



**City of Millersville Board of Zoning Appeals  
Regular Meeting Agenda  
Tuesday, May 7, 2019 5:30 pm  
Millersville City Hall**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Disclosure of Ex-parte Communications
5. Approve the Minutes of the Board of Zoning Appeals Meeting(s) for the following dates:
  - a. April 2, 2018
6. Introduction of newly appointed BZA Member Ms. Sierra Munday
7. Public Comments (Limited to 3 minutes per speaker for item[s] on this agenda)
8. Action Items:
  - a. Nominations and Election of a Chairman to the Board of Zoning Appeals
  - b. Special Exception Request to allow for **New and used motor vehicle sales, rental, leasing and repair** at 1402 Louisville Hwy (SC 118 136.00)
9. Development Services Department Report
  - a. Planning & Zoning Activities.
10. Board Members Comments & General Discussion
11. Public Comments (Limited to 3 minutes per speaker only for items not on this agenda)
12. Next Board of Zoning Appeals Meeting TBD
13. Adjournment

***In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Recorder at 615-859-0880 at least 72 hours prior to the meeting.***



**City of Millersville Board of Zoning Appeals  
Meeting Minutes  
Tuesday, April 2, 2019 5:30 pm  
Millersville City Hall**

1. **Call to Order:** Vice Chairman Petty called the Meeting of the Board of Zoning Appeals to order at 5:37pm.
2. **Pledge of Allegiance:** Lead by Vice Chairman Petty
3. **Roll Call:** Lead by Vice Chairman Petty

**Present:**  
**Mr. Larry Petty**  
**Mr. Gary Bolton**  
**Ms. Helen Nash**

**Absent:**  
**Mrs. Bonnie Coleman**

**Staff:**  
**Mr. Michael Barr**  
**Mrs. Michelle Bernard**

4. **Disclosure of Ex-parte Communications:** No comments were made by any of the members.
5. **Approve the Minutes of the Board of Zoning Appeals Meeting(s) for the following dates:**
  - a. **November 6, 2018:**  
Vice Chairman Petty requests the Board to approve the November 6, 2018 minutes. Mr. Bolton made the motion to “approve the November 6, 2018 meeting minutes as presented.” Ms. Nash seconded the motion. **Motion carried by Unanimous Vote.**
6. **Public Comments (Limited to 3 minutes per speaker for item[s] on this agenda):**  
No comments were made.
7. **Action Items:**
  - a. **Nominations and Election of a Secretary to the Board of Zoning Appeals:**  
Vice Chairman Petty called for nominations for Secretary. Mr. Bolton nominated himself. **Motion carried by Unanimous Vote.**

**b. Acceptance of the BZA Member Annual Training Report:**

Mr. Barr included a summary report for each Board member to view regarding Training.

**c. Special Exception Request to allow for a Campground on a Parcel located on Bethel Road (RC 125 201.01):**

The applicant is requesting a Special Exception to allow for a Campground on a parcel land located on Bethel Rd and approximately one half mile west of the I-65 Exit 104 Interchange.

This 12.86 ac parcel has a long but narrow area of reasonably developable land of about 6.0 acres. The eastern portion is a deep hollow that is planned for walking and recreational paths. The development plan identifies the southern 300 feet of lands fronting Bethel Rd. as reserved for commercial development when adequate domestic and fire protection water becomes available. In the meantime, this frontage area is planned for campground use.

The project is proposed for as many as 100 campground spaces (7.7 spaces/gross acre) with at least the minimum infrastructure and facilities per the City's Codes and the State's Regulations. The applicant is proposing to comply with nearly all of the Campground standards found in Section 90-58 Special Exceptions as practical. Mr. Barr provided the Board with an attached checklist with the agenda.

Mr. Barr is recommending an approval for this Special Exception request subject to the following conditions to allow a 100 unit campground on this Bethel Road parcel identified as RC Map 125 Parcel 201.01.

