

ORDINANCE NO. 7243-16

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-358 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING AN AUTOMOBILE SALES, USED CAR DEALERSHIP ON PROPERTY IN A C2 GENERAL COMMERCIAL ZONING DISTRICT.

WHEREAS, application number CU-16-358 has been made by **CARS, LLC, owner and applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating an automobile sales, used car dealership on property in a C2 General Commercial Zoning District; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-16-358 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating an automobile sales, used car dealership on property in a C2 General Commercial Zoning District; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

All that certain lot, piece or parcel of land, situate, lying and being in the City of Newport News, Virginia, and more particularly described as follows:

Commencing at a pipe on the westerly side of Jefferson Avenue distant S. 20 degrees E. 434.13 feet from the iron marker at the Southwest corner of Newport Avenue and Jefferson Avenue, as shown on the plat of "Beacondsdale - Section A" of record in the Clerk's Office of the Circuit Court (formerly Hustings Court) for the City of Newport News, Virginia, and from the point of commencement thus established, proceeding thence along said westerly line of Jefferson Avenue S. 20 degrees E. a distance of 205.75 feet to a pipe; thence S. 70 degrees W. a distance of 219.49 feet to a pipe, thence N. 14 degrees 08 minutes 20 second W. a distance of 190.88 feet to a pipe, thence N. 20 degrees W. a distance of 15.87 feet to a pipe; thence N. 70 degrees E. a distance of 200

feet to the pipe at the point or place of commencement, all as shown on that certain map or plat entitled, "Plat of Part of J. W. Hornsby Estate in Warwick, Virginia", dated November 17, 1952, made by J. B. Sinclair, Jr., Civil Engineer, a copy of said plat being attached to deed dated December 10, 1952 from William Sherwood Hornsby et als Executors and Trustees of the Estate of John William Hornsby, deceased to Nathan Peltz, et als, Trustees of the Peltz Trust, acting under and virtue of that certain trust indenture dated December 9, 1952, duly of record in the Clerk's Office aforesaid, in Deed Book 7, page 89.

LESS AND EXCEPT, that certain portion of land conveyed to the Commonwealth of Virginia, as shown and designated in RED on Sheets 14 and 15 of the certain plat recorded in the aforesaid Clerk's Office in State Highway Plat Book 8, page 40 and 41.

FURTHER, LESS AND EXCEPT that certain portion of land conveyed to the Commonwealth of Virginia by deed dated March 2, 1998 and recorded in the aforesaid Clerk's Office in Deed Book 1497, page 1038.

The Property has a common street address of 11203 Jefferson Avenue and has Real Estate Assessor's Tax I.D.# 240.00-05-20.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. A six (6) foot high opaque fence shall be installed along the full length of the rear property line. The fence shall be maintained in good condition for the duration of the use authorized by this permit. The materials, color and style of the fence shall be reviewed and approved by the Director of Planning.
2. Only one (1) freestanding sign shall be permitted on the Property. The existing sign shall be modified, or replaced, so that it is a monument style sign no higher than eight (8) feet measured from the highest point of the sign area structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.
3. No flags, banners, balloons, or window advertising shall be affixed to any automobiles on display.
4. The automobiles displayed on the site shall not encroach into the public

right-of-way, landscape strip or buffer areas.

5. The automobiles for sale shall be displayed only in marked parking spaces and shall not be double-parked.
6. All repair and service work shall be performed within an enclosed building.
7. There shall be no outside storage of cars in a state of obvious disrepair.
8. Outdoor public address systems shall be prohibited.
9. All lighting shall have a mounting height no greater than twenty (20) feet. Lighting installed along the rear of the site shall be full cut-off fixtures and provide shielding on the residential side of the fixture.
10. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time the recording is made. The Equipment shall provide surveillance coverage encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.
11. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
12. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
13. The applicant, as well as successors, assigns, and agents, if any, shall obtain

all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.

14. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
15. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
16. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
17. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this

conditional use permit has not commenced within twenty-four (24) months of January 26, 2016, or,

2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON JANUARY 26, 2016

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk