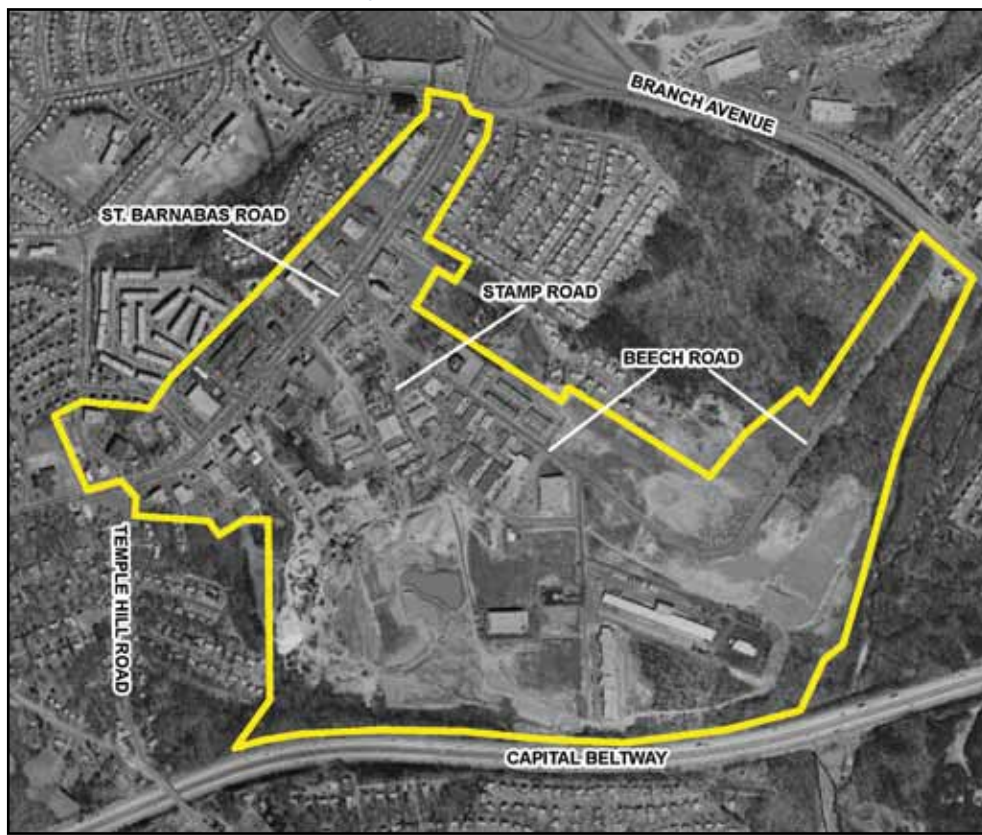




The St. Barnabas-Beech Road study area encompasses 312.5 acres and includes 181 properties located along St. Barnabas Road, Beech Road, Stamp Road, Beech Place, Cremen Road, Clifton Road, and Beech Way. Although farmland in the early twentieth century, this area was sold and subdivided in the 1950s in response to rapid suburbanization in the Washington, D.C. area. Early uses on the subdivided lots included a large sand and gravel operation and the kernel of an industrial center extending eastward along Clifton and Stamp Roads. Approval and construction of the Capital Beltway—which now runs just south of the study area—in the late 1950s and early 1960s helped foster additional suburban growth in the form of strip commercial shopping plazas along St. Barnabas Road, and single-family residential subdivisions scattered along the edges of the new industrial area.

As the St. Barnabas commercial corridor continued to develop in the 1960s, the Silver Hill Industrial Center grew, buoyed by its access to Branch Avenue (MD 5) and the new beltway interstate, which officially opened in 1964. By the late 1960s, the industrial area was growing eastward from St. Barnabas Road, expanding into areas near the Capital Beltway that had not been covered by suburban residential development. Aerial maps from 1965 and 1968 show an industrial cluster, built to contemporary standards and loosely organized. By 1977, the heart of the industrial center, encircled by Stamp and Beech Roads, was well defined and the western part of the industrial area appeared much as we know it today. The past three decades have seen gradual filling in of vacant properties, some with larger industrial uses and some with small commercial and office uses.

## Map 2. Aerial View of the Study Area in 1977



Source: M-NCPPC GIS Data

The resulting industrial and commercial area is a product of its time, having been developed in an era with limited design requirements and in zoning districts that allowed a wide variety of uses to co-exist. The intervening decades have seen the development of newer suburban commercial centers and industrial parks farther away from the District of Columbia boundary, and market forces have been unkind to the St. Barnabas-Beech Road area. Today, the legacy of these late twentieth-century suburban development trends is an industrial area developed in a disordered fashion and a commercial corridor dominated by vehicle-related and low-end retail businesses.

## Existing Land Use and Zoning

### Land Use

The study area generally can be divided into two sectors based on different land use characteristics:

- > The St. Barnabas Road commercial corridor
- > The Beech Road industrial center

Characterized by typical suburban strip development, the St. Barnabas Road corridor between Temple Hill Road and Branch Avenue is home to a range of commercial uses, including auto sales and storage, auto parts sales, gas stations, fast-food restaurants, personal services, and small offices. The corridor's development generally dates from 1950–1970, and the commercial district now appears in decline, with older buildings, low-end retail, and many small, transient businesses.



**St. Barnabas Road**



**Retail and service uses in the Beech Road industrial area**

Today's Beech Road industrial area also is the result of decades of light industrial land uses. This area, which lies between a residential neighborhood south of Branch Avenue, the commercial uses that line St. Barnabas Road, a residential neighborhood east of Temple Hill Road, and the Capital Beltway, contains small offices, personal services, retail uses, small warehousing operations, auto services, storage facilities, van lines, printing operations, heavy equipment operations, and other light industrial uses. Additionally, a gravel washing operation, concrete batching plant, and Class 3 fill lies at the end of Clifton and Cremen Roads near

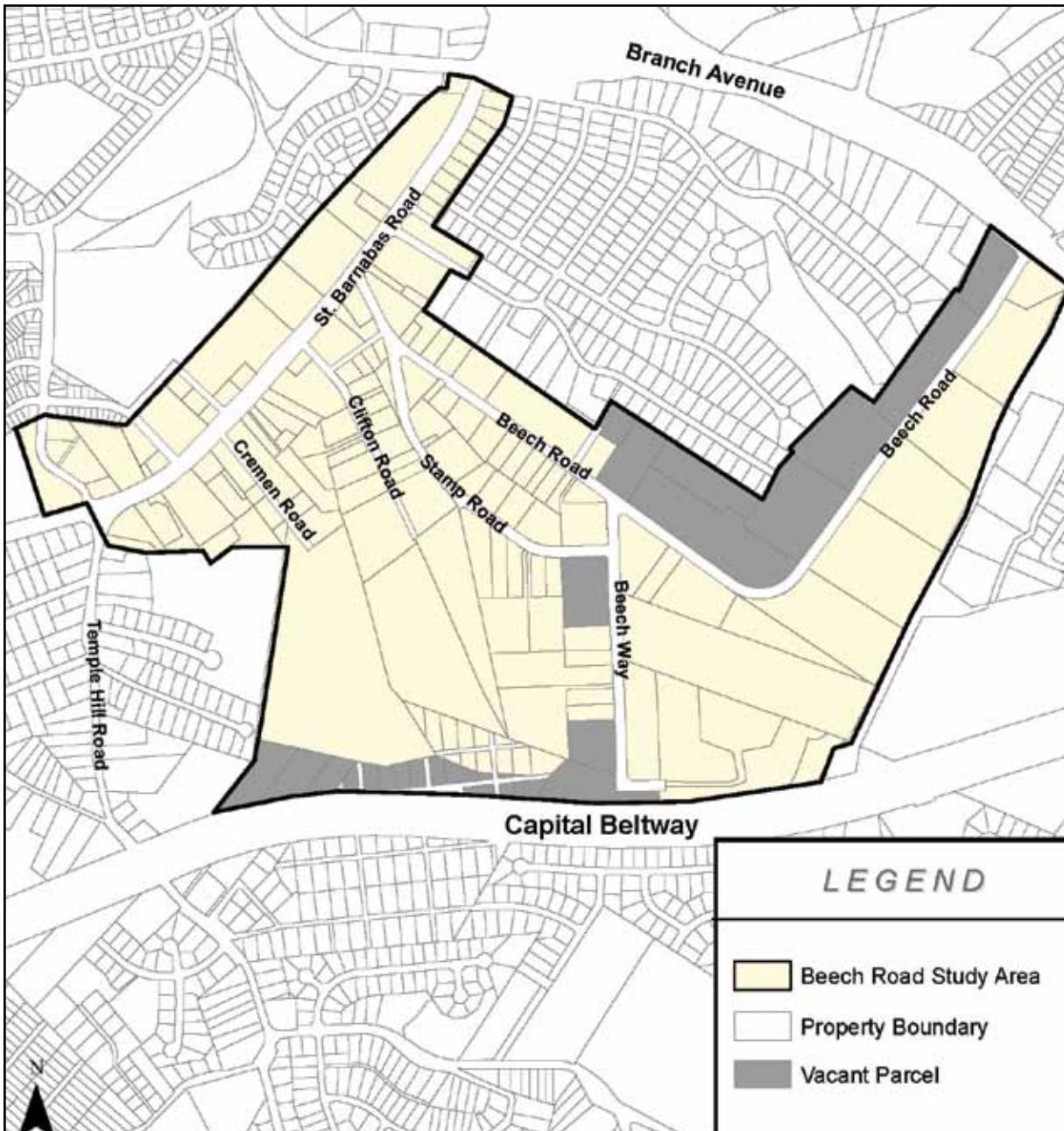
the center of the industrial area.<sup>16</sup> A concrete recycling plant also has been proposed for this area; approval of a special exception for this use is pending as of June 2010.

<sup>16</sup>The permit associated with this fill required that it be closed in April 2010. No additional material may be added to the large fill site.

### Vacant Properties

Few vacant parcels exist in the study area; those that are vacant include 19 acres owned by the State of Maryland that lie adjacent to the Capital Beltway in the southern portion of the study area and a cluster of undeveloped parcels (approximately 27 acres) with topographical constraints along the eastern portion of Beech Road (see Map 2). Development continues to occur within the study area: in 2009, a new storage facility was approved on a formerly-vacant parcel along the eastern portion of Beech Road.

**Map 3. Vacant Parcels in the Study Area**



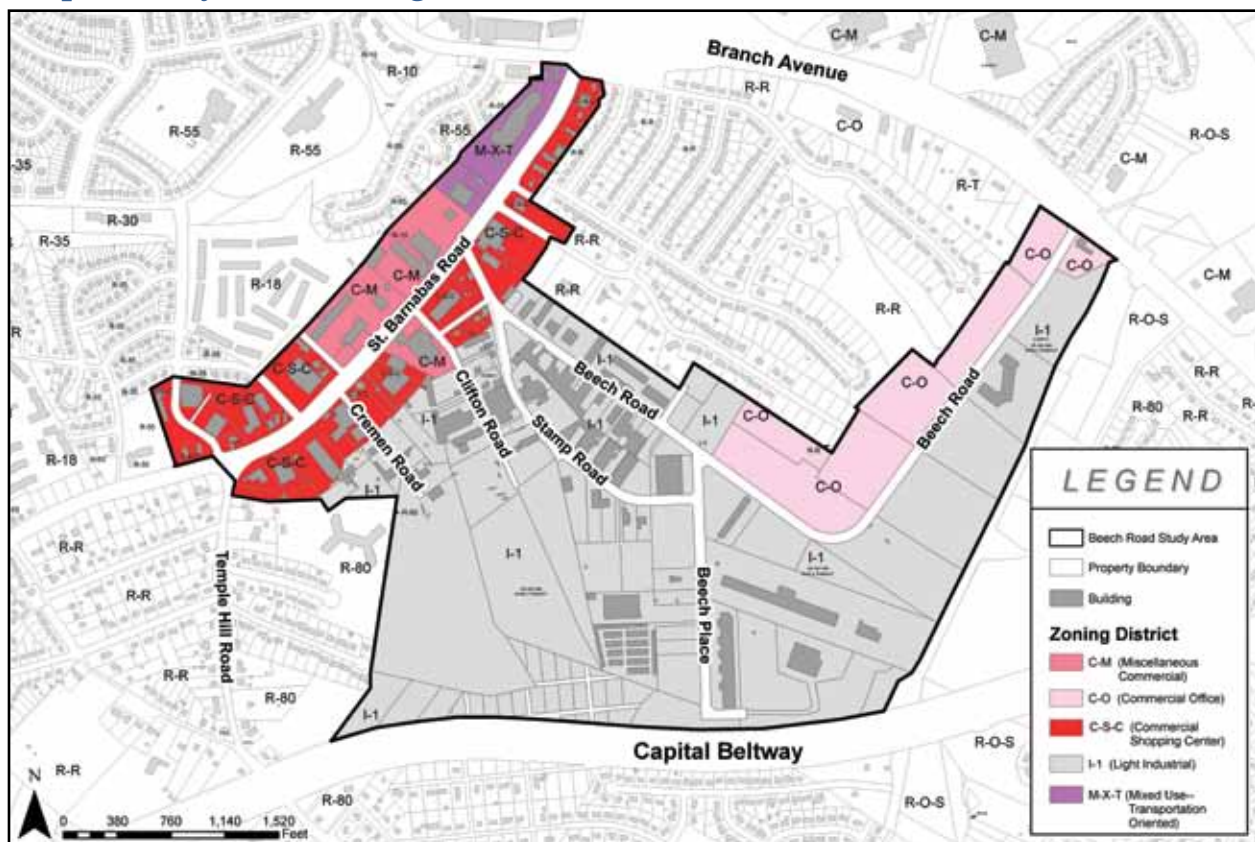
Source M-NCPPC GIS Data

## Zoning

Study area properties fall into five zoning districts (see Map 4):

- > I-1 (Light Industrial) along Beech Road, Stamp Road, Beech Place, and Beech Way.
- > C-O (Commercial Office) along the eastern portion of Beech Road.
- > C-S-C (Commercial Shopping Center) along the majority of St. Barnabas Road.
- > C-M (Miscellaneous Commercial) along St. Barnabas Road between Pohanka Place and Stamp Road.
- > M-X-T (Mixed Use Transportation Oriented) along the northwestern segment of St. Barnabas Road south of Branch Avenue.<sup>17</sup>

**Map 4. Study Area Zoning Districts**



Source: M-NCPPC GIS Data

In 2009, the *Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment* rezoned the portion of the St. Barnabas Road corridor that lies in the study area. Notable changes include rezoning several C-M Zone properties to the C-S-C Zone, which limits the range of commercial uses for these properties, and rezoning C-O Zone parcels near Branch Avenue to the M-X-T Zone to encourage redevelopment at the St. Barnabas Road – Branch Avenue intersection.

<sup>17</sup>M-X-T zoning was introduced into the St. Barnabas Road area in 2009 by the Branch Avenue Corridor sector plan.

The interior portions of the study area, however, have been zoned for industrial uses since the area was developed in the 1950s. These properties along Beech Road, Stamp Road, and Beech Way comprise the heart of the industrial district and were zoned I-1 (Light Industrial) or I-2 (Heavy Industrial) for decades.<sup>18</sup> A group of properties lining the northern side of Beech Road near its intersection with Branch Avenue has been zoned C-O (Commercial Office) since the 1970s, despite development constraints posed by steep slopes. This zoning was imposed to provide a buffer between the homes of the Gordon’s Corner neighborhood and the industrial uses along Beech Road.

## Property Ownership

Property ownership varies within the study area, although several landowners hold multiple properties, particularly near and along Cremen Road and along the eastern portion of Beech Road. Large landowners include Barnabas Road Associates, LLC, which owns a concrete batching operation at the end of Clifton Road; Creighton Associates, LLC, which owns a group of properties along St. Barnabas Road near the Temple Hill Road intersection; CARS DBC, LLC, which owns the Pohanka Honda dealership parcel along St. Barnabas Road and two lots along Stamp Road, which house accessory automotive uses; and Samuel Bevard, who owns a group of undeveloped parcels along the eastern portion of Beech Road.

## Business Environment

A number of small businesses populate the study area, including office, retail, service, and light industrial uses. Many properties have multiple businesses, and two large multi-tenant buildings (offices and services) exist near the intersection of St. Barnabas Road and Beech Road. Additionally, Beechley Square and the Marlow Heights Professional Center, both located along Beech Road, contain a variety of small retail, service, and warehousing businesses. Although many units remain vacant throughout the study area, including some of the small warehouse and commercial space on Beech and Stamp Roads and retail units along St. Barnabas Road, the overall environment is that of a functioning industrial area.



**Multi-tenant office building at the intersection of St. Barnabas and Stamp Roads**

Some smaller businesses appear to be transient, but the study area contains several larger businesses with longevity, including Pohanka Honda, a printing operation, and a large equip-

<sup>18</sup>The I-2 properties were rezoned to I-1 by the 1984 Subregion VII sectional map amendment.

ment business. Additionally, the study area is home to warehouses serving the Brazilian Aeronautical Commission.



**Vacant units along Beech Road**

The *Prince George's County Industrial Land Use Study* (2008) found that the area had an 11 percent vacancy rate and an average weighted rent of \$7.90 per square foot.<sup>19</sup> Although the Industrial Land Use Study's focus area does not precisely match the St. Barnabas-Beech Road study area, the study's conclusion that "the vacancy rates and rental rates [of the study area] are at about the County [sic] average" can be generalized to the St. Barnabas-Beech Road study area.<sup>20</sup>

As a functioning industrial area, the St. Barnabas-Beech Road study area provides important commercial and industrial space to county businesses. Its proximity to the Capital Beltway offers good access for industrial users. In a place where industrial options are limited, particularly in the southern portion of the county, the St. Barnabas-Beech Road industrial area provides an accessible area for light industrial and commercial

operations.<sup>21</sup> The study area, however, is not as healthy as it could be: the *Prince George's County Industrial Land Use Study* (2008) determines that it qualifies as a "De-industrializing and Transitioning" area due to its proximity to residential areas that limit its ability to expand and attract heavy industrial uses.<sup>22</sup> Additionally, the study area suffers from a number of aesthetic and operational issues that detract from its appearance, affect adjoining residential neighborhoods, and limit the desirability of this area for new businesses. These issues are discussed in detail in Chapter V.

<sup>19</sup>*Prince George's County Industrial Land Use Study*, Deliverable 5 (2008), p. VII-6.

<sup>20</sup>*Ibid.*

<sup>21</sup>The *Prince George's County Industrial Land Use Study*, Deliverable 5 (2008) indicates that Subregion VII, the larger area in which the study area lies, contains only 5.57 percent of the county's industrially-zoned land (p. VII-2).

<sup>22</sup>*Ibid.*, p. VII-7.



## IV. study process







Work on the St. Barnabas-Beech Road Industrial Study and Action Plan began in late 2008. The Maryland-National Capital Park and Planning Commission (M-NCPPC) planning staff initially envisioned the project as a one-year effort that would lead to recommendations for zoning and other regulatory changes, but as issues were identified and the project advanced, it became obvious that Beech Road was emblematic of many problems found in the county's other older industrial and commercial areas and that strategies employed in this area could be used to address similar problems elsewhere. In many ways, the St. Barnabas-Beech Road area became a "test case," and the project focus shifted to accommodate the implementation of programs that would encourage code compliance and assist in revitalization efforts, both in the study area and other industrial areas throughout the county. This section briefly summarizes the evolution of the study process and the main elements of the work program.

## Area Inventory

In an effort to develop the "action plan" called for by the Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment (see Footnote 1), M-NCPPC staff conducted a number of area surveys, spoke with area business owners and the District 8 Council Member's office, and compiled a property inventory of the study area. One of these surveys included a bus tour with the deputy director of the Prince George's County Department of Environmental Resources (DER) and the District 8 Council Member. Initial study area boundaries included all properties that had been excluded from the Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment between Branch Avenue and Temple Hill Road, along with commercial properties lining the eastern side of St. Barnabas Road. Staff identified

- > Existing land uses
- > Property ownership
- > Operating businesses/tenants
- > Property conditions

and then assessed major area assets and issues. Assets included longtime business owners, spaces for a variety of businesses, and proximity to the Capital Beltway. In general, however, findings revealed a number of aesthetic, operational, and suspected environmental issues that can impair redevelopment efforts along the St. Barnabas Road corridor and detract from the Beech Road industrial area environment. These results are discussed in detail in "Study Area Issues in Chapter V.

## Community Outreach

To confirm data obtained through the property inventory survey and to further explore issues identified during this effort, M-NCPPC held a community meeting on November 5, 2008 in the Gordon's Corner neighborhood (which lies adjacent to the Beech Road industrial area). At this meeting, residents expressed concern about the following:

- > The unattractive appearance of the Beech Road area.
- > Activities at an auto auction within the study area, including cars being stripped of parts and abandoned outside the auction and cars being parked in the public right-of-way on auction days.
- > A concrete recycling plant proposed in the industrial area.<sup>23</sup>
- > The height of the Class 3 rubble fill at the end of Clifton and Cremen Roads.<sup>24</sup>
- > Access to the Gordon’s Corner neighborhood, which is isolated between the Beech Road industrial area, the St. Barnabas Road commercial corridor, and Branch Avenue (a limited-access highway in this area).

Residents also asked questions about the code enforcement process and the procedure businesses should undergo to obtain necessary building and operational permits (i.e., Use and Occupancy permits). Staff reported this public input to the District 8 Council Member’s office and used resident comments to help prioritize area needs.

## Targeted Inspection Services

Staff survey results, interviews, and the information obtained at the community meeting were analyzed in light of project goals (highlighted earlier) to determine how the aesthetic character and operational impacts of the industrial area should be addressed. In many cases, it appeared that legal standards existed to control property appearance and operations, but these standards were not being met. This analysis led to the finding that code enforcement and promoting code awareness were the top needs for the study area.

To address this need, planning staff developed a partnership with the DER. Given existing staffing levels at DER and the high demand for inspection services across the county, both agencies determined that a targeted, time-limited inspection effort should be contracted to a private consultant.<sup>25</sup> This consultant would be charged with identifying all potential code violations in the study area, which DER would later verify and enforce. In April 2009, M-NCPPC hired CTI Consultants, Inc. of Chantilly, Virginia to perform property inspections. CTI’s work on the project began in July 2009, and inspections of all study area properties were completed by January 2010. (Please see Appendix A for more details about this process.)

In order to better manage data and inspection scheduling, CTI divided the study area into six sectors (Sectors 1A, 1B, 2, 3, 4, and 5). The original study area boundary was expanded to include properties on the western side of St. Barnabas Road, as they also contribute to the visual character of this commercial corridor (see Map 1).<sup>26</sup> Sector boundaries were determined by the

<sup>23</sup>In April 2010, the Prince George’s County Zoning Hearing Examiner approved this application for a special exception with conditions. At the time of this report, the case is pending before the District Council.

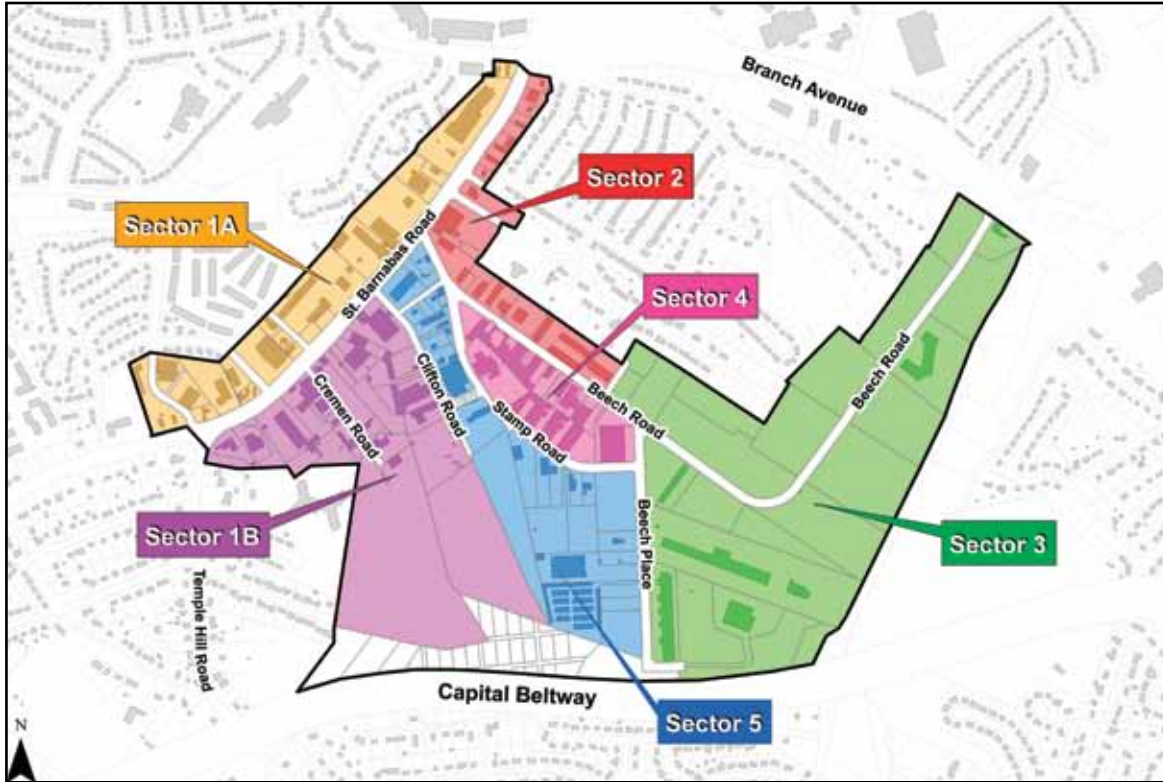
<sup>24</sup>The Class 3 fill permit held by the business at the end of Clifton Road expired in April 2010. At the time of the community meeting, the fill was still allowed to accept materials, but at the time of this report, the fill should be closed.

<sup>25</sup>DER’s commercial and industrial inspections currently are performed on a complaint-driven basis only. Regular “sweeps” are not conducted due to limited staff resources. Dedicated inspections staff for commercial/industrial property maintenance were eliminated in the 1990s as part of a budget-driven staff reduction.

<sup>26</sup>These 24 properties were part of the *Approved Branch Avenue Sector Plan and Sectional Map Amendment (2009)*.

physical character of study area properties, along with the nature of many area businesses.<sup>27</sup> Map 5 depicts the six inspection sectors. Sector numbers roughly correspond to the order in which these subareas were inspected.

**Map 5. Beech Road Inspection Sectors**



Source: M-NCPPC GIS data

<b>Table 2. Study Area Properties by Inspection Sector</b>			
<i>Sector</i>	<i>Number of Properties</i>	<i>Number of Buildings Inspected</i>	<i>Number of Businesses</i>
Sector 1A	24	30	57
Sector 1B	34	27	46
Sector 2	20	25	167
Sector 3	25	11	35
Sector 4	20	18	65
Sector 5	31	48	79
<b>TOTAL</b>	<b>154*</b>	<b>159</b>	<b>449</b>
<i>Source: M-NCPPC GIS data and CTI inspection reports</i>			
<i>*This total does not include 27 vacant properties located in the southern portion of the study area. See Footnote 27 for additional details.</i>			

<sup>27</sup>A group of 27 properties in the southern part of the study area was omitted. All of these properties are undeveloped, and the majority of them are owned by the State of Maryland as part of the Capital Beltway right-of-way.

Outcomes of the CTI inspection effort are discussed in “Study Area Issues” (Chapter V) and Appendix A. Data gathered during this effort supported the conclusions drawn from the staff inventory, DER’s impressions of the study area, and community comment. These findings also helped form the basis for many of the recommendations and program initiatives detailed in later sections of this report.

## Program Initiatives

Staff utilized data gathered through the staff inventory, community meetings/interviews, and consultant inspection effort to develop a set of early action items for FY 2010 and FY 2011. These program initiatives include:

- > Proposed legislation to regulate the appearance and operations of private auto auctions.
- > A revitalization program that emphasizes organizational and marketing assistance and public safety and streetscape improvements for businesses along St. Barnabas Road.
- > Additional master planning for the St. Barnabas-Beech Road area through the Beech Road Sector Plan and Sectional Map Amendment (proposed in the FY 2011 work program).

These items are discussed in more detail in Chapter V and the appendices.



## V. study area issues





The Maryland-National Capital Park and Planning Commission (M-NCPPC) staff inventory and CTI inspection of study area properties revealed a number of aesthetic, operational, and environmental issues. Many of these issues were found to result from recurring non-compliance with county regulations, as previous Prince George’s County Department of Environmental Resources (DER) inspections conducted on some study area properties noted the same problems. The inability of DER to provide sustained ongoing code enforcement or oversight in the area and the lack of awareness among property owners and tenants have contributed to the persistence of these issues. The following sections contain a summary of staff and consultant team findings on major study area issues.

## Aesthetic Issues

### Landscaping

Landscaping conditions vary throughout the study area. Some properties within the study area have well-maintained landscapes. These tend to be newer properties or those located along Beech Road, the main roadway in the industrial area. Many study area properties, however, have little to no landscaping, resulting in a lack of green elements along most streets. Some properties—particularly those along St. Barnabas Road—have no green area at all.<sup>28</sup> Shrubs and trees indicated on site plans are missing in many instances, and several older properties have deteriorated landscape conditions. Although this may be code violations, many older properties within the area are exempt from current landscaping regulations due to receiving site plan approvals decades ago when different regulations were in place. (Grandfathered properties are discussed below.)



**Attractive landscaping along Beech Road**

Despite the presence of grandfathered properties, the consultant team found that landscaping violations constituted the second most frequent zoning violation in the study area.<sup>29</sup> Landscaping violations were particularly high for the commercial properties along the western/northwestern side of St. Barnabas Road. Overall, landscaping violations accounted for 16 percent of all violations in the study area.

<sup>28</sup>Subtitle 27, Section 27-469(b)(1) requires at least ten percent of any lot in an I-1 (Light Industrial) zone to be maintained as green area. Section 4.2 of the Landscape Manual requires a ten-foot wide (minimum) landscaped strip along the street frontage of all commercial and industrial properties. If a parking lot associated with the commercial or industrial use lies along the street frontage, Section 4.3 of the Landscape Manual requires a ten-foot wide landscaped strip, landscaped berm, or landscaped strip in front of a brick, stone, or finished concrete wall that runs along the street frontage.

<sup>29</sup>As noted in Chapter III, the consultant’s inspectors who conducted property inspections as part of this study effort did not have the legal authority to issue Notices of Violation and citations in the field. All potential violations noted by the consultant team must be verified by DER’s inspectors. All violations noted in this section thus represent “suspected” violations that are being verified by DER at the time of this report.

## Screening/Outdoor Storage

The county's Zoning Ordinance and Landscape Manual require screening for outdoor storage areas, trash collection areas, and mechanical equipment.<sup>30</sup> Screening may be in the form of six-foot high "sight-tight" (opaque) fences, walls, berms, or evergreen elements.<sup>31</sup> This is particularly important in the study area, as many of the light industrial and vehicle-related uses have materials stored outside in side or rear yards. Some of these uses, however, have poorly-maintained fences, stacked materials that rise above a fence, non-opaque fences, or no screening whatsoever.



**Non-opaque fence**



**Materials visible above fence**

The consultant team noted a number of poor screening conditions throughout the study area. These screening violations occurred more frequently on industrial properties than commercial properties. Screening violations were particularly prevalent in Sector 3, which contains a variety of warehousing, waste disposal, vehicle-related, and heavy equipment uses.

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## Illegal Dumping/Trash

Many study area properties have property maintenance violations resulting from trash located on the property. Scrap tire storage—which is only permitted indoors by Prince George's County and must be approved by the Maryland Department of the Environment—is a particular problem for many study area vehicle-related businesses. This practice can create breeding grounds for disease-spreading insects, rodents, and other pests.



**Illegal outdoor tire storage**

The auto auction located at 5001

Beech Road may also contribute to illegal dumping, as the District 8 Council Member's office has received reports of vehicles presumably purchased for spare parts being abandoned and left sitting on the shoulder of Beech Road and other area streets after auction sales.<sup>32</sup> Additionally, several vacant properties at the end of Beech Place appear to serve regularly as dumping grounds for household, industrial, and commercial trash.



**Illegal dumping along Beech Place**

<sup>30</sup>Subtitle 27, Section 27-123 of the Prince George's County Code and Section 4.4 of the Landscape Manual. Subtitle 27, Section 27-469 imposes additional screening regulations on properties located within an I-1 (Light Industrial) zone.

<sup>31</sup>Section 4.4 of the Landscape Manual. For certain uses, the Zoning Ordinance requires eight-foot high fences to minimize visual impacts.

<sup>32</sup>In this situation, it becomes the county's responsibility to remove the vehicle from the street and transport it to an impoundment lot.



## Illegal Signage

Sign regulations are part of Subtitle 27 of the Prince George's County Zoning Ordinance, and apply to all signs except signs required by law, signs that are part of gasoline pumps or vending machines, street addresses, and signs located inside private developments that are not readily visible from the exterior.<sup>33</sup>



**Excessive signage on St. Barnabas and Beech Roads**

The ordinance regulates the location of signs, type of signs, and area of signs. The latter is determined by a formula that relates to the width of the building frontage. Maximum sign area (composed of a primary sign and supplemental signs) also helps control the number of signs displayed by each business establishment. All signs must receive a permit from DER before they can be erected. DER will only issue a permit if it finds that the size, location, design, contents, and method of erection comply with Subtitle 27.<sup>34</sup>

Illegal signs are another of the study area's most common violations. The consultant team found that sign violations were the third most frequent zoning violation in the study area. Sign violations noted include having too many signs, the use of temporary banners/flags, signs placed in the public right-of-way or roadway, signs installed without permits, signs installed with electrical code violations, improper display/mounting of signs, and failure to remove signs after a business closes. Sign violations are especially common along the St. Barnabas Road corridor and near the intersection of Stamp Road and St. Barnabas Road.

## Site Plan Violations

Many properties also have been discovered by the consultant team and DER to be in violation of their approved site plans. In some instances, landscaping elements have not been installed, areas designated for a particular use are being used for other business activity (e.g., public parking areas used for outdoor storage), and accessory buildings not shown on the site plan have been constructed without proper permits.

## Variances/Age of Property

The majority of study area properties were developed between 1950 and 1980, although some businesses are housed in older residences that were converted to commercial uses over time. Prince George's County has had a zoning ordinance since 1927, but the age of many study area properties predates today's more comprehensive landscaping, screening, signage, and property maintenance requirements.<sup>35</sup> As such, some longtime area businesses are exempt from current regulations because they have not changed use categories over time. Conditions on some of these grandfathered properties that detract from area appearance would constitute violations

<sup>33</sup>See Part 12 of Subtitle 27.

<sup>34</sup>Subtitle 27, Section 27-596 of the Prince George's County Code.

<sup>35</sup>This area became subject to the county's zoning ordinance in the 1950s.

if they were found on newer properties that fall under current regulations. However, many of these older properties are compliant with the landscaping standards that existed at the time of their site plan approvals and cannot be assessed violations. Similarly, several study area properties have obtained variances from landscaping and appearance standards. Most of these variances were granted in the 1980s and exempt the properties from specific elements of the landscaping ordinance, such as setback and screening requirements. Although these variances are not a major issue within the study area, some properties not having to meet current zoning standards works in tandem with zoning and property maintenance violations on other properties to detract from the appearance of the St. Barnabas-Beech Road commercial/industrial area.

## Operational Issues

### Valid Use and Occupancy Permits (U&Os)

All businesses operating within Prince George’s County must obtain a Use and Occupancy (U&O) permit before opening.<sup>36</sup> This includes:

- > New businesses
- > Existing businesses moving to new locations
- > Businesses experiencing a change in ownership of the business or property
- > Changes in the type of use on the property

A U&O permit only will be issued if the business complies with all zoning regulations and building codes. DER conducts all required inspections and issues U&O permits. Businesses that do not hold valid U&O permits are in violation of the Prince George’s County Zoning Ordinance and may, in cases where the use presents an imminent hazard to public safety, be closed down by the Prince George’s County Chief of Police or Fire Chief.<sup>37</sup>

Failure to obtain a valid U&O permit is a major issue within the study area, as almost 54 percent of businesses were found to be operating without a valid U&O permit. Table 3 depicts the consultant team’s findings. Sector 5 demonstrated the highest percentage of this type of violation: 66 percent of businesses were operating without a valid U&O. Other sectors with U&O violations above the average for the study area include Sector 1A (58 percent) and Sector 2 (58 percent). The industrial areas along Beech and Stamp Roads had the highest number of businesses with valid U&Os: 65 percent in Sector 4 and 57 percent in Sector 3.

<sup>36</sup>Businesses within municipalities may also have to meet additional requirements under municipal ordinances.

<sup>37</sup>Subtitle 27, Section 27-253 of the Prince George’s County Zoning Ordinance. Subtitle 27, Section 27-260 provides the same remedy for any business found in violation of a requirement for a temporary U&O.

<b>Table 3. Valid Use and Occupancy Permits Within the Study Area</b>					
<i>Inspection Sector</i>	<i>Number of Buildings Inspected</i>	<i>Number of Businesses</i>	<i>Number of Valid U&amp;O Certificates</i>	<i>Number of Businesses Without Valid U&amp;O</i>	<i>Percentage of Businesses Without Valid U&amp;O</i>
1A	30	57	24	33	58
1B	27	46	24	22	48
2	25	167	70	97	58
3	11	35	20	15	43
4	18	65	42	23	35
5	48	79	27	52	66
<b>TOTAL</b>	<b>159</b>	<b>449</b>	<b>201</b>	<b>242</b>	<b>54</b>
<i>Source: CTI</i>					

The absence of valid U&O permits is not just a zoning ordinance violation: it also represents lost revenue for the county. A rate of 46 percent compliance, such as that found in the study area, means that the county is losing money through unapplied-for U&Os and associated fees. Although many business owners may knowingly fail to apply for a U&O permit, it appears that knowledge of this county requirement is not widespread, and the county lacks public information material about this important permit. Limited public awareness of U&O requirements is discussed in a separate section below.

### Noise

All commercial and industrial areas have noise impacts due to the nature of their businesses. The need for loading activities; a constant inflow and outflow of supplier, worker, and customer traffic; outdoor loudspeakers; and equipment operation create noise effects along the St. Barnabas Road corridor and within the Beech Road-Stamp Road industrial area. Many of these noises have negative impacts on adjacent residential communities, such as the Gordon's Corner neighborhood located just north of the study area and The Manor at Victoria Park, a senior residential community that lies off Temple Hill Road to the west of the study area.<sup>38</sup>

### Dust

The nature of some of the industrial operations within the study area leads to the generation of dust that spreads across portions of the study area. This is a particular issue with the existing Class 3 fill/concrete batching operation and also could be with the proposed concrete recycling operation at the ends of Clifton and



**Washing dust off Clifton Road**

<sup>38</sup>It should be noted, however, that both of these residential communities grew up around the industrial area. The industrial area did not intrude upon an established residential area.

Cremen Roads.<sup>39</sup> Water trucks travel these roads regularly, washing down the dust. However, some smaller businesses along these streets report being affected by dust emanating from the fill/concrete batching operation.

### Traffic/Parking

Traffic along Beech Road and the St. Barnabas corridor can be heavy at times. Beech Road is frequently used as a “cut-through” from Branch Avenue to St. Barnabas Road, and St. Barnabas Road itself is an arterial road. Most of the smaller roads within the study area, such as Beech Place, Cremen Road, and Clifton Road, do not experience large amounts of traffic, as many of these roadways dead end at businesses. Vehicles traveling these roads typically are those of workers, patrons, or suppliers.

Parking appears to be an issue within the study area. Although many of the study area’s retail and office operations contain on-site parking, a large number of smaller businesses appear to utilize on-street parking routinely. This is particularly true for vehicle-related businesses, where it often is difficult to distinguish worker and visitor cars from those being sold, stored, or serviced. Some of these vehicles are actually parked in the public right-of-way and obstruct sidewalks, curbs, and driveways.

### Land Use and Zoning Issues

As noted earlier, the St. Barnabas-Beech Road study area has retained industrial uses from the mid-twentieth century, when properties first were subdivided for development and zoned. The study area’s location near the Capital Beltway probably reinforced this early pattern, as the barrier of the interstate—coupled with the existing industrial uses—essentially creates a pocket of land that would not be suitable for major residential or retail development. Proximity to the Capital Beltway, however, is and has been an asset for commercial and industrial development.

The study area’s relationship to the nearby Branch Avenue corridor also affects the type of land uses that it can support. As noted in the 2002 *Prince George’s County Approved General Plan* and the *Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment*, the Branch Avenue corridor, the Branch Avenue Metro Station area (approximately 1.6 miles from the study area), and the Naylor Road Metro Station area (approximately 2.0 miles from the study area) are the more appropriate locations for new mixed-use development, including new retail and office space. As discussed earlier, the sector plan envisions the St. Barnabas Road corridor supporting neighborhood commercial businesses, a business type similar to that found in the area today.

It is unlikely that the fundamental commercial/industrial land use composition of the area will or should change significantly over time. However, the zoning categories historically assigned to study area properties have allowed a mixture of land uses to occur that sometimes forms uneasy partners and detracts from the area business environment. Prince George’s County’s I-1 (Light Industrial) Zone permits not only light industrial uses, but a wide variety of commer-

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<sup>39</sup>If the proposed special exception is approved for the concrete recycling facility, a requirement that the applicant provide detailed information about dust-control measures will be one of the conditions attached to the approval.

cial uses and some institutional uses, which has resulted in an industrial area filled with true industrial operations interspersed with small offices, retail stores, vehicle-related businesses, and storefront churches. Along St. Barnabas Road, areas that formerly had C-M (Miscellaneous Commercial) zoning are filled with a variety of smaller commercial uses, including a concentration of vehicle-related businesses, liquor stores, and low-end retail. As noted above, the age of some of the development means that these properties are exempt from many current zoning standards. The daily operations of some of these businesses and their appearances generate negative impacts (discussed above) that may discourage reinvestment or new investment in the study area. Although many of the C-M properties along St. Barnabas Road were rezoned by the *Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment*, provisions in the Prince George's County Zoning Ordinance for nonconforming uses allow these commercial uses to remain indefinitely and possibly expand. Broadly permissive zoning districts and generous provisions for nonconforming uses combine to allow the existing grain of commercial and industrial uses to continue under current regulations. This scenario complicates revitalization efforts for the area.

## Environmental Hazards

Environmental contamination can occur in areas containing vehicle-related uses or light industrial operations. Vehicles stored on a property do not constitute an environmental hazard per se, but the potential exists for some of them to leak fuel and other fluids. If these vehicles are located on an unpaved surface, contaminants can enter the soil directly. For paved areas, issues arise with control of contaminant-laden stormwater runoff, which, if not managed properly, will enter area waterways. Restaurant uses and dry cleaners also can contribute to environmental hazards due to poor handling and storage of chemicals, oils, and wastes. The consultant inspection team identified 46 violations that qualify as potential environmental concerns and will need to be reviewed by DER to determine if any additional action is required. These situations involve leaking fuel tanks, improper disposal of oil and grease (automotive and cooking), and illegal storage and/or dumping of scrap tires.



**Improper storage of waste materials**

## Code Enforcement and Administrative Constraints

Code violations within the study area are not the only issues affecting the appearance and operation of the St. Barnabas-Beech Road commercial and industrial areas. Another facet of this problem involves the effectiveness of the administrative and regulatory procedures established by Prince George's County to deal with violations. Government staffing levels and funding also influence agency abilities to administer targeted code enforcement programs.

### Staffing Limitations

In the current economic climate, funds may not be available to support an adequate code enforcement staff at DER. Although staff members from the Property Standards Group (PSG),

Licenses and Inspections Group (LIG), and Permits and Review Group (PRG) work together on code enforcement actions throughout the county, DER indicates that limited resources make it difficult to administer regular “sweeps” of areas like the St. Barnabas-Beech Road vicinity on a recurring basis. In the 1980s, DER operated a proactive enforcement program for commercial and industrial properties, but this program was discontinued in the early 1990s due to reductions in funding. Current staffing limitations mean that the majority of DER’s code enforcement efforts in commercial and industrial areas are complaint driven only (i.e., inspectors only investigate violations in response to a complaint).

## Ordinance Requirements for Enforcement Processes

### Citations and Fines

The Prince George’s County Code establishes enforcement procedures for code violations. Subtitle 13 authorizes inspections to ensure compliance with building and property maintenance codes, and Subtitle 27, Section 27-263 requires DER to implement a zoning enforcement program that includes inspections “programmed on an area-by-area basis.” Inspectors currently are assigned enforcement areas, but DER does not have the resources needed to perform regular “sweeps” of these areas (particularly in commercial and industrial areas, as discussed above). For both zoning and property maintenance violations, inspectors have the ability to allow time for properties to come into compliance through issuance of a Notice of Violation, but if the period authorized by the Notice of Violation expires without compliance, DER may issue a citation to the property owner.<sup>40</sup> When this is a violation of the Zoning Ordinance or property maintenance standards, the county will assess fines. Under Subtitle 28, Section 28-110 and Subtitle 13, Section 246, each day of violation is a separate violation subject to a separate citation and fine. Fines will escalate if the violation is not abated.

Fines for property maintenance violations currently follow a graduated schedule established by Subtitle 13, Section 13-246:

- > 1st and 2nd violation: \$100.00
- > 3rd violation and any violation in excess of three: \$500.00.

In October 2009, the Prince George’s County Council enacted an amendment to the County Code that increased the amount of fines assessed for zoning ordinance violations.<sup>41</sup> Previously, the graduated fine schedule ranged from \$100.00 for the first violation to \$500.00 for anything beyond the fourth violation. This fine range was less than fines in many of the surrounding counties, including Anne Arundel County and Montgomery County.<sup>42</sup> In practice, the low amount of the initial fine did not serve as a deterrent to noncompliance for commercial and industrial properties. The new council bill remedies this problem by increasing the fee schedule as follows:

<sup>40</sup>Subtitle 28, Section 28-121 and Subtitle 13, Section 13-244 of the Prince George’s County Code. Grace periods can help induce compliance, as many owners will opt to spend money on making required improvements rather than spending money on a fine.

<sup>41</sup>CB-12-2009 was adopted by the County Council on October 20, 2009. The bill went into effect 45 days from that date.

<sup>42</sup>Anne Arundel County allows a range of \$125.00–\$1,000.00; Montgomery County allows up to \$500.00 for any offense.

- > First violation: \$250.00
- > Second violation: \$500.00
- > Each violation in excess of two: \$1,000.00<sup>43</sup>

A citation may be appealed to the district court, a process which may take months. While the case is pending, the violation may continue unabated.

### **Adjudication**

Prior to receiving the authority to issue civil penalties (fines), DER was forced to take all property owners with code violations to court. This still may be done to achieve compliance, but the time needed to have a case heard is, at a minimum, five to six months. During this time, the code violation may continue and contribute to undesirable conditions within a commercial/ industrial area. Although the new schedule of graduated fines can serve as a better deterrent, some violations still must be taken to court in order to be abated. This often is true for U&O cases, given that DER does not have the authority to close businesses operating without valid U&O permits.

### **Limited Ability to Close a Business that Does Not Have a Valid U&O**

Although failure to obtain and/or display a valid U&O permit is a standard zoning violation, it triggers a different type of enforcement process. Under Subtitle 27, Section 27-264.01, a violation of property use or failure to obtain a valid U&O permit can result in the Police Department or Fire/Emergency Medical Services Department issuing a violation notice that directs all activities on the property to cease. DER does not have the authority to issue a Cease and Desist Order in this situation. If “imminent danger” exists from the use, the Police Department and Fire/Emergency Medical Services are authorized to enter the building and remove the business immediately.<sup>44</sup> A hearing in a U&O violation case must be held by the Zoning Hearing Examiner (ZHE) to determine:

- > If a U&O permit exists for the business in violation
- > Whether the activity on the property complies with any existing permits
- > If an imminent and/or continuing danger to public health, safety, and welfare exists<sup>45</sup>

The ZHE may reverse or uphold the enforcement action based on his/her findings. If upheld, the business cannot operate until it obtains a valid U&O permit. This decision may be appealed in circuit court.

DER’s powers are limited in a U&O enforcement case. Although a violation will be noted and investigated by DER’s Property Standards Group (PSG), Licenses and Inspections Group (LIG), DER has no power to follow through on a formal violation notice and close the business down. As noted above, DER must contact police or fire officials who have the authority to close busi-

<sup>43</sup>CB-12-2009. The new fee schedule amends Subtitle 28, Section 28-111.

<sup>44</sup>Subtitle 27, Section 27-253 of the Prince George’s County Code.

<sup>45</sup>Subtitle 27, Section 27-264.01 of the Prince George’s County Code.

nesses without valid U&Os. In practice, however, police or fire officials rarely get involved in U&O cases unless an imminent hazard exists. DER typically petitions for injunctive relief or issues citations to businesses operating without valid U&Os; both courses of action allow these businesses to continue operating while the case is being worked through. Given the large percentage of businesses found to be operating without valid U&O permits in the study area, some uncooperative violators, DER's staffing limitations, and the length of time required to obtain injunctive relief or respond to a citation appeal, the chances of these U&O violations being quickly abated are low.

## Lack of Public Awareness about Requirements

As noted earlier, some of the findings of the consultant team appear to result from the lack of public awareness about the county's Zoning Ordinance and requirements for businesses. Although many of the suspected U&O permit violations result from a business owner's deliberate failure to apply for the permit, the consultant's contact with study area business owners showed that some business owners are simply unaware of this requirement:

- > Some business owners had invalid U&O permits because they were unaware that new permits had to be obtained when ownership changed.
- > Some owners did not understand that changing the name of the business in any way—whether they changed it or it was a corporate change—required a new U&O permit.
- > Other business owners mistakenly thought that job cards were U&O permits and displayed them as such.
- > Some landlords failed to notify tenants of the need to obtain a U&O permit and executed leases without this requirement.
- > In other situations, it appeared that tenants simply were unable to obtain detailed information about this requirement.

Although DER produces public information brochures about permit requirements, property maintenance standards, environmental standards, and so on, no handout currently exists to guide business owners through the process to obtain a U&O permit. DER's web site also has very limited information about the need to obtain a U&O and what this process entails.





## **VI. recommendations and program initiatives for the study area**





The following sections contain priority recommendations developed by The Maryland-National Capital Park and Planning Commission (M-NCPPC) staff in consultation with the Prince George’s County Department of Environmental Resources (DER). Based to a large extent on dialogues with the consultants and consultant team findings, these recommendations include strategies for regulatory reform, program development, and improved data and information management. In some cases, staff recommendations build upon or complement the consultant’s recommendation; in others, they modify the consultant’s recommendation. More details about CTI’s findings and recommendations can be found in Appendix A.

## Aesthetic Issues

- > **Revive DER’s regular commercial-industrial inspections program and conduct systematic field inspections for building code, zoning code, and property maintenance violations.**

The St. Barnabas-Beech Road study area is not unique; similar code violation situations exist in other industrial and commercial areas throughout the county. DER’s staff is stretched thin as a result of past reductions and failure to fill vacancies due to budget constraints, but a critical need for increased code enforcement exists. Enforcement efforts should follow a regular, established schedule as anticipated by the Prince George’s County Zoning Ordinance.

Inspections staff should continue to be assigned distinct geographic areas and provided with guidance as to which issues/violations should be prioritized. Factors influencing priority inspections include:

- A property’s past history of imminent safety hazards, egregious violations, and recurring violations.
- Complaints referencing dangerous conditions or serious violations.
- The property owner or tenant’s apparent ongoing noncompliance with U&O regulations.
- The type of property use (e.g., storage of hazardous materials).

Any inspection effort should include routine patrols of businesses with large numbers of violations or a severe violation(s) and report any safety concerns to the appropriate regulatory authority. If possible, DER’s commercial-industrial inspections program (discontinued in the 1990s) should be resurrected to ensure proactive enforcement.

- > **For commercial and industrial properties, continue to initiate correction or clean-up efforts by county government if available enforcement options fail.**

If property owners fail to comply with the county’s code, a Notice of Violation should be issued and enforcement actions begun. Some owners, however, will refuse to comply and may take an appeal to court, which can prolong the violation. In order to reduce the impacts violations have on an area in the short term, DER may wish to initiate cleanup activities for commercial and industrial properties. This was done in 2008–2009 through

a private contractor, who administered and executed cleanup activities for over 900 residential properties. Cleanup costs were assessed to noncompliant property owners. Budget constraints may limit the ability to perform these corrective actions in coming fiscal years. The county should, however, consider allocating funds to allow DER to continue contracting for these ongoing enforcement efforts when Prince George’s County Department of Public Works & Transportation staff are not immediately available.

> **Improve enforcement of the county’s sign regulations.**

As discussed earlier, sign violations are pervasive in the study area. Sign issues primarily relate to unpermitted signs and negative aesthetic effects created by signs designed to be read from passing automobiles. The consultant inspections revealed that many area businesses have multiple signs, some of which intrude into the public right-of-way, and others have temporary signs, banners, and other advertising devices placed in inappropriate places. Many of these signs do not have permits from DER. Additionally, many vacant properties have signs abandoned by their former occupants. Enforcement efforts should identify these illegal signs, issue citations, and force the removal of signs that do not qualify for a permit.

> **Update the county’s sign regulations to limit the amount of window area that may be covered by signs.**

Although the major issue relating to signs is one of enforcement of existing regulations, Part 12 of the Zoning Code could be amended to include new limitations on the storefront area that may be covered by signs. Subtitle 27, Section 27-602 currently exempts temporary window signs in commercial zones from the requirement to obtain a sign permit. Additionally, Subtitle 27, Section 27-634(b) states that signs attached to or located in windows of businesses in commercial zones may cover the entire window area. In the study area, this has led to the proliferation of product signs in store windows, resulting in large, colorful decals and multiple signs identifying prices and products covering the majority of the transparent display area. It is also questionable whether many of these signs actually are “temporary” in nature. Limiting the amount of transparent area that can be covered with permanent or temporary signage could eliminate some of the signs that create negative aesthetic effects and also could reduce the number of temporary signs/banners that appear on a property. Section 27-634(a) does limit the window area that may be covered by a painted sign to 25 percent of the gross window glass area on any one side of a building. A similar provision should apply to all other signs in both commercial and industrial zones, and these limitations also should address transparent areas on doors.

- > **Prepare and implement new regulations to address aesthetic and operational issues associated with vehicle-related businesses.**



**Improper screening of stacked vehicles**



**Junked car storage on Cremen Road**



**Junked auto parts on property**

Many study area businesses relate to automotive uses: car dealerships and service, auto parts sales, inspection stations, towing operations, and salvage yards. In the agglomerate, these vehicle-related businesses have major impacts on the study area. Auto storage and service businesses typically have a large number of vehicles parked on a lot or along the street. Salvage yards have outdoor storage areas that are poorly screened or have materials rising above the required eight-foot fence. Discarded tires, vehicles, and auto parts litter portions of the study area. Some businesses service vehicles in yard areas and others mishandle fuel, oil, grease, and engine coolant. Many service operations and dealerships have large, brightly-colored signs displayed all over the properties.

### Auto Auctions

In addition, the study area contains a unique vehicle-related business: the Capital Auto Auction, located along the eastern portion of Beech Road.<sup>46</sup> This business can attract hundreds of patrons to its regular sales events, which are located on a large unimproved property. The CTI inspection team found that this auto auction is the source of a number of violations and safety



**Parking lot erosion at the auto auction along Beech Road**

<sup>46</sup>Although this is a unique business within the study area, Prince George’s County has at least eight private auto auctions located in various parts of the county. These businesses range from limited operations on small lots in urbanized areas to large-scale operations on multiple acres in the county’s Developing and Rural Tiers.

issues, including severe erosion, improper electrical service, lack of required landscaping/screening, excessive weed growth, trash on the property, and boats filled with water that provide breeding grounds for pests.

Currently, the Prince George’s County Code includes auto auctions in its “vehicle sales lot” use category and does not have any regulations specifically designed to mitigate the impacts of auto auctions. To address problems associated with the study area’s auto auction and other private auto auctions throughout the county, privately-owned auto auctions should be identified within the Prince George’s County Zoning Ordinance as a separate use subject to the following requirements:



**Limited screening of the Beech Road auto auction property**

as a separate use subject to the following requirements:

- Cars, trucks, vans, buses, motorcycles, motor homes, and any other motor-propelled device may be kept no longer than 90 days unless a permit is obtained from DER for long-term storage.
- Vehicle storage must be confined to an approved hard-surface, paved area to avoid spilling hazardous materials on bare earth.
- Dedicated vehicle loading and unloading zones should be designated within the auto auction facility.
- All portions of the auction property visible from the public right-of-way must be screened with an opaque fence, wall, or landscaped berm that complies with all Landscape Manual requirements.
- Fences must comply with Landscape Manual screening requirements and be kept in good repair.
- Outdoor vehicle storage may not exceed the height of the required fencing/screening.
- Parking and driveway areas must have paved surfaces with dust-control measures.
- Public sanitary facilities (temporary or permanent) must be provided.
- No boats should be sold at auto auctions, so as to avoid creating storage issues where an uncovered boat fills with water and attracts mosquitoes and other pests.
- An auto auction must have a valid Maryland automobile dealer license or trader’s license.
- Special event licenses may be issued to nonregular auto auctions.

In conjunction with the new use requirements, the county should restrict the number of zoning districts that allow private auto auctions as a by-right use. Given the impacts of these auctions, the use is inappropriate for all residential zones and the majority of the county’s commercial zones. If the private auto auction property is located adjacent to

a residential zone, extensive buffering and screening should be required. Any existing private auto auctions could be amortized in zoning districts in which the use is newly prohibited. However, this use should be allowed by right in some of the county’s industrial zones subject to intensive detailed site plan review and strict site development requirements. Alternatively, private auto auctions could be made special exceptions in appropriate zones. The special exception designation would provide additional scrutiny of business impacts and allow decision makers to require conditions to mitigate these impacts on a case-by-case basis.

### Salvage Yards

Another problematic vehicle-related use in the study area is automotive salvage. Vehicle salvage yards currently are identified as a use requiring a special exception under the Prince George’s County Zoning Ordinance.<sup>47</sup> Special conditions attach to this use, including:

- An eight-foot-high fence or wall must fully enclose the property and screen it from the street.
- The fence may not be composed of corrugated metal, fiberglass, or sheet metal.
- Outdoor storage shall not be visible above the fence.
- Indoor storage must be in a fireproof building.

Although these conditions improve a salvage yard’s appearance from the public right-of-way, the CTI consultant team found that some salvage businesses in the study area do not comply with fencing and screening requirements. The team also noted that operational regulations could help further. In Maryland, any entity that acquires vehicles to dismantle, destroy, or scrap for parts and materials must be licensed as a dealer and as an automotive dismantler and recycler or scrap processor. These special salvage uses also require locations suitable for auto sales and storage, due to environmental, aesthetic, traffic, and operational issues that are similar to those of auto auctions. The county may wish to reexamine the special exception conditions found in Subtitle 27 and impose additional restrictions similar to those proposed above for auto auctions.

> **Repair deteriorated public infrastructure in the study area.**

Many of the streets and sidewalks in the study area show signs of deterioration due to age and industrial traffic, and some lack curbs and gutters and sidewalks altogether. Poor conditions are especially noticeable along Cremen Road, Clifton Road, Beech Way, and St. Barnabas Road between Stamp Road and Temple Hill Road. Appropriate repairs should be made to these roadways, and repairs should incorporate new elements that will improve drainage, appearance, and pedestrian safety.

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<sup>47</sup>Subtitle 27, Section 27-417.03.

## Operational Issues

- > **Prioritize Use and Occupancy (U&O) permit enforcement in commercial and industrial areas.**

Obtaining compliance with U&O regulations in commercial and industrial areas should be an administrative priority for DER. Businesses operating without proper U&Os may not be meeting operational standards and also represent lost revenue for the county. Field inspections for commercial and industrial areas should emphasize this as a major violation. Graduated fines should continue to be imposed upon businesses who fail to meet U&O permit requirements, and businesses that do not obtain U&Os should be closed down under Subtitle 27 regulations.

**PRINCE GEORGE'S COUNTY**  
**Department of Environmental Resources**  
**Permits and Review Division**  
**CERTIFICATE OF OCCUPANCY**

EFFECTIVE DATE: April 25, 2007      CASE NUMBER: 10142007-00

PERMISSION IS HEREBY GRANTED TO OCCUPY:  
**9400 PEPPERCORN PL. UPPER MARLBORO, MD 20774**

CASETYPE: UO (USE & OCCUPANCY)      PARKING SPACES: 8  
 OWNERSHIP:      SPECIAL EXCEPTION: 14  
 USE GROUP:      LOT: 14  
 CONST. TYPE:      BLOCK:  
 TAX MAP: 080      PARCEL:  
 ZONE: 13

USE (SINCPIC ZONING):  
 SMALL GROUP CHILD CARE CENTER

LIMITATIONS (IF ANY):  
 up to 12 children

<b>PROPERTY OWNER</b>	<b>OCCUPANT</b>
PRINCE GEORGE'S COUNTY 9400 PEPPERCORN PL. UPPER MARLBORO, MD 20774	RUTHY CONTRA 9400 PEPPERCORN PL. UPPER MARLBORO, MD 20774 TRADE NAME: RUTHY'S LITTLE ANGELS CHILD CARE CEN

CERTIFICATE IS TO BE COMPLETED BY EMPLOYER AND NOT RETURNED FROM THE PERMITS BUREAU WHICH IT WAS ISSUED.  
 IT IS NOT TRANSFERABLE.

BUILDING CODE OFFICIAL  
 YOU MUST COMPLY WITH MUNICIPAL, BOMBARDIER/CFC, ADDITIONAL AND LOCAL ORDINANCES, A FINE MAY BE IMPOSED IF CONSTRUCTION IS BEGUN WITHOUT A PERMIT.

Prince George's County U&O permit

- > **Amend the Prince George's County Code to give DER the authority to issue a cease and desist order to a business operating without a valid U&O.**

To enable DER to conduct a proactive enforcement effort against businesses operating without valid U&O permits, the county should amend Subtitle 27 to extend authority to close down noncompliant businesses to DER. If county decision makers do not wish to grant DER this broad authority, a distinction should be made between a business operating without a U&O in a zoning district in which it is a permitted use and a business operating without a U&O in a zoning district in which it is not a permitted use (in which case the business would be unable to obtain a U&O). DER should be given the authority to shut down a business that falls in the latter category, as this is clearly a prohibited use and thus should not be allowed to continue operation.

Extending this authority to DER would streamline enforcement efforts, as the agency tasked with investigating violations would have the ability to issue a U&O Notice of Violation and close noncompliant businesses immediately, without having to go through a lengthy process to obtain injunctive relief or respond to a citation appeal. Business owners/tenants would have the right to appeal this closure action to the Prince George's County Zoning Hearing Examiner.

- > **Prepare and disseminate clear and concise U&O permit information materials that clarify landlord and tenant responsibilities.**

The CTI inspection team found that the absence of a valid U&O permit constituted one of the most prevalent violations in the study area. Inspection findings to date reveal that over one-half of study area businesses do not have a valid U&O. These findings



indicate that more informational material is needed to explain the U&O process. The requirements for tenants and the requirements for landlords in this process need to be clearly delineated. As noted above, DER currently does not have a brochure or handout detailing U&O regulations for the public. The consultant team, DER, and M-NCPPC are working together to develop a brochure on this topic (see Appendix B). Once completed, this material should be made widely available through the county’s web site. In addition, DER inspectors should carry these brochures in the field for distribution during inspections.

> **Enact legislation that would penalize landlords for failing to ensure that tenants obtain valid U&O permits.**

As stated above, the consultant team found that a number of area tenants claimed that landlords did not notify them of the U&O requirement. Although tenants are responsible for obtaining all necessary permits, landlords should be obligated to inform tenants of this responsibility. Moreover, lease provisions should stipulate that the lease becomes invalid if the tenant does not obtain a U&O permit within a specified period of time and that the lease will not be renewed if the tenant is found to have an invalid U&O (i.e., if the tenant fails to comply with the terms of the U&O permit). Potential legislation that would fine landlords who allow tenants to rent properties without proper permits would emphasize the fact that landlords also are responsible for ensuring property maintenance and lawful business operations on their properties.

> **Require all county businesses to obtain a business license.**

Prince George’s County’s U&O permits are issued once for the life of a business at a particular location. A new permit only is required if a property changes ownership, the tenant or operator of the business changes, the business name changes, or if the type of use of a property changes.<sup>48</sup> The high degree of noncompliance with U&O regulations in the St. Barnabas-Beech Road study area suggests that U&O compliance should be monitored on a regular basis. Instead of sending inspectors out regularly to check U&Os, a better way to generate compliance could be through a new requirement for a business license. Many other area jurisdictions, such as Fairfax County, Virginia; College Park, Maryland; Montgomery County, Maryland; and Frederick County, Maryland, have business licensing programs.

Under a new licensing program, all businesses operating within the county would have to obtain a business license at specified intervals.<sup>49</sup> A property inspection to ensure that the business and its property complies with all relevant county and state codes would be mandatory before a license could be issued. This would ensure that all commercial and industrial properties are inspected for compliance on a regular basis. Regulations could

<sup>48</sup>“Type of use” relates to use categories found in Subtitle 4 (the building code) of the Prince George’s County Code.

