



**Report to the Board of Appeals
Variance Requests**

**Sheehy Nissan & Sheehy Hyundai of Waldorf
Docket # 1305**

Request: Nine (9) Variances to Existing Waldorf Central (WC) Zoning Requirements: Chapter 297-96.D.(2), 297-96.D.(3)(c), 297-96.D.(4)(a), 297-96.D.(5)(b), 297-96.G., 297-96.H.(3)(c), 297-96.K.(3)(b)ii, 297-96.K.(6)(a), and the Waldorf Vision Plan Guidelines - Section 7.4.

Applicant: Sheehy Waldorf, Inc.
2950 Crain Highway
Waldorf, Maryland 20601

Owner: Catherine L. Potter
CARS-DB4, L.P
8270 Greensboro Drive, Suite 950
McLean, Virginia 22102

Project Manager: James Lampkin, RA
Senior Project Manager / Principal
BL Companies, Inc.
1060 First Avenue, Suite 420
King of Prussia, Pennsylvania 19406

Property Location: 2910 Crain Highway
Waldorf, Maryland
Located off of northbound Crain Highway (US Route 301)
Identified as Tax Map 8, Grid 21, Parcel 119

Tax Identification: #06-038123 (6th Election District)

Zoning: Waldorf Central (WC) with Highway Corridor (HC) Overlay
Previously Zoned Central Business (CB) until 4/23/10

Attachments: Aerial Map, Location Map, Zoning Map, and Exhibits of the Subject Property provided by the Applicant.

DESCRIPTION OF PROPERTY

Size of Property: 1.959 Acres (85,348 square feet) identified as Parcel 119. Parcel 119 consists of an existing 1,184 square foot one-story facility with existing parking areas, utilized in conjunction with Use #6.03.120 Motor Vehicle and Manufactured Home Sales or Rental. It is the desire of the Applicant, Sheehy Waldorf, Inc. to redevelop the site based upon the Expansion of Non-Conforming Use (Docket #1290), approved by the Board of Appeals via the Decision & Order signed December 18, 2012, supporting the construction of a new 17,925 square foot facility. The Sheehy Nissan & Sheehy Hyundai of Waldorf dealership also exists on the neighboring Parcel 693 (5.514 acres) which is not applicable to these variance requests.

CHARACTER OF NEIGHBORHOOD

The Sheehy Nissan and Sheehy Hyundai of Waldorf dealership is situated within a densely commercialized area along northbound Crain Highway (Rt. 301), which contains other automotive sale, lease, and service enterprises, restaurant chains, gas stations, dentistry and optometry offices, as well as financial and business related establishments, within a close proximity. The property is bordered by Crain Highway (Rt. 301) to the west, a Gas Station and undeveloped wooded area to the North, Old Washington Road to the east, and the additional Sheehy Nissan & Sheehy Hyundai of Waldorf uses to the south on Parcel 693.

SPECIFIC REQUEST

Sheehy Waldorf, Inc. obtained approval of a 16,741 square foot expansion to their existing 1,184 square foot non-conforming use on Parcel 119, on December 18, 2012, via Docket #1290. In response to comments regarding project / site compliance with the new Waldorf Central (WC) zone, received during the review of the Site Development Plan application, Sheehy Waldorf, Inc. decided to pursue variance approvals for nine (9) specific criteria, which they feel they cannot comply with and still achieve their desired building expansion goals. This new facility will include a new showroom and sales area, customer and automobile area, administrative and support areas to better accommodate customers with a new state-of-the-art facility under “one-roof”. The Applicant states that granting variance requests to their non-conforming use would not adversely affect neighboring, vicinal or abutting properties, it will be compatible with the existing character of the surrounding area, will not be detrimental to or endanger the public health, safety and general welfare; and would only assist a long-time and established business in the Waldorf community.

Specific Variances Requested	
Chapter 297-96.D.(2), Figure VI-9	Minimum and maximum floor area ratio for Waldorf Central, Commercial 6.00.000.
Chapter 297-96.D.(3)(c)	An upper story required to satisfy minimum story requirements shall have at least 70 percent of the floor area of the story below.