This Special Exception shall only apply to the applicants, Tim Drowns & Eli Bates, and this parcel. This Special Exception requires the applicants to obtain and follow all local and state permitting and licensing rules, regulations, standards and requirements for "Organized Camps" and "Campgrounds" unless otherwise stated by this board and identified in the attached Checklist. The applicant shall cease campground use and activities on the southern 300 feet of the parcel within 180 days of adequate domestic and fire protection water for Commercial C-3 use becoming available within 500 feet of the parcel.

Vice Chairman Petty asks for a motion to approve the Special Exception for RC 125 201.01. Ms. Nash makes the motion to approve the Special Exception for RC 125 201.01 with the attached conditions per the checklist. Mr. Bolton seconded the motion.

Vice Chairman Petty opened the Public Hearing. There were no comments. Vice Chairman Petty closed the Public Hearing. **Motion carried by Unanimous Vote.**

**d. Special Exception Request to allow to Reopen a Campground on a Portion of the Parcel at 7191 Bethel Road (RC 125 238.00):**

The applicant is requesting a Special Exception to allow for a Campground to be reopened on a portion of land located at 7191 Bethel Rd known as the Bethel Road Campground.

The applicant is an interested buyer of a 1.65 acre portion of the property. This property is currently an illegal non-conforming “trailer park” (as identified by the Tennessee Department of Health which regulates Organized Campgrounds). At one time this property may have been used as a campground but lost its “grandfather” exemption per TCA 13-7-208.

The buyer will evict ALL tenants, with or without campers and recreational vehicles, and remove all other campers, RV’s, other vehicles and any illegal structures. The vacant site will be reconfigured as necessary and brought into City Codes and State Regulations conformity. Permits and Licenses from the City and State will be obtained prior to reopening the campground. Please note: due to certain site conditions, not all requirements standards identified in Section 90-58 Special Exception may be met.

The applicant is proposing to reopen the campground with no more than 25 camp sites (15 camp sites/acre). Please note: the remaining 0.90 acres of the Bethel Road Campground will be retained by the current owner, Mr. Curtis Lannom, and is expected to continue to operate as an illegal non-conforming “trailer park.” The City’s lawsuit against Mr. Lannom will continue irrespective of this request.

Mr. Barr is recommending approval of this Special Exception request to allow a 25 unit campground on this portion of 7191 Bethel Road identified as RC Map 125 Parcel 238.00. This Special Exception shall only apply to the applicants, Blair Smythe and Sarah Duffy, and this portion of the parcel. This Special Exception requires the applicants to obtain and follow all local and state permitting and licensing rules, regulations, standards and requirements for “Organized Camps” and “Campgrounds” unless otherwise stated by this board and identified in the attached Application Narrative and Checklist.

Vice Chairman Petty asks for a motion to approve the Special Exception to allow to Reopen a Campground on a Portion of the Parcel at 7191 Bethel Road (RC 125 238.00). Mr. Bolton makes the motion to approve the Special Exception to allow to Reopen a Campground with the attached checklist of conditions on a Portion of the Parcel at 7191 Bethel Road (RC 125 238.00. Ms. Nash seconded the motion.

Vice Chairman Petty opened the Public Hearing. There were no comments. Vice Chairman Petty closed the Public Hearing. **Motion carried by Unanimous Vote.**

**8. Development Services Department Report**

**a. Planning & Zoning Activities:**

Mr. Barr presents the Commission with a handout of the Development Services Department Report of recent updates pertaining to City.