<sup>49</sup>Subtitle 5 of the County Code already requires some businesses to obtain business licenses. These include uses that need special oversight, such as adult bookstores, adult entertainment clubs, massage establishments, pawn shops, child care facilities, and nursing homes.

require self-certification, which would make business license applicants responsible for hiring a third party—certified by DER—to conduct this property inspection.

Licensing fees could be commensurate with the square footage of the space that the business occupies. These fees would provide a new source of revenue for the county and help cover some or all of the costs of administering the business license program. Revenue gained from licensing fees, however, may be offset by the costs required to hire additional staff to administer this program. The county should conduct a study to determine the feasibility of creating a mandatory business licensing program.

> **Improve monitoring of subleasing of buildings and properties.**

The CTI inspection team observed a number of situations in which one building had a single address but multiple tenants. Some of these are involved in subleasing scenarios, and some tenants have partitioned areas into additional tenant space without obtaining approval from the county. For example, a barber shop was found to have expanded into an adjacent space and created a beauty salon with a new entrance. Having multiple tenants operating out of one address is legal, but this can lead to situations in which tenants do not obtain needed U&O permits and the county is unaware of these business operations. Although regulations that control the creation of new addresses are in place and sublessors are required to obtain U&O permits, increased enforcement is needed to ensure that these requirements are met.

## Land Use and Zoning Issues

> **Initiate a sector plan and sectional map amendment for the St. Barnabas-Beech Road area to recommend and establish appropriate land use policies and revitalization strategies for the area.**

This study focuses primarily on addressing aesthetic and operational issues within the St. Barnabas-Beech Road area and emphasizes the need for improved code enforcement and expansion of public awareness of the county’s zoning code and property maintenance standards. However, some land use-related issues exist that cannot be addressed through this study, including incompatibilities between heavier industrial operations and adjacent residential properties, between automotive uses and retail uses along St. Barnabas Road, and between industrial and nonindustrial uses within the Beech Road industrial area. Additional planning may be needed for the study area, including a close examination of existing land use and zoning patterns, which are best addressed through a sector plan and sectional map amendment. A sector plan also could follow up on the outcomes of DER’s citations for noncompliance and take a closer look at economic development/revitalization issues and any environmental issues that exist for the study area. As noted in Chapter I, the last sector plan for the Beech Road industrial area was approved in 2000, and an update is needed to ensure relevant recommendations for today’s conditions within the study area.

## Environmental Issues

- > **Conduct routine inspections of any businesses for which hazardous materials violations have been noted.**

Study area properties with hazardous materials violations are special cases that require extra monitoring to ensure public and environmental safety. Any regular inspection schedule should include routine assessment of these properties.

- > **Ensure that vehicle-related businesses control the amount of stormwater discharged from their properties.**

As discussed above, auto service, auto salvage yards, and auto auctions require special consideration due to the impacts fuel and oil leakages can have on the environment. These uses are considered stormwater “hotspots,” as they generate runoff with high loads of contaminants that should be treated by stormwater management facilities. Requiring these businesses to operate on hard surfaces could help control the absorption of these substances into the ground, but stormwater runoff can carry fuel, oil, grease, and other fluids from cars into nearby streams and waterways. In addition to requiring paved surfaces for an vehicle-related business, the county should continue to require that each use submit a Detailed Site Plan that specifies the type, location, and design of stormwater management facilities that will be provided to control and treat runoff on the property.

## Program Issues

- > **Conduct a study of current U&O permit fee rates to determine whether revenues from this program support program costs.**

As of June 2010, applicants pay \$45.00 for a “straight” U&O (no construction involved); fees are higher for projects involving new construction. At the time of this report, DER is unable to determine whether the U&O fee program generates enough revenue to meet current administration and enforcement costs. Given this lack of information, it is difficult to judge whether U&O fees are set at appropriate levels. DER should conduct a study of its U&O fees to determine whether they provide enough revenue to support this program, and compare its fee levels to those in comparable jurisdictions. The results of this study could lead to new fee levels or a new fee structure.

- > **Study code enforcement programs and procedures in other jurisdictions to identify best practices and potential organizational improvements.**

Current economic conditions have made budgetary constraints necessary in all levels of government. Given this new fiscal climate, agencies such as DER will need to reinvent the way they do business to continue to effectively provide necessary services. Rethinking existing structures and protocols may be in order in the event that additional staff and revenue sources cannot be found to fund many of the above recommendations. Ex-

aming industry best practices and organizational structures and inspection processes in similar jurisdictions could provide new solutions for working within limited budgets. Issues to examine could include contracting with private third-party inspectors, enabling inspectors to perform a variety of tasks when needed, and inspecting a designated radius in response to a complaint (given that similar violations may exist on nearby properties). This type of study would allow county decision makers and DER to determine if realignments could be made to develop a more proactive inspections program for commercial and industrial properties.

- > **Consider revising the citation system to issue separate citations for each identified violation on a particular property.**

DER currently issues a single citation that covers all known violations on a property. For example, a property may have multiple property maintenance violations, but only one citation will be issued (and separate violation items identified on the citation). In the case of U&O violations, the theory is that business owners will apply for a U&O to abate the violation, and when this occurs, a comprehensive inspection can be performed that will catch all other violations. This also will allow the property owner to correct any other violations prior to U&O application. Although this citation method promotes efficiency, it also negates some of the legal authority issued to DER to address zoning violations. Given the agency’s authority to issue citations and fines that increase on a daily basis, issuing a single citation for multiple violations decreases the amount of money that can be collected through fines. Issuing multiple citations which accrue fines on a daily basis can serve as a better incentive for compliance, as business owners/property owners may initiate corrective efforts earlier to avoid the accumulation of large fines for multiple violations.

- > **Develop a revitalization program for the area that would help business owners locate potential funds for improvements.**

As a follow-up to the inspection activity along St. Barnabas Road, M-NCPPC has partnered with the Maryland Small Business Development Center to develop a revitalization program for the area that follows the Maryland Main Street Program model.<sup>50,51</sup> Key pieces of this program involve a program manager working with area business owners to encourage code compliance and to help them identify and apply for grants that would help with property improvements. The manager also will work with M-NCPPC, county agencies, and the area business community to develop small-scale, short-term initiatives to improve the appearance of the St. Barnabas Road corridor.

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<sup>50</sup>It is unlikely that the St. Barnabas Road area would qualify for an official Main Street Program designation.

<sup>51</sup>Formed through a partnership between the United States Small Business Administration and the University of Maryland – College Park, the Maryland Small Business Development Center offers technical assistance to small businesses throughout Maryland.

## Information Management Issues

- > **Upgrade DER inspections software and hardware to improve data management systems.**

Although DER uses data management systems that have capacity for interagency communication, these systems currently do not allow optimal coordination between county agencies and M-NCPPC, the Prince George’s County Health Department, and the Washington Suburban Sanitary Commission. Existing software does not allow all agencies to retrieve all information about a particular property owner or address, with the result that some agencies cannot see ongoing cases or the status of pending permits or fee collections. Software and hardware upgrades would help achieve the goal of consolidating all information relating to a particular property in one location. These upgrades should include an automated case tracking system that provides DER with the capacity to track violations at a particular address at any given time. This information should be accessible by all government agencies who work with development review and code enforcement. These users could quickly note violations or pending actions that would affect their particular reviews.

- > **Develop a system that allows online public access to permit-related forms and online permit applications.**

Although DER processes permit applications electronically, permit application materials are not available online. Applicants currently must retrieve and submit hard copies of all application materials at DER’s main office. This system could be made more user-friendly by purchasing software that would allow applicants to download forms and submit them online. Systems that are easier for the public to access and use could improve code compliance.

## Current Implementation Activities

### Inspection Follow-Up

In February 2010, DER’s Property Standards Group began following up on the consultant team’s inspections. As noted above, the consultant team did not have the legal authority to issue Notices of Violation in the field; all suspected violations reported had to be verified by DER. As of June 2010, DER has verified the consultant team’s suspected violations and issued Notices of Violation, which allow the property owners/tenants 30 days to correct the violations. Reinspections are occurring, and if violations are still present, citations will be issued and fines will begin to accrue. The results of the inspection follow-up and related analysis will be submitted in a separate follow-up report.

### Legislative Amendments

In response to consultant findings about vehicle-related uses in the study area and the degree to which they contribute to code violations, the District 8 Council Member requested that M-NCPPC staff study and prepare draft legislation that will place new restrictions on private auto

auctions. The Planning Department engaged a legal consultant to help shape this legislation, and a draft legislative proposal was given to the Council Member’s office for consideration. On June 22, 2010, the District 8 Council Member presented a council bill (CB-59-2010) for legislative review, public hearing, and adoption. The proposed legislation creates a new use definition for private auto auctions that differentiates them from vehicle sales lots and also requires a series of landscaping, screening, paving, and operational improvements within designated time frames for existing private auto auctions. Additionally, the bill establishes a set of requirements for new private auto auctions that will ensure compatibility with surrounding uses and more stringent appearance and operational standards. Appendix C contains a copy of the consultant’s report on best practices and regulatory practices in other jurisdictions.

### Revitalization Program

As described above, M-NCPPC has formed a partnership with the Maryland Small Business Development Center to develop a revitalization program similar to the Maryland Main Street Program for the St. Barnabas Road corridor. This two-year program also will include the Naylor Road Metro Station area, which has similar business revitalization needs. Goals of the program include:

- > Creating a visible revitalization program in order to bring positive attention to redevelopment efforts.
- > Identifying and promoting the project area’s assets and opportunities.
- > Building strong and productive working relationships with appropriate public agencies at the local and state levels.
- > Establishing business organizations or partnerships to collectively address shared issues and implement solutions.
- > Improving the appearance, maintenance, operation, and marketability of area businesses.
- > Improving the appearance and function of the streetscape and public realm.
- > Establishing marketing programs to expand the project area’s customer bases.
- > Ensuring compliance with codes and regulations.

As of June 2010, the project is in its initial stages, but a program manager should begin working with area businesses during the summer of 2010. This manager will be responsible for:

- > Establishing a presence in the project area, which includes conducting an assessment of area businesses and physical conditions and meeting with relevant stakeholders.
- > Building collaborative relationships with local and state agencies that can help achieve project goals.
- > Helping business owners identify and apply for grant funding to help enhance the appearance and operation of their businesses.
- > Recommending and coordinating streetscape improvement activities.
- > Developing a strategic plan to address public safety issues in the project areas.
- > Creating a public information campaign to promote program goals.
- > Drafting a promotional package that sells the assets and strengths of the project area.

- > Developing a comprehensive retail business assistance initiative to promote optimum business mix and performance.

Outcomes of the revitalization program will inform the recommended sector plan (discussed below) and help further many of the recommendations in this study. Like the code enforcement effort associated with this study, the revitalization program will be a pilot program whose success could inspire similar projects. If the revitalization program proves effective and efficient, this type of effort could be implemented in other older commercial corridors that have experienced disinvestment and are suffering from the same aesthetic issues as St. Barnabas Road.

### Beech Road Sector Plan and Sectional Map Amendment

The Beech Road Sector Plan and Sectional Map Amendment has been included in the Prince George’s County Planning Department’s budget and work program for FY 2011. Sector plan recommendations are accorded greater weight than those of a study, and the accompanying sectional map amendment can officially rezone properties to achieve plan goals. The sector plan—which could not receive County Council approval until 2013, given the process outlined in the County Code—will synthesize the findings and recommendations of this study, final results of DER’s enforcement efforts in the St. Barnabas-Beech Road area, and outcomes of the revitalization program. The sector plan process can support the activities of the revitalization program and build upon many of the recommendations of this study to improve the St. Barnabas Road-Beech Road commercial and industrial area.







## VII. implementation





Implementation of study recommendations is an important piece of the action plan for the St. Barnabas-Beech Road area. Implementation will require the participation and coordination of a range of stakeholders, from local government agencies to business owners, property owners, and community groups. As noted in Chapter VI, implementation activities already have begun for some study recommendations.

This section summarizes the study recommendations, identifies parties responsible for the implementation of these recommendations, and provides a time frame for implementation. Strategies are divided into immediate, short-term, and longer-term actions, emphasizing the fact that many of these recommendations build upon each other to realize long-term goals. All strategies should be coordinated with other Prince George’s County/Maryland-National Capital Park and Planning Commission (M-NCPPC) planning efforts.

<b>Table 4. Action Plan Implementation Table</b>		
<i>Action</i>	<i>Responsible Party (Lead entity appears in bold font)</i>	<i>Time Frame*</i>
<b>Aesthetic Issues</b>		
<i>1. Revive Prince George’s County Department of Environmental Resources’ (DER’s) regular commercial-industrial inspections program and conduct systematic field inspections for building code, zoning code, and property maintenance violations.</i>	<b>DER</b> , Prince George’s County Executive, Prince George’s County Council	Immediate
<i>2. For commercial and industrial properties, continue to initiate correction or clean-up efforts by county government if available enforcement options fail.</i>	<b>DER</b>	Immediate
<i>3. Improve enforcement of the county’s sign regulations.</i>	<b>DER</b>	Immediate
<i>4. Update the county’s sign regulations to limit the amount of window area that may be covered by signs.</i>	<b>M-NCPPC</b> , DER, Prince George’s County Council	Short-term
<i>5. Prepare and implement new regulations to address aesthetic and operational issues associated with vehicle-related businesses.</i>	<b>M-NCPPC</b> , DER, Prince George’s County Council	Short-term
<i>6. Repair deteriorated public infrastructure in the study area.</i>	<b>Department of Public Works and Transportation</b> , Maryland SHA	Medium-term
*Immediate = Immediate initiation and should continue into the future; Short-term = 2 years or less; Medium-term = 3–5 years		

**Table 4. Action Plan Implementation Table**

<i>Action</i>	<i>Responsible Party (Lead entity appears in bold font)</i>	<i>Time Frame*</i>
<b>Operational Issues</b>		
7. <i>Prioritize Use and Occupancy (U&amp;O) permit enforcement in commercial and industrial areas.</i>	<b>DER</b>	Immediate
8. <i>Amend the Prince George's County Code to give DER the authority to issue a cease and desist order to a business operating without a valid U&amp;O.</i>	<b>Prince George's County Council</b> , Prince George's County Executive, DER	Short-term
9. <i>Prepare and disseminate clear and concise Use and Occupancy permit information materials that clarify landlord and tenant responsibilities.</i>	<b>M-NCPPC</b> , DER	Immediate
10. <i>Enact legislation that would penalize landlords for failing to ensure that tenants obtain valid U&amp;O permits.</i>	<b>Prince George's County Council</b> , Prince George's County Executive, DER	Short-term
11. <i>Require all county businesses to obtain a business license.</i>	<b>DER</b> , Prince George's County Executive, Prince George's County Council	Short-term
12. <i>Improve monitoring of subleasing of buildings and properties.</i>	<b>DER</b>	Short-term
<b>Land Use and Zoning Issues</b>		
13. <i>Initiate a sector plan and sectional map amendment for the St. Barnabas-Beech Road area to recommend and establish appropriate land use policies and revitalization strategies for the area.</i>	<b>M-NCPPC</b> , Prince George's County Council	Short-term
<b>Environmental Issues</b>		
14. <i>Conduct routine inspections of any businesses for which hazardous materials violations have been noted.</i>	<b>DER</b>	Immediate
15. <i>Ensure that vehicle-related businesses control the amount of stormwater discharged from their properties.</i>	<b>DER</b> , M-NCPPC, Prince George's County Council	Immediate
<b>Program Issues</b>		
16. <i>Study code enforcement programs and procedures in other jurisdictions to identify best practices and potential organizational improvements.</i>	<b>DER</b>	Immediate
*Immediate = Immediate initiation and should continue into the future; Short-term = 2 years or less; Medium-term = 3–5 years		

<b>Table 4. Action Plan Implementation Table</b>		
<i>Action</i>	<i>Responsible Party (Lead entity appears in bold font)</i>	<i>Time Frame*</i>
<i>17. Consider revising the citation system to issue separate citations for each identified violation on a particular property.</i>	<b>DER</b>	Short-term
<i>18. Conduct a study of current U&amp;O permit fee rates to determine whether revenues from this program support program costs.</i>	<b>DER</b>	Short-term
<i>19. Develop a revitalization program for the area that would help business owners locate potential funds for improvements.</i>	<b>M-NCPPC</b> , Maryland Small Business Development Center	Immediate
<b>Information Management Issues</b>		
<i>20. Upgrade DER inspections software and hardware to improve data management systems.</i>	<b>DER</b> , M-NCPPC, Prince George's County Council	Short-term
<i>21. Develop a system that allows on-line public access to permit-related forms and online permit applications.</i>	<b>DER</b>	Immediate
*Immediate = Immediate initiation and should continue into the future; Short-term = 2 years or less; Medium-term = 3–5 years		





## **Appendix A: summary of study area code violations**







This enforcement project was the subject of a Request for Proposals (RFP) issued by The Maryland-National Capital Park and Planning Commission (M-NCPPC) in March 2009. The RFP project scope anticipated extensive property inspections to determine whether study area properties were in compliance with the Prince George’s County Zoning Ordinance, building code, and property maintenance code, along with the development of a detailed property database that contains information about study area properties and associated code violations, public education material about code enforcement issues in the study area, and a detailed report containing recommendations for potential legislation and procedural adjustments that could improve the impact of the county’s code enforcement program.

## Inspection Process

Property inspections began in August 2009, initiated by a letter of introduction that provided general information on inspection activity. Additional letters were sent to all property owners within the study area informing them of the scheduling of inspections and their right to be present during the property inspection. All inspections were conducted from the public right-of-way or areas open to the public unless a property owner granted permission to enter other portions of the property. These compliance inspections included:

- > Observation of the building exterior.
- > Observation of site conditions.
- > Determination of conformance to Use and Occupancy (U&O) Permit conditions.

Each property was photographed, and the CTI inspection team recorded property conditions and any noted violations on data report sheets.<sup>52</sup> If a property was found not to have a valid U&O, CTI advised the property owner of the process to obtain one and provided an informational handout. Data collection sheets were shared with Prince George’s County Department of Environmental Resources (DER) inspectors, who will revisit the inspected properties, verify noted violations, and issue Notices of Violation and citations.<sup>53,54</sup> Study area inspections concluded in December 2009, and all inspection reports were organized and turned over to DER in February 2010. All data collected through the inspection process were entered into a study area property database that was turned over to M-NCPPC and DER at the end of the code enforcement project. Information in this database was used by CTI to generate the project report that discusses inspection findings and makes recommendations to improve code compliance within the study area and to enhance the county’s code enforcement process.

<sup>52</sup>The CTI inspection team was tasked with identifying any potential violation on the property, including violations that are not within DER’s jurisdiction to enforce, such as Maryland Accessibility Code violations (which are enforced at the state level). Therefore, reported violations totals will be higher than the number of official violations noted by DER. See Footnotes 53 and 54 for further explanation.

<sup>53</sup>The CTI inspection team had no authority to initiate enforcement actions. This is the province of DER. DER may, however, choose to involve the CTI inspection team in any follow-up activities, such as affidavits or court testimony.

<sup>54</sup>DER reinspections were completed in May 2010, and at the time of this report, DER is following up on Notices of Violation that have been issued.






## Inspections Project Violations Categories

The consultant team divided its findings into five categories of violations to facilitate data tracking and analysis. These categories include:

- > *Violation of Zoning Ordinance (ZO):* Violations that indicate provisions of the Prince George’s County Zoning Ordinance are not being met. Examples include inadequate fencing or screening, improper storage of automobiles, illegal signage, inappropriate parking space maintenance, and failure to adhere to an approved site plan. Failure to obtain a valid U&O permit also is a zoning violation.
- > *Noncompliance with Other County Codes (NC):* Violations that indicate that property maintenance and/or building codes are not being met. These conditions do not necessarily result in danger to a building occupant or visitor, however. Examples include peeling paint, vegetation overgrowth, trash on the property, building numbers that are not visible from the road, inoperable mechanical equipment, and so on.
- > *Environmental Violations (EV):* Violations or potential violations that could create conditions that threaten environmental health, such as fuel leaks, improper disposal of fluids and waste, and inadequate storage of hazardous materials.
- > *Imminent Safety Hazards (IS):* Violations or potential violations that will cause serious harm to life or property, such as hazardous materials in the public right-of-way, the presence of exposed electrical wires, or imminent structural failure. (These types of violations were reported immediately to DER and the property owner was ordered to correct the condition without delay.)
- > *Safety Hazards (SH):* Violations or potential violations that could cause harm to life or property. Examples include loose handrails, broken windows, missing stairway lighting, burned structures, and so on.

The consultant team identified 1,076 code violations in the study area. Given that the consultants inspected 449 businesses, this averages to over two violations per business. Table A-1 summarizes these violations, and Map A-1 graphically depicts the location of all consultant-noted violations.

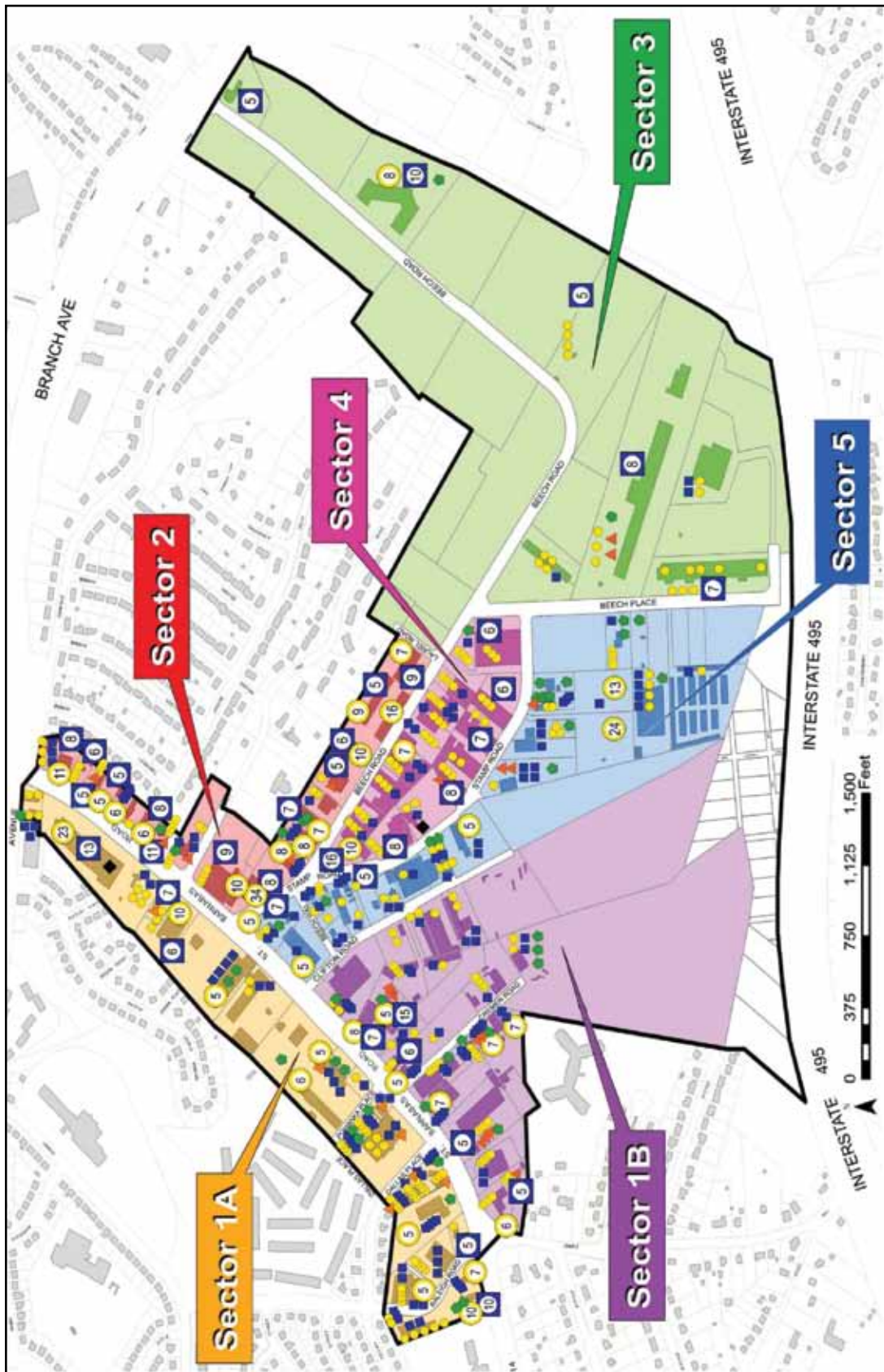
### Legend for Map A-1

Category	Count
Total Number of Businesses Inspected	449
Total Number of Suspected Violations Found	1076
 Violation of Zoning Ordinance (ZO)	569
 Noncompliance with Other County Codes (NC)	432
 Environmental Violations (EV)	46
 Imminent Safety Hazard (IS)	2
 Safety Hazard (SH)	27

Sector	ZO	NC	EV	IS	SH	Total
1A	132	95	13	1	7	248
1B	94	73	10	0	9	186
2	164	110	5	0	5	284
3	29	38	2	0	2	71
4	65	66	1	1	1	134
5	85	50	15	0	3	153

Map A-1: Violations by Sector



Source: M-NCPPC GIS Data and CTI

# violation types



*Cover pushed off storm drain*

## **IMMINENT SAFETY HAZARD**

- > Violation that will cause serious harm to life or property.

## **SAFETY HAZARD**

- > Violation that could cause harm to life or property.



*Abandoned structure*

## **ENVIRONMENTAL VIOLATION**

- > Violation that could create conditions that threaten environmental health.



*Improper storage of fuel and waste materials*



*Outdoor storage of scrap tires*



*Excessive signage*



*Outdoor storage visible above fence*

**ZONING ORDINANCE VIOLATION**

- > Failure to meet standards required by the Prince George's County Zoning Ordinance.
- > Most frequent violations include inadequate landscaping/screening, unpermitted or excessive signage, improper vehicle storage, and failure to follow the property's approved site plan.

**NONCOMPLIANCE WITH OTHER COUNTY CODES VIOLATION**

- > Violation of the county's property maintenance code or building code.
- > Common violations include trash on a property, excessive weed growth, inoperable mechanical equipment, inadequate/inoperable lighting, and building deterioration.



*Improper electrical wiring on parking lot lamppost*



*Window openings covered with plywood*

**Table A-1. Study Area Consultant-Reported Code Violations**

<i>Type of Violation*</i>	<i>Number Identified</i>
<b>VIOLATION OF ZONING ORDINANCE</b>	
Missing or No Use & Occupancy Permit	242
Illegal Signage	94
Site Plan/Landscaping Violation	95
Fencing and Screening Violation	30
Auto Storage Violation	42
Parking Violation	66
<b>Total ZO Violations</b>	<b>569</b>
<b>NONCOMPLIANCE WITH OTHER COUNTY CODES</b>	
Property Maintenance Violation	342
Maryland Accessibility Code Violation	61
Building Numbers Violation	16
Missing Other Permits	13
<b>Total NC Violations</b>	<b>432</b>
<b>ENVIRONMENTAL VIOLATION</b>	
<b>Total EV Violations</b>	<b>46</b>
<b>SAFETY HAZARD</b>	
<b>Total SH Violations</b>	<b>27</b>
<b>IMMINENT SAFETY HAZARD</b>	
<b>Total IS Violations</b>	<b>2</b>
<b>TOTAL VIOLATIONS</b>	<b>1,076</b>
<i>Source: CTI</i>	
<i>* The CTI inspectors did not have the authority to issue Notices of Violation in the field. A violation does not become "official" until DER, the agency with regulatory authority, inspects the property and characterizes it as such. Thus, all potential violations noted by the consultant should be considered "suspected" until they can be confirmed by DER.</i>	

## Sector Area Issues and Trends

To facilitate property inspections, the consultant team divided the study area into six sectors. Sector boundaries generally were drawn to encompass properties related by use type and location within the study area. As noted above, each sector within the study area has different characteristics. Analyzing consultant findings by sector can identify relationships between use groups/types of businesses, location, and suspected violations. *All violations identified in this section should be considered "suspected" violations until they can be confirmed by DER inspectors, the only parties who have the legal authority to issue Notices of Violation and citations.*

## Sector 1A

Sector 1A lies to the west of St. Barnabas Road near its intersection with Branch Avenue (MD 5). Zoned M-X-T (Mixed-Use Transportation Oriented), C-M (Miscellaneous Commercial), and C-S-C (Commercial Shopping Center), this piece of the St. Barnabas Road corridor contains a variety of retail, office, and service uses, such as fast-food restaurants, new and used car dealerships, gas stations, athletic equipment sales, a pawn shop, and nail salons. Smaller commercial uses typically are clustered in single, suburban strip-style buildings set back from the street. The sector contains 57 businesses located on 24 properties.



Source: M-NCPPC GIS Data

This portion of the study area had a high number of violations, including 132 ZO Violations, 95 NC Violations, and 13 EV Violations. Fifty-eight percent of Sector 1A businesses did not have valid U&Os; this compliance rate was the second-lowest in the study area. Many of the other ZO Violations were sign violations and landscaping violations. Some of the sign violations appear to be associated with car dealerships, which have a number of outdoor banners displayed without sign permits.

**Table A-2. Sector 1A Violations**

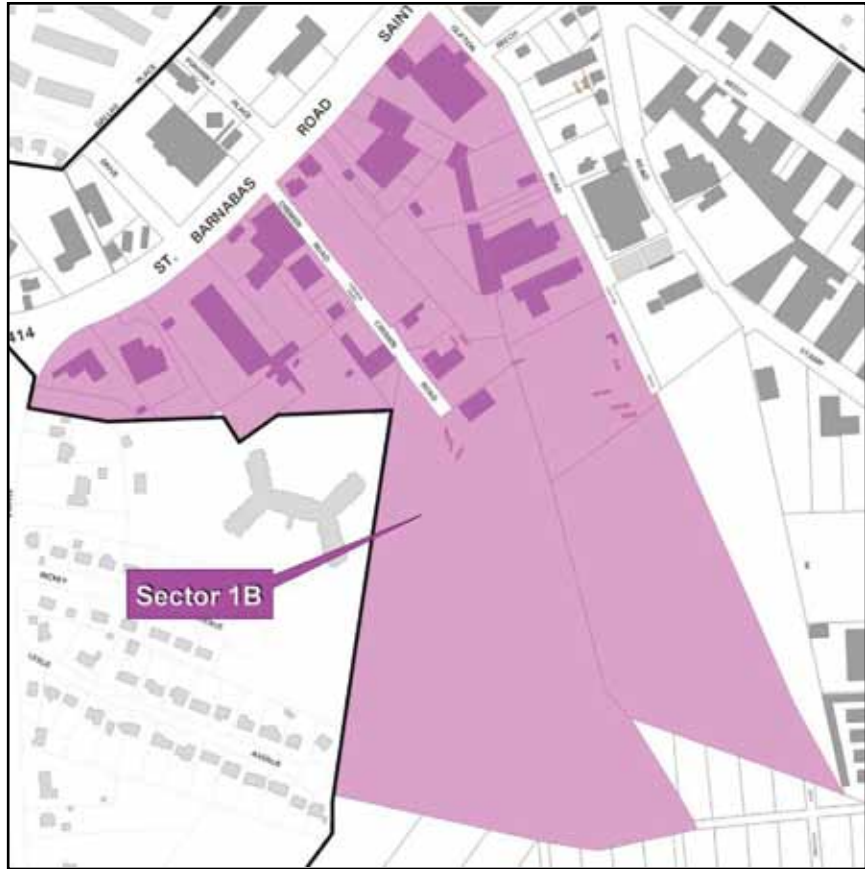
<i>Type of Violation</i>	<i>Number of Violations</i>
Zoning Ordinance (ZO)	132
Nonconformance with Other County Codes (NC)	95
Environmental (EV)	13
Safety Hazard (SH)	7
Imminent Safety Hazard (IS)	1
<b>TOTAL</b>	<b>248</b>
<i>Source: CTI</i>	

Sector 1A violations constituted 23 percent of the total violations in the study area, and the sector had the highest average number of violations per business (see Tables A-2 and A-9). Sector 1A also had the highest percentage of illegal signage and site plan/landscaping violations in the study area. These percentages are compounded by the high visibility of many of these violations, given their location along St. Barnabas Road. The impact of these violations on the St. Barnabas Road corridor cuts against the vision for revitalization

found in the *Approved Branch Avenue Corridor Sector Plan and Sectional Map Amendment* (2009). Addressing these violations will be critical to the implementation of the Branch Avenue sector plan and the success of the new revitalization program beginning in the summer of 2010 (see Chapter VI for details).