Chapter 297-96.D.(4)(a)	Front building façades shall be located between the required minimum and maximum front setbacks.
Chapter 297-96.D.(5)(b)	For lots with street frontage of 100 to 200 feet, the building façade must occupy at least 80 percent of the street frontage.
Chapter 297-96.G.	Streetscape requirements.
Chapter 297-96.H.(3)(c)	Illuminated signs shall be lit externally.
Chapter 297-96.K.(3)(b)ii	Maximum allowed parking: 80 percent of the minimum required off-street parking spaces required by Figure XX-1 for all other land uses.
Chapter 297-96.K.(6)(a)	Parking shall be located to the side or rear of buildings and, whenever possible, in shared parking areas.
Waldorf Vision Plan and Design Guidelines, Section 7.4	Provide a minimum 5' landscape buffer adjacent to building.

BACKGROUND

Effective 4/23/10, the subject property was re-zoned from CB (Central Business) to WC (Waldorf Central). Within the CB Zone, the sale, rental, and repair of motor vehicles, etc. was a permissible use, however it is not a permissible use within the new WC Zone, and is therefore now a non-conforming use situation. The existing automotive dealership on the subject property does not conform to the new WC requirements. The Waldorf Central (WC) zone was developed to implement the re-development of the area into an urban, transit-oriented, and walkable community.

Per the Board of Appeals approval of Docket #1290, with conditions, on December 18, 2012 Sheehy Waldorf, Inc. was granted a 16,741 square foot expansion to the existing non-conforming use situation consisting of a 1,184 square foot one-story facility, for a total of 17,925 square feet. The new facility will include a new showroom and sales area, customer and automobile service area, service bays, administrative and support areas to better accommodate customers with a new state-of-the-art facility under “one roof”.

During the approval process of Docket #1290 the Applicant stated that they would abide by the new requirements of the Waldorf Central (WC) zone, in-so-far-as-possible if the non-conforming use expansion request was granted. A condition of Docket #1290’s approval read as follows, “As part of the Site Development Plan submission, the Applicant shall be required to comply with the standards of the new WC zone requirements as stated in the Staff Report, as well as other applicable regulations”. The nine (9) variances requested within this petition are to requirements of the new (WC) zoning code and the associated Waldorf Vision Plan and Design Guidelines.

Staff has been reviewing the restrictions associated with existing automotive uses within the Waldorf Central (WC) and Acton Urban Center (WUC) zones and are currently working on drafting transitional language, to be included within the current zoning code, which will potentially alleviate some of the restrictions associated with the expansion / upgrade of these existing businesses, which are now non-conforming within the WC and AUC zones. The transitional zoning requirements will allow existing automotive uses to continue as permitted uses until such time as the area is more ripe for re-development (provided they are adopted).

BOARD AUTHORIZATION –

Chapter 297-416 Variances

B. The Board is authorized to grant variances from the strict application of these regulations when, by reason of exceptional narrowness, shallowness or shape of specific parcels of property or by reason of exceptional topographical conditions or other extraordinary situations or conditions of specific parcels of property, the strict application of the regulations of this chapter would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of said property. However, the Board of Appeals shall not grant variances that will substantially impair the intent, purpose and integrity of this chapter. This provision shall not be construed to permit the Board, under the guise of a variance, to change the permitted use of land.

C. In addition to those general findings required in Subsection B above, variance requests shall not be granted unless the following criteria are met:

(1) That special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions of this chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.

(2) That strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in the area.

(3) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the same zone/land use classification.

(4) That the variance request is not based upon conditions or circumstances which are self-created or self-imposed.

(5) That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient justification for a variance.

(6) That the proposed variance is consistent with the Charles County Comprehensive Plan.

The Applicant, Sheehy Waldorf, Inc. has provided responses to criteria C. (1) through (6) for each of the nine (9) variances requests. The rationale / justification for each variance request is elaborated in detail. The Board of Appeals should consider each variance request individually from one another and grant or deny them individually, based upon the preponderance of evidence as presented by the Applicant.

Variance Request #1:

Section 297-96.D.(2) – Schedule of Zone Regulations, Figure VI-9, Minimum and Maximum Floor Area Ratio (FAR) 0.5-1.6 for Waldorf Central, Commercial 6.00.000

The WC zoning code requires a minimum FAR of 0.5 which equals a required floor area of 42,673 square feet, greatly exceeding the maximum 17,925 square feet floor area approved as part of the previous Expansion of a Non-Conforming Use decision (Docket #1290). In addition, satisfying the minimum FAR requirement would result in constructing an excessively large building (approximately 24,748 square feet larger than currently desired / permitted) with inadequate site area for vehicular circulation, parking/staging, landscaping and storm-water management facilities, and would be detrimental to Sheehy Hyundai for an automotive use.

Staff Finding:

Floor Area Ratio (FAR) is defined in the Charles County Zoning Ordinance as:

The quotient determined by dividing the gross floor area of all buildings on a lot by the total area of that lot. For the purpose of calculating floor area ratio, the floor area of a parking garage structure (attached, integrated, or detached) shall not be included in the gross floor area of occupied buildings.

The 05.-1.6 FAR requirement was not applicable prior to the CB to WC re-zoning on 4/23/10. The Applicant wishes to proceed forward with the 16,741 square foot addition authorized by the Board of Appeals via Docket #1290. Requiring the Applicant to meet the 05.-1.6 FAR for their commercial automotive use would necessitate the construction of a building expansion much larger than is currently proposed / approved by the Board of Appeals within Docket #1290. The total size of Parcel 119 is 85,346 square feet (1.959 acres) therefore a minimum 0.5 FAR would equate to a 42,673 square foot building compared to the currently approved 17,925 building (1,184 square feet existing + 16,741 expansion). Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

- 1. The minimum floor area ratio is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
- 2. Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*

3. *Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
4. *The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*
5. *Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
6. *Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.*

Variance Request #2:

Section 297-96.D.(3)(c) – An upper story required to satisfy minimum story requirements shall have at least 70 percent of the floor area of the story below.

An automotive use facility does not warrant or lend itself to a second story of 70% due to the types of services provided. The main floor of the proposed building was sized to provide the floor area necessary to support the sales and servicing required with this use. As designed, the proposed second floor will measure 2,299 sf., which is approximately 15% of the first floor. In order to blend in with the proposed building architecture, two story height walls/parapets are proposed for the entire building and the exterior will be detailed to have the appearance of a second floor which will include high/clerestory windows in the service department.

Staff Finding:

The automotive use has proposed some second story services and uses such as administrative offices, a conference room, a lunch/break room, and restrooms; however there is no need for additional space/storage to warrant a full upper story. Per the Applicant, the exterior architectural elevations of the building will be designed with walls/parapets, and other architectural treatments, which will give the faux structural / visual appearance of a full second story when viewed from the building exterior. The faux two story appearance to the building will be recommended as a condition of variance approval if granted. Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

1. *The minimum upper story floor area ratio is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
2. *Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
3. *Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
4. *The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*
5. *Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
6. *Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.*

Variance Request #3:

Section 297-96.D.(4)(a) – Front building facades shall be located between the required minimum and maximum front setbacks.

In an effort to re-use the existing landscaping, site lighting, parking, and infrastructure to the extent practicable, the Applicant proposes to situate the proposed building in the same location as the existing building which will limit the development envelope and minimize the disturbed area. Additionally, it should be noted the prior CB zoning ordinance required only a minimum yard setback equating to 12 feet; therefore, the proposed development would have been compliant with the prior CB zoning. Thus, it is a result of the WC rezoning that causes non-compliance with the minimum and maximum front setbacks.

Staff Finding:

Meeting the current setbacks requirements of the WC zone would severely restrict the Applicant from situating the proposed building expansion in such a way that site circulation and functionality would not be negatively impacted. Placing the proposed building expansion in the same location as the existing building limits the development area and limits of disturbance. Granting the variance will permit Sheehy Waldorf, Inc. to utilize a majority of the existing parking areas, infrastructure, site lighting, and landscaping, currently supplied on-site. Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

- 1. The location of the front building facade is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
- 2. Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
- 3. Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
- 4. The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*
- 5. Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
- 6. Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.*

Variance Request #4:

Section 297-96.D.(5)(b) – For lots with street frontage of 100 to 200 feet, the building façade must occupy at least 80 percent of the street frontage.

For compliance with the WC zoning ordinances, the building façade would need to be 128' wide (80% of the 160' street frontage), which would significantly exceed the proposed width of approximately 77'. Providing the required building width of 128' would only allow enough space for a single drive aisle within the site preventing full circulation throughout and around the building, which is detrimental to the function of the motor vehicle service use. In addition, the required building width would not allow for parking along the sides of the building and is too wide to allow for the efficient and logical building layout required for a motor vehicle service use (e.g. service bay layout).

Staff Finding:

Parcel 119 possesses 160' feet of street frontage along US Route 301. Requiring the Applicant to abide by the current 80% criteria found in the WC zone would be 51' feet more than is currently proposed on Sheehy Waldorf, Inc.'s Site Development Plan application. If the automotive building expansion was re-orientated to satisfy the 80% criteria, the site circulation would be restricted when parking areas and drive aisles are taken into account. The development area / limit of disturbance area would also greatly increase on-site. Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

- 1. The 80% building width requirement is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
- 2. Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
- 3. Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
- 4. The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*

5. *Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
6. *Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.*

Variance Request #5: **Section 297-96.G - Streetscape Requirements**

The WC zoning ordinance requires a continuous system of sidewalks and paths that if implemented would reduce the effectiveness of the state drainage collection system, would be difficult to implement due to existing site constraints and would be incompatible with the automotive use. Specifically, the state right of way extends 60 feet beyond the existing curb and encompasses a system of drainage culverts and concrete end sections located within a drainage low area/depression that collects and conveys runoff generated mainly from northbound Crain Highway and from the state right of way to the other side of Crain Highway via an existing 27" pipe culvert located underneath the road. The existing drainage depression measures approximately 1,500 square feet in area and four (4) feet in depth and is located immediately adjacent to Crain Highway; measured horizontally from the top of curb to the invert of the culvert pipe conveying runoff to the other side of Crain Highway, there exists a steep drop of five (5) feet over ten (10) feet or a 2:1 side slope. Thus, implementation of a sidewalk system adjacent to Crain Highway would require the relocation of existing drainage culverts and concrete end sections, a retaining wall to provide for a level sidewalk, re-grading, and most importantly would reduce the capacity and conveyance abilities of the existing state highway drainage system due to the reduction of the drainage depression area required for the installation of the sidewalk and associated grading. Alternatively, the zoning ordinance allows the sidewalk to be placed partially within the street right-of-way and partially within the front setback area of the abutting property. However, in order to comply with Bufferyard B requirements, all the available pervious area located within the existing 17 feet deep setback will be landscaped (i.e. where no impervious area exists). Additionally, a portion of the 17 feet deep setback is occupied by an existing 7' x 55' concrete sand filter that will continue to function as part of the development thus the existence of the filter further reduces the area available for compliance with Bufferyard B requirements. So, the installation of the sidewalk within the bufferyard will reduce the available pervious area to where compliance with Bufferyard B requirements cannot be achieved.

In addition to the site constraints limiting the implementation of sidewalks, it should be noted that this project would be the only development that provides streetscape amenities along Route 301 that would end at each property line; further, the current lack of pedestrians on Route 301 does not warrant the installation of a sidewalk. Also, the

implementation of streetscape elements (benches, bike racks, etc.) is unwarranted and incompatible with an automotive use along a major highway.

Staff Finding:

The current lack of pedestrians and lack of adjoining sidewalks are not valid reasons for requesting a variance; the WC zone requires sidewalks / streetscapes in order to further the goal of long term connectivity in this area regardless of the current conditions. A Bicycle and Pedestrian Master Plan was adopted by the County Commissioners on April 10, 2012. This document recommends sidewalks and intersection improvements for commercial areas along US Route 301 in Waldorf in order to create bicycle and pedestrian links in areas where continuous routes are not available. Therefore, Staff would be recommending the sidewalk improvement regardless of the site's zoning, new WC or the previous CB classification. It is Staff's position that the sidewalk should be provided along the Parcel 119 frontage of US Route 301, if at all possible, in accordance with this Master Plan adopted by the County Commissioners last April. Additionally, per Chapter 297-301.E. of the Charles County Zoning Ordinance: An applicant for site plan approval shall install sidewalks and related improvements along public or private roads, or reserve easements for sidewalks. Please keep these stipulations in mind when reviewing the Applicant's justification for criteria 1. through 6. below. Staff does not agree with the Applicant's findings that sidewalk would not be required if not zoned WC, that the strict enforcement of the WC regulations would deprive the property owner, or that the granting of the variance would not confer special privilege.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

- 1. The continuous system of sidewalks and paths required is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
- 2. Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
- 3. Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
- 4. The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*

5. Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.
6. Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.

Variance Request #6:

Section 294-96.H.(3)(c) – Illuminated signs shall be lit externally.

The project proposes a monument sign that will comply with all except one item of the WC zoning ordinance regarding signage. Specifically, the prior CB zoning ordinance allowed the use of an internally illuminated/lit monument sign; however, the current WC zoning ordinance requires the use of externally lit signs. The proposed monument sign will comply fully with the current general signage requirements in terms of the use of high-quality materials, number of signs allowed, signage area, and maximum pole height. For instance, for pedestal/monument signs, the general zoning ordinance allows a maximum sign area of 179SF (based on 1 square foot of sign per 100 square foot of gross floor area) while the project proposes a signage area of 10 square feet. Similarly, the ordinance allows a maximum pedestal/monument height of 12 feet while the project proposes a height of 8 feet; so, it is evident the proposed monument sign will comply fully with the general zoning requirements. Regarding the proposed monument sign, it should be noted it has been customary to use internally lit signs for this type of motor vehicle service use, as evidenced by the existing "Extreme Auto" pylon sign located on the property. Use of an internally lit sign would also be compatible with other internally lit signs currently existing for businesses along Route 301.

Staff Finding:

WC zoning regulations do not permit a free standing, pole mounted sign or internally illuminated signs. The Applicant Sheehy Waldorf, Inc. is proposing to comply will all applicable signage requirements except for their request for the new monument sign to be internally lit, instead of externally per the current WC code requirements. Staff identifies that prior to the re-zoning of the property on 4/23/10 the previous CB zoning permitted internally lit signage. Other automotive uses in the surrounding neighborhood / Waldorf area have internally lit signage existing along US Route 301 which was in place prior to the re-zoning. Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

1. *The use of externally lit signs is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
2. *Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
3. *Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
4. *The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*
5. *Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
6. *Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.*

Variance Request #7:

Section 297-96.K.(3)(b)ii – Maximum allowed parking: 80 percent of the minimum required off-street parking spaces required by Figure XX-1 for all other land uses.

Per the WC zoning ordinance, the minimum required off-street parking spaces equals 78 spaces. Therefore, the maximum allowed parking (80% of required parking) equals 62.4 spaces. This requirement was designed to limit on-site parking and provide other parking areas in the future such as on-street parking or parking garages as a part of a more walkable community. The project proposes 104 parking spaces, (71 spaces required for sales customers, service customers, and employees plus 33 spaces required for inventory parking/staging). Although the proposed parking spaces are greater than allowed by WC zoning, the overall parking will be reduced from an existing total of 125 to the proposed total of 104, a reduction of 21 parking spaces (reduction of 17%). It should be noted that

under the prior CB zoning, there was only a minimum off-street parking requirement which this development would have been compliant with; therefore, the current non-compliance is a result of the rezoning to WC. The parking proposed is necessary to provide sufficient parking for customers, servicing, and inventory normally customary with a motor vehicle service use.

Staff Finding:

The automotive use requires off-street parking for customers, employees, and warrants additional parking for inventory of cars available for purchase, etc. The existing parking lot contains 125 spaces and would be reduced to 104 spaces, 21 less, once the building expansion is completed. The intent of the maximum allowed parking (80% of required parking) criteria stipulated in the new WC zone were not intended to be applied to automotive uses, which by their daily operations require an abundance of parking spaces for customers, employees, and inventory. This requirement did not exist within the previous CB zoning of the property. Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

- 1. The maximum parking allowed is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
- 2. Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
- 3. Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
- 4. The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*
- 5. Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
- 6. Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project*

will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.

Variance Request #8:

Section 297-96.K.(6)(a) – Parking shall be located to the side or rear of buildings and, whenever possible, in shared parking areas.

All new parking is proposed along the side of the proposed building; however, in order to minimize the site disturbance, the Applicant proposes to re-use the existing front parking areas along with the existing perimeter parking areas. It should be noted that parking along the front was allowed under the previous CB zoning ordinance and it is a result of the WC rezoning that causes the non-compliance associated with the existing parking areas.

Staff Finding:

Staff identifies that all of the new parking area / spaces proposed on Parcel 119 are along the side of the approved building expansion. The Applicant is not proposing any new parking spaces along the front of the building expansion and wishes to re-use the existing frontage parking areas on-site. The existing parking area on-site was approved under the previous CB zoning. The Applicant is seeking the variance to limit the site disturbance and to re-use the existing paved area along the frontage as customer parking spaces. Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

- 1. The front yard parking restriction is a special condition imposed as a result of the adoption of the WC zoning regulations. Under the prior CB zoning regulations, a variance would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.*
- 2. Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
- 3. Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*

4. *The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*
5. *Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
6. *Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.*

Variance Request #9:

Waldorf Vision Plan and Design Guidelines Section 7.4 – Provide minimum 5' landscape buffer adjacent to building

Due to the narrowness of the property and the re-use of perimeter parking areas to limit site disturbance, the 5' landscape buffer adjacent to the building cannot be fully provided. However, a landscape strip is proposed between the building and the northern parking area, multiple landscape islands are proposed adjacent to the building, and a landscaped bio-retention planter is proposed along a side of the building. Please reference the attached materials, which include a proposed site layout.

