

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,