## Sector 1B

The properties included in Sector 1B line the southeastern portion of St. Barnabas Road south of Clifton Road and extend away from the corridor into the industrial center of the study area. St. Barnabas Road frontage properties are zoned C-S-C and C-M, but the properties that lie behind these parcels carry I-1 (Light Industrial) zoning. Many of the industrially-zoned parcels contain automotive uses, including new and used auto sales, auto repair/service, taxi service, and a rental car facility. The main industrial use in the sector, however, is a gravel washing facility and concrete batching plant located at the terminus of Cremen Road. This property contains a large, highly-visible Class 3 fill mound that dominates the study area landscape.<sup>55,56</sup> In addition, application has been made for a special exception that would allow a concrete recycling facility on this property.<sup>57</sup>



Source: M-NCPPC GIS Data

Although Sector 1B contains ten more properties than Sector 1A, the consultant noted significantly fewer violations in this area. Like 1A, the sector contains several instances of multiple businesses at one location: it has 46 businesses located on 34 properties. Most of these multi-tenant buildings are found along St. Barnabas Road, where small com-

**Table A-3. Sector 1B Violations**

<i>Type of Violation</i>	<i>Number of Violations</i>
Zoning Ordinance (ZO)	94
Nonconformance with Other County Codes (NC)	73
Environmental (EV)	10
Safety Hazard (SH)	9
Imminent Safety Hazard (IS)	0
<b>TOTAL</b>	<b>186</b>

Source: CTI

<sup>55</sup>Section 4-271(a)(11) of the Prince George's County Code defines a Class 3 fills as "Common fills proposed for landscaping or other nonload-bearing usage." Section 27-205.01 of the Prince George's County Zoning Ordinance identifies a Class 3 fill as a special exception (SE) use. Buffers and landscaping/screening are required. However, this Class 3 fill received a grading permit prior to the institution of special exceptions for this use and was not required to meet these standards.

<sup>56</sup>As noted in Chapter II, the Class 3 permit for this fill expired in April 2010, and all fill activity should have ceased by the time of this report.

<sup>57</sup>The Prince George's County Zoning Hearing Examiner approved this special exception with conditions. The case is now pending before the County Council.



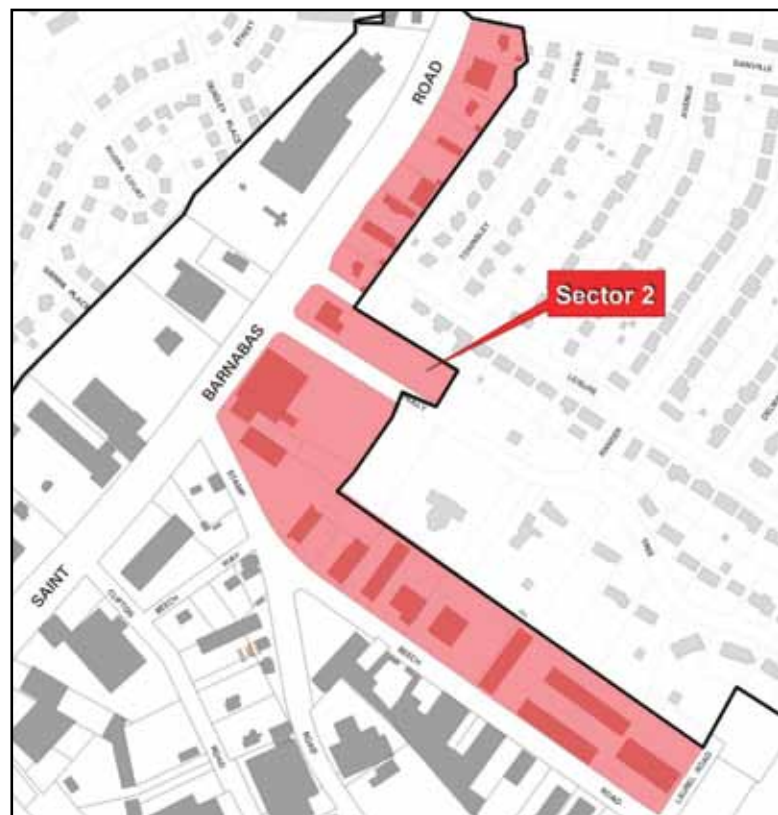
mercial buildings house a variety of retail and service businesses. In Sector 1B, 48 percent of the businesses did not have valid U&Os.

Sector properties showed a number of ZO Violations and NC Violations: 94 and 73, respectively (see Table A-3). Zoning violations were almost evenly distributed between U&O violations, illegal signage, site plan/landscaping violations, auto storage violations, and parking area violations. The consultant noted that, although this sector had a lower number of violations than the other two St. Barnabas Road-area sectors (Sectors 1A and 2), violations—particularly property maintenance and environmental issues—in Sector 1B tended to be more severe due to the vehicle-related nature of many of its businesses.

Sector 1B contains a slim majority of commercial operations, but almost two-thirds of violations were associated with commercial properties. Most of these commercial uses are located along St. Barnabas Road, and as with Sector 1A violations, many of the violations found in Sector 1B assume greater magnitude due to their prominent location along this corridor.

## Sector 2

Sector 2 contains 20 properties that lie along the eastern portion of St. Barnabas Road near Branch Avenue (MD 5) and along the western portion of Beech Road, the main road through the industrial heart of the study area. Both are high-visibility locations. Sector 2 properties on St. Barnabas Road are small retail/service uses, offices, and restaurants; all are zoned C-S-C. The remaining Sector 2 properties along Beech Road are zoned I-1, although auto repair and small commercial operations constitute the majority of uses. Sector 2 is noteworthy for its large multi-tenant buildings, including two office buildings along St. Barnabas Road and Beechley Square, a Beech Road commercial complex that contains small retail, service, and warehouse uses. Although Sector 2 contains only 25 buildings, these buildings house 167 businesses.



Source: M-NCPPC GIS Data

The consultant team noted a high number of violations per property in Sector 2: 284 total violations, which averages to over 14 violations per property. Many of these violations, however,

relate to the lack of a valid U&O: of the 167 businesses in Sector 2, 97 (58 percent) did not have valid U&Os. Sector 2 properties had an additional 67 ZO Violations and 110 NC Violations. As with Sector 1B properties, ZO Violations other than U&O violations mainly involved illegal signage, site plan/landscaping violations, and parking area violations. Property maintenance violations constituted almost one-third of all NC Violations in this sector. Other violations in Sector 2 include five EV Violations and five SH Violations. This large number of violations can partially be attributed to the fact that Sector 2 contains several multi-tenant buildings and, thus, has a higher number of businesses than other sectors.

As with Sectors 1A and 1B, the high number of violations in Sector 2 is problematic due to the prominent location of many of these properties. Like Sector 1B, Sector 2 contains a mixture of commercial and industrial uses, but commercial properties dominate the suspected violation count. Many property maintenance, sign, and landscaping/screening violations occur in highly visible locations along heavily-traveled St. Barnabas and Beech Roads. The appearance of these properties plays a major role in defining the physical character of the study area, and unabated violations limit the potential for revitalization of the St. Barnabas Road corridor.

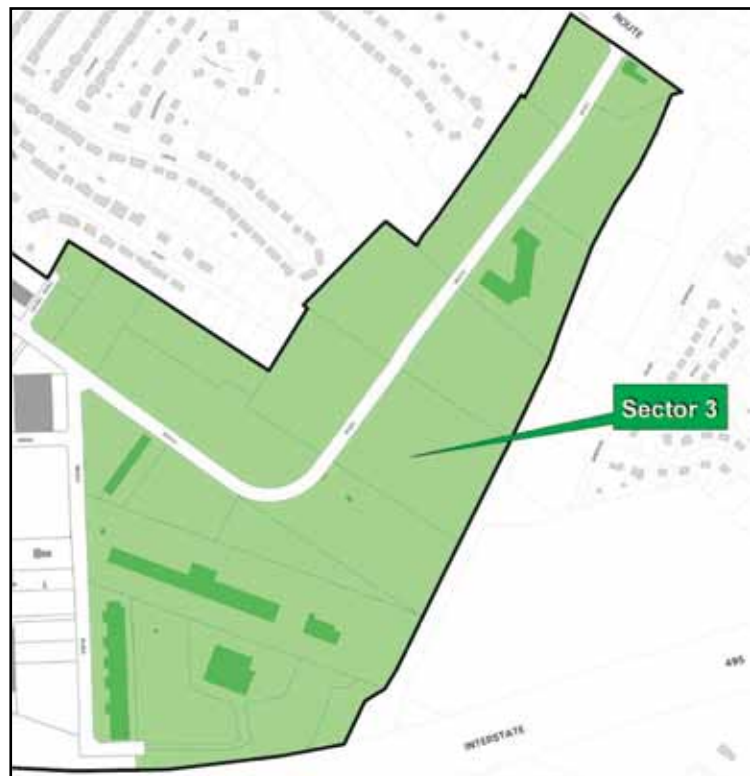
**Table A-4. Sector 2 Violations**

<i>Type of Violation</i>	<i>Number of Violations</i>
Zoning Ordinance (ZO)	164
Nonconformance with Other County Codes (NC)	110
Environmental (EV)	5
Safety Hazard (SH)	5
Imminent Safety Hazard (IS)	0
<b>TOTAL</b>	<b>284</b>

*Source: CTI*

### Sector 3

Sector 3 includes 25 properties located in the eastern portion of the study area. Eight of these properties border the Henson Creek Stream Valley Park. Only eight Sector 3 properties contain buildings; the majority of properties are either undeveloped or associated with a business located on an adjacent parcel. Properties lying to the south and east of Beech Road are zoned I-1 and house commercial and industrial uses, including a large private auto auction, car cleaning/detailing services, waste management services, a graphics/printing facility, security services, construction contractors, and a storage facility that currently is under construction. The only exception to this zoning is a



*Source: M-NCPPC GIS Data*

single parcel along Branch Avenue to the east of Beech Road that contains a bank and carries C-O (Commercial Office) zoning. All of the vacant properties to the north and west of Beech Road also are zoned C-O (despite development constraints due to steep slopes).

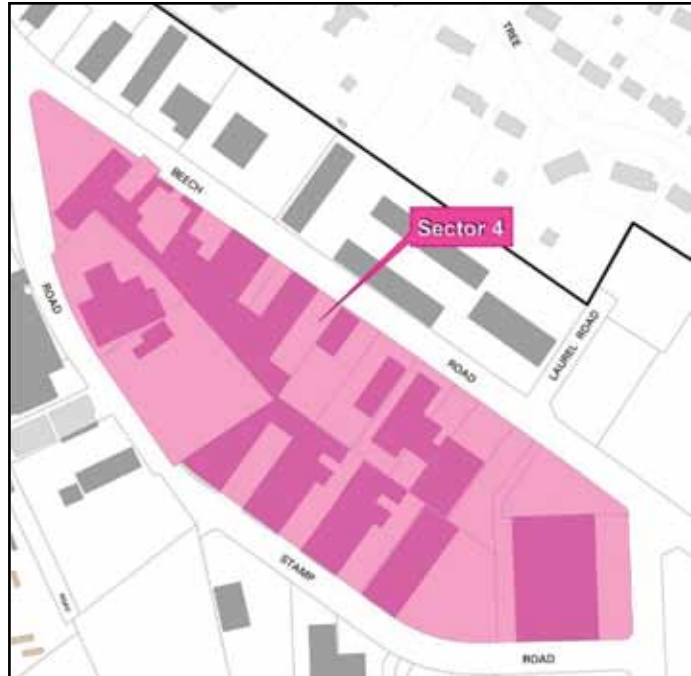
The consultant team found 35 businesses in Sector 3. Of these, 15 (43 percent) did not have a valid U&O. The other ZO Violations included illegal signage, site plan/landscaping violations, auto storage violations, and parking area violations. Sector 3, however, had the lowest percentage of zoning violations in the study area. Conversely, Sector 3 properties had the highest percentage of property maintenance and NC Violations (which include property maintenance violations) in the study area. Property maintenance violations accounted for over three-quarters of the NC Violations in Sector 3.

<i>Type of Violation</i>	<i>Number of Violations</i>
Zoning Ordinance (ZO)	29
Nonconformance with Other County Codes (NC)	38
Environmental (EV)	2
Safety Hazard (SH)	2
Imminent Safety Hazard (IS)	0
<b>TOTAL</b>	<b>71</b>
<i>Source: CTI</i>	

Sector 3 proved to be the most compliant sector overall, as its 71 violations constitute less than seven percent of the total violations in the study area (see Table A-8). This can be attributed partially to the fact that Sector 3 contains fewer businesses than other sectors in the study area (and more undeveloped property). Over 20 percent of Sector 3 violations relate to businesses operating without a valid U&O; however, the small number of additional violations (relative to other sectors) is offset by the fact that several of them occur on the highly-visible, highly-active auto auction property in the southeastern portion of Sector 3. These violations include placement of storage areas in locations other than those designated on the approved site plan, improper electrical wiring, poor maintenance of property fencing, erosion creating unsafe conditions, and long-term storage of abandoned vehicles. Moreover, many of the Sector 3 violations constitute more serious violations given the relative intensity of the business operations (e.g., more intense industrial/commercial uses, use of heavier equipment, larger lot sizes that have larger areas of suspected violations, and so on).

## Sector 4

The 20 properties in Sector 4 comprise the heart of the study area. Encircled by Beech Road and Stamp Road, this “island” contains several buildings constructed in the late 1950s and 1960s as part of the early industrial park (i.e., the Silver Hill Industrial Center). All Sector 4 properties are zoned I-1, but like most other sectors, they contain a range of commercial and industrial uses. The most prominent of these are a large equipment company along Beech Road, an accessory lot for an automotive dealership located on St. Barnabas Road, and an office condominium complex located at the intersection of Stamp Road and Beech Road.



Source: M-NCPPC GIS Data

Many of the Sector 4 buildings contain a number of tenants with small warehouse/light industrial operations. The consultant found, however, that a large number of these (19) were vacant. Sector 4’s 20 properties contain 65 businesses; of these, 23 (35 percent) did not have valid U&Os. The consultant noted 42 additional ZO Violations, which mainly were illegal signage, site plan/landscaping, and parking area violations. Sector 4 businesses also had 66 NC Violations, which includes the second-highest percentage of property maintenance violations in the study area. Other violations included one EV Violation, one IS Violation, and one SH Violation. Despite having 134 violations, Sector 4 proved to have the second-highest overall compliance rate in the study area (see Table A-8) and the lowest percentage of U&O violations. This may be attributable to some degree to the high vacancy rate in Sector 4 and the fact that many of the small warehousing units and office spaces are professionally managed.

<i>Type of Violation</i>	<i>Number of Violations</i>
Zoning Ordinance	65
Nonconformance with Other County Codes	66
Environmental	1
Safety Hazard	1
Imminent Safety Hazard	1
<b>TOTAL</b>	<b>134</b>

Source: CTI

## Sector 5

Sector 5 constitutes a diverse slice of the study area, stretching from a small piece of St. Barnabas Road frontage on the west to the central portion of the study area. Like Sector 1B, this area includes a variety of uses, from small retail/restaurant operations along St. Barnabas Road to heavier commercial uses and light industrial operations in the middle of the study area. A number of vehicle-related businesses line Clifton Road just off St. Barnabas Road. Prominent Sector 5 businesses include a small strip shopping center along St. Barnabas Road, a storage facility, a moving/van line company, container rentals, a towing operation, and a portion of the Class 3 fill and concrete recycling facility found primarily in Sector 1B. The seven properties along St. Barnabas Road and Beech Way are zoned C-S-C (Commercial Shopping Center); the rest of Sector 5 is zoned I-1 (Light Industrial).



Source: M-NCPPC GIS Data

Sector 5 is home to 79 businesses on 31 properties. Most multi-tenant buildings are located in the northwestern portion of Sector 5 near St. Barnabas Road; buildings in the central portion of the study area tend to have single businesses because they require outdoor storage areas.

<b>Table A-7. Sector 5 Violations</b>	
<i>Type of Violation</i>	<i>Number of Violations</i>
Zoning Ordinance (ZO)	85
Nonconformance with Other County Codes (NC)	50
Environmental (EV)	15
Safety Hazard (SH)	3
Imminent Safety Hazard (IS)	0
<b>TOTAL</b>	<b>153</b>
<i>Source: CTI</i>	

The consultant team found that Sector 5 demonstrates the second highest rate of compliance per property in the study area. Despite this, Sector 5 businesses still had significant numbers of zoning and property maintenance violations. Of the 79 sector businesses, 52 (66 percent) did not

have valid U&Os. Auto storage violations constituted 40 percent of other zoning violations. Additionally, the consultant team noted 50 NC Violations, 45 of which were property maintenance violations; 15 EV Violations; and three SH Violations. This averages to five violations per sector property. Like Sectors 1A and 1B, Sector 5 contains a mixture of commercial and industrial properties; unlike these other sectors, however, commercial uses did not have a disproportionate number of violations in Sector 5. Also, vehicle-related uses in Sector 5 demonstrated greater compliance rates than similar uses in Sectors 1B and 3.

## General Conclusions

### Violation Totals

<b>Table A-8. Summary of Violations</b>	
<i>Violations Noted for DER Follow-Up</i>	
<b>Violation Category</b>	<b>Number of Violations</b>
Zoning Ordinance (ZO)	569
Nonconformance with Other County Codes (NC)	432
Environmental (EV)	46
Safety Hazard (SH)	27
Imminent Safety Hazard (IS)	2
<b>TOTAL</b>	<b>1,076</b>
Number of Businesses Inspected	449
Number of Properties	154
<i>Average Number of Violations Per Property</i>	<b>7.0</b>
<i>Average Number of Violations Per Business</i>	<b>2.4</b>
<i>Source: CTI</i>	

Tables A-8 and A-9 summarize the violations found by the consultant team in all sectors of the study area. Overall, the data show that properties along St. Barnabas Road have higher numbers of violations than those properties found in the Beech Road industrial area. However, differences exist across the sectors primarily due to the number of businesses and types of uses within particular sectors. When violations are analyzed by property and by business, the data show that important distinctions exist between the number and types of violations on commercial and industrial properties. Table A-9 shows the range of average violations per business and per property, but it cannot capture the context of some of these violations. Although a single property may have a low number of violations, these may be magnified due to the intensity of a use or its location. Tables A-8 and A-9 do, however, provide an important snapshot of violations and differences within the study area.

**Table A-9. Summary of Violations by Sector**

<i>Violation Category</i>	<i>Sector 1A</i>	<i>Sector 1B</i>	<i>Sector 2</i>	<i>Sector 3</i>	<i>Sector 4</i>	<i>Sector 5</i>
Zoning Ordinance (ZO)	132	94	164	29	65	85
Nonconformance with Other County Codes (NC)	95	73	110	38	66	50
Environmental (EV)	13	10	5	2	1	15
Safety Hazard (SH)	7	9	5	2	1	3
Imminent Safety Hazard (IS)	1	0	0	0	1	0
<b>TOTAL</b>	<b>248</b>	<b>186</b>	<b>284</b>	<b>71</b>	<b>134</b>	<b>153</b>
<i>Percentage of Total Violations</i>	<i>23.0</i>	<i>17.3</i>	<i>26.4</i>	<i>6.6</i>	<i>12.5</i>	<i>14.2</i>
Number of Businesses	57	46	167	35	65	79
<i>Average Number of Violations Per Business</i>	<i>4.4</i>	<i>4.0</i>	<i>1.7</i>	<i>2.0</i>	<i>2.1</i>	<i>1.9</i>
Number of Properties	24	34	20	25	20	31
<i>Average Number of Violations Per Property</i>	<i>10.3</i>	<i>5.5</i>	<i>14.2</i>	<i>2.8</i>	<i>6.7</i>	<i>4.9</i>
<i>Source: CTI</i>						

### Overall Conclusions

An analysis of the consultant inspection results numbers and an examination of how these numbers relate to use types and property/business locations lead to a series of general conclusions about violations within the study area. The inspection data gathered by the consultant show that:

- > Noncompliance with U&O requirements is a major issue in the study area.
- > More intense/higher impact commercial and industrial uses generate more severe violations due to their size, operations, and materials used.
- > Industrial properties tend to have more property maintenance violations and fewer zoning violations than commercial properties.
- > Automotive uses tend to have higher numbers of violations; screening and environmental issues are particularly problematic on these properties.
- > Commercial uses along the St. Barnabas Road corridor tend to be less compliant than industrial uses in the same sectors. This may relate to the retail orientation of these businesses, the perceived need for extensive advertising, and the number of smaller businesses, many of which may not have enough money for large-scale property improvements.
- > Noncompliance with sign regulations is a major problem, particularly along the St. Barnabas Road corridor.
- > Although professional property management may decrease violations—especially in relation to property maintenance issues on multi-tenant properties—the high number

of U&O violations in all sectors suggests that the county U&O requirement is not adequately addressed in landlord-tenant relationships.

- > Vacancy rates factor into sector compliance rates. However, vacancies can affect sectors differently: vacant units could mean fewer code violations and cleaner properties, given that no business operations are occurring, but along a commercial corridor like St. Barnabas Road, vacant units can have a negative impact on business and contribute to the decline of adjacent properties.
- > Illegal dumping and improper materials storage on study area properties can lead to environmental issues over time.
- > Ongoing and widespread noncompliance has a negative cumulative effect that can make the area less attractive to future investment.

The consultant findings generally verified DER's and M-NCPPC's conclusions about the study area and emphasized the fact that proactive code enforcement and public education efforts are the keys to improving the appearance and operations of businesses within the St. Barnabas-Beech Road area.





## Appendix B: a guide to U&O permits draft brochure





# Guide to Use and Occupancy Permits for Businesses



**Prince George's County  
Department of Environmental Resources**

## ***Where to get more Information***

### **Web Contacts**

Department of Environmental Resources      [www.princegeorgescountymd.gov](http://www.princegeorgescountymd.gov)  
Prince George's County      [www.mncppc.org](http://www.mncppc.org)

### **Department Contacts**

Department of Environmental Resources (DER)      301-883-5810  
Licenses and Inspections Group (LIG)      301-883-3820  
Property Standards Group (PSG)      301-883-6043  
TDD 301-925-5167  
Permits Office      301-883-5900  
TDD 301-985-3894  
Permit Review Office      301-883-5886  
Plan Review Units - Building, Electrical, Life Safety and Fire      301-883-5855  
M-NCPPC Information Center & Planning Desk      301-952-3208 or 3195  
Health Department, Environmental Health Division      301-883-5885  
Fire Prevention Office      301-583-1830  
Office of Child Care      301-333-6940  
Park and Planning      301-952-3530  
Rental Housing License Section      301-883-6100  
Commercial Property Maintenance Enforcement      301-883-6080  
Business Licensing Section      301-883-3840  
Water and Sewer Review      301-883-5104  
Zoning Enforcement      301-883-6130

### **Other Useful Contacts**

Maryland Department of the Environment (MDE)      800-633-6101  
Department of Assessments and Taxation      301-952-2500  
Miss Utility      800-257-7777  
Baltimore Gas and Electric      410-850-4620  
Potomac Electric Power Company      301-967-5804  
Southern Maryland Electric      301-843-6142  
Washington Gas and Electric      703-750-4440  
Washington Suburban Sanitary Commission (WSSC)      301-206-4001  
WSSC Service Applications and Records Section      301-206-4003



County Executive's salutation  
(to be provided prior to review of final draft)

## ***Introduction***

Prince George's County welcomes your business to our community. This guide provides general information on the process of obtaining and maintaining a Certificate of Occupancy, commonly referred to as Use and Occupancy (U&O) Permit or Certificate of Use and Occupancy. The requirement for a U&O permit process is necessary to protect the health, safety and welfare of our residents and your patrons. A valid Certificate of Occupancy certifies an individual's or entity's right to operate a specific business at a particular location. This guide is intended for use by both building / property owners (landlords) and business owners / operators (tenants).

## ***Responsibilities***

Each business and the building it occupies must meet the requirements of the zoning ordinance and certain building codes including minimum life safety, accessibility, mechanical, electrical, structural, and fire safety regulations. These requirements must continue to be met throughout the operation of the business at that location and, regardless of lease arrangements between a Business and Property Owner.

Before purchasing a property or business, before opening a business and before signing a lease, the County recommends that you perform due diligence to determine the condition of the property and systems (i.e. fire alarm and sprinkler) that will be in use during the operation of your activities. This may identify any potential zoning ordinance or building code concerns that may need to be corrected prior to the issuance of a U&O.

This guide applies to U&O permits for all municipalities and unincorporated areas of the county, except the City of Laurel. Some municipalities may have additional requirements and you are encouraged to contact your municipality for specific requirements at your location. Contact information for municipalities is provided on the inside back cover of this guide.

### *When do I need a Use & Occupancy Permit?*

For any business operating in the County, whether a property is owned or leased, a U&O is required for any of these circumstances:

- The property has a change in ownership.
- The tenant of the enterprise or business changes.
- There is a change in the use of the property.



### *How do I get a Use & Occupancy Permit?*

1. Contact the M-NCPPC zoning information office to determine whether the proposed business is an allowable use.
2. Gather data & documents
  - Tax Account Number
  - Property address
  - Property owner's name, address, telephone number
  - Business owner's name, trade name, address, telephone number \*
  - Applicant's name, address, telephone number \*
  - Existing & Proposed use of premises
  - Lease or Use Agreement, if applicable
  - Two copies of approved site plan

\* If different from property owner, additional information may be required

**Fees** - Please contact the Permits Office or visit the website for the current fee schedule for costs and fees associated with obtaining a U&O, including a Straight U&O (no construction involved), a U&O with construction, or a duplicate copy of a U&O.

## How do I get a Use & Occupancy Permit? (continued)

3. Complete application (available at Permits Office) from data in Step 2, submit with documents.
4. A Permit Specialist reviews application for accuracy and completeness, assigns a case number and refers to an M-NCPPC Reviewer.
5. M-NCPPC Reviewer checks zoning requirements such as parking / loading and landscape standards, then sends the approval back to the Permit Specialist, who issues the Job Card.

### Permit Application Form

### Job Card

6. Applicant must post the Job Card in a readily accessible location at the business premises.

4



7. After application is approved, the applicant may schedule inspection(s) with Licenses and Inspections (LIG).

8. When the Inspector visits the property:  
 If all items are acceptable, the inspector signs and copies the Job Card.  
 If items require correction a detailed written correction order is issued. The Applicant then has thirty calendar days to correct the issue and call for re-inspection.

9. Once the Job Card is signed, the Inspector mails the U&O to the applicant.

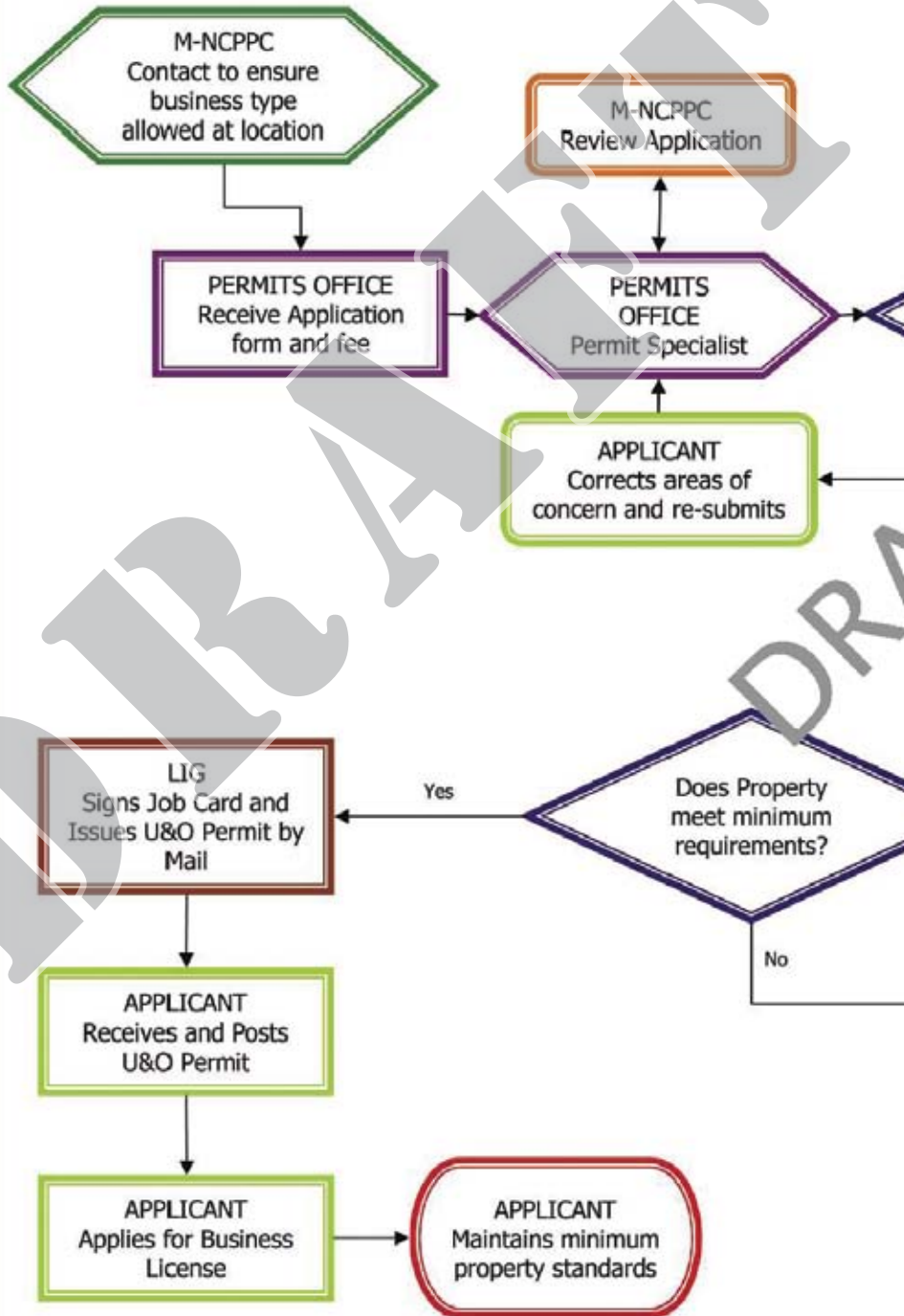


10. Applicant posts the U&O permit in a visible location on the business premises.

11. Applicant maintains the premises in accordance with the requirements of the zoning ordinance and applicable life safety, accessibility, mechanical, electrical, structural, and fire safety codes for minimum property maintenance.

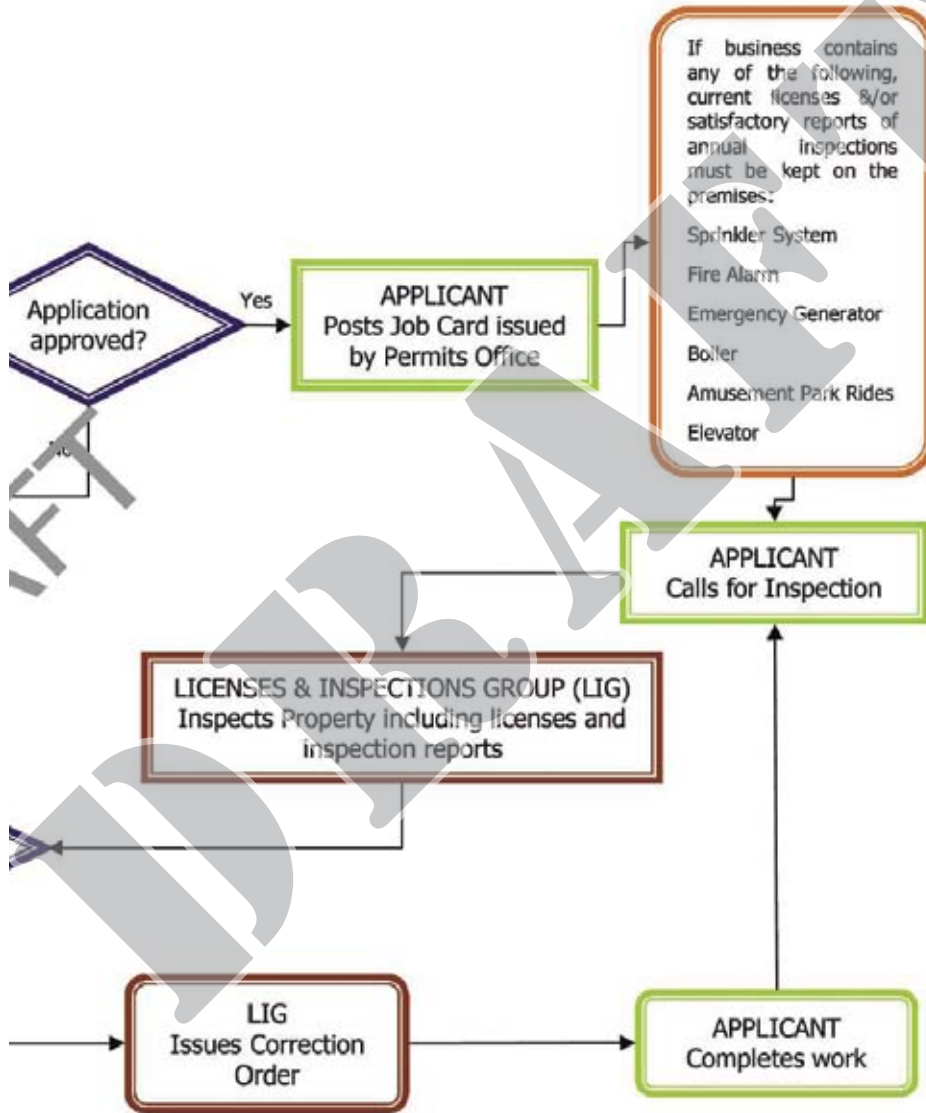
Turn page for clarification of application process 5

## Use & Occupancy Permit Process



6

**Some applications are considered “walk-throughs.” A Permit Specialist can tell you whether your application may qualify.**



M-NCPPC = Maryland-National Park and Planning Commission  
 LIG = Licenses and Inspections Group

### ***What takes place during an inspection?***

The inspector is making sure that the property complies with applicable requirements which may include the references noted.