- 9. **Board Members Comments & General Discussion:** No comments were made.
- 10. **Public Comments (Limited to 3 minutes per speaker only for items not on this agenda):** No comments were made.
- 11. **Next Board of Zoning Appeals Meeting TBD**
- 12. **Adjournment:**  
Ms. Nash makes the motion to adjourn.  
Mr. Bolton seconded the motion.  
Meeting adjourned at 6:30pm.  
**Motion carried by Unanimous Vote.**

\_\_\_\_\_  
**Chairperson**

\_\_\_\_\_  
**Secretary Gary Bolton**

\_\_\_\_\_  
**Recording Secretary Michelle Bernard**

\_\_\_\_\_  
**Approval Date**



## City of Millersville Development Services

## BZA Agenda Item #8b

### Summary & Recommendation

**Date:** May 7, 2019

**Reviewer:** Michael Barr, Development Services Director

**Subject:** A Special Exception to allow for **New and used motor vehicle sales, rental, leasing and repair** at 1402 Louisville Hwy (SC 118 136.00)

#### **Background:**

The applicant is requesting a Special Exception to allow for on-site sales of vehicles in conjunction with the existing auto salvage, used vehicle parts sales and vehicle repairs. At this time, the Ace Auto Salvage business is transporting repaired vehicles to a location in Madison for sale. The business owner desires to consolidate all business operations onto one site.

The owner has agreed to begin downsizing the salvage operation on this property. He has agreed to remove all salvage vehicles from the hillside that can be seen from the roadway. He intends to let these areas return to their natural state. Additionally, the owner proposes to reconfigure the business entrances and on-site parking and add a truck loading and unloading area away from the highway shoulder. Also, the owner proposes to remove all salvage vehicles from the lower parking areas which can be seen from the highway. New fencing with fabric covers are proposed in areas not open to the public. Other site improvements are planned to bring the property into conformity including updating the stormwater system, cleaning up the property to become more visually appealing for their customers and the public travelling on Louisville Highway.

This parcel is zoned Industrial I-1 (Light Industrial). Please note that this property's commercial or industrial use is considered a "legal non-conforming use" as the salvage, parts sales and repair operations have been active since before the city adopted its current Zoning Ordinance in 1999 per T.C.A. 13-7-208. Also, it has been the practice of the city to allow for "less intense" uses in related zoning districts. In this case, a "commercial" use is allowed in "industrial" zoning districts.

The city's current Codes setting Standards and Restrictions for granting Special Exceptions for vehicle sales, repair, etc. are geared for new businesses on smaller parcels in commercial districts. The Board of Zoning Appeals has the authority to establish its own Standards and Restrictions but is cautioned to keep with the "spirit" or vision of the city and its businesses.

In my opinion, the proposed changes to clean up the property are a welcome activity to improve this section of highway. And the allowance of vehicle sales has minimal impact on the city except that it will be a new sale tax source for the city.

**Attachments:** Aerial Image of Subject Parcel with Proposed Changes  
Sections 90-58 & 90-182 Procedure for authorizing special exceptions  
T.C.A. 13-7-208 Enforcement of ordinances

**Public Notice Sign Posted:** yes

**Recommendation:** Approve this Special Exception request to allow for vehicle sales at 1402 Louisville Hwy (SC 118 136.00).

**Conditions, if any:** The applicant shall complete the hard surface improvements including new pavement & rocked areas and stormwater system. New fences and any changed fencing shall be completed. And all salvage vehicles shall be removed from the hillsides visible from the highway before a Vehicle Sales Business License is issued by the city of Millersville.

