

IN THE MATTERS OF THE APPLICATIONS OF
JARRETT KITCHEN, AUDRA KITCHEN, Applicants,

to the

HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT,
Permit Authority,

Regarding

SPECIAL USE PERMIT FOR MOTOR VEHICLE SALES OR LEASING

The Henderson County Zoning Board of Adjustment held a quasi-judicial hearing April 27, 2016, to consider the application SUP-16-03, seeking a special use permit to allow use of certain property for motor vehicle sales or leasing. The application was submitted by owners of the property in question. Having heard all of the evidence and arguments presented at the hearing, the Zoning Board of Adjustment makes the following findings of fact:

1. A quasi-judicial hearing was held by the Henderson County Zoning Board of Adjustment on the special use permit application SP-16-03. A quorum of members of the Zoning Board of Adjustment was present. The members present and participating were:

Ronald S. Kauffman, Chair
Ann Livingston Pouch
Hilliard Staton
Jim Clayton
Anthony Engel

2. All members of the Zoning Board of Adjustment affirmed their ability to make an impartial decision in this matter, and no party or member objected to any other member's participation in this hearing.

3. Notice of the quasi-judicial hearing, pursuant to the Henderson County Code ("the Code") was duly and timely given in accord with the provisions of §42-371. This included first class mailing to the applicants and all adjacent property owners to the boundary of the subject property, published notice, and the posting of notice on the subject property.

4. This application was filed by Jarrett Kitchen and Audra Kitchen (the "Applicants"). Applicants are owners of the property to be included in the special use, which property consists of Henderson County PIN 9680996176. This property is currently zoned Local Commercial. "Motor Vehicle Sales or Leasing" is a permitted use in this district with a special use permit.

5. At the commencement of this hearing, the Chair stated that the Board recognized the Applicants and the Henderson County Code Enforcement Department as parties to this hearing, and

In the Matter of the Application of Kitchen Motor Vehicle Sales and Leasing
Order on Special Use Permit Hearing
File Number SUP-16-03

inquired whether any person or entity sought to become a party to this action. No other person or entity sought to be a party or present evidence at this hearing.

6. In order to grant any special use, the Board must find that the proposed use will:
 - a. Not materially endanger the public health, safety or welfare;
 - b. Not substantially injure the value of property or improvements in the area; and
 - c. Be in harmony with the surrounding area.

7. In addition, the Board must find that the proposed use meets the specific standards for each specific special use set out in the Henderson County Land Development Ordinance, Chapter 42 of the Henderson County Code. The use proposed here is "Motor Vehicle Sales or Leasing". The use proposed is a potential special use in the Local Commercial zoning district. The specific standards for the proposed use are set out in Supplemental Regulation SR 7.10 of the Land Development Ordinance, found at Section 42-63 thereof. The standards are as follows:

- a. A major Site Plan is required in accordance with §42-331 (Major Site Plan Review).
- b. Adequate lighting shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. Lighting mitigation is required.
- c. Unpaved roads, travelways and/or parking areas shall be treated to prevent dust from adverse effects to adjacent properties.

8. Pursuant to §42-356H, "[t]he concurring vote of four-fifths (4/5) of the members" of the Board is required to grant the special use permit, with the following conditions, pursuant to Code Section 42-356.H(2):

- a. No more than twenty (20) vehicles may be offered for sale at any time on the premises.
- b. No vehicle offered for sale may have more than six (6) wheels, not including spares.

9. A motion was made by Jim Clayton to grant the special use, all standards having been met, subject to the above conditions. All members voted aye.

From the foregoing, the Zoning Board of Adjustment concludes as follows:

1. All parties were properly before the Board, and all evidence presented herein was under oath, and was not objected to by any party. All evidence relied upon in this Order was credible and reliable.
2. The Zoning Board of Adjustment has jurisdiction to hear this matter.
3. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.
4. The application for the special use permit should be granted.

In the Matter of the Application of Kitchen Motor Vehicle Sales and Leasing
Order on Special Use Permit Hearing
File Number SUP-16-03

IT IS THEREFORE ORDERED by the Henderson County Zoning Board of Adjustment that Henderson County special use permit amendment application number SP-16-01 is hereby granted, on the following conditions:

- a. No more than twenty (20) vehicles may be offered for sale at any time on the premises.
- b. No vehicle offered for sale may have more than six (6) wheels, not including spares.

Announced 27 April 2016, and approved in final form, this the ____ day of May, 2016.

THE HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By: _____
RONALD S. KAUFFMAN, Acting as Chair

Attest:

TOBY LINVILLE, Secretary to the Zoning Board of Adjustment