

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Dean Partnership,
LLP/Winegardner Motor Co.
24813 Hollywood Road
Hollywood, Maryland 20636

Case #16-132004

DECISION AND ORDER**Introduction**

Dean Partnership, L.L.P/Winegardner Motor Co. filed an application for a Concept Site Plan approval pursuant to Chapter 60 of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property described as 24813 Hollywood Road, Hollywood, Maryland 20636 (hereinafter the "Property"). The application seeks a concept site plan approval for a 29,969 square foot retail auto sales and service center with parking. This application for approval of the concept site plan was heard by the St. Mary's County Planning Commission. At the hearing before the Planning Commission, the Planning Commission granted approval of the application on or about March 26, 2016. Paul Bennett (hereinafter "Applicant") was aggrieved by the decision and filed an appeal.

The Applicant timely appealed the decision of the Planning Commission ("Planning Commission") to the Board of Appeals ("Board") pursuant to Chapter 23 of the Ordinance and the Rules and Procedure of the St. Mary's County Board of Appeals. After due notice, a public hearing was held at 6:30 p.m. on August 30, 2018, at the St. Mary's County Governmental Center at 41770 Baldrige Street in Leonardtown, Maryland. Having been continued on the record, the public hearing also took place on October 18, 2018. All persons desiring to be heard were heard after being duly sworn and documentary evidence was received. The proceedings were recorded electronically.

Legal Standard

The Board conducts its consideration of this appeal *de novo* and with "all the powers of the administrative officer or unit from whom whose action the appeal is taken." Md. Code Ann., Land Use § 4-306.

In considering the Applicant's appeal and Dean Partnership, L.L.P/Winegardner Motor Co.'s application for the concept site plan, the Board, exercising the powers of the Planning Commission from which this appeal was taken, shall make the findings that the proposed development:

- a. Is consistent with the Comprehensive Plan and applicable functional plans;
- b. May be served by adequate public facilities as required by Section 70.2.2 of the Ordinance;

- c. Is consistent with the County Annual Growth Policy, including any required phasing plans;
- d. Will promote the health, safety, and welfare of the general public;
- e. Adequately developed recreational and other community amenities that are provided in accordance with the Comprehensive Plan and the Comprehensive Zoning Ordinance; and
- f. Is consistent with Chapter 62 design objectives.

Based on its findings, the Board may deny the concept site plan, approve the concept site plan, or approve the concept site plan with conditions.

Findings of Fact

The Property is located on Three Notch Road (Maryland Route 235) near Sotterley Road (Maryland Route 245), and is within the Hollywood Town Center. The parcel is zoned Town Center Mixed Use District (TMX). The proposed use is a permitted use within the zone, and will be built on a vacant piece of property. The site contains 7.76 acres. The proposed structures will be 29,969 square feet. The proposed Concept Site Plan does not propose any new entrances off of Three Notch Road or Old Three Notch Road, rather this project will take advantage of the entrances and exits built for the Hollywood Commercial Center as well as an inter-parcel connection. The drive aisles and parking are designed in such a manner as to allow for smooth traffic flow through the site. Parking requirements for the use proposed have been met with the proposed parking. The concept landscaping and lighting plans are acceptable for concept site plan approval.

The Board received into the record and considered the August 30, 2018 Staff Report (“Staff Report”), and the Exhibits thereto, including the St. Mary’s County Health Department Approval Slip, the Metropolitan Commission Approval Slip, the St. Mary’s County Soil Conservation District Approval Slip, Department of Public Works Concept Approval Slip, and the State Highway Administration Approval with TIS Conclusions/Recommendations on the Project. There were no comments from any of the aforementioned agencies that recommended denial of the Concept Site Plan. Further, at the public hearings in this matter, the Applicant testified, as did many residents of the adjacent community. Dean Partnership, L.L.P/Winegardner Motor Co. presented testimony of Edward Y. Papazian, P.E., and Nick Leffner, engineers with Kimley Horn who further provided testimony that the Project meets all the applicable standards for Concept Site Plan approval.