**Sec. 90-58. - Procedure for authorizing special exceptions.**

- (a) *Generally.* The procedure described in this section is established to provide procedures for review of a proposed use as a conditional use or special exception by the board of zoning appeals. The procedure shall be the same whether review is required under T.C.A. § 13-7-206, by this chapter, or whether a review is requested by the building inspector to determine whether a proposed use is potentially noxious, dangerous or offensive.
- (b) *Application.* An application shall be filed with the board of zoning appeals for review. Such application shall show the location and intended uses of the site, the names of the property owners, existing land uses within 200 feet, and any other material pertinent to the request which the board of zoning appeals may require.
- (c) *General requirements.* A conditional use permit (a special exception) shall be granted, provided that the board of zoning appeals finds that it:
  - (1) Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
  - (2) Will not adversely affect other property in the area in which it is located.
  - (3) Is within the provision of special exceptions as set forth in this chapter.
  - (4) Conforms to all applicable provisions of this chapter for the district in which it is to be located as well as the provisions cited in this section, necessary for public convenience in the location planned.
- (d) *Criteria for review.* Prior to the issuance of a special exception, the board of zoning appeals shall make written findings certifying compliance with the specific rules governing individual special exceptions (this section), and that satisfactory provisions and arrangements have been made concerning all the following, where applicable:
  - (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - (2) Off-street parking and loading areas where required, with particular attention to the items in subsection (d)(1) of this section, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
  - (3) Refuse and service areas, with particular reference to the items in subsections (d)(1) and (d)(2) of this section.
  - (4) Utilities, with reference to locations, availability, and compatibility.
  - (5) Screening and buffering with reference to type, dimensions and character.
  - (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
  - (7) Required yard and other open space.
  - (8) General compatibility with adjacent properties and other property in the district.
- (e) *Restrictions.* In the exercise of its approval, the board of zoning appeals may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this chapter.
- (f) *Validity of plans.* All approved plans, conditions, restrictions, and rules made a part of the approval of the board of zoning appeals shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

- (g) *Time limit.* All applications reviewed by the board of zoning appeals shall be decided within 30 days of the date of hearing, and the applicant shall be provided with either a written notice of approval or denial.
- (h) *Special exceptions appeals.* Any person or agency of the county government may appeal to a court of competent jurisdiction from the board of zoning appeals' decision as provided under state statutes. The judgment and findings of the board of zoning appeals on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final, and subject to review only for illegality or want of jurisdiction. A fee shall be charged to cover review and processing of each application for a special exception. Fees shall be set by the governing body in the form of a resolution.

#### **Sec. 90-182. - General commercial district C-1.**

- (a) *Intent.* The intent of the general commercial district C-1 is to provide for major retail and service areas at locations of superior accessibility on thoroughfares of width and design capable of safely handling the large volumes and turning movements of traffic associated with these commercial facilities.
- (b) *Buffer strips.* Buffer strips, a minimum of 25 feet, are required when commercial zoned lots abut residentially zoned lots. In addition, side buffers of planted material are required between adjacent properties on either side. Any fencing used for buffering shall conform to the following standards:
  - (1) Fences provided in buffer zones may only be constructed of natural wood or other decorative fencing.
  - (2) Sheet plastic, sheet metal, corrugated metal, chain link, and plywood fencing shall not be allowed.
  - (3) The finished side of fences shall face the lower intensity use.
- (c) *District regulations.* Automobile and other vehicular service establishments, transient sleeping accommodations, and eating and drinking establishments primarily characterize this C-1 district. Additionally, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these C-1 districts. Community facilities and utilities necessary to serve these C-1 districts, or necessary for the general community welfare are also permitted. Bulk limitations required of uses in these C-1 districts, in part, are designed to maximize compatibility with lesser intense use of land or building in proximate residential districts. Approximate locations for this district is along major traffic arteries. Within commercial C-1 districts, as shown on the municipal zoning map, the following regulations shall apply:

- (2) **Special exceptions.** Special exceptions in the C-1 district are planned developments as regulated in section 90-311, including the following:

After public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit, as special exceptions:

- 1. **New and used motor vehicle sales, rental, leasing and repair**, when meeting the following requirements:
  - a. Application for a motor vehicle sales special exception shall include a professionally prepared site plan, drawn to scale, indicating all features pertinent to the requirements set forth below and features required in the C-1 district in general.
  - b. Motor vehicle sales shall be located at a distance of 1,000 feet from any other motor vehicle sales establishment.