The inspector may visually review the heating, ventilation, and air-conditioning systems, and the structural and electrical systems for conditions that may create a code compliance or safety issue in any of the areas detailed above.

### ***What the inspector verifies***

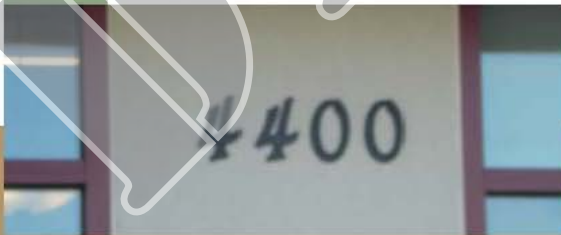
From Subtitle 27 **Zoning** of the Prince George's County Code available online at [egov.co.pg.md.us/lis/](http://egov.co.pg.md.us/lis/) -

- Valid sign permit(s) for any exterior signage (requires separate application)
- Absence of abandoned, disabled, dismantled or unlicensed vehicles
- Business use consistent with permit application

From the **approved site plan** -

Parking lots                      Fences                      Landscaping

From the **Life Safety Code NFPA 101** available for review at the Public Library -



***Visible Address***

- Premises address visible from street
- Type, location and operation of exit lights, emergency lighting and smoke detectors
- Appropriate type and location of fire extinguishers with service history
- Storage in approved areas, protected when required
- Hazardous materials properly stored
- Adequate fire separations between adjacent uses
- Obstacle-free corridors, stairways, exit pathways and door-swings
- Operation of exit doors and self-closing mechanisms, including trash chute doors

From the **Maryland Accessibility Code**

available online at [mdcodes.umbc.edu/dhcd2/Title05.pdf](http://mdcodes.umbc.edu/dhcd2/Title05.pdf) -

Requirements for accessibility by persons with disabilities are determined at the time of application or inspection. Some areas to consider are provided here for your information:

- Accessible route provided from parking to building entry.
- Adequate identification of parking spaces, entries and rooms along accessible route
- Appropriate operation of door hardware
- Adequate maneuvering clearance at doors and throughout building interior
- Proper heights of accessible features including light switches, toilet room grab bars and lavatories, ramp handrails, room identification signage, plumbing fixtures, et al.
- Absence of possible hazards from protruding objects



*Parking Signage*

From Subtitle 13, Division 7 **Property Maintenance Code**

available online at [egov.co.pg.md.us/lis/](http://egov.co.pg.md.us/lis/)-

- Exterior
    - Porches and Balconies
    - Windows and Screens
    - Trash disposal and recycling
    - Gutters and downspouts
  - Interior
    - Walls, floors and ceilings
    - Mechanical systems (heating, cooling, ventilation)
    - Electrical systems, including distribution wiring and lighting fixtures
- |                            |
|----------------------------|
| Parking lots and Driveways |
| Landscaping & Fences       |
| Roof                       |

## Frequently Observed Conditions

The examples here depict some conditions which may delay the approval of your application.

Missing parking lot striping and signage may encourage illegal or unsafe parking and paved surfaces require regular maintenance.



Screening as required by the site plan must be maintained. The building address or number must be visible from the street.

Some properties may have multiple violations such as Fencing, Property Maintenance, and Landscape Maintenance



Damage needs to be repaired promptly to prevent injury to the public or further deterioration.

Landscape should be in conformance with the site plan and properly maintained to prevent weed overgrowth, harboring pests and vermin or causing property damage.





Screening, as required by the site plan, must be maintained around storage and waste disposal containers.

Outside storage is only allowed with appropriate permits.



Automotive operations must be properly screened and secured, and must not allow pollution from automotive fluids.

Fencing must be approved for both materials and height, and must be kept in good repair.



Vacant buildings must still be maintained and properly secured to prevent public harm.

## Frequently Asked Questions

**Q. What will I need to have when I go to the permits office to make application for my Use and Occupancy Permit?**

A. You will need to have two copies of the approved site plan for the location; address and tax account number for the property and know the prior use of the space.

**Q. I have applied for a U&O, but have not had the inspection by the County inspector. Can I stock merchandise or open for business?**

A. No. You must request and pass all inspections before conducting any business.

**Q. I have completed the application for the Use and Occupancy Permit at the Permits Office. Can I schedule the inspection today?**

A. No. You must allow three business days for the paperwork to get to the inspectors office prior to calling for an inspection.

**Q. I want to make some interior changes/modifications to the tenant space. Do I need a separate permit?**

A. Any changes other than normal maintenance require a permit. A CU permit allows the construction and provides the Use and Occupancy Permit in one permit

**Q. Do I need to get any other inspections prior to calling for my Use and Occupancy Permit Inspection?**

A. If you have a commercial kitchen as a part of your business you must call for inspection and receive approval from the County Health Department, prior to calling for your Use and Occupancy Permit inspection. Also, if your business has fire sprinklers and/or a fire alarm you will need a certificate of inspection indicating these systems are operational. Most fire sprinkler/fire alarm companies provide these types of inspections and certificates

**Q. What will the inspector look at when the inspection is performed?**

A. Compliance with the Maryland Accessibility code, applicable Life Safety and Building Codes, and the Zoning Ordinance. See pages 8-9 of this guide for a more detailed list of specific items the inspector may verify.

**Q. When the inspection is scheduled, do I have to have someone at the site to meet the inspector?**

A. Yes. The inspector will need to meet someone at the site during the inspection. They will be advised of any required corrections, or that the occupancy has been approved.

**Q. I am putting up new signs and/or changing existing signs for my business. Is that part of my Use and Occupancy Permit?**

A. No. Any new signs or changes in existing signs must have a County sign permit. These permits are also obtained at the County Permits Office

**Q. I have been trying to contact my inspector and have been unable to reach him/her. What should I do?**

A. Contact the Licenses and Inspection Group Administration Office (see contact number inside front cover).

**Q. Will I get my Use and Occupancy Permit when the inspection is done?**

A. No. If the inspector approves the facility he/she will enter the information into the computer that day and the Use and Occupancy Permit will be mailed from the Permits Office. If you need a copy immediately visit the Permits Office with the Job Card, signed by the Inspector, and pay the \$4.00 fee.

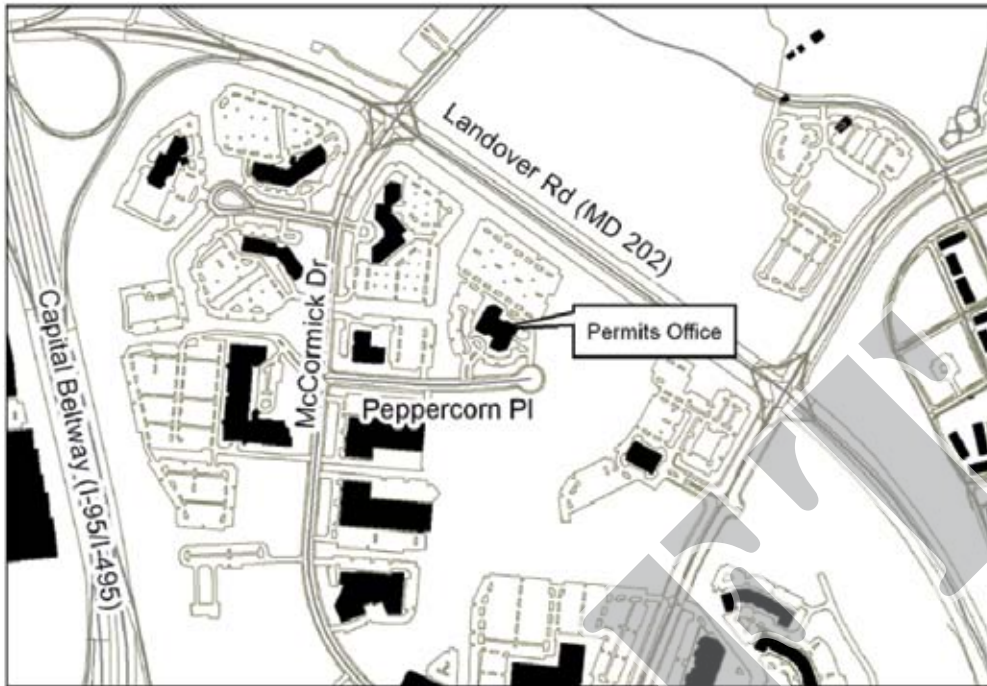


## Local Contact Information

This guide applies to U&O permits for all municipalities and unincorporated areas of the county, except the City of Laurel. Some municipalities may have additional requirements and you are encouraged to contact your municipality for specific requirements at your location.

### Municipalities

Berwyn Heights	<a href="http://www.berwyn-heights.com">www.berwyn-heights.com</a>	301-474-5000
Bladensburg	<a href="http://www.bladensburg.com">www.bladensburg.com</a>	301-927-7962
Bowie	<a href="http://www.cityofbowie.org">www.cityofbowie.org</a>	301-262-6200
Brentwood	<a href="http://www.townofbrentwood-md.us">www.townofbrentwood-md.us</a>	301-927-3344
Capitol Heights	<a href="http://www.capitolheightsmd.com">www.capitolheightsmd.com</a>	301-336-0626
Cheverly	<a href="http://www.cheverly-md.gov">www.cheverly-md.gov</a>	301-773-8360
College Park	<a href="http://www.collegeparkmd.gov">www.collegeparkmd.gov</a>	301-864-8666
Colmar Manor	<a href="http://porttowns.org/colmarmanor">http://porttowns.org/colmarmanor</a>	301-277-4920
Cottage City	<a href="http://users.starpower.net/cotcitmd/INDEX.htm">users.starpower.net/cotcitmd/INDEX.htm</a>	301-779-2161
District Heights	<a href="http://www.districtheights.org">www.districtheights.org</a>	301-336-1402
Eagle Harbor		301-292-0941
Edmonston	<a href="http://porttowns.org/edmonston">porttowns.org/edmonston</a>	301-699-8806
Fairmount Heights		301-925-8585
Forest Heights		301-839-1030
Glenarden	<a href="http://www.cityofglenarden.org">www.cityofglenarden.org</a>	301-773-2100
Greenbelt	<a href="http://www.greenbeltmd.gov">www.greenbeltmd.gov</a>	301-474-8000
Hyattsville	<a href="http://www.hyattsville.org">www.hyattsville.org</a>	301-985-5000
Landover Hills	<a href="http://www.lhills.sailorsite.net">www.lhills.sailorsite.net</a>	301-773-6401
Laurel	<a href="http://www.laurel.md.us">www.laurel.md.us</a>	301-725-5300
Morningside	<a href="http://www.town.morningside.md.us">www.town.morningside.md.us</a>	301-736-2300
Mount Rainier	<a href="http://www.mountrainiermd.org">www.mountrainiermd.org</a>	301-985-6585
New Carrollton	<a href="http://www.new-carrollton.md.us">www.new-carrollton.md.us</a>	301-459-6100
North Brentwood	<a href="http://www.northbrentwood.com">www.northbrentwood.com</a>	301-699-9699
Riverdale Park	<a href="http://www.riverdaleparkmd.info">www.riverdaleparkmd.info</a>	301-927-6381
Seat Pleasant	<a href="http://www.cityofexcellence.org">www.cityofexcellence.org</a>	301-336-2600
University Park	<a href="http://www.upmd.org">www.upmd.org</a>	301-927-2997
Upper Marlboro	<a href="http://www.uppermarlboromd.gov">www.uppermarlboromd.gov</a>	301-627-6905



Permits Office  
 9400 Peppercorn Place  
 6th Floor  
 Largo, Maryland 20774  
 (301) 883-5900  
 (301) 883-5924

Hours of Operation: Monday through Friday – 8:30 a.m. to 4:00 p.m.  
 The permit operation closes for lunch daily from 12:00 p.m. to 1:00 p.m and is closed on weekends and holidays. Applications are accepted until 3:00 p.m. daily. The commercial walk-through process is available during regular business hours on Tuesdays and Thursdays.



Revised \_\_\_\_  
 First Printing January 2010



**Appendix C:  
white & smith, llc's  
auto auction legislation recommendations**





White & Smith, LLC | Justice & Sustainability Associates, LLC

# Auto Auctions

Standards and Regulatory Approaches

June 11, 2010

*Auto Auctions: Standards and Regulatory Approaches*

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## Introduction

This report is prepared as part of a Change Order to our scope of services with The Maryland - National Capital Park and Planning Commission (M-NCPPC) as lead consultant for the Zoning Ordinance and Subdivision Regulations Comprehensive Amendment. The report summarizes regulatory research and provides recommendations for proposed legislation to more efficiently regulate private automobile/vehicle auction operations in the county. The new legislation will:

- Establish a specific definition for a private automobile (and other vehicle) auction that distinguishes it from an automobile/vehicle sales lot.
- Establish appropriate standards and review procedures for the location, design, and operation of auto auction businesses.

Our scope of work in preparing this report included:

- An examination of existing land use and operational regulations regarding automobile/vehicle auctions in Prince George's County and the State of Maryland.
- A joint meeting with staff from the Prince George's County Planning Department and the Deputy Director and a member of the Property Standards Group of the Prince George's County Department of Environmental Resources to discuss issues, concerns, and perceived regulatory weaknesses. This meeting occurred by teleconference on March 24, 2010, with an additional conference call on April 6, 2010.
- A review of best practices and regulations around the country that effectively address definition, compatibility, design, operation, environmental impact, and review procedures for private automobile/vehicle auctions in urban or suburban communities, such as Prince George's County.
- An identification of weaknesses in county or state laws that hinder the effective regulation of the appearance, design, operation, and environmental impact of private automobile auctions.

This memorandum includes:

1. Recommendations for legislative proposals to strengthen county regulations regarding future private automobile/vehicle auctions.
2. Recommendations for legislative proposals that define specific criteria to improve the appearance, compatibility, operations, and environmental impacts of existing private automobile/vehicle auctions. The report addresses options to deal with nonconformities to ensure that *existing private automobile auctions conform to the identified criteria within a set period of time.*

3. An Appendix that includes samples of effective regulations and best practices from across the country that address the identified impacts of private automobile auctions.

## **Background**

### **The Auto Auction Industry**

#### **Business Overview**

Auto auctions sell new and used vehicles, often in a market limited to auto dealers and wholesalers. The cars come from various sellers such as new and used car dealerships, charity donations, government agencies, rental companies, and leasing companies. The auction provides sellers and buyers with an efficient, structured way to transact large numbers of vehicles at competitive prices.

Private auto auctions can range from independent businesses operating on small lots under two acres to national affiliate auctions with larger lots of 250 acres and above. Auction facility buildings range from 500 to 100,000 square feet. The larger scale facilities average 1,000-1,300 bidders per auction. The industry has consolidated to the point that two firms, Manheim and Adesa, now own a majority of the auto auctions nationwide.<sup>1</sup>

#### **Automobile Auction Operations**

Our research of auto auction industry websites, along with external sources, such as articles, zoning applications, and court cases, revealed a typical pattern for site layout and operations. Typically, sellers transport their vehicles to the auction on trailers. Larger auctions have their own fleet of transports, which can pick up vehicles to be sold from throughout the region. Vehicles are unloaded from trailers at designated stations for processing. Vehicles awaiting auction are stored in lots on the auction grounds.

Some auctions offer on-site services, including car washes, body, interior, and windshield repair, or full-service mechanics. Some auctions include amenities, such as cafeterias and training facilities for buyers and sellers.

Public parking for the bidders is typically separate from vehicle auction parking. On the day of the auction, bidders register at the office to get bidders badges. Pre-sale inspection of the vehicles is not standard but may be available for a fee. Vehicle sales can last for an average of two to three hours. Sales



**Figure 1. Unloading area for vehicles with internal lane (Adesa Auto Auction, Belton, Missouri)**

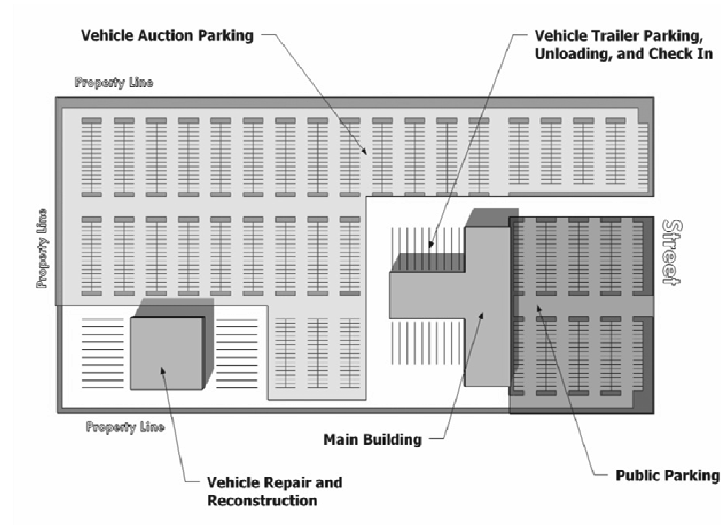
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<sup>1</sup> According to the Maryland Department of Motor Vehicle state dealer list and the company's respective web sites, there are no Adesa or Manheim facilities in Prince George's County.



## Auto Auctions: Standards and Regulatory Approaches

are often conducted by driving or towing vehicles in lanes through a covered area holding the auctioneer and the bidders. In colder climates, the covered area can be part of a larger building with high roofs, large bay doors, and multiple lanes to accommodate the flow of vehicles past the auctioneer. Because of the constant flow of vehicles, children and minors are usually not allowed on the auction floor.

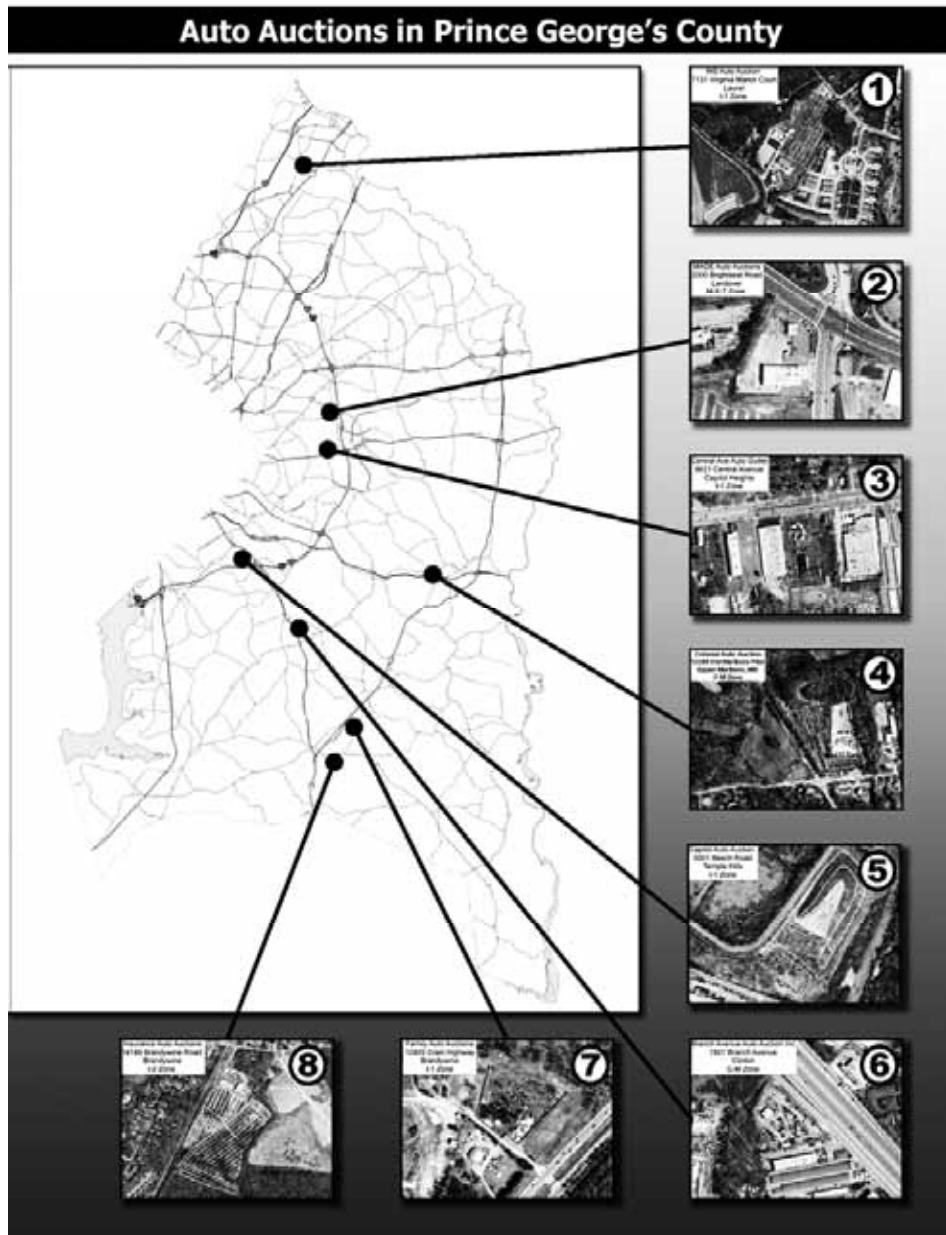


**Figure 2. Typical Auto Auction Site**

At the conclusion of the sale, the buyers and sellers often go to the lobby to pay for purchases, pick up vehicle titles, and receive payments. Buyers may have a limited window after sales to inspect vehicles, including on-site road tests in some cases. Disputes between buyers and sellers can be entered into arbitration. When auctions are conducted during the daytime, all transactions are typically concluded by 5:00 p.m. For night auctions, buyers and sellers may have shorter periods of time in which to conclude their transactions.

The period of time between the sale and when the buyer takes title can range from one hour to one week, depending on the auction house policies. Vehicles under arbitration or subject to title delay may remain on the lot as long as 30 days. Auction houses charge storage fees and sell abandoned vehicles that are left in their lots past accepted time frames. Once sold, vehicles may be transported off the lot by the buyers, third party transporters, or the auction house's transport fleet.

### Auto Auctions in Prince George's County



## Auto Auctions: Standards and Regulatory Approaches

**Table 1. Auto Auctions in Prince George’s County**

Map Number	Name	Address	Tier	Zone	Acreage (est.)	Impervious Surface Coverage	Type of License (MVA) <sup>3</sup>
1	INS Auto Auction	7131 Virginia Manor Court	Developing	I-1, I-3, R-R	15.8	The site is unpaved (dust-free gravel)	Wholesale Dealer
2	MADE Auto Auctions	20000 Brightseat Road	Developed	M-X-T	3.9	Customer parking appears to be paved, the rest is unpaved (gravel)	Used Vehicle Dealer
3	Central Avenue Auto Outlet	8621 Central Avenue	Developed	I-1	2.8	Entire property is paved	Used Vehicle Dealer
4	Colonial Auto Auction	13200 Old Marlboro Pike	Developing	C-M	16.0	Unpaved surface	Wholesale Dealer Title Service Agent
5	Capitol Auto Auction	5001 Beech Road	Developing	I-1	40.2	One small portion next to the building is paved, rest is unpaved (gravel)	Used Vehicle Dealer Title Service Agent
6	Branch Avenue Auto Auction	7827 Branch Avenue	Developing	C-M	2.3	Entire property is unpaved (gravel)	None
7	Family Auto Auction	12405 Crain Highway	Developing	I-1	6.1	Entire property is unpaved	None
8	Insurance Auto Auctions	14149 Brandywine Road	Developing	I-2	111.5	Customer parking is paved, rest is unpaved (gravel)	Wholesale Dealer

Note: This table is a sample of auto auctions in Prince George’s County, rather than a complete inventory. Acreage figures are estimates.

The county has a number of auto auctions.<sup>4</sup> For discussion purposes, this report examines eight auto auctions in the county. All are located in the Developed or Developing Tiers (see Table 1, below). The auctions range in size from approximately 2 to 111 acres. The average approximate site size is 25 acres with a median of 11 acres. The sites are largely devoted to open areas for vehicle storage, with very small building footprints.

Most of the facilities are located in the Developing Tier. The six sites located in the Developing Tier occupy approximately 192 acres or 97 percent of the acreage devoted to auto auctions. Four of the sites, occupying 170 acres or 85 percent of the total, are zoned industrial (I-1, I-2, or I-3). The other sites are zoned M-X-T (Mixed Use – Transportation Oriented) and C-M (Miscellaneous Commercial).

Six of the facilities are listed as holding a Maryland dealer’s license, with two (Branch Avenue Auto Auction and Family Auto Auction) not appearing on the list of licensed dealers. Three of the dealers are listed as used vehicle dealers, and three are listed as wholesale dealers. Two of the dealers are also

<sup>3</sup> See “The Regulatory Environment” (page 5, below) for an explanation of the licensing categories.

<sup>4</sup> The state does not license all auto auctions, and there is no database of trader’s licenses for this type of facility. Therefore, we were unable to obtain an accurate count of the actual number of auto auctions in the county.

## *Auto Auctions: Standards and Regulatory Approaches*

licensed as title service agents.<sup>5</sup> The county also maintains an impoundment lot/public auto auction in Upper Marlboro. This facility is excluded from the inventory and discussion in this section.

The county has identified a number of operational and compatibility issues with some of the existing auctions. These are typical of heavy commercial or industrial uses that involve a high degree of traffic, storage, and loading. These include spot congestion and circulation issues, property maintenance (debris and trash, weeds), lighting, and landscaping and screening violations. Several issues are unique to land uses that have large volumes of vehicle storage. These include the storage of inoperable cars, long-term outdoor vehicle storage, debris and car parts in yards, and vehicles parked or stored in the right of way. The county is concerned that long-term outdoor vehicle storage can create health and environmental hazards, along with unsightly conditions.

## **The Regulatory Environment**

### ***State Regulations***

The type of state license required depends on whether the business is acquiring the vehicles as part of its inventory or whether it is simply a conduit for dealers to sell to each other through the auction process. If the auction occurs at a business location, but the business does not own the vehicle that is sold, the auction is not subject to the MVA regulations.<sup>7</sup> For example, this would include a site that is just a location for dealers or the general public to exchange vehicles through the auction process but where the auction business does not maintain its own inventory for sale. This type of auction is classified as a “transporter,” which must be registered with the MVA.<sup>8</sup> These are referred in this report as “**Transactional Auctions.**” If an auction maintains its own inventory and transfers the vehicles through the auction process at retail (to the general public) or only to dealers (wholesale), an MVA license is required. This report refers to those types of auctions as “**Dealer Auctions**” because they require an MVA dealer license.

An auto auction may be considered a used car dealer, wholesaler, or a non-regulated entity by the state licensing laws. When it is not regulated by the state auto dealer licensing laws, an auto auction simply requires a trader’s license (a form of business license). As in most states, there are no specific state licensing requirements for Transactional Auctions. Our research uncovered only seven states (Arkansas, California, Montana, New Jersey, North Dakota, Tennessee, and West Virginia) that had specific licensing requirements and comprehensive regulations for auto auctions. These regulations are designed for consumer protection at the transactional stage and have few zoning implications. West Virginia has one of the few physical design regulations for auto auctions:<sup>9</sup>

*Each automobile auction shall:*

*(a) Be located at a permanent site which is owned or leased by the licensee.*

<sup>5</sup> See “The Regulatory Environment” (page 4, below) for an explanation of the licensing categories.

<sup>7</sup> Telephone conversation with MVA licensing staff (March 25, 2010).

<sup>8</sup> Md. Code, Transportation, § 13-625(a)(3).

<sup>9</sup> W.V. Code § 17A-6C-3.

## Auto Auctions: Standards and Regulatory Approaches

(b) Have no other class of dealership operating from the automobile auction location.

(c) Have office space of at least one hundred forty-five square feet, with necessary office furniture, heating and lighting facilities, restroom facilities and a telephone listed in the name of the automobile auction.

(d) Maintain parking space for at least one hundred vehicles.

(e) Display at least one permanent sign that is clearly visible from the nearest street or highway. The sign shall state that automobile auctions are conducted at that site.

These requirements are minimal and are likely designed simply to require a minimum service level for the consumer. They do not address the impacts of the business on its surroundings.

### Maryland Motor Vehicle Administration (MVA)

Car dealers are subject to the Maryland Vehicle Law (MVL)<sup>10</sup> and the licensing authority of the Maryland Vehicle Administration (MVA). Persons who sell three or more vehicles per year, or who sell vehicles at a fixed location, require a dealer license from the MVA.<sup>11</sup> License fees range from \$250.00 for used, new, and wholesale licenses, to \$1,000.00 for manufacturer's and distributor's licenses (over 10,000 vehicles).<sup>12</sup> The MVA license includes a number of vehicle types, including used cars, new cars, motorcycles, trailers over 15 feet, boat trailers/trailers less than 15 feet, and emergency vehicles.<sup>13</sup> A Transactional Auction does not require an MVA license.<sup>14</sup> Our sample of eight auctions in the county revealed that six (or 75 percent) are Dealer Auctions that require an MVA license. At this point, there are no records of the number of auto auctions that operate outside of the MVA licensing process.

An MVA licensee may conduct its activities at a fixed location.<sup>15</sup> A supplemental license is required if the business moves, relocates, or opens a new location.<sup>16</sup> The licensee must keep its books of account and records at the licensed location or a centralized location approved by the MVA if there are licenses for multiple locations.<sup>17</sup> The dealer must keep its records regarding purchases, sales, transfers of ownership, collection of excise tax, titling and registration fees, issuance of 60-day registration plates, and permits and listings of permanent dealer registration plates assigned to the dealership on the premises.<sup>18</sup> These records must be open for inspection by authorized representatives of the MVA and law enforcement agencies during normal business hours.<sup>19</sup>

A dealer is subject to MVA's licensing requirements. The MVA regulations include several requirements governing site design and access, although these are somewhat vague:

<sup>10</sup> The MVL is codified at Annotated Code of Maryland, Transportation, Titles 11 – 27.

<sup>11</sup> Md. Code Ann. § 15-101.

<sup>12</sup> See MVA Fee Listing, at <http://www.mva.maryland.gov/AboutMVA/FEE/default.htm>.

<sup>13</sup> MVA, Application for Vehicle Dealer's License, No. CS-042(10-06).

<sup>14</sup> See Footnote 7, above, and accompanying discussion.

<sup>15</sup> Md. Code Ann. § 15-105(a)(1).

<sup>16</sup> Md. Code Ann. § 15-105(b)-(c).

<sup>17</sup> Md. Code Ann. § 15-105(a)(2)-(3).

<sup>18</sup> COMAR 11.12.09.A; Md. Code Ann. § 15-105(f).

<sup>19</sup> *Id.*

## Auto Auctions: Standards and Regulatory Approaches

- The dealership must face, adjoin, and be fully visible from an improved street or highway that is accessible to the public and that is identifiable by name or postal number. The street or highway must be used by the public for vehicular travel.
- The location must be of a size to adequately and safely permit the display of a minimum of ten vehicles and space for customer parking.
- The location must meet all local zoning regulations.
- The location must be fully lighted.
- The display and customer parking areas must be adequately surfaced with an appropriate covering, subject to MVA approval.<sup>20</sup>
- Dealership office must be housed at the dealer's fixed location in a "substantial" building adequate and appropriate for the business so conducted.
- The dealership office must have sufficient size to accommodate the customers and must be equipped with office furniture, such as desk, chairs, filing cabinets, electricity, lighting, heat, and telephone in order to reasonably conduct the dealership business.<sup>21</sup>
- Applicants for a license to sell new or used vehicles must submit an "Automotive Repair Facility Contract" form to certify that the dealer will have a repair facility within five miles of each dealership location.<sup>22</sup>

To apply for a license, the business submits the application on forms approved by the MVA, along with a fee as set forth in COMAR 11.11.05.<sup>23</sup> The license is issued for a two-year period.<sup>24</sup> The MVA mails a renewal packet to the dealer 60 days before the license expires.<sup>25</sup> The MVA does not monitor compliance with the state standards, but it does conduct periodic audits of the business.<sup>26</sup> The MVA enforces the regulations if there is a complaint or if the renewal or failure to renew signals a violation of the state standards (for example, moving the business to a different location without relicensing).