Additional specific findings are as follows:

1. The proposed Concept Site Plan is consistent with the Comprehensive Plan and applicable functional plans. The Project is within the Hollywood Town Center, an area where growth is to occur. The site is zoned TMX. The proposed project develops the site in the Hollywood Town Center which is supported by the Comprehensive Plan. Proposed use, parking,

landscaping, and lighting are all in accordance with the Ordinance. The Project is consistent with and promotes the goals and objectives of the Comprehensive Plan.

2. The Project may be served by adequate public facilities as required by Section 70.2.2. The Project will be connected to the public water and sewer system. The Board finds that all relevant agencies that reviewed the Concept Site Plan recommended approval of the Concept Site Plan and/or did not have any comments that would warrant denial of the Concept Site Plan application. These agency comments, including the July 18, 2016 Memorandum from former Department of Public Works and Transportation Deputy Director John Groeger, support the conclusion that the Project may be served by adequate public facilities. The Applicant must still meet all requirements, including those for Adequate Public Facilities, for final site plan approval.

3. The Growth Policy was repealed.

4. The Project will promote the health, safety and welfare of the general public. The commercial uses on the site will provide additional job opportunities in the Hollywood area. Further, the Project will provide pedestrian walkways that do not exist on the location at this time.

5. The Project meets the standard for adequately developed recreational and other community amenities to be provided in accordance with the Comprehensive Plan and Comprehensive Zoning Ordinance, as neither requires any particular such amenities for a commercial project of this kind. In addition, with the conditions included in this Order, there will be pedestrian amenities provided by the Project.

6. The Project is consistent with countywide design objectives of Chapter 62 of the Ordinance. The proposed buildings on the site comply with the requirements of the Ordinance for the TMX zone. In addition, the Project is consistent with the interconnectivity and parking requirements of Chapter 62.

Conclusions of Law

The Applicant's application for approval of its concept site plan meets all the requirements of Section 60.6.4, subject to the conditions listed in the Order below. Based on the evidence set forth in the Findings of Fact, the proposed concept site plan application meets the standards set forth for concept site plan approval in Section 60.6.4 of the Ordinance, subject to the conditions set forth below.

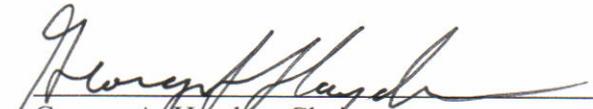
ORDER

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards and objectives for the approval of a Concept Site Plan pursuant to Section 60.6 of the St. Mary's County Comprehensive Zoning Ordinance have been met and noting that the

referenced project has met all requirements for concept site plan approval, the concept site plan is *approved, subject to the following conditions:*

1. Dean Partnership, L.L.P/Winegardner Motor Co. shall install "No Tractor Trailers" signs on Old Tree Notch Road for the purpose of restricting tractor-trailers from using the site entrance located off of Old Three Notch Road.
2. The St. Mary's County Department of Public Works and Transportation will review the entrance to the Hollywood Commercial Center from Old Three Notch Road with the intention to restrict the turn radius into the site to prohibit tractor-trailers.
3. The Concept Site Plan reference to sidewalks should be completed.

Date: November 8, 2018



George A. Hayden, Chairman

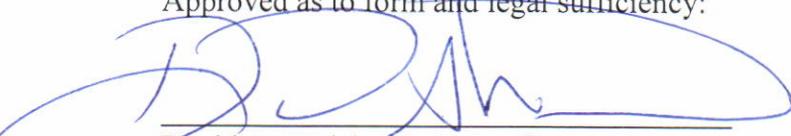
Those voting to approve the Concept Site Plan with Conditions:

Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Miedzinski and Ms. Delahay

Those voting to deny the Concept Site Plan:

None

Approved as to form and legal sufficiency:



David A. Weiskopf, Acting County Attorney