- c. If the commercial lot in question abuts a residentially used or zoned lot on its rear property line, then a buffer strip must be used on the rear of the commercial lot.
- d. No public street, sidewalk, or right-of-way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments.
- e. No required landscape area or buffer yard shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments.
- f. No operation in connection with such establishments shall be carried on in such a manner that impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.
- g. Motor vehicle sales and repair establishments shall be compliant with all local and state regulations, permits and licensing requirements.
- h. Motor vehicle repair establishments shall not engage in the sale of vehicles.
- i. Repair of motor vehicles at new and/or used motor vehicle sales establishments shall be incidental to the principle business.
- j. There shall be no outdoor storage or display of accessories, tires, parts, or other merchandise.
- k. All sales/display areas and customer parking areas shall be surfaced with concrete or asphalt and shall be constructed to provide for adequate drainage.
- l. No repair of motor vehicles or parts thereof shall be made outside of garages, service stations, body shops, or other buildings used for such purposes.
- m. All motor vehicles being handled or stored in an area visible from a public street or way shall be maintained in such condition that they can be moved under their own power and shall not be disassembled in any fashion.
- n. Repair facilities shall be constructed with provisions to contain hazardous and toxic fluids and waste and such materials must be reclaimed/held and ultimately removed from the site commensurate with all city, state, and federal guidelines.
- o. Without exception, dumpsters and waste storage areas shall be to the rear of the property and screened from public view.
- p. Motor vehicles unable to be moved under their own power may be temporarily stored (ten days or less) in completely enclosed storage yards. The following standards shall apply for all motor vehicles storage yards:
  - 1. Shall be screened within a well-maintained enclosure and in such a manner that no vehicle or portion thereof is visible from any street or public way, or from ground level of any adjacent property. Enclosures shall not be constructed of chain link fencing or utilize barbed or razor wire.
  - 2. Shall be surfaced with concrete or asphalt and shall be constructed to provide for adequate drainage and to contain hazardous and toxic fluids and waste.
  - 3. Shall be located on the same premises as the motor vehicle repair or service establishment.
  - 4. The maximum number of vehicles allowed in any storage yard is ten.
  - 5. All vehicles shall have a current license plate and registration.
  - 6. It shall be the responsibility of the owner or operator of any motor vehicle repair or service establishment to keep accurate and verifiable records as to the date any vehicle being stored in a storage yard is placed on said yard. Failure to keep such records will create the presumption that the vehicle or

vehicles stored on the yard have been there in excess of ten days and are in violation of the Code.

- q. For the purposes of this section, motor vehicles shall include automobiles, trucks, vans, semis, buses, motorcycles, tractors, all terrain vehicles, boats, jet skis, motor homes, motorized construction vehicles and equipment, and similar vehicles and equipment.
- r. Shall conform to the requirements of section 18-2 and all current standards of the commercial design review criteria.

### **13-7-208. Enforcement of ordinances -- Remedies -- Applicability of provisions.**

(a)

(1) The chief legislative body may provide for the enforcement of any ordinance enacted under this part and part 3 of this chapter. A violation of any such ordinance is a Class C misdemeanor.

(2) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any ordinance enacted under this part and part 3 of this chapter, the building commissioner, municipal counsel or other appropriate authority of the municipality, or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure or land.

(b)

(1) In the event that a zoning change occurs in any land area where such land area was not previously covered by any zoning restrictions of any governmental agency of this state or its political subdivisions, or where such land area is covered by zoning restrictions of a governmental agency of this state or its political subdivisions, and such zoning restrictions differ from zoning restrictions imposed after the zoning change, then any industrial, commercial or business establishment in operation, permitted to operate under zoning regulations or exceptions thereto prior to the zoning change shall be allowed to continue in operation and be permitted; provided, that no change in the use of the land is undertaken by such industry or business.

(2) When the use permitted to continue to expand, or to be rebuilt pursuant to any subsection of this section is an off-premises sign, such use shall not preclude any new or additional conforming use or structure on the property on which the sign structure is located or on any adjacent property under the same ownership; provided, however, that any such new or additional use or structure does not result in any violations of the applicable zoning restrictions other than those nonconformities associated with the off-premises sign as allowed under this subdivision (b)(2).

(c) Industrial, commercial or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto in effect immediately preceding a change in zoning shall be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the activities of the industry or business which were permitted and being conducted prior to the change in zoning; provided, that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners. No building permit or like permission for construction or landscaping shall be denied to an industry or business seeking to expand and continue activities conducted by that industry or business which were permitted prior to the change in zoning; provided, that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

(d)

(1) Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business subsequent to the zoning change; provided, that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under any zoning regulations or exceptions thereto in effect immediately prior to or subsequent to a change in the zoning of the land area on which such industry or business is located. No building permit or like permission for demolition, construction or landscaping shall be denied to an industry or business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that industry or business, where such conduct was permitted prior to a change in zoning; provided, that there is a reasonable amount of space for such expansion on the property

owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

(2)

(A) Multifamily residential establishments, whether used as owner-occupied property or rental property, which were permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to reconstruct new facilities necessary to the conduct of such multifamily residential establishment subsequent to the zoning change, in the event of damage, whether partial or complete, by involuntary fire or wind damage or other natural disaster.

(B) If any such new facilities exceed the original height, density, setback, or square-footage of the original facilities in existence immediately prior to the damage, then the new facilities shall constitute a change in the use of the land, and any protections provided hereunder shall be forfeited.

(C) If any such new facilities do not exceed the original height, density, setback, or square-footage of the original facilities in existence immediately prior to the damage, then the new facilities shall constitute a continuation of the use of the land immediately prior to the damage, and any protections provided hereunder shall not be forfeited.

(D) Whenever any ordinance enacted under authority of this chapter establishes stricter terms regarding the amount of partial damage that may be allowed without forfeiture of these protections, then the provisions of any such ordinance shall govern.

(E) New facilities shall comply with all architectural design standards required under current zoning regulations and be consistent with the architectural context of the immediate and adjacent block faces.

(e) Subsections (b)-(d) apply only to land owned and in use by such affected business, and do not operate to permit expansion of an existing industry or business through the acquisition of additional land.

(f) Subsections (b)-(e) do not apply to any municipality defined as a premiere type tourist resort according to § 67-6-103(a)(3)(B).

(g) Except as provided in subsection (l), subsections (b)-(d) shall not apply if an industrial, commercial, or other business establishment ceases to operate for a period of thirty (30) continuous months and the industrial, commercial, or other business use of the property did not conform with the land use classification as denoted in the existing zoning regulations for the zoning district in which it is located. Anytime after the thirty-month cessation, any use proposed to be established on the site, including any existing or proposed on-site sign, must conform to the provisions of the existing zoning regulations. For the purposes of this subsection (g), the thirty-month period of continuous ceased operation shall be tolled by:

(1) The period in which an industrial, commercial, or other business establishment is party to any action in a court of competent jurisdiction regarding the use of the property until such time that a final settlement, order, decree, or judgment has been rendered;

(2) Any period in which a facility is being constructed, reconstructed, renovated, or refurbished, provided that all necessary building permits were obtained within thirty (30) months of cessation of continuous use;

(3) The filing of an application for a building permit for the alteration, renovation or reconstruction of a structure which is non-conforming or of a structure in which or out of which a non-conforming industrial, commercial or other business use operates or is located; or

(4) The reactivation of the non-conforming use any time prior to the end of the thirty-month period; provided, however, that the restrictions of this subsection (g) and subsection (i) shall only apply if

the property owner intentionally and voluntarily abandons the nonconforming use of the property. In any contested matter on the use of such property, the government has the burden of proving an overt act of abandonment in such matter.