The applicant must submit a Zoning Approval Form (No. CS-053 [06-08]) with the MVA dealer's application. This form must be completed by the applicant and presented for approval to the local zoning authorities. Because a Retail Auction requires a dealer's license, it requires zoning approval. A Transactional Auction does not trigger the MVA licensing requirements, and it does not appear that the statutes or regulations require zoning approval for those facilities. In addition, compliance of a fixed location with local zoning regulations is a condition of transporter registration.<sup>27</sup>

While the MVL does not require licensing for a Transactional Auction, it does include recordkeeping and inspection requirements. Persons who conduct auctions as a business must keep records of:

<sup>20</sup> COMAR § 11.12.02.F - .J. The MVA may waive these requirements for wholesale dealers; new trailer, boat trailer, and motorcycle dealers; and for any person licensed as a dealer to sell only fire, rescue, and emergency medical motor vehicles. COMAR § 11.12.04.A.

<sup>21</sup> COMAR § 11.12.03.A - .B.

<sup>22</sup> MVA, "Dealer - License to Sell New Vehicles," at <http://www.mva.maryland.gov/AboutMVA/INFO/27100/27100-01T.htm> and "Dealer - License To Sell Used Vehicles" at <http://www.mva.maryland.gov/AboutMVA/INFO/27100/27100-02T.htm>.

<sup>23</sup> COMAR 11.12.01.01.B.

<sup>24</sup> COMAR 11.12.01.01.C.

<sup>25</sup> <http://www.mva.maryland.gov/AboutMVA/INFO/27100/27100-01T.htm>.

<sup>26</sup> Telephone conference with MVA licensing office, April 21, 2010.

<sup>27</sup> COMAR 11.15.02.02.

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- The name and address of the consignor
- The date on which it was consigned
- The year, make, model, and serial number of each vehicle consigned
- The title number and state where the vehicle was last registered
- The odometer mileage reading at the time of consignment
- The name and address of the person to whom the vehicle was sold
- The selling price
- The date of sale<sup>28</sup>

These records must be open for inspection by the MVA, Maryland State Police, or local law enforcement officials during business hours.<sup>29</sup>

### Transporter Registration

An auto auction that is exempt from MVA licensing requires a transporter registration.<sup>30</sup> The statute requires that the application show that the transporter:

- Is engaged in the business of transporting new or used motor vehicles, new or used trailers, or mobile construction equipment
- Is subject to at least two written contracts under which the transporter is to repair, paint, remodel, or install equipment on vehicles or auction vehicles
- Is a licensed inspection station under Title 23 of the Transportation article or is certified by the Interstate Commerce Commission or the United States government to transport vehicles as evidenced by the applicant's certificate of public convenience and necessity and Interstate Commerce Commission docket number.

The registration standards require that the transporter:

- Is equipped to perform the services indicated on the application
- Have facilities adequate for the type of business that the transporter proposes to conduct

In addition, the MVA requires the applicant to show compliance with zoning for its fixed location as a condition of transporter registration.<sup>31</sup>

### Trader's Licenses for Auctioneers

A dealer subject to the MVA licensing requirements does not include a "licensed auctioneer acting on behalf of a seller, secured party or owner and where title does not pass to the auctioneer and the auction is not for the purpose of avoiding the provisions of [the MVA]."<sup>32</sup> These are defined as "transporters" under the vehicle and title registration laws.<sup>33</sup>

<sup>28</sup> Md. Code Ann. § 15-113.

<sup>29</sup> Md. Code Ann. § 15-113.

<sup>30</sup> Md. Code, Transportation, § 13-625.

<sup>31</sup> COMAR 11.15.02.02.

<sup>32</sup> *Id.*

<sup>33</sup> Md. Code, Transportation, § 13-625(a)(3).

## Auto Auctions: Standards and Regulatory Approaches

Auctioneers are subject to the licensing requirements of the Maryland Business Regulation Code. An auction business requires a trader's license.<sup>34</sup> A separate trader's license is required for each store or fixed place of business.<sup>35</sup> A Trader's License is also required for a new or used vehicle dealer's license required by the MVA.<sup>36</sup> The license application is filed with the circuit clerk.<sup>37</sup>

### Boat Dealers

Boat dealers are regulated by the Maryland Department of Natural Resources (DNR) rather than the MVA.<sup>38</sup> The statutes do not treat the sale of boats by auction differently from normal retail sales. A dealer is defined as any person who:

- "(i) Engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise; and*
- (ii) Has an established place of business for sale, trade, and display of vessels." (emphasis added)<sup>39</sup>*

The emphasized language is sufficiently broad to include any form of exchange beyond normal retail sales. This would appear to include auctions.

Dealers must post bonds or other security approved by DNR and maintain records of vessels that it buys, sells, exchanges, or receives for sale or exchange for three years. The amount of the security is based on the gross sales shown for the dealer's previous year of business, as follows:

- \$500,000.00 or less: \$5,000.00
- \$500,000.00–\$1,000,000.00: \$10,000.00
- \$1,000,000.00–\$3,000,000 or no prior sales: \$20,000.00
- \$3,000,000.00 and above: \$50,000.00

<sup>34</sup> Md. Code, Business Regulation, § 17-101 (defining "trader" and "trader's license").

<sup>35</sup> Md. Code, Business Regulation, § 17-1804(b).

<sup>36</sup> See MVA summary of requirements for new and used vehicle dealers, supra note 22.

<sup>37</sup> Md. Code, Business Regulation, § 17-302(a)(1). See Prince George's County Clerk of Circuit Court licensing information at [http://www.co.pg.md.us/Government/JudicialBranch/Clerk/business\\_license.asp](http://www.co.pg.md.us/Government/JudicialBranch/Clerk/business_license.asp).

<sup>38</sup> Maryland Boat Act, Md. Code, Natural Resources §§ 8-710.1 to -710.3, -714, -716.1 (collection of excise tax by dealers), -719 (recordkeeping requirements); 8-101 (defining "Department" as Department of Natural Resources); COMAR 08.04.09.01 et seq.

<sup>39</sup> Md. Code, Natural Resources, § 8-701.



*Auto Auctions: Standards and Regulatory Approaches*

**Table 2. Summary of Maryland Licensing and Registration Regulations for Auto Auctions**

Classification	Transactional Auto Auctions	Car Dealers	Boat Dealers
<b>Description</b>	Business not acquiring vehicles for its inventory but rather acting as a conduit for automobiles for auction process	Business acquiring vehicles for its inventory; Anyone selling more than three new or used "vehicles" per year at a fixed location; Vehicles include used/new cars, motorcycles, boats/boat trailers, trailers, and emergency vehicles.	Sale of boats by auction are not treated differently than normal retail sales.
<b>Applicable State Law</b>	Maryland Vehicle Administration (MVA) recordkeeping & registration	Subject to MVA dealer licensing	State Boat Act (Md. Code Natural Resources, Title 8, Subtitle 7)
<b>Licensing/Registration</b>	<ul style="list-style-type: none"> <li>No MVA licensing required</li> <li>Must register as a transporter with MVA and comply with local zoning regulations</li> <li>Trader's license required through the Maryland Business Regulation Code</li> </ul>	<ul style="list-style-type: none"> <li>Required MVA licensing, which includes compliance with local zoning regulations</li> </ul>	Maryland Department of Natural Resources
<b>Recordkeeping</b>	Yes	Yes	Dealers must post bonds and maintain records
<b>Trader's License</b>	Yes	Yes	Yes

**County Regulations**

The Prince George's County Zoning Ordinance treats auto auctions as car dealers. The Zoning Ordinance Table of Uses has various descriptions of vehicle sales. The descriptions, along with the districts where car dealers are permitted, are as follows:<sup>40</sup>

<sup>40</sup> Prince George's County Code, §§ 27-461, -473, -547.

Use Description	Zoning District							
	C-O (Commercial Office)	C-M (Miscellaneous Commercial)	C-S-C (Commercial Shopping Center)	I-1 (Light Industrial)	I-2 (Heavy Industrial)	I-3 (Planned Industrial/Employment Park)	U-L-I (Urban Light Industrial)	M-U-T-C (Mixed-Use Town Center)
Vehicle, mobile home, or camping trailer sales lot, which may include dealer servicing and outdoor storage of vehicles awaiting sale but shall <b>exclude the storage or sale of wrecked or inoperable</b> vehicles, except as accessory to the dealership for vehicles that the dealership will repair.	P	P	SE					SE
Vehicle, boat, or camping trailer sales, or boat or camping trailer rental lot, <b>including outdoor display</b> of the vehicles.				P	P		SP	
Vehicle sales or rental lot, <b>including outdoor display</b> of the vehicles if: <ul style="list-style-type: none"> <li>The vehicle sales or rental lot is subordinate in area to, and is an expansion of, an existing permitted vehicle sales or rental use located on a contiguous adjacent lot in the I-1, I-2, or I-4 Zones.</li> <li>The two contiguous adjacent lots are owned by the same individual(s).</li> <li>The property on which the expansion will be located is adjacent to a public roadway.</li> <li>No structure may be erected except for paving and with the exception of one structure not to exceed 6,000 sq. ft. gross floor area, which is architecturally compatible with the surrounding neighborhood.</li> </ul>						P		

Note: "P" = permitted by right; "SE" = permitted by special exception; "SP" = requires a Special Permit approved by the Planning Board (Section 27-239.02), which requires compliance with the U-L-I Design Guidelines.

A "vehicle sales lot" is defined in County Code § 27-107.1 as "[a]n area of land used for the storage and display for sale of any vehicle, which may also include the rental of vehicles." The standards in the C-O, C-M, C-S-C, U-L-I and M-U-T-C districts require a minimum land area of 25,000 square feet.<sup>41</sup> An amortization provision requires all such uses on property less than 25,000 square feet in existence on September 1, 2000 to cease operations on or before August 31, 2003.<sup>42</sup>

<sup>41</sup> Prince George's County Code, §§ 27-461 n. 37, -473 n. 44, -573 n.2.

<sup>42</sup> Prince George's County Code, §§ 27-461 n. 37, -473 n. 44, -573 n. 2.

## *Auto Auctions: Standards and Regulatory Approaches*

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A county or municipal corporation may require a local license to sell goods at auction.<sup>45</sup> The Prince George’s County Code does not establish a licensing requirement for auctions. However, a state trader’s license is required, as discussed in “Trader’s Licenses for Auctioneers,” above.

## **Recommendations for Regulations to Address Future Private Automobile/Vehicle Auctions**

### **Defining the Use**

It is important to carefully define auto auctions in order to ensure that regulations pertaining to this use are enforceable and do not overreach. This section discusses how auto auctions are typically classified and offers some ways to define them.

Auto auctions are classified as wholesale brokers in the North American Industry Classification System (NAICS):<sup>46</sup>

#### *425120 Wholesale Trade Agents and Brokers*

*This industry comprises wholesale trade agents and brokers acting on behalf of buyers or sellers in the wholesale distribution of goods. Agents and brokers do not take title to the goods being sold but rather receive a commission or fee for their service. Agents and brokers for all durable and nondurable goods are included in this industry.*

Most auto auctions could also be classified under NAICS category 423110 (Automobile and Other Motor Vehicle Merchant Wholesalers). This includes “establishments primarily engaged in the merchant wholesale distribution of new and used passenger automobiles, trucks, trailers, and other motor vehicles, such as motorcycles, motor homes, and snowmobiles.” Auctions that sell merchandise to consumers are classified in the Administrative and Support and Waste Management and Remediation Services sector in category 561990 (auctioneers, independent). This category does not cull out or define auctions separately, nor does it distinguish the exchange of automobiles from other types of merchandise.<sup>47</sup>

<sup>43</sup> Prince George’s County Code, §§ 27-461 n. 37, -473 n. 44, -573 n.2.

<sup>44</sup> Prince George’s County Code, §§ 27-461 n. 37, -473 n. 44, -573 n. 2.

<sup>45</sup> Md. Code, Business Regulation, § 17-1803(b).

<sup>46</sup> U.S. Census Bureau, at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=425120&search=2007%20NAICS%20Search>. A word search for “automobile auction” or “auto auction” on the NAICS web site returns only the Wholesale Trade Agents and Brokers category (425120).

<sup>47</sup> 2007 NAICS Definition at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=561990&search=2007%20NAICS%20Search>, which lists independent auctioneers as an example

## Auto Auctions: Standards and Regulatory Approaches

The American Planning Association's Land-Based Classification Standards (LBCS) have no category specific to auto auctions. The Function classification includes an umbrella category for automobile sales or service establishments (2110), with sub-categories for car dealers (2111), bus/truck/mobile homes/large vehicles (2112), bicycle/motorcycle/ATV (2113), and boat or marine craft dealers (2114).<sup>48</sup> There is also a Function category for wholesale trade establishment – durable goods (3510). While the Structure classification has a category for automobile repair and service structures (2280), it does not have a category that would include an auto auction.

We found few good definitions of auto auctions in our review of local zoning regulations. Better definitions are typically found in state statutes, which regulate the industry in a more comprehensive way. Maryland's state vehicle licensing regulations do a poor job of defining the use, at least for the purposes addressed in this report. Other state regulations provide clearer and more comprehensive definitions. An example is this definition from the Arkansas Code:<sup>49</sup>

*"Auto auction" means any person who operates or provides a place of business or facilities for the wholesale exchange of motor vehicles by and between duly licensed motor vehicle dealers, or from used motor vehicle dealers to individuals, or individuals to used motor vehicle dealers, or any combination thereof, or any motor vehicle dealer licensed to sell used motor vehicles, selling used motor vehicles using an auction format or on consignment.... "Auto auction" also applies to any person who provides the facilities for or is in the business of selling motor vehicles in an auction format;*

*"Salvage auction" means an auto auction that provides for the wholesale exchange or sale of wrecked, salvaged, damaged, or water-damaged motor vehicles using an auction format;....*

The following definition from Loudoun County, Virginia, recognizes the wide variety of activities that can occur at an auto auction:

*Vehicle Wholesale Auction: A business which sells or offers for sale motor vehicles, at auctions on a wholesale basis, only to licensed new or used vehicle dealers or wholesalers. Accessory uses may include services such as, title processing, clean-up and light service and repair of vehicles for sale for auction, the sale of food to customers, financial services, test drive track, the storage or marshalling of auction vehicles, and the sale of specialty vehicles at auctions on a wholesale basis.*

As is discussed above, the county presently categorizes auto auctions as car dealerships. As the Zoning Ordinance is presently written, car dealers are the most similar use to an auto auction. Both types of establishments are principally involved in the sale or exchange of vehicles, store large numbers of vehicles on-site, and typically have large, open areas with a small portion of the land devoted to buildings. Some jurisdictions classify auto auctions as a vehicle sales use, along with car dealerships.<sup>50</sup>

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of this use. See 2007 NAICS Definitions, at [http://www.census.gov/eos/www/naics/2007NAICS/2007\\_Definition\\_File.pdf](http://www.census.gov/eos/www/naics/2007NAICS/2007_Definition_File.pdf), which does not list auctioneers in the category definitions but cross-references it in other categories (see cross-reference in Retail Trade sector at 45399 (Other Miscellaneous Store Retailers)).

<sup>48</sup> LBCS Standards, at <http://www.planning.org/lbcs/standards/pdf/InOneFile.pdf>.

<sup>49</sup> A.C.A. § 23-112-602.

<sup>50</sup> See, e.g., Fairfax County Zoning Ordinance § 9-500 (Category 5 Special Exception Use - Commercial and Industrial Uses of Special Impact and classified as a Sales use permitted by special exception in the C-6, C-7, C-8, C-9 Districts) (e-mail correspondence from Jill Cooper, AICP, Assistant to the Zoning Administrator, to Matt Larsen).

*Recommendations for Regulations to Address Future Private Automobile/Vehicle Auctions / 14*

## *Auto Auctions: Standards and Regulatory Approaches*

Baltimore City lists "auction rooms" as a permitted use, but does not distinguish between the types of auctioned items (such as cars, boats, household items, tools, jewelry, etc.).<sup>51</sup>

- Recommendations:**
1. Define auto auctions as a separate use from auto dealers.
  2. Distinguish wholesale auctions that sell only to dealers from retail auctions that sell to the general public.
  3. Create a separate category for salvage auctions.

### **Zoning Districts and Location**

The key element of revising the zoning regulations for auto auctions is to determine the zoning districts where they are permitted and how they are permitted (i.e., by right or through discretionary review). Auto auctions are essentially a retail or wholesale business. However, their typical appearance is industrial, with large land areas devoted to loading and storage. Their lighting and security needs can annoy surrounding residential or light commercial residents. Many of the newer, larger operations include substantial "recon" centers where cars are repaired and prepared for resale. In addition, most—but not all—auto auctions are designed for sales only to other dealers, rather than for retailing to the general public. Therefore, from both a compatibility and a market perspective, these facilities are better suited for industrial than commercial districts.



**Figure 3. Auto auction with an industrial appearance, including heavy equipment, substantial paved area and metal-sided building (Kansas City, KS)**

In addition to standard zoning requirements that control location, some communities require auto auctions to be located on roads that can accommodate their anticipated traffic. The county already establishes adequate public facilities standards for streets, and this issue can be addressed through traffic impact studies (addressed below). Other communities establish spacing standards for intensive uses. These are discussed in "Spacing and Use Quotas," below.

Another approach could involve restricting auto auctions to a designated district or to planned developments. This would make all of the existing auto auctions (except for the county impoundment lot, which would be exempt) nonconforming. The rezoning process would then be required to site auto auctions in other locations. See discussion under "Recommendations to Address Existing Private Automobile/Vehicle Auctions" for nonconformity issues.

<sup>51</sup> E-mail correspondence from Geoff Veale, Zoning Administrator, to Matt Larsen. Baltimore permits auction rooms in four of its five business districts and as a conditional use in its industrial districts.

- Recommendations:**
4. Restrict auto auctions to industrial districts.
  5. Require discretionary review for facilities that have lower quality building and site design. These elements are discussed later.
  6. Consider allowing auto auctions in the C-M (Miscellaneous Commercial) district as a special exception (or a heavy commercial district in the updated Zoning Ordinance under consideration), subject to higher levels of building design and landscaping.

### Minimum Site Size

Some communities establish a minimum site size for auto auctions. For example, Suffolk requires a minimum of 50 acres. In Prince George’s County, this could be a useful tool to further the tier system by restricting land-intensive uses, while ensuring that the site location works in the marketplace. The County already establishes a minimum site area of 25,000 square feet for vehicle sales.

- Recommendations:**
7. Establish a minimum land area in both the Developed and Developing Tiers.
  8. Establish a maximum land area or frontage requirement in the Developing Tier, near plan-designated Corridors and Centers, or within half a mile of a transit station.<sup>52</sup>

### Access

Access was a critical element of nearly all of the auto auction regulations examined for this report. Auto auctions can generate significant traffic during the bidding process, which in turn can generate significant on- and off-site circulation issues. Auto auction regulations typically address the width, location, and pavement of access drives. The regulations typically specify a minimum and maximum driveway width. Access drives are also offset from property lines and other access drives in order to avoid traffic conflicts.



Figure 4. Access drive

- Recommendations:**
9. Require concrete or bituminous pavement for access drives and storage areas.
  10. Require driveway widths between 18 feet (minimum) and 36 feet (maximum).
  11. Space driveways at least 50 feet from a corner lot line or intersection, 10 feet from a side lot line, and 25 feet from another driveway.
  12. Limit driveways to two in the front yard and four per site.

<sup>52</sup> The latter standard may be unnecessary if transit influence areas are zoned in a way that prohibits these uses anyway.

## Auto Auctions: Standards and Regulatory Approaches

### Landscaping

Landscaping is an effective tool to address the visual and environmental impacts of heavy storage-type uses. Because auto auctions require large tracts with substantial areas devoted to vehicle unloading, storage, and repair, the urban design standards applicable to commercial corridors and mixed use districts are not as appropriate. Hiding or minimizing their visual impacts is an effective compatibility tool.

The county adopted a landscaping manual in 1989, which it is currently updating. Section 4.4 includes screening requirements for more intensive, “unsightly” uses. The screening must include evergreen trees and shrubs, walls, fences, berms, or “sight-tight”<sup>53</sup> fences. The screening must be sufficiently high to screen the property, although most of the standards designate six-foot high screening. In some cases, this is insufficient to

screen stacked vehicles (see Figure 5). Loading areas must be screened from residential zones and public streets, while vehicle storage, repair, or towing areas require screening from residential areas only. A minimum 8-12 foot screen would be more effective to screen vehicle stacking.

In addition to screening, the Landscape Manual requires a landscaped strip along public right of ways: 10-15 feet for planted strips or 25 feet for existing woodlands (Section 4.2). Section 4.3 establishes perimeter and interior buffer and planting requirements for parking lots. While this requirement excludes only single-family uses, it is not clear whether this includes vehicle storage areas as opposed to short-term, accessory parking.

Several of the jurisdictions listed in the Appendix use a 25-foot buffer width, and at least one allows a 15-foot buffer if fencing is used.

- Recommendations:**
13. Require screening along public rights of way in the Developed Tier, in Corridors and Centers designated in the General Plan or an area/master plan, or in any commercial or I-1 district.
  14. Increase the screening width from residential areas to 25 feet, unless fencing or berms are used.
  15. Require berms for plan-designated corridors or residential screening.
  16. Require higher quality fencing materials in the C-M or I-1 district or along plan-designated corridors. This may include masonry, masonry posts with wrought iron (see **Figure 5**), or similar treatment.



Figure 5. Masonry and wrought iron fencing at auto auction (Kansas City, KS)



Figure 6. Landscaped screening (Concord, NC)

<sup>53</sup> This term is not defined in the Landscape Manual.

17. Clarify that internal parking lot landscaping requirements apply to vehicle storage areas. To add flexibility, consider waiving this requirement in an area 100 feet beyond the front property line or within 50 feet, if berms or site elevation screens the storage areas.
18. In order to minimize stormwater runoff and heat islands, consider requiring that a minimum percentage of the site (e.g., 15 percent) be landscaped or maintained as green or wooded area.

## Lighting

Businesses require adequate lighting for security and product display. However, excessive lighting can create glare, annoyances for surrounding neighborhoods, and wasteful energy practices. The county does not currently have specific lighting standards for auto auctions. The conceptual and detailed site plan design guidelines include very broad standards for site lighting (Zoning Ordinance § 27-274(a)(3)), and the parking standards prohibit “glare” (Zoning Ordinance § 27-562).

Some of the jurisdictions listed in the appendix include more detailed lighting standards in their regulations. For example, Overland Park, Kansas, includes maximum lighting intensity and uniformity ratios for both vehicle display areas and all other areas. Other jurisdictions (such as Montgomery County, Maryland) require the applicant to submit an exterior lighting plan that describes the fixtures and the proposed development’s light distribution characteristics. Others require lighting to be directed away from adjoining properties.



Figure 7. Lighting Standards

(Adesa, Belton, Missouri)

- Recommendations:**
19. Establish maximum lighting intensity standards, at least for commercially zoned property, property adjacent to residential areas, and property along plan-designated corridors.
  20. Prohibit light trespass by requiring lighting to be directed away from residential areas and surrounding commercially- or residentially-zoned property.

## Parking

The county does not establish specific parking ratios for auto auctions. Section 27-568 of the Zoning Ordinance establishes a standard of one space per 500 square feet of gross floor area (GFA) of indoor space and 1,000 square feet of gross outdoor display area for vehicle sales. While some of the jurisdictions listed in the Appendix tied parking requirements to employees, we recommend against this variable for several reasons. Most of the site’s parking needs are likely to occur from customers rather than employees, and the number of employees can change—sometimes significantly—without changing the physical design of the operation. Tying parking to fixed variables, such as land and square footage, is a much easier standard to administer.



## *Auto Auctions: Standards and Regulatory Approaches*

**Recommendations:** 21. Maintain the bifurcated standard for buildings and vehicle storage areas, along with the current parking ratios.

### **Performance Standards**

Some of the jurisdictions listed in the Appendix use standards that address the ongoing operations of the facility, such as noise, dust, automobile dismantling, blocking the right of way, and similar issues. Many auto auctions use a public address system that can create objectionable noise levels on surrounding property. Some communities require the site plan to address this issue, or for noise to be directed away from property lines.

**Recommendations:** 22. Require the applicant to provide plans for noise, dust, and odor control at the site plan stage.  
 23. Require the removal of inoperative or irreparable vehicles within 60 days.  
 24. Prohibit auto dismantling activities.  
 25. Limit hours of operation to normal business hours near residential areas, and establish nighttime noise limits in commercial or industrial districts.  
 26. Prohibit autos or related debris from blocking public right-of-ways.  
 27. Prohibit exterior sound systems near residential areas, and require that they be directed away from property lights or comply with noise restrictions at the property lines in other locations.

### **Separation Requirements**

Separation requirements from surrounding uses are a common tool to keep incompatible uses apart, even where the regulated use and the protected areas are appropriately zoned. Many communities use this “dispersion requirement” for adult uses, gas stations, or similar uses. Several communities require auto auctions to be located at least 300-600 feet from residential zones.

**Recommendations:** 28. Require the auto auction site to be located at least 300 feet from a residential zone or the residential area of a Comprehensive Design Zone.

### **Setbacks**

Setbacks of 30–50 feet from the front property line are common, with additional setbacks of 100–250 feet from property lines that abut residential zones. One community requires a 200-foot setback from the street line. Larger setbacks for automobile reconditioning and storage facilities are appropriate from a visual standpoint. The front façade of office areas should be allowed up to 30 feet and oriented to the street line. This can screen the expanses of vehicle storage to the rear of a facility.

**Recommendations:** 29. Establish minimum setbacks of 30 feet for offices and the front façade and 50–100 feet from the front property line for reconditioning, storage, and parking areas.  
 30. Establish 30-foot setbacks for side and rear property lines.

## **Storage**

Some communities establish additional setbacks for outdoor storage areas, additional screening, and designation on the site plan. The setback and screening requirements are addressed above. However, designation of storage areas on the site plan establishes a finite, enforceable location for all vehicle storage and can be reviewed during the permitting process.

**Recommendations:**   **31.** Require that any detailed site plan designate all outdoor storage areas.

## **Surfacing**

The county requires parking areas to have a dust-free surface (Zoning Ordinance § 27-554). This allows unpaved surfaces, such as compact gravel that can create long term maintenance issues. At least one jurisdiction requires concrete or paved bituminous materials. As an alternative to an absolute paving requirement—which would not apply to other uses in the county—the county could require paved surfaces within 200 feet of the front property line. This ensures that the more visible locations are paved and avoids the dragging of gravel onto the public right of way.

**Recommendations:**   **32.** Require concrete, asphalt, or bituminous paving within 200 feet of any street line.

## **Traffic**

Some communities require a traffic impact study for auto auctions. The county can apply its existing adequate public facilities ordinance (APFO) and traffic impact study standards to these uses.

**Recommendations:**   **33.** Require a traffic impact study for any detailed site plan.

## **Other Tools**

### ***Vehicle Density***

The presence of too many cars at a single location can create not only visual blight but also access and emergency service issues. Few zoning regulations govern vehicle density. Some jurisdictions limit vehicles to two per acre for home occupation, and around 10–12 per acre for recreational vehicles or equipment storage. The Maryland Motor Vehicle law regulates vehicle density for automobile dismantlers. This statute limits storage to 250 vehicles per acre if vehicles are not crushed and 500 per acre if they are crushed.<sup>54</sup> The storage area is limited to one acre per business.

For car dealerships, industry standards for car display and storage are approximately 320 square feet per vehicle (136 per acre) for used and 250 square feet per vehicle (174 per acre) for new vehicles.<sup>55</sup> For

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<sup>54</sup> Md. Code Ann. Title 11, § 15-513.

<sup>55</sup> “Automobile Dealer Centers,” in J. De Chiara & M. Crosbie, *Time-Saver Standards for Building Types* (4<sup>th</sup> ed. 2001).

## *Auto Auctions: Standards and Regulatory Approaches*

normal parking areas, the area devoted to parking can result in around 100–115 spaces per acre for parking spaces, driveways, and landscaping.

- Recommendations:**
- 34.** Because most auctions involve the storage of used vehicles, limit vehicle density to one vehicle per 320 sq. ft..<sup>56</sup> To avoid large expanses of vehicle storage, limit the storage areas to two- to three-acre modules (parking areas separated by a landscaped strip or similar feature).
  - 35.** In lower intensity districts, near residential areas, designated Corridors and Centers, or other locations where visual quality is at a premium, limit vehicle density to a smaller number (such as 100–115 spaces per acre), so that the vehicle density is similar to other businesses.
  - 36.** In areas where visual quality is at a premium, limit the total area for vehicle storage (e.g., no more than five acres).

### *Spacing and Use Quotas*

Local governments commonly use spacing controls for high-impact uses. For example, zoning regulations may prohibit the uses from being located within a specified distance of each other. This allows some of these uses to establish in a district but avoids an overconcentration of them. This type of standard is common with sexually-oriented businesses and gas stations.

A less common standard is a use quota. This allows a designated number of uses in a district. For example, the zoning district regulations could provide that no more than four auto auctions are allowed in a district. As an alternative, the regulations could limit the number of uses over a given radius. This type of regulation is used by some jurisdictions in California but is infrequently used elsewhere. It is often used in resort-type situations, where particular businesses in a commercial district—such as T-shirt shops—tend to predominate and to change the character or market characteristics of an entire area.

Several issues with this type of regulation include uniformity, perceived unfairness, and administration of nonconformities. The Regional District Act requires that “regulations shall be uniform for each class or kind of building throughout any district or zone, but the regulations in one district or zone may differ from those in another district or zone.”<sup>57</sup> This is a standard requirement of zoning-enabling legislation and is usually interpreted simply to require that local zoning regulations not violate equal protection. Equal protection requires a rational basis for differential treatment in regulations. This is probably satisfied easily by the effect of avoiding the excessive impacts of a large concentration of auto auctions, while at the same time providing a modicum of market flexibility. It is likely that a court would accept

<sup>56</sup> This requirement is distinct from the parking requirement established in the Zoning Ordinance (see description under “Parking,” above). The vehicle density requirement limits the number of vehicles that are allowed in a given area. The parking stipulation requires a minimum amount of area for cars that are parked. In addition, there is a distinction between parking a car that is used for the transportation of employees and customers to a site and storing a car for sale or transq. ft.er. The parking requirement applies to the former but not to the latter.

<sup>57</sup> Md. Code, Art. 28, § 8-102.

this rationale as a legitimate public purpose and regulation as a way to avoid the harms that a deconcentration regulation guards against.

Some property owners could argue that a deconcentration regulation gives existing businesses an effective monopoly. However, this is no different than limiting the outright zoning classification of uses. For example, property owners in a given commercial district enjoy the right to establish some uses that are denied to property owners in districts zoned residential, agricultural, or even industrial. It is difficult to accept this rationale without undermining the entire basis of zoning.

Finally, this regulation is more difficult to administer with regard to nonconformities—particularly with amortization. For example, if a use quota limits a district to four auto auctions and there are currently five auto auctions, an amortization provision would effectively require one of those businesses to shut down. Which one? Obviously, no local government or zoning administrator would like to be in the position of deciding between the economic successes of several existing businesses. A better way to approach nonconformities is to prevent the reestablishment of businesses beyond the cap or within a spacing restriction after they terminate.

## **Recommendations to Address Existing Private Automobile/Vehicle Auctions**

When the county establishes new standards for auto auctions, it will need to determine how they apply to the existing operations. This report assumes that the existing operations are lawful, nonconforming uses. In those situations, the county has several options:

1. Require the nonconforming use to come into compliance with the regulations within a designated time period. This technique—known as “amortization”—is the most effective tool but also the most controversial.
2. The Zoning Ordinance requires nonconforming uses to register within a given time period after the ordinance is adopted or risk losing their protected status. Continue this registration process, and couple it with the amortization options listed below.
3. Prohibit nonconformities from expanding or intensifying.
4. Allow expansion subject to criteria established in the regulations.
5. Provide that the nonconformity can continue but must comply with new regulations if it terminates or converts to a conforming use.
6. Recognize the nonconformities as a permitted deviation.

These options are discussed below.