Staff Finding:

The re-use of perimeter parking area and minimum vehicular circulation requirements / restrictions surrounding the proposed building expansion limit the ability of the Applicant to provide the 5' landscaping buffer directly adjacent to the building expansion. The Applicant has agreed to provide substantial landscaping along several areas along the perimeter where spacing allows in parking islands, etc. Staff does not object to this variance being granted.

Regarding variance criteria to be considered by the Board of Appeals as part of Chapter 297-416.C.(1-6), the Applicant offers the following justification:

1. *The landscape buffer required adjacent to the building is a special condition imposed as a result of the adoption of the Waldorf Vision Plan and Design Guidelines. Under the prior CB zoning regulations, this buffer would not have been required. Strict enforcement of the WC provisions would result in an unwarranted hardship to an existing use/condition that was permitted prior to*

their adoption, and one not generally shared by other comparable motor vehicle service uses within a commercial zone.

- 2. Strict enforcement of the WC zoning regulations would deprive the property owner of rights commonly shared by other comparable motor vehicle service uses within a commercial zone.*
- 3. Granting of this variance will not confer any special privilege that would be denied to other owners of like property and/or structures within the same land use classification (motor vehicle services).*
- 4. The variance request is based upon conditions imposed by the adoption of the WC zoning regulations, and was therefore not self-created or self-imposed. Under the prior CB zoning regulations, a variance would not have been required.*
- 5. Profitability and lack of knowledge of the restrictions which cause the variance are not the basis for justification; which is previously outlined above.*
- 6. Granting the proposed variance will advance goals and objectives outlined for Economic Development within the Charles County Comprehensive Plan. More specifically, development of this project will expand the number of jobs in the County paying above average salaries (goal/objective 4.1); and strengthen the County's economic base through improvement of existing businesses (goal/objective 4.2). Furthermore, goal/objective 4.5 states the location of expanding businesses should be encouraged.*

The existing automotive complex is situated within a densely commercialized area along Crain Highway (Rt. 301), and it is the Applicant's opinion that the proposed use (motor vehicle service) is incompatible with certain elements presented within the Waldorf Central zoning ordinances and Waldorf Vision Plan and Design Guidelines. Additionally, the development will not adversely affect neighboring, vicinal or abutting properties; will be compatible with the existing character of the surrounding area; and will not be detrimental to or endanger the public health, safety and general welfare.

Staff Recommendation:

In summary, Staff recommends approval of 8 of the 9 variances requested by Sheehy Waldorf, Inc., excluding the request to waive the sidewalk requirement along US Route 301. (Variance Request #5).

If the Board of Appeals finds that that some or all of the nine (9) variance requests satisfy the justification criteria outlined in Chapter 297-416.C. (1) through (6), Staff recommends that the following **Conditions of Approval** be applied and included within the Decision & Order:

1. The Planning & Zoning Office as well as other County and State agencies have provided comments on a 1st review of the associated Site Development Plan (SDP) application #13-0001. All comments within that review letter, dated January 30, 2013, which do not have a variance request associated with them, are to be addressed as part of a follow-up response / revision from the Applicant prior to July 30, 2013. It is expected that the revised SDP will illustrate any changes to the site layout due to the requested variances being approved or denied.
2. If Variance Request #2 is granted, the 17,925 building to be constructed on Parcel 119 by Sheehy Waldorf, Inc. is to be designed and constructed in such a way that the exterior architectural elevations provide a faux structural / visual appearance of a full second story when viewed from the building exterior. Compliance with this condition will be verified at time of architectural review prior to building permit approval.
3. If Variance Request #6 is granted, the monumentation signage, with internal lighting, will be required to undergo review and approval in the form of a signage permit application made to the Charles County Planning Office to ensure that all other requirements, associated with signage size, height, etc. in the Waldorf Central (WC) zone, have been satisfied.
4. Consistent with Section 297-96.K.(7)(b), regarding perimeter landscaping for parking areas, the project needs to provide screening with a staggered evergreen hedge. (b) Screening within the landscape area shall be provided by an evergreen hedge with or without an ornamental fence or wall. The maximum height of evergreen hedges and solid walls shall be 36" inches.
5. Per Section 297-96.K(7)(c), the project is required to provide one shade tree per 35 linear feet of parking lot frontage. (c) Additional landscape materials within the landscape area may consist of shade trees, low shrubs and ground cover. A minimum of one shade tree shall be provided per 35 linear feet of parking lot frontage on a public street, excluding driveway openings.

Attachments