(h) Subsections (b)-(d) shall apply to an off-site sign which, for the purposes of this subsection (h), means any sign that advertises or gives direction to any business, product, service, attraction, or any other purpose or interest, other than the industrial, commercial or other business establishment located on the site where the sign is located; provided, however, that any expansion shall be limited as follows:

(1) Any off-site sign smaller than a standard 8-sheet poster which, for the purposes of this subsection (h), means an off-site sign with overall dimensions of at least five feet four inches (5' 4") to six feet two inches (6' 2") in height and eleven feet four inches (11' 4") to twelve feet two inches (12' 2") in width shall not be expanded to a size greater than a standard 8-sheet poster;

(2) Any standard 8-sheet poster shall not be expanded to a size greater than a 30-sheet poster which, for the purposes of this subsection (h), means an off-site sign with overall dimensions of twelve feet three inches (12' 3") in height and twenty-four feet six inches (24' 6") in width;

(3) Any standard 30-sheet poster shall not be expanded to a size greater than any standard bulletin which, for the purposes of this subsection (h), means any off-site sign with overall dimensions of ten feet (10') to fourteen feet (14') in height and thirty-six feet (36') to forty-eight feet (48') in width;

(4) Any standard bulletin shall not be expanded to a size greater than any super bulletin which, for the purposes of this subsection (h), means any off-site sign with overall dimensions of sixteen feet (16') to twenty feet (20') in height and sixty feet (60') in width;

(5) Any super bulletin shall not be expanded;

(6) Any off-site sign with a height larger than standard 8-sheet poster height or width larger than standard 8-sheet poster width but not meeting the definition of a standard 8-sheet poster, a standard 30-sheet poster, a standard bulletin, or a standard super bulletin shall not be expanded by more than one hundred percent (100%) of its surface area; or

(7) Any operation, rebuilding, or expansion of an off-site sign that has been in existence for ten (10) years or more shall not be denied solely on the basis that the original permit for the sign does not exist to prove that it was a lawful use when constructed.

(i) Notwithstanding subsection (d), any structure rebuilt on the site must conform to the provisions of the existing zoning regulations as to setbacks, height, bulk, or requirements as to the physical location of a structure upon the site, provided that this subsection (i) shall not apply to off-site signs.

(j) Subsections (g), (h) and (i) do not apply to any home rule municipality; provided, however, that subject to the approval of the local legislative body, a home rule municipality may opt into these subsections.

(k) Notwithstanding subsections (a)-(i), subsection (g) shall not apply to any industrial establishment location where twenty-five percent (25%) or more of the gross annual sales from such location are derived from sales to or contracts with Local, state or federal governments or as a subcontractor to contracts with local, state or federal governments, or to any industrial establishment location where seventy-five percent (75%) or more of the gross annual sales from the location are made to agriculture or construction businesses.

(l)

(1) As used in this subsection (l):

(A) "Block" means a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development; and

(B) "Motor vehicle business establishment" means a business establishment that sells operable motor vehicles and all the motor vehicles have been previously titled, excluding any franchised retail motor vehicle dealership located on property that is principally used for the marketing and display of new motor vehicles, whether by sale, rental, lease or other commercial or financial means that is primarily housed in a structure and characterized by a mixture of the following secondary supporting uses:

(i) An inventory of new or used motor vehicles in operating condition for sale or lease either on the same parcel or at a location affiliated with a franchised retail motor vehicle dealership; and

(ii) On-site facilities for the repair and service of motor vehicles previously sold, rented or leased by the retail motor vehicle dealership.