### **Amortization**

#### ***Description***

Amortization requires a nonconforming use to conform to the zoning ordinance within a reasonable "amortization period." An amortization provision essentially provides a grace period in which a zoning

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regulation will not be enforced, “during which time a property user either can make a use conform to the [regulation], or if a user cannot or chooses not to conform, during which a user can recover all or part of his investment before the use must be discontinued.”<sup>58</sup> Maryland law allows communities to amortize, so long as the time period by which the use must conform to the new regulations is reasonable. In determining whether an amortization period is reasonable, a court will compare the character of the governmental action and the economic impact on the property owner.<sup>59</sup> Courts will consider the time period for amortization, nature of the nonconforming use, the structures on the property, and the landowner’s investment in the use that is subject to amortization.<sup>60</sup> Factors include:

- Whether the use has a detrimental impact on surrounding neighborhoods, such as a decrease in property values.
- Whether the period is fair. For example, amortization periods have been upheld where they are consistent with the time period for depreciating assets under the tax code.
- Whether the use or structure can be transferred to another zoning district.
- The extent of the company’s business that is affected. For example, the Maryland Court of Appeals upheld a five-year billboard amortization in residential districts where it found that these constituted only five percent of a company’s billboards in the city.
- Whether the affected business has established procedures that mitigate the impact of the regulation. For example, a billboard company’s leases exempted it from rent if a municipal ordinance required the billboards to be removed.<sup>61</sup>

The county recently established a three-year amortization period for its 25,000 square feet minimum site size requirements for vehicle sales establishments. This requirement was litigated, with the Maryland Court of Appeals overturning a trial court judgment against the county on procedural grounds.<sup>62</sup>

The amortization period could vary depending on the type and amount of buildings and uses. For example, a pure auction that maintains none of its own inventory and lacks ancillary facilities, could terminate in two years.<sup>63</sup> A facility with larger repair facilities, its own inventory, and other investments could take a longer time period. In addition, the amortization period could vary by standard. Termination of the entire use (or rezoning to the appropriate district) could occur over a lengthy time

<sup>58</sup> *Chesapeake Outdoor Enterprises, Inc. v. Mayor and City Council of Baltimore*, 89 Md.App. 54, 59 n. 4, 597 A.2d 503, 506 n. 4 (Md.App. 1991)(citing *Georgia Outdoor Advertising, Inc. v. City of Waynesville*, 900 F.2d 783, 785 (4th Cir.1990)).

<sup>59</sup> *Grant v. Mayor of Baltimore*, 212 Md. 301, 129 A.2d 363 (1957).

<sup>60</sup> *Gough v. Board of Zoning Appeals for Calvert County*, 21 Md.App. 697, 321 A.2d 315 (Md.App. 1974).

<sup>61</sup> *Grant, supra*.

<sup>62</sup> *Prince George’s County v. Ray’s Used Cars*, 398 Md. 632, 922 A.2d 495 (2007). The *Ray’s Used Cars* case involved a challenge to the constitutionality of a minimum lot size of 25,000 square feet for used motor vehicle, mobile home, or camping trailer sales lots, along with a three-year amortization period. The court found that the plaintiffs were required to invoke and exhaust administrative remedies for filing a lawsuit. Plaintiffs claimed that the amortization period was also invalid because the overall reasonableness did not have a rational relationship to the factual circumstances, and the public gain was far outweighed by the private loss. None of the plaintiffs requested a variance or other administrative relief. Therefore, the Court of Appeals ordered the case to be dismissed.

<sup>63</sup> *Gough v. Board of Zoning Appeals for Calvert County*, 21 Md.App. 697, 321 A.2d 315 (Md.App. 1974).

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period, while compliance with landscaping or surfacing requirements could occur over a shorter time period. For example, the following time periods could apply to various aspects of the regulations:

Standard	Compliance Period
Use / Location / Separation Requirements	7-10 years
Setbacks / Minimum Site Size	5 years
Access / Driveway Standards / Vehicle Density	3 years
Landscaping / Lighting / Surfacing	18 months
Parking / Storage	2 years
Performance Standards	6 months

It is difficult to forecast a single time period that works for all properties. The time periods listed above are generally consistent with those upheld in reported litigation.<sup>64</sup> However, compliance may be more difficult, or confiscatory, for individual sites based on unique conditions. The county should establish an appeals process within the new auto auction legislation or recognize its existing appeals process in order to allow property owners to seek relief. This could minimize the county's exposure to lawsuits for monetary judgments.

### Registration of Nonconforming Use

Under this approach, the jurisdiction requires a registration or certification of nonconforming uses. If the applicant fails to file the registration within a designated time period, the nonconforming use lapses. This does not amortize the uses but does require some administrative staffing to maintain the nonconforming use registry. There is some conflict in the case law of different states as to whether this procedure is enforceable against a legal nonconforming use, although the trend is that failure to file a registration certificate does terminate the use.<sup>65</sup>

Prince George's County already requires certification of a nonconforming use.<sup>66</sup> However, the general certification provisions do not establish a deadline for applicants to file.

<sup>64</sup> Maryland courts have upheld shorter periods than 7–10 years for the termination of uses. *Shifflett v. Baltimore County*, 247 Md. 151, 230 A.2d 310 (1967) (two year phaseout non-conforming junkyards); *Eutaw Enterprises, Inc. v. City of Baltimore*, 241 Md. 686, 217 A.2d 348 (Md. 1966) (18 months phaseout of non-conforming check cashing services); *Gough v. Board of Zoning Appeals*, 21 Md.App. 697, 321 A.2d 315 (1974) (two year phaseout for all non-conforming uses conducted on open land not utilizing permanent buildings or structures). Longer periods have also been upheld. *Harris v. Mayor and City Council of Baltimore*, 35 Md.App. 572, 371 A.2d 706 (Md.App.), cert. denied, 280 Md. 731 (1977)(15 year period for 'roll back' of occupancy of nonconforming multiple-family structures). In *Ray's Used Cars, supra*, the circuit court invalidated a three-year period but did not expressly reach the reasonableness of the time selected. The Court of Appeals reversed on procedural grounds but also criticized the circuit court's approach to the merits of the case. The five to ten year periods are, therefore, conservative figures. Shorter time periods might also be reasonable. The examples here also use shorter periods for requirements that would not terminate the use or require it to relocate but that would simply require some improvements or additional investment in order to comply. Examples include landscaping, fencing, lighting, parking lot surfacing, and similar requirements. See, e.g., *Village of Glenview v. Velasquez*, 463 N.E.2d 873, 123 Ill.App.3d 806 (Ill. App. 1 Dist., 1984)(upholding 6-month amortization period to remove barbed wire from fences in residential areas).

<sup>65</sup> *Board of Zoning Appeals, Bloomington, Ind. v. Leisz*, 702 N.E.2d 1026 (Ind.,1998). The code section upheld in that case is available at <http://bloomington.in.gov/code/>, at Section 20.08.030.

<sup>66</sup> Zoning Ordinance § 27-244.

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**Expansion**

Most zoning regulations prohibit expansions of nonconformities, and some prohibit their intensification as well. The county’s Zoning Ordinance currently allows nonconformities to expand, subject to discretionary review (such as a special exception) or additional regulations established in the ordinance. The expansion regulations could create regulatory incentives to eliminate nonconforming site features, such as the relocation of building or storage areas within required setbacks, establishment of compliant landscaping, or similar approaches. They could also involve the elimination of some nonconforming features coupled with regulatory incentives, such as height or floor area bonuses, parking reductions, permit streamlining (if the business wants to expand), or financial assistance.

**Permitted Deviations**

Some regulations recognize existing noncompliant uses as conforming uses. This is similar to the use quota tool discussed above, in that the existing auto auction uses would become the only uses allowed to operate in their zoning districts. This would allow those uses to expand, intensify, or to convert to conforming uses without fear of losing their protected status. In addition, an applicant could earn a “conforming” use status if it brings the site into compliance with landscaping, property maintenance, or similar standards within a designated time period.

**Table 3. Summary of Auto Auction Recommendations**

Category	Recommendation
<b>Use Recommendations</b>	<ol style="list-style-type: none"> <li>1. Define auto auctions as a separate use from auto dealers.</li> <li>2. Distinguish wholesale auctions that sell only to dealers from retail auctions that sell to the general public.</li> <li>3. Create a separate category for salvage auctions.</li> </ol>
<b>Zoning Districts and Location</b>	<ol style="list-style-type: none"> <li>4. Restrict auto auctions to industrial districts.</li> <li>5. Require discretionary review of facilities that have lower-quality building and site design. These elements are discussed later.</li> <li>6. Consider allowing auto auctions in the C-M district as a special exception (or a heavy commercial district in the updated Zoning Ordinance under consideration), subject to higher levels of building design and landscaping.</li> </ol>
<b>Minimum Site Size</b>	<ol style="list-style-type: none"> <li>7. Establish a minimum land area in both the Developed and Developing Tiers.</li> <li>8. Establish a maximum land area or frontage requirement in the Developing Tier, near plan-designated Corridors and Centers, or within ½ mile of a transit station.</li> </ol>
<b>Access</b>	<ol style="list-style-type: none"> <li>9. Require concrete or bituminous pavement for access drives and storage areas.</li> <li>10. Require driveway widths between 18 feet (minimum) and 36 feet (maximum).</li> <li>11. Space driveways at least 50 feet from a corner lot line or intersection, 10 feet from a side lot line, and 25 feet from another driveway.</li> <li>12. Limit driveways to two in the front yard and four per site.</li> </ol>
<b>Landscaping</b>	<ol style="list-style-type: none"> <li>13. Require screening along public rights of way in the Developed Tier, in Corridors and Centers designated in the General Plan or an area/master plan, or in any commercial or I-1 district.</li> <li>14. Increase the screening width for residential areas to 25 feet, unless fencing or berms are used.</li> <li>15. Require berms for plan-designated corridors or residential screening.</li> <li>16. Require higher quality fencing materials in the C-M or I-1 district or along plan-designated corridors. This may include masonry, masonry posts with wrought iron , or similar treatment.</li> <li>17. Clarify that internal parking lot landscaping requirements apply to vehicle storage areas. To add flexibility, consider waiving this requirement in an area 100 feet beyond the front property line or within 50 feet if berms or site elevation screens the storage areas.</li> <li>18. In order to minimize stormwater runoff and heat islands, consider requiring a minimum percentage of the</li> </ol>

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Category	Recommendation
	site (e.g., 15 percent) to be landscaped or maintained as green or wooded area.
<b>Lighting</b>	<ol style="list-style-type: none"> <li>19. Establish maximum lighting intensity standards, at least for commercially-zoned property, property adjacent to residential areas, and property along plan-designated Corridors.</li> <li>20. Prohibit light trespass by requiring lighting to be directed away from residential areas and surrounding commercially- or residentially-zoned property.</li> </ol>
<b>Parking</b>	<ol style="list-style-type: none"> <li>21. Maintain the bifurcated standard for buildings and vehicle storage areas, along with the current parking ratios.</li> </ol>
<b>Performance Standards</b>	<ol style="list-style-type: none"> <li>22. Require the applicant to provide plans for noise, dust, and odor control at the site plan stage.</li> <li>23. Require the removal of inoperative or irreparable vehicles within 60 days.</li> <li>24. Prohibit auto dismantling activities.</li> <li>25. Limit hours of operation to normal business hours near residential areas, and establish nighttime noise limits in commercial or industrial districts.</li> <li>26. Prohibit autos or related debris from blocking public right-of-ways.</li> <li>27. Prohibit exterior sound systems near residential areas, and require that they be directed away from property lights or comply with noise restrictions at the property lines in other locations.</li> </ol>
<b>Separation Requirements</b>	<ol style="list-style-type: none"> <li>28. Establish minimum setbacks of 30 feet for offices and the front façade and 50–100 feet from the front property line for reconditioning, storage, and parking areas.</li> <li>29. Establish 30-foot setbacks for side and rear property lines.</li> </ol>
<b>Surfacing</b>	<ol style="list-style-type: none"> <li>30. Require concrete, asphalt, or bituminous paving within 200 feet of any street line.</li> </ol>
<b>Traffic</b>	<ol style="list-style-type: none"> <li>31. Require a traffic impact study for any detailed site plan.</li> </ol>
<b>Vehicle Density</b>	<ol style="list-style-type: none"> <li>32. Limit vehicle density to one vehicle per 320 sq. ft.. To avoid large expanses of vehicle storage, limit the storage areas to two- to three-acre modules (parking areas separated by a landscaped strip or similar feature).</li> <li>33. In lower intensity districts, near residential areas, designated Corridors and Centers, or other locations where visual quality is at a premium, limit vehicle density to a smaller number (such as 100–115 spaces per acre), so that the vehicle density is similar to other businesses.</li> <li>34. In areas where visual quality is at a premium, limit the total area for vehicle storage (e.g., no more than five acres).</li> <li>35. Establish spacing and use quotas</li> </ol>
<b>Additional Tools to Address Existing Private Automobile/Vehicle Auctions</b>	<ol style="list-style-type: none"> <li>36. Amortization</li> <li>37. Registration of nonconforming use</li> <li>38. Restrictions and incentives for expansion</li> <li>39. Permitted deviations</li> </ol>

## Conclusion

The county has a number of existing auto auctions, which at times have created enforcement and compatibility issues. This report discusses ways to regulate those uses and to address the impacts of existing uses. Each of the standards is designed to resolve compatibility, site design, and operational issues in a reasonable fashion. The standards ultimately chosen by the county should take into consideration not only the General Plan and various master plan policies but also the marketplace for auto auction facilities. We look forward to assisting the county as it proceeds with drafting its new auto auction regulations.



## Appendix: Comparison of Regulations

This table summarizes the standards from a number of jurisdictions throughout the nation that address auto auctions or similar establishments. Some of the regulations were provided by M-NCPPC staff, while others were discovered in our independent research. Some of the regulations are targeted specifically to auto auctions, while others are more broadly addressed to large, vehicle-related land uses. These jurisdictions include:

asterisk (\*) = from staff

**bold type** = auto-auction-specific regulations

blue = nonauto-auction-specific regulations

•	<i>21st Century Land Development Code<sup>67</sup></i>
•	<b>Baltimore County, MD</b>
•	<b>Burleson, TX*</b>
•	<b>Dallas, TX</b>
•	<b>Dauphin, Perry &amp; Cumberland Counties PA*</b>
•	<b>Fairfax County, VA*</b>
•	<b>Fontana, CA</b>
•	<b>Hayward, CA</b>
•	<b>Loudoun County, VA</b>
•	<i>Manchester, NH*</i>
•	<b>Matteson, IL*</b>
•	<b>Montgomery County*</b>
•	<i>Overland Park, KS</i>
•	<b>Ralpho Township PA*</b>
•	<i>San Mateo, CA</i>
•	<b>St Mary's, PA*</b>
•	<b>Suffolk, VA*</b>
•	<b>Wilson County, TN</b>
•	<i>Orlando, FL</i>
•	<i>Santa Monica, CA</i>
•	<i>Babylon, NY</i>
•	<i>Red Lion, PA</i>
•	<i>Glendale, CA</i>
•	<i>Lee County, FL</i>
•	<i>Gainesville, FL</i>
•	<i>Riverside CA</i>
•	<i>Wichita, KS</i>
•	<i>Wheat Ridge, CO</i>

<sup>67</sup> Freilich & White, *21<sup>st</sup> Century Land Development Code* (American Planning Association, 2008). This is a model development code published by the American Planning Association.

Access Drives	Description	Jurisdiction	Notes/Range of Standards
	§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>• Access drives must be paved 100 feet from the edge of the street right-of-way.</li> <li>• Beyond 100-foot areas used for vehicle sales, parking, or storage may be a non-paved all-weather, dust-free surface.</li> </ul>
	§8.17: Automobile service stations, drive-through uses, and similar establishments	Manchester, NH	<ul style="list-style-type: none"> <li>• 36-foot maximum width, 10-foot minimum width.</li> <li>• No driveway shall be closer than 20 feet to any corner lot line or closer than 10 feet from any side lot line.</li> </ul>
	§311: Access Drive Requirements (Non-Single-Family Dwellings)	St. Mary's, PA	<ul style="list-style-type: none"> <li>• The number of access drives intersecting a street may not exceed two per lot frontage.</li> <li>• Setbacks for access drives: <ul style="list-style-type: none"> <li>20 feet from the intersection of any street right-of-way lines</li> <li>20 feet from any other access drive located upon the same lot (measured from cartway edges)</li> </ul> </li> <li>• 15 feet from property lines.</li> <li>• Clear sight triangle – access drives shall be located and constructed so that there are no obstructions over 30 inches high within a clear sight triangle of 40 feet, measured from the street center line and along the access drive center line.</li> <li>• Slope not to exceed 4% within 75 feet of the intersecting street center line</li> <li>• Access drives shall be paved with concrete or bituminous paving material or another dust-free material.</li> <li>• Minimum 12-foot-wide cartway, 18-foot minimum width for trucks between public right of way and off-street loading spaces</li> <li>• PennDOT permit required for access drives intersecting with state-owned roads</li> </ul>
	§407: Automobile Auctions and/or Storage Yards	St. Mary's, PA	<ul style="list-style-type: none"> <li>• On-site access drives must be a minimum of 18 feet wide.</li> </ul>
	§406.7: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning & Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>• 18-foot minimum width for interior drives.</li> </ul>
	Sec. 58.753. Driveway Width Requirements	Orlando, FL	<ul style="list-style-type: none"> <li>• Fuel sales and automobile service stations require wider driveways than other uses; however, proper traffic control requires that such driveway widths not be excessive. Driveway widths for these uses must have a maximum width of 36 feet and a minimum width of 24 feet.</li> </ul>
	Section 9.04.12.130 Service stations	Santa Monica, CA	<ul style="list-style-type: none"> <li>• <b>Access and Circulation.</b> For existing service stations proposing an expansion of ten percent or greater in floor area, remodeling, or any other development that would cost more than 50% of the value of the improvements on the parcel at the time of remodeling, excluding land value, existing driveways may remain in their present location. If changes or modifications to the driveways are proposed, such changes shall be subject to the approval of the City Parking and Traffic Engineer.</li> <li>• For new service stations, no more than one driveway with a maximum width of 35 feet shall be permitted on any one street frontage and shall be located as follows. Driveways shall not be located closer than 50 feet from a street intersection of 15 feet from a residential property line or alley; nor should it otherwise interfere with the movement and safety of vehicular and pedestrian traffic, subject to the approval of the Parking and Traffic Engineer.</li> <li>• All lubrication bays and wash racks shall be located within a fully enclosed building. Access to the service bays and wash racks shall not be located within 50 feet of a residentially zoned property.</li> </ul>

Landscaping / Buffering / Screening	Description	Jurisdiction	Notes/Range of Standards
	§ 213-426. Parking and Vehicular Access (Gasoline Service Station Overlay District)	Babylon, NY	<ul style="list-style-type: none"> <li>• Driveways shall be offset a minimum of 25 feet from grading or point of intersection with any right-of-way and offset 10 feet from any adjoining property at the curb line.</li> <li>• There shall be a minimum of one driveway per front yard, a maximum of two driveways per front yard, and four driveways per site. Any one-way driveway shall be 14 feet in width.</li> </ul>
	§ 215-81. Service Station or Convenience Store Dispensing Fuel	Red Lion, PA	<p>Access drives must be located as follows:</p> <ul style="list-style-type: none"> <li>• Minimum offset from intersection of street right-of-way lines=40 feet</li> <li>• Side lot line offset=10 feet</li> <li>• Minimum width=12 feet</li> <li>• Maximum width=35 feet</li> <li>• Minimum separation of drives on same lot=25 feet</li> </ul>
	Chapter 30.68 "CR" Commercial Retail Zone (Automobile Service Stations)	Glendale, CA	<ul style="list-style-type: none"> <li>• There shall not be more than two vehicular accessways to any one street for each development site.</li> <li>• No driveway access may be located nearer than five feet to the beginning of a curve of a street corner or nearer than five feet from an interior property line.</li> </ul>
	Automobile Oriented Use / Gas Station Zoning (Sec. 34-1352)	Lee County, FL	<p>Required landscaping adjacent to property boundaries:</p> <ul style="list-style-type: none"> <li>• Right-of-way buffer landscaping.</li> </ul> <p>Landscaping adjacent to right-of-ways external to the development project must be located within a landscape buffer easement that is a minimum of 25 feet in width. Water management retention areas may not be located within these buffer areas; however, water management facilities, such as underground piping, may be permitted.</p> <p>An undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum average height of three feet. The berm must be planted with ground cover (other than grass), shrubs, hedges, trees, and palms.</p> <p>The required trees and palms must be clustered in double rows with a minimum of three trees per cluster. Canopy trees must be planted a maximum of 20 feet on center within a cluster. The use of palms within the right-of-way buffer must be limited to landscaped areas adjacent to vehicular access points. Palms must be planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of eight feet on center, with a minimum of a four foot difference in height between each tree. A maximum distance of 25 feet between all types of tree clusters must be maintained.</p> <p>All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a three and one-half inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of 10 gallons, five feet in height, with a three-foot spread, planted four feet on center.</p> <ul style="list-style-type: none"> <li>• Landscaping adjacent to all other property lines.</li> </ul> <p>Side property boundaries (other than those adjacent to right-of-ways) must be planted with double row hedges, consistent with the minimum requirements of Section 10-416, Landscape Standards.</p> <p>Rear property boundaries (other than those adjacent to road right-of-ways) must be planted with a double row hedge. The hedge must be a minimum height of four feet at planting, planted at three feet on center, and must be maintained at a height of five feet.</p>

Auto Auctions: Standards and Regulatory Approaches

Description	Jurisdiction	Notes/Range of Standards																																																																																																																																																															
		<ul style="list-style-type: none"> <li>Perimeter walls. These sites must be separated from adjacent residentially-zoned or residentially-developed properties by an architecturally-designed eight-foot high masonry wall or fence utilizing materials similar in color, module, and texture to those utilized for the building. Landscaping must be planted on the residential side of the fence or wall.</li> </ul>																																																																																																																																																															
<b>§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds</b>	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>8-foot fence subject to the setback requirements.</li> </ul>																																																																																																																																																															
<b>Conditional Use Permit Application No. 02P0509L5</b>	Hayward, CA	<ul style="list-style-type: none"> <li>Landscaping and irrigation shall be installed at the end of the parking bays, and a 15-gallon tree shall be installed for every six parking stalls.</li> <li>Slats shall be provided in all perimeter fencing. Existing slats may be repaired, but all fencing and slats must match.</li> </ul>																																																																																																																																																															
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<b>§6.08: Buffer Requirements</b>	Manchester, NH	<ul style="list-style-type: none"> <li>Where a B-2, IND, RDV, or RP district abuts a residential district, a landscaped buffer, consistent with site plan regulations, shall be established to provide a visual barrier for the adjacent residential district.</li> <li>A buffer of at least 25 feet in width shall be established along each lot line of a parcel that abuts a residential district. The buffer may contain a mix of plantings, so long as the plantings create a dense visual barrier.</li> </ul>																																																																																																																																																															

Description	Jurisdiction	Notes/Range of Standards
		<ul style="list-style-type: none"> <li>The width of the landscaped buffer may be reduced to 15 feet with the inclusion within the buffer of a solid fence or wall of 6 feet in height. All plantings shall be maintained in order to perpetuate the visual barrier.</li> </ul>
<p><b>Chapter 18.280 C-3 Commercial District And CP-3 Planned Commercial District</b></p> <p><b>New car or used car dealership</b></p>	Overland Park, KS	<ul style="list-style-type: none"> <li>**See text following this table.</li> </ul>
<p><b>Regulations for Auto-Related Businesses</b></p>	San Mateo, CA	<ul style="list-style-type: none"> <li>Refuse, waste removal, and outdoor service/storage areas, where allowed, shall be screened with a 6-foot solid wall or opaque fence/gate when visible from a public way or residentially-zoned parcel.</li> </ul>
<p><b>§407: Automobile Auctions and/or Storage Yards</b></p>	St. Mary's, PA	<ul style="list-style-type: none"> <li>6-foot fence enclosure subject to zone's setback requirements.</li> </ul>
<p><b>§31-718: Automobile Auctions</b></p>	Suffolk, VA	<ul style="list-style-type: none"> <li>Garage bays screened from public view, in compliance with landscaping provisions.</li> </ul>
<p><b>§7.40: Junkyards and Automobile Graveyards</b></p>	21st Century Land Development Code	<ul style="list-style-type: none"> <li>A junkyard or automobile graveyard shall include a Type E bufferyard along all property lines abutting a public street or any zoning except industrial heavy. Type E Bufferyard :                             <ul style="list-style-type: none"> <li>30'-wide buffer</li> <li>2 canopy trees</li> <li>3-4 understory trees</li> <li>12-14 large shrubs</li> <li>4-8 medium shrubs</li> <li>4 small shrubs (11.7 equivalent planting units)</li> </ul> </li> </ul>
<p><b>Section 9.04.12.130 Service Stations</b></p>	Santa Monica, CA	<ul style="list-style-type: none"> <li>A minimum of 15 percent of the site shall be landscaped, including a planting strip at least three feet wide along all interior parcel lines, non-driveway street frontages, and adjacent to buildings. Planters shall be surrounded by masonry or concrete curbs and so arranged as to preclude motor vehicles from driving across the sidewalk at locations other than access driveways. Permanent opaque landscaping or berming shall be provided and maintained in the planters at a height of not less than three feet above the average adjacent grade.</li> <li>At a minimum, a 150 sq. ft. landscaped area shall be provided at the intersection of two property lines at a street corner.</li> <li>All landscaped areas shall be properly maintained in a neat, orderly, and safe manner. Such landscaping and maintenance shall include, but not be limited to, the installation and use of an automatic irrigation system, permanently and completely installed, which delivers water directly to all landscaped areas.</li> <li>All existing street trees shall be preserved, and driveways and vehicle approaches shall be designed so as not to necessitate the removal of any existing street trees.</li> <li>Final landscaping design treatment shall be subject to review and approval by the Architectural Review Board.</li> </ul>
<p><b>§ 213-421. Gasoline Service Station Overlay District.</b></p>	Babylon, NY	<ul style="list-style-type: none"> <li>The minimum landscaped area shall be a ten-foot wide suitably planted strip running along the front yards of the site. The Planning Board shall have authority to waive or reduce the requirement in approving any site plan, provided that an equivalent area is added to landscaping elsewhere and not otherwise required on site, and the Planning Board finds that such action would further the interests of this chapter and Chapter 186, Site Plan Review.</li> <li>There shall be a planted buffer along the border with any parcel zoned or employed for residential purposes. The planted buffer shall be a minimum of 10 feet wide and shall contain evergreens which are at least 6 feet in height when planted and set approximately 6 feet apart. There shall also be a six-foot-high fence of type and design as set by the Planning Board during site plan review. However, if fencing is placed within 20 feet of any right-of-way, said fencing shall be 4 feet in height and said evergreens planted and maintained at 4 feet in height.</li> </ul>

Auto Auctions: Standards and Regulatory Approaches

	Description	Jurisdiction	Notes/Range of Standards												
Lighting	§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>No glare on adjoining roads/properties</li> </ul>												
	Conditional Use Permit Application No02P0509L5	Hayward, CA	<ul style="list-style-type: none"> <li>Prior to commencement of operations, a letter from a qualified illumination engineer shall be submitted to the Planning Director stating that the existing on-site lighting meets the City's Security Ordinance.</li> </ul>												
	§6.08: Buffer Requirements	Manchester, NH	<ul style="list-style-type: none"> <li>No exterior lighting fixtures or illuminated signs higher than 10' within the limited activity buffer.</li> </ul>												
	§8.17: Automobile Service Stations, Drive-Through Uses, and Similar Establishments	Manchester, NH	<ul style="list-style-type: none"> <li>Illumination should be effectively shielded or arranged to direct the light away from the street and away from adjoining residential premises.</li> </ul>												
	§59-C-4.367: Special Regulations Applicable to Designated Automobile-Related Uses	Montgomery County, MD	<ul style="list-style-type: none"> <li>Exterior lighting plan required to prevent objectionable glare on surrounding properties or streets.</li> <li>The lighting plan must indicate the height, number and types of lighting fixtures, and include a diagram showing their light distribution characteristics.</li> </ul>												
	Chapter 18.280 C-3 Commercial District and CP-3 Planned Commercial District  New Car or Used Car Dealership	Overland Park, KS	<ul style="list-style-type: none"> <li>Lighting for automobile dealerships shall be limited to non-adjustable, vertical mount, precise cut-off fixtures with flat lenses mounted horizontal to grade. House shields shall be utilized on all perimeter fixtures. The maximum allowable height for light poles shall be 24 feet. A lighting plan, including photometrics, shall be submitted as part of the final development plan. The permitted lighting levels are as follows: <table border="1" style="margin-left: 40px;"> <thead> <tr> <th></th> <th>Maximum Average Maintained (foot-candles)</th> <th>Maximum Allowable Illuminance</th> <th>Uniformity Ratios</th> </tr> </thead> <tbody> <tr> <td>Vehicle display areas</td> <td>40 fc</td> <td>50 fc</td> <td>6:1 average to minimum</td> </tr> <tr> <td>All other vehicle areas</td> <td>5 fc</td> <td>N/A</td> <td>6:1 average to minimum 20:1 maximum to minimum</td> </tr> </tbody> </table> </li> <li>Spotlights and secondary lights shall not be permitted. In no event shall light poles be utilized for the display of any type of banner, flag, or other promotional item.</li> </ul>		Maximum Average Maintained (foot-candles)	Maximum Allowable Illuminance	Uniformity Ratios	Vehicle display areas	40 fc	50 fc	6:1 average to minimum	All other vehicle areas	5 fc	N/A	6:1 average to minimum 20:1 maximum to minimum
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§406.7-9: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning and Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>Storage areas shall be lighted to provide an average minimum of 1 foot-candle level of illumination at an elevation of 3 feet above grade for the detection of suspicious movement.</li> <li>All lighting should reflect away from adjoining roads and properties.</li> <li>Night work areas require an average minimum of 2 foot-candles illumination at a 3-foot elevation.</li> </ul>													
Regulations for Auto-Related Businesses	San Mateo, CA	<ul style="list-style-type: none"> <li>All exterior and interior lighting shall be designed and located so that direct rays and glare are confined to the premises.</li> </ul>													
Sec. 34-1352 Automobile Oriented Use / Gas Station Zoning	Lee County, FL	<ul style="list-style-type: none"> <li>Artificial lighting used to illuminate the premises shall be directed away from adjacent properties and streets, shining only on the subject site.</li> <li>Parking lot lamps must be hooded or globed and must not exceed 18 feet in height. Mercury vapor lamps/lights are prohibited.</li> <li>Individual building lighting must be of a low intensity and appropriately scaled fixtures, either directly fixed to the building or on a post lamp standard, not to exceed 18 feet in height. Mercury vapor lamps/lights are prohibited.</li> </ul>													

	Description	Jurisdiction	Notes/Range of Standards
Location	Sec. 30-93. Gasoline and Alternative Fuel Service Stations (GN-554), and Food Stores (MG-54) with Accessory Gasoline and Alternative Fuel Pumps	Gainesville, FL	<ul style="list-style-type: none"> <li>• <b>Remote Areas.</b> Areas on the apron away from the gasoline pump islands, used for parking or vehicle storage, shall be illuminated in accordance with the requirements for parking areas as set forth in Section 30-330(a)(4).</li> <li>• <b>Areas Around Pump Islands.</b> Areas within six feet of a pump island or under canopies shall be designed to maintain a minimum average horizontal illuminance of at least 2 foot-candles and a maximum average of no more than 10 foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 5:1. The above lighting must be delineated on a photometric plan.</li> <li>• <b>Fixtures.</b> Light fixtures mounted on or under canopies shall be full cut-off classification as defined by the IESNA or recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy.</li> <li>• <b>Alternatives.</b> As an alternative or supplement to recessed lights, indirect lighting may be used where light is aimed at the underside of the canopy and reflected back down. In this case, the light fixtures must be shielded so that all direct illumination is focused exclusively on the underside of the canopy.</li> <li>• <b>Prohibited Lights.</b> Lights shall not be mounted on the top or sides of the canopy when not part of a permitted sign, and the sides (fascias) of the canopy shall not be illuminated, unless the illumination is part of a permitted sign.</li> </ul>
	§ 213-421. Gasoline Service Station Overlay District	Babylon, NY	<ul style="list-style-type: none"> <li>• Any and all lighting shall be designed to shine away from any other property and/or be suitably shielded. No more than one foot-candle from any and all lighting shall intrude into residentially-zoned or employed property measured 10 feet onto the residentially-zoned or employed property.</li> </ul>
	Table 5-1102: Vehicle Wholesale Auction	Loudoun County, VA	<ul style="list-style-type: none"> <li>• Vehicle wholesale auctions shall be located on a public, paved road capable of accommodating the traffic generated by the use.</li> <li>• Vehicle wholesale auctions shall be located on parcels where at least a portion of the parcel is located within the noise contour areas of the Airport Impact Overlay District, as existing at the time of initial site plan approval.</li> </ul>
	§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>• Any site used for the sale, parking, and/or storage of more than 150 vehicles shall front solely upon collector or arterial roads.</li> </ul>
	§407: Automobile Auctions and/or Storage Yards	St. Mary's, PA	<ul style="list-style-type: none"> <li>• Any site used for the sale, parking, and/or storage of more than 150 vehicles shall front solely upon collector or arterial roads.</li> </ul>
	§31-718: Automobile Auctions	Suffolk, VA	<ul style="list-style-type: none"> <li>• Must be located on a public street capable of accommodating the traffic generated by the use based on a traffic impact study.</li> <li>• Car-carrier loading/unloading area shall be located separately from the customer parking.</li> </ul>