(2) In any municipality having a metropolitan form of government and a population of over five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, any nonconforming motor vehicle business establishment may be terminated after notice and a hearing before the board of zoning appeals upon a finding that all of the following have been established in the record before the board of zoning appeals:

(A) Another motor vehicle business establishment is located within the one thousand feet (1,000') of the nonconforming motor vehicle business establishment, in the same block as the nonconforming motor vehicle business establishment, or in the block across a public street or road from the block in which the nonconforming motor vehicle business establishment is located;

(B) The parcel on which the nonconforming motor vehicle business establishment is located has less than two hundred fifty feet (250') of frontage on any public street or road, excluding any portion of the frontage not owned or leased by the licensed operator of the nonconforming motor vehicle business establishment; and

(C) At least ten percent (10%) of the inventory of the nonconforming motor vehicle business establishment at any point in time consists of motor vehicles titled pursuant to title 55, chapter 3, part 2, including, but not limited to, vehicles with salvage titles, flood titles, rebuilt titles, or nonrepairable vehicle certificates. The operator of the nonconforming motor vehicle business establishment shall make the titles for all of the vehicles located on the premises of the nonconforming motor vehicle business establishment immediately available upon request of a local zoning inspection official, or produce the original titles at the office of the local zoning inspection official within three (3) business days of the request by the local zoning inspection official. The failure of the nonconforming motor vehicle business establishment to make the titles for the vehicles located on the premises of the nonconforming motor vehicle business establishment available to the local zoning inspection official in accordance with this subsection (C) shall create a rebuttable presumption that at least ten percent (10%) of the inventory of the nonconforming motor vehicle business establishment consists of the motor vehicles titled pursuant to title 55, chapter 3, part 2.

(3) All other industrial, commercial or other business establishments in any municipality with a metropolitan form of government and a population of over five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, shall be entitled to operate pursuant to subsection (g).

(m)

(1) If any land area becomes subject to land use restrictions imposed pursuant to a redevelopment plan undertaken by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 or part 7 of this title, or if the land area is subject to land use restrictions that are amended by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 or part 7 of this title, and if the land use restrictions differ from the land use

restrictions contained in the amended land use restrictions, then any industrial, commercial, or other business establishment in operation and permitted to operate prior to the initial adoption of the land use restrictions or an amendment thereto, shall be allowed to continue in operation and shall be permitted; provided, that no change in the use of the land is undertaken by the industrial, commercial, or business establishment.

(2) Immediately preceding an initial adoption of the land use restrictions or an amendment of the restrictions, industrial, commercial, and other business establishments in operation and permitted to operate under land use restrictions imposed pursuant to a redevelopment plan undertaken by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 or part 7 of this title, shall be allowed to replace facilities necessary to conduct the industry or business if the facilities are acquired by a governmental entity pursuant to the power of eminent domain, or under threat of the exercise of the power of eminent domain, or replace facilities required to be relocated as the result of the acquisition of property by a governmental entity pursuant to the power of eminent domain, or under threat of the exercise of the power of eminent domain, or to rebuild facilities if they are damaged by unplanned casualty or act of God; provided, that:

(A) The replacement facilities shall not be larger in size than the facilities in existence prior to the acquisition, relocation, or damage caused by unplanned casualty or act of God;

(B) The construction of the replacement facilities shall commence within thirty (30) months of the date of the taking or acquisition under threat of the exercise of the power of eminent domain or the date of the damage caused by unplanned casualty or act of God; and

(C) There is a reasonable amount of space for the replacement facilities on the property owned by the industry or business situated within the area that is affected by the adoption of the land use restrictions or an amendment of the restrictions, so as to avoid nuisances to adjoining landowners.

(3) Subdivision (m)(2) applies only to land owned and in use by the affected industrial, commercial, or other business establishment prior to acquisition or relocation resulting from the exercise of the power of eminent domain, or the threat of the exercise of the power of eminent domain, or the damage to facilities caused by unplanned casualty or act of God, and does not operate to permit the replacement of facilities necessary to the conduct of the industry or business through the acquisition of additional land.

(4) Subdivisions (m)(2) and (3) apply only to any acquisition or relocation of facilities within an area subject to land use restrictions imposed pursuant to a redevelopment plan undertaken on or after July 1, 2015, by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 or part 7 of this title, or to damage to facilities caused by casualty or act of God occurring on or after July 1, 2015, regardless of the redevelopment plan's date of enactment.