Auto Auctions: Standards and Regulatory Approaches

	Description	Jurisdiction	Notes / Range of Standards
Parking / Loading	§51A-4.212: Auto Auctions	Dallas, TX	<ul style="list-style-type: none"> <li>• <b>Required Off-Street Parking.</b> One space per 500 sq. ft. of site area exclusive of parking area.</li> <li>• Loading: 0–10,000 sq. ft.=none; 10,000– 50,000 sq. ft.=1 spaces/berth; 50,000–100,000 sq. ft.=2 spaces/berths; each additional 100,000 sq. ft. or fraction thereof=1 additional space/berth</li> </ul>
	Table 30-314.A: Required Number of Parking Spaces	Fontana, CA	<ul style="list-style-type: none"> <li>• <b>Auto Auctions.</b> 1 space per 300 sq. ft. of display or sales and service area, plus 1 space per 2,500 sq. ft. of outdoor sales or display area, plus 1 space per employee.</li> <li>• Truck auctions: 1 space per 250 sq. ft. of sales area, plus 1 space per 3,000 sq. ft. of outdoor sales or display area, plus 1 space per employee.</li> </ul>
	Conditional Use Permit Application No. 02P0509L5	Hayward, CA	<ul style="list-style-type: none"> <li>• <b>Loading and Auction Activities.</b> All vehicle loading and unloading and auction activities shall be performed within the secured portion of the property. No loading or unloading of vehicles shall occur in the public street or the unsecured parking area.</li> <li>• Parking striping: All parking and circulation areas shall be striped and shall conform to the City Off-Street Parking Regulations.</li> </ul>
	Table 5-1102: Vehicle Wholesale Auction	Loudoun County, VA	<ul style="list-style-type: none"> <li>• 1/3 employees</li> <li>• 1/60 vehicle storage space</li> <li>• 1/25,000 sq. ft. of GFA Loading spaces required</li> </ul>
	Chapter 18.280 C-3 Commercial District and CP-3 Planned Commercial District  New Car or Used Car Dealership	Overland Park, KS	<ul style="list-style-type: none"> <li>• Parking shall be provided at the ratio of four spaces per 1,000 sq. ft. of building area and shall be landscaped according to Section 18.450.070.</li> </ul>
	§3.50.02: Number of Parking Spaces Required	Wilson County, TN	<ul style="list-style-type: none"> <li>• One space for each two employees, plus one space for each 10,000 sq. ft. of lot area.</li> </ul>
	Automobile Oriented Use/Gas Station Zoning (Sec. 34-1352)	Lee County, FL	<ul style="list-style-type: none"> <li>• No parking space or loading zone required by the normal parking regulations may be used for the display of merchandise or parking of rental vehicles.</li> </ul>
	Section 9.04.12.130 Service Stations	Santa Monica, CA	<ul style="list-style-type: none"> <li>• There shall be a minimum of two parking spaces for each service bay, plus three spaces if full-service, one space if self-service, plus one space for each 100 sq. ft. of retail area.</li> <li>• The parking area shall be landscaped and striped in conformance with code requirements.</li> <li>• Customer and employee parking shall not be utilized for automobile repair, finishing work, or storage of vehicles.</li> <li>• Vehicles in the process of being serviced may be parked on the premises for a maximum period of two weeks, but additional parking spaces shall be provided for this purpose.</li> <li>• No vehicle that will be or has been serviced may be parked on public streets, sidewalks, parkways, driveways, or alleys.</li> <li>• No vehicle may be parked on the premises for the purpose of offering it for sale.</li> </ul>
§ 213-421. Gasoline Service Station Overlay District	Babylon, NY	<ul style="list-style-type: none"> <li>• A parcel that contains no secondary uses shall provide one parking space for each 200 sq. ft., with a minimum of three parking spaces. A parcel that contains a convenience store shall provide one parking space for each 200 sq. ft., with a minimum of four parking spaces. A parcel that contains a public garage shall provide one parking space per 200 sq. ft., with a minimum of five parking spaces. A parcel that contains a convenience store and public garage shall provide one parking space per 200 sq. ft., with a minimum of six parking spaces. A fully-automated car wash shall not require any additional on-site parking. However, a fully-automated car wash must provide vehicular stacking spaces in number and layout deemed appropriate by the Planning Board but in no event fewer than two spaces outside the entrance.</li> </ul>	



Auto Auctions: Standards and Regulatory Approaches

	Description	Jurisdiction	Notes / Range of Standards
Performance	Regulations for Auto-Related Businesses	San Mateo, CA	<ul style="list-style-type: none"> <li><b>Dust and Odor.</b> No use will be permitted that emits dust, an odor, or air pollutant, detectable without instruments, beyond the boundaries of the zoning district.</li> <li><b>Inoperative Vehicles.</b> Inoperative or irreparable vehicles shall be removed from the premises within 60 days.</li> <li><b>Auto Dismantling.</b> Auto repair or body shops shall not engage in auto dismantling activities.</li> <li><b>Noise.</b> No use will be permitted that exceeds a sound level at any given time of 80 dBS between 7 a.m. and 10 p.m. and 75 dBS between 10 p.m. and 7 a.m. More restrictive sound levels for longer periods of time can be found in the zoning regulations.</li> <li><b>Blocking Right-of-Way.</b> Autos or related debris shall not block public right-of-ways.</li> </ul>
	§5-624: Vehicle Wholesale Auction	Loudoun County, VA	<ul style="list-style-type: none"> <li>Vehicle wholesale auctions shall not be conducted before 8:00 a.m., after 6:00 p.m., or on Saturdays or Sundays.</li> </ul>
	Chapter 18.280 C-3 Commercial District And CP-3 Planned Commercial District  New car or used car dealership	Overland Park, KS	<ul style="list-style-type: none"> <li>The use of loudspeakers or other exterior amplification devices shall be prohibited.</li> <li>Flagpoles shall be limited to a maximum height of 30 feet as measured from grade.</li> </ul>
Public address system	§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>Must be designed to prevent "objectionable impact."</li> </ul>
	§6.08: Buffer Requirements	Manchester, NH	<ul style="list-style-type: none"> <li>No exterior sound system within the limited activity buffer.</li> </ul>
	§406.10: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning, and Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>Applicant must submit expert evidence that the system will be installed as compliant with Section 315 of the ordinance. (This requires compliance with the Pennsylvania Department of Environmental Protection rules and regulations.)</li> </ul>
	§31-718: Automobile Auctions	Suffolk, VA	<ul style="list-style-type: none"> <li>Must be directed away from property lines.</li> <li>Must be designed for minimum noise pollution.</li> </ul>
Public water and sewer	Automobile-Oriented Use / Gas Station Zoning (Sec. 34-1352)	Lee County, FL	<ul style="list-style-type: none"> <li>Outdoor speakers. The use of public address or loudspeaker systems that broadcast outdoors is prohibited.</li> </ul>
	§406.12: Automobile, Heavy Equipment and/or Recreational Vehicle, Auction Service, Reconditioning and Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>Must be connected to public utilities.</li> <li>No porta-potties.</li> </ul>
	§31-718: Automobile Auctions	Suffolk, VA	<ul style="list-style-type: none"> <li>HAZMAT and stormwater runoff control plan must be approved by the Health Department, Department of Public Works, Department of Planning, and the Fire Department.</li> <li>Automated car washing should use recycled water.</li> </ul>
	Table 5-1102: Vehicle Wholesale Auction	Loudoun County, VA	<ul style="list-style-type: none"> <li>The use shall be served by public sewer.</li> </ul>

Auto Auctions: Standards and Regulatory Approaches

	Description	Jurisdiction	Notes / Range of Standards
Separation	§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>No part of the auction shall be located within 600 feet of any land within the R-1, R-2, R-3, and VMU zones.</li> </ul>
	§406:17: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning and Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>No part of the auction shall be located within 300 feet of any land within the R, R-1, R-2, and/or MHP zones.</li> </ul>
	§407: Automobile Auctions and/or Storage Yards	St. Mary's, PA	<ul style="list-style-type: none"> <li>No part of the auction shall be located within 300 feet of any land within the RC, RS, RU, RF, and MI zones.</li> </ul>
	§ 213-421. Gasoline Service Station Overlay District	Babylon, NY	<ul style="list-style-type: none"> <li><b>Gasoline Service Station Overlay District.</b> Superimposed on parcels that are at least 2,000 feet of a parcel containing a currently operating gasoline station, a parcel which has been formerly employed as a gasoline station and which may still enjoy any right to reopen as such, or for which a building permit for the construction of a gasoline service station has been issued and remains in effect. However, an exception shall exist for parcels existing on other corners of the same intersection.</li> </ul>
	Sec. 26-628. Motor vehicle, farm implement, recreational vehicle, mobile or modular home, motorcycle, boat trailer and equipment sales, rental and storage lots	Wheat Ridge, CO	<ul style="list-style-type: none"> <li>There shall be a 1,500-foot minimum separation between any of the sales, rental, or storage lots for the uses listed. New or expanded sales, rental, or storage lots that do not meet the one 1,500-foot minimum requirement of this subsection may be permitted upon approval of a special use permit, following the procedures of Section 26-114. This procedure may be applied to permitted and special uses.</li> </ul>
Setbacks - Sales Area and/or Building, Parking & Maneuvering	§238.1-2: BR Zone Area	Baltimore County, MD	<ul style="list-style-type: none"> <li>For commercial buildings, the front building line shall not be less than 50 feet from the front property line, if on a dual highway, not less than 25 feet from the front property line, and not less than 50 feet from the center line of any other street.</li> <li>Side and rear yards 30 feet.</li> </ul>
	§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>Retail sales at least 50 feet from all property lines.</li> <li>Calculated as part of the maximum permitted lot coverage.</li> </ul>
	§9-518: Vehicle Sale, Rental and Ancillary Service	Fairfax, VA	<ul style="list-style-type: none"> <li>Buildings should be sited no less than 10 feet from lot line</li> <li>Structures completely underground may not be sited closer than 1 foot to any lot line</li> </ul>
	§6.08: Buffer Requirements	Manchester, NH	<ul style="list-style-type: none"> <li>No truck docks, loading spaces, etc. within limited activity buffer</li> </ul>
	Automobile Auction Facility	Matteson, IL	<ul style="list-style-type: none"> <li>No less than 200 feet from public right-of-way</li> </ul>
	§59-C-4.367: Special Regulations Applicable to Designated Automobile-Related Uses	Montgomery County, MD	<ul style="list-style-type: none"> <li>10 feet from adjoining land (commercial/industrial).</li> <li>50 feet from adjoining/abutting land (residential).</li> <li>50 feet from a controlled major highway or a limited access freeway.</li> <li>50 feet from streets with a planned right-of-way of 120 feet or greater.</li> <li>The Planning Board may reduce the setback at its discretion if no adverse effect.</li> </ul>
	§18.280: C-3 Commercial District and CP-3 Planned Commercial District  New Car or Used Car Dealership	Overland Park, KS	<ul style="list-style-type: none"> <li>All structures and parking lots associated with such dealership use shall meet the following setback and separation requirements:                      Single-family residential=250 feet                      Multi-family residential or office=100 feet                      Public R-O-W=30 feet                      Commercial property lines=N/A                      Perimeter of defined new car dealership use, excluding R-O-W=75 feet                      Adjacent residential property lines - See separation requirements in master plan                      Adjacent auto dealer use=15 feet                      Private drive=15 feet</li> <li>No required setback area shall be used for vehicle display. Vehicle display areas shall be identified on the preliminary and final plan. A single elevated vehicle platform shall be permitted for each dealership, if it is constructed of landscape materials or building</li> </ul>

Description	Jurisdiction	Notes / Range of Standards
		<p>materials consistent with the construction of the building. The maximum allowable height shall be six feet. In no event shall vehicle display areas or platforms rotate or move in any manner.</p> <ul style="list-style-type: none"> <li>The preliminary and final plan shall identify areas for vehicle loading and unloading. In the case of three or more car dealerships in a unified development, a common area for vehicle loading and unloading may be identified.</li> <li>The site plan shall designate parking spaces for employees, customers, and for cars being serviced on-site. Such parking shall be provided at the ratio of 4 spaces per 1,000 sq. ft. of building area and shall be landscaped according to Section 18.450.070.</li> <li>Service areas shall be located internally, and garage doors shall be oriented so they do not face any area master planned for residential uses, unless screened by a solid masonry wall.</li> </ul>
<p><b>§406.4: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning and Repair Facilities</b></p>	<p>Rapho Township, PA</p>	<ul style="list-style-type: none"> <li>Percentage of lot area covered by buildings shall occupy no less than 5% of the lot's total impervious surfaces.</li> </ul>
<p><b>§407: Automobile Auctions and/or Storage Yards</b></p>	<p>St. Mary's, PA</p>	<ul style="list-style-type: none"> <li>50 feet from all property lines.</li> <li>Calculated as part of the maximum permitted lot coverage.</li> <li>No stored or parked vehicles shall be located more than 100 feet from a minimum 18-foot-wide on-site access drive.</li> </ul>
<p><b>Table 5-1102: Vehicle Wholesale Auction</b></p>	<p>Loudoun County, VA</p>	<ul style="list-style-type: none"> <li>Notwithstanding the requirements of Section 5-1400, no structure shall be required in the rear or side Type 4 Buffer Yards when adjacent to areas of Dulles Airport.</li> </ul>
<p><b>§7.40: Junkyards and Automobile Graveyards</b></p>	<p>21st Century Land Development Code</p>	<ul style="list-style-type: none"> <li>Junkyards and automobile graveyards shall be located at least 500 feet from any dwelling unit or residential zone district.</li> </ul>
<p><b>Automobile Oriented Use / Gas Station Zoning (Sec. 34-1352)</b></p>	<p>Lee County, FL</p>	<ul style="list-style-type: none"> <li>All buildings and structures must comply with the following setback:                      Street setback=50 feet                      Side yard setback=40 feet                      Rear yard setback=40 feet</li> <li>All items covered by this section that are displayed or offered for sale or rent must be set back a minimum of 20 feet from any property line, unless Chapter 10 sets forth a different setback, in which case the greater setback will apply.</li> <li>All buildings and items covered by this section that are displayed or offered for sale or rent must be set back a minimum of 100 feet from any existing residence or any residentially-zoned property. For purposes of this section, "residentially-zoned property" does not include property zoned "AG."</li> </ul>
<p><b>Sec. 30-62. Automotive-Oriented Business District (BA)</b></p>	<p>Gainesville, FL</p>	<p>Minimum yard setbacks:</p> <ul style="list-style-type: none"> <li>Angle of light obstruction for all principal and accessory structures: 45 degrees.</li> <li>Where the side or rear yard abuts property that is in a residential district or is shown for residential use on the future land use map of the comprehensive plan, the minimum setback shall be 25 feet or the distance created by the angle of light obstruction, whichever is greater.</li> </ul>
<p><b>§ 215-81. Service Station or Convenience Store Dispensing Fuel</b></p>	<p>Red Lion, PA</p>	<ul style="list-style-type: none"> <li>Buildings must be set back at least 40 feet from the street line.</li> <li>Gasoline pumps and all service equipment must be set back at least 15 feet from any lot line or street right-of-way line and located so that vehicles stopped for service will not extend over the property line.</li> </ul>

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Signs	Chapter 30.68 "CR" Commercial Retail Zone (Automobile Service Stations)	Glendale, CA	<ul style="list-style-type: none"> <li>All buildings shall maintain a setback distance of not less than 30 feet from any public street right-of-way line. Pump island canopies shall not be deemed to be a building for the purposes of this subsection.</li> <li>All gasoline pumps, pump islands, and equipment shall be situated not less than 15 feet from any public street right-of-way. Canopies over pump islands shall not be situated less than 5 feet from any property line.</li> </ul>
	Regulations for Auto-Related Businesses	San Mateo, CA	<ul style="list-style-type: none"> <li><b>Prohibited Signs.</b> Signs having moving, inflatable, or flashing parts or off-premises signs are prohibited.</li> <li><b>Maximum Number of Signs.</b> The maximum number of signs allowed on a parcel is: 1 sign per parcel, 1 sign per each 200 feet of parcel street frontage, or 1 sign per use, whichever is greatest.</li> <li><b>Maximum Total Sign Display Area.</b> The maximum total display area for all signs on a parcel is 0.75 sq. ft. per foot of parcel street frontage.</li> <li><b>Maximum Sign Height.</b> Attached signs shall not exceed the height of the building or structure to which the sign is attached and shall not extend above the roofline. Freestanding signs shall not exceed 8 feet.</li> <li><b>Sign Projection.</b> Attached signs shall not project more than 4 feet from the building or structure to which the sign is attached. Attached or freestanding signs shall not project beyond any parcel boundary.</li> </ul>
Site Design	Table 5-1102: Vehicle Wholesale Auction	Loudoun County, VA	<ul style="list-style-type: none"> <li>Any car-carrier loading/unloading area and vehicle storage areas shall be located separately from the customer parking areas, and such areas shall be identified with directional signage.</li> <li>Outdoor vehicle storage, parking spaces, and loading spaces shall be specifically identified on an approved site plan and shall be limited to such areas.</li> <li>Outdoor vehicle storage shall be set back at least 100 feet from any road right-of-way.</li> </ul>
	§8.17: Automobile Service Stations, Drive-Through Uses, and Similar Establishments	Manchester, NH	<ul style="list-style-type: none"> <li>Minimum 15,000 sq. ft.</li> <li>Minimum street frontage not less than 100 feet.</li> </ul>
Site Size	§31-718: Automobile Auction	Suffolk, VA	<ul style="list-style-type: none"> <li>Minimum 50 buildable acres.</li> </ul>
	§ 9.04.12.130 Service Stations	Santa Monica, CA	<ul style="list-style-type: none"> <li><b>Minimum Lot Size.</b> The minimum lot size shall be 15,000 sq. ft..</li> <li><b>Minimum Street Frontage.</b> Each parcel shall have a minimum street frontage of 100 feet on each abutting street.</li> </ul>
	§ 215-81. Service Station or Convenience Store Dispensing Fuel	Red Lion, PA	<ul style="list-style-type: none"> <li>Lot area shall be 12,000 sq. ft. minimum.</li> </ul>
	Table 5-1102: Vehicle Wholesale Auction	Loudoun County, VA	<ul style="list-style-type: none"> <li>Vehicle wholesale auctions shall be located on a parcel with an area of 50 acres or more.</li> </ul>
	Chapter 30.68 "CR" Commercial Retail Zone (Automobile Service Stations)	Glendale, CA	<ul style="list-style-type: none"> <li>The minimum length of the front property line shall be not less than 120 linear feet. Where the site also abuts upon a side street or alley, the minimum length of the property line abutting such street or alley shall be 90 linear feet.</li> </ul>
Storage	§238.4: BR Zone Area	Baltimore County, MD	<ul style="list-style-type: none"> <li>Storage and display of materials, vehicles, and equipment are permitted in the front yard but not more than 15 feet in front of the required front building line.</li> </ul>
	§9-518: Vehicle Sale, Rental and Ancillary Service	Fairfax, VA	<ul style="list-style-type: none"> <li>Permitted only on the same lot, ancillary to sales, rental, or office facility.</li> <li>Limited to previously defined area; no storage of inoperable vehicles.</li> </ul>

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Surfacing	§5-624: Vehicle Wholesale Auction	Loudoun County, VA	<ul style="list-style-type: none"> <li>Any car-carrier loading/unloading area and vehicle storage areas shall be located separately from the customer parking areas, and such areas shall be identified with directional signage.</li> <li>Outdoor vehicle storage, parking spaces, and loading spaces shall be specifically identified on an approved site plan and shall be limited to such areas.</li> <li>Outdoor vehicle storage shall be setback at least 100 feet from any road right-of-way.</li> <li>The sale and/or storage of vehicles that are not in operating condition shall not be permitted.</li> </ul>
	§6.08: Buffer Requirements	Manchester, NH	<ul style="list-style-type: none"> <li>No repair, dismantling, or storage within limited activity buffer.</li> </ul>
	§406.7-14: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning and Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>Storage requires a 6-foot fence.</li> <li>No outdoor storage of parts is permitted.</li> <li>No demolition or junking of vehicles and/or heavy equipment.</li> <li>No vehicle or piece of heavy equipment may remain on site more than one year.</li> </ul>
	§31-718: Automobile Auctions	Suffolk, VA	<ul style="list-style-type: none"> <li>Site plan must identify parking and loading spaces.</li> <li>No storage beyond 60 days for vehicles not in operating condition.</li> </ul>
	Automobile Oriented Use / Gas Station Zoning (Sec. 34-1352)	Lee County, FL	<ul style="list-style-type: none"> <li>Areas used for the commercial storage of motor vehicles, boats, trailers, recreational vehicles, mobile homes, and construction or farm equipment that is not being displayed for sale or rent must be enclosed (see Section 34-3005(b)).</li> </ul>
	§406: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning and Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>Storage areas may be unpaved, but all unpaved surfaces are required to be all-weather and dust-free, with a minimum six-inch depth of gravel.</li> <li>No less than half of the exterior display, sales, and storage areas shall be a stable, pervious paving surface</li> </ul>
	§311: Access Drive Requirements: Non-Single-Family Dwellings	St. Mary's, PA	<ul style="list-style-type: none"> <li>Access drives shall be paved with concrete or bituminous paving material or another dust-free material.</li> </ul>
	Automobile Oriented Use / Gas Station Zoning (Sec. 34-1352)	Lee County, FL	<ul style="list-style-type: none"> <li>Areas used for display may be grass or other surface, if it is maintained in a slightly, dust free manner.</li> </ul>
	Sec. 30-94. Limited automotive services	Gainesville, FL	<ul style="list-style-type: none"> <li>Limited automotive service establishments require a completely enclosed space for office activity and restrooms in accordance with the building code. Each unenclosed work space requires a paved surface, maintained in good condition to protect groundwater.</li> </ul>
	Traffic	§406.5: Automobile, Heavy Equipment and/or Recreational Vehicle Auction Service, Reconditioning and Repair Facilities	Rapho Township, PA
§407: Automobile Auctions and/or Storage Yards		St. Mary's, PA	<ul style="list-style-type: none"> <li>Traffic impact study required.</li> </ul>
§5-624: Vehicle Wholesale Auction		Loudoun County, VA	<ul style="list-style-type: none"> <li>The test driving of all vehicles shall be conducted on site.</li> </ul>
§31-718: Automobile Auctions		Suffolk, VA	<ul style="list-style-type: none"> <li>Traffic impact study required.</li> </ul>

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Trash Receptacles	§1807: Automobile Auctions and/or Automobile Parking or Storage Compounds	Dauphin, Perry, and Cumberland Counties, PA	<ul style="list-style-type: none"> <li>Required to be present and regularly emptied.</li> <li>All applications require trash management plan.</li> <li>Must prove that all waste disposal meets with state and federal requirements.</li> </ul>
	§6.08: Buffer Requirements	Manchester, NH	<ul style="list-style-type: none"> <li>No dumpsters or waste storage within limited activity buffer.</li> </ul>
	§406.11: Automobile, Heavy Equipment and/or §406.16: Recreational Vehicle Auction Service, Reconditioning and Repair Facilities	Rapho Township, PA	<ul style="list-style-type: none"> <li>Trash/waste management plan must be approved and implemented.</li> <li>Plan must include HAZMAT and other waste and comply with state and federal requirements.</li> </ul>
	§407: Automobile Auctions and/or Storage Yards	St. Mary's, PA	<ul style="list-style-type: none"> <li>Required to be present and regularly emptied.</li> <li>All applications require trash management plan.</li> </ul>
	Automobile Service Stations (note: these standards are now replaced with uniform trash enclosure standards at Chapter 19.554 and Trash / Recyclable Materials Enclosure Policy)	Riverside, CA	<ul style="list-style-type: none"> <li>A trash enclosure, six feet in height and constructed of masonry shall be provided (except that a trash enclosure attached to the service station building may be constructed of the same or similar materials as the service station building). The trash enclosure shall be enclosed on all sides, with a solid gate six feet in height, providing access to the trash area. Trash enclosed within the enclosure shall not exceed the height of the enclosure. No trash, including discarded oil cans, batteries, signs, tires, etc., shall be stored on any section of the site, except within an enclosed structure.</li> </ul>
	§ 215-81. Service Station or Convenience Store Dispensing Fuel	Red Lion, PA	<ul style="list-style-type: none"> <li>No outdoor stockpiling of tires or outdoor storage of trash is permitted. An area enclosed by a wall, fence, or vegetative material and screened from view of adjoining properties shall be provided whenever outdoor storage is required. No materials may be stored so as to create a fire hazard.</li> </ul>
	Section 9.04.12.130 Service Stations	Santa Monica, CA	<ul style="list-style-type: none"> <li>Trash areas shall be provided and screened on at least three sides from public view by a solid, opaque, impact-resistant wall at least five feet in height.</li> <li>All trash shall be deposited in the trash area, and the gates leading thereto shall be maintained in working order and shall remain closed except when in use.</li> <li>Refuse bins shall be provided and placed in a location convenient for customers.</li> <li>Trash areas shall not be used for storage. The premises shall be kept in a neat and orderly condition at all times, and all improvements shall be maintained in a condition of reasonable repair and appearance. No used or discarded automotive parts or equipment, or permanently disabled, junked, or wrecked vehicles, may be stored outside the main building.</li> </ul>

**\*\*Overland Park, KS**

**Chapter 18.280**

**C-3 Commercial District and CP-3 Planned Commercial District**

***New Car or Used Car dealership***

**18.280.050 Development and Performance Standards**

Landscaping shall be provided at the rate of 4 trees per 1,000 square feet of landscaped open space, excluding setbacks along any street frontage. For street frontages, one tree for every 40 feet of public or

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private street frontage shall be provided. A screening fence shall be provided as required by Section 18.450.100D. The location and design of all security fences, bollards, gates, etc. for individual dealerships are subject to review and approval at the time of final plan approval.

### **Section 18.450.070 (for C-3 and CP-3 Districts, Landscaping)**

- (1) In Districts C-1, CP-1, C-2, CP-2, C-3, CP-3, and BP, one tree for every 40 feet of public or private street frontage, or portion thereof, shall be required within the right-of-way of all streets, accessways, and roadways, excluding thoroughfares, alley, and service drives. Street trees shall be spaced a minimum of 15 feet and a maximum of 40 feet for the full length of all streets and roadways. Where not allowed within a thoroughfare right-of-way, street trees shall be planted on the private lots along the thoroughfare right-of-way. In addition to the trees required based upon street frontage, one tree shall also be required for every 3,000 square feet of landscaped open space. Such trees may include the trees required in parking lots pursuant to Section 18.450.070.
- (2) Perimeter parking lot landscaping shall be provided for parking areas adjacent to property identified on the future development plan for very-low and low-density residential development. Landscaping shall be provided as required by the Planning Commission for perimeter parking areas adjacent to all other future development plan designations.
- (3) Unless otherwise required by the Planning Commission, perimeter parking lot landscaping shall be provided according to the following schedule, as a minimum for each 100 linear feet of perimeter width or portion thereof of parking area:
  - (a) Eight evergreen trees.
  - (b) Two shade trees.
  - (c) One ornamental tree.
  - (d) The above landscaping materials may deviate provided an alternative list of materials of comparable screening and buffering is approved by the Planning Commission.
  - (e) A one-to-one credit shall be given for each tree preserved within the parking lot setback that meets or exceeds the minimum size requirements, subject to the approval of an alternative plan as outlined above.
  - (f) Where the perimeter parking setbacks exceed 45 feet, the minimum landscaping requirement may be reduced, at the discretion of the Planning Commission.

### **18.450.070 Planting requirements within parking and vehicular use areas**

Except in those districts not requiring a landscaping plan, automobile storage lots, multiple-level parking structures, and parking lots having a paved area no wider than a double-loaded aisle or more than 65 feet in width, all parking areas and all zoning districts shall include the following as minimum requirements, in order to encourage interior landscaping within vehicular parking areas, to break up the

## *Auto Auctions: Standards and Regulatory Approaches*

large expanses of pavement, to provide relief from reflected glare and heat, and to guide vehicular and pedestrian traffic:

- (1) Not less than six percent of the interior of a parking lot shall be landscaped. The interior of a parking lot shall be calculated by multiplying the number of parking spaces by 280 square feet. Plantings required along the perimeter of a parking lot shall not be considered as part of the interior landscaping requirement.
- (2) Landscaping and planting areas shall be reasonably dispersed throughout the parking lot.
- (3) The interior dimensions of any planting area or planting median shall be sufficient to protect the landscaping materials planted therein and to ensure proper growth; in no event shall any such area be less than 60 square feet in area or less than 7 feet in width. Each area shall be protected by Portland cement concrete curbs or similar structures.
- (4) The primary landscaping materials used in parking lots shall be trees that provide shade or are capable of providing shade at maturity. Shrubbery, hedges, and other planting materials may be used to complement the tree landscaping but shall not be the sole means of landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscaping plan.
- (5) Landscape islands in parking lots may alternately be designed and planted to serve as a dual-purpose landscape area and stormwater treatment facility. When landscape islands are designed as a stormwater treatment facility, usage of trees as the primary landscaping material shall not be required when the city determines that trees are incompatible with native plantings proposed for use as a means of stormwater treatment.
- (6) In those instances where plant materials exist on a parking lot site prior to its development, such materials may be used, if approved as meeting the requirements in Section 18.450.060.
- (7) No landscaping, tree, shrub, fence, wall, or similar item shall be placed in zones of ingress or egress at street corners or in the intersection of a public right-of-way that the traffic engineer of the city, or his or her designee, determines is an obstruction to visibility, extends into a sight distance triangle as set forth in Section 18.420.070, or is otherwise a traffic hazard.

### **18.450.100 Screening requirements**

Plans for all residential projects containing multi-family dwellings, all nonresidential projects in residential districts, and all commercial and industrial projects shall include a detailed drawing of enclosure and screening methods as provided hereinafter.

- (1) Trash containers, trash compactors, roll-off recycling containers, and groupings of three or more recycling containers and/or recycling containers larger than 10 cubic yards shall be screened from public view on all four sides with a solid wall constructed of masonry and a gate constructed of compatible, durable, low-maintenance materials and shall be appropriately landscaped. Plans for these containers may be approved by the director of Planning and Development Services, or his/her designee. Alternative compatible, durable, material, other than masonry, may be approved by the Planning Commission through the final development plan approval process.

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*Auto Auctions: Standards and Regulatory Approaches*

- (2) Recycling containers of 10 cubic yards or smaller in size may be located on the property without meeting the screening requirements as stipulated in 18.450.100 A, under the following conditions. All such recycling containers shall be:
- (a) Located at or behind the front line of the building and screened 80 percent or more from view from adjacent, residentially-zoned properties and the public right-of-ways or located 150 feet or more from any such properties and right-of-ways.
  - (b) Screened as required under Section B.1; such screening shall be accomplished by the use of a solid fence, wall, or gate constructed of cedar, redwood, masonry, vinyl, steel, earthen berm, and/or landscaping. Such fencing or wall may be subject to required building permits.
  - (c) Placed on a paved or other solid surface.
  - (d) Limited to a maximum of two such recycling containers that must be grouped at one location on the property.
  - (e) Restricted from collecting hazardous materials, such as paint, chemicals, or glass.
  - (f) Located so as not to impede normal traffic circulation on the site.

If not practical to meet part or all of the above conditions for such recycling containers, applicants may submit a screening plan for approval by the director of Planning and Development Services, or his or her designee, that substantially screens the recycling containers from all residentially-zoned properties and public right-of-ways and substantially meets Conditions (2) through (5).

- (3) Exterior ground-mounted or building-mounted equipment, including, but not limited to, mechanical equipment, utilities, and banks of meters, shall be screened from public view with landscaping or with an architectural treatment compatible with the building architecture.
- (4) All rooftop equipment shall be screened from public view with an architectural treatment that is compatible with the building architecture.
  - (a) For purposes of this section, the phrase "screened from public view" means not visible from any adjoining properties or any street right-of-way.
  - (b) For purposes of this section, the phrase "architectural treatment compatible with the building architecture" shall not include painted mechanical units or prefinished mechanical units. For mechanical units not adequately screened by the parapet, supplementary screening shall be provided by the use of prefinished architectural metal panels, stucco panels, masonry walls, or other similar building materials. The height of the screen shall be no lower than the height of the unit as measured from the roof surface.
- (5) All buildings or additions thereto in commercial or industrial districts shall provide a solid screen fence or wall not less than six feet in height along all rear and side property lines that are common to property zoned for residential purposes, except that such screening shall not extend in front of the building line or adjacent dwellings. Such screening shall not be required where similar screening exists on the abutting residential property.

*Appendix: Comparison of Regulations / 15*



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