

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND  
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION  
4832  
ALTERNATIVE COMPLIANCE 20010**

**DECISION**

Application: Gas Station and Food or Beverage Store  
Applicant: 7-11 Eleven Inc.  
Opposition: None  
Hearing Date: October 14, 2020  
Hearing Examiner: Joyce B. Nichols  
Disposition: Approval with Conditions

**NATURE OF PROCEEDINGS**

- (1) Special Exception 4832 is a request for permission to raze an existing Food or Beverage Store and Car Wash and redevelop the site with a Gas Station and Food or Beverage Store all on approximately 2.20 acres of land, in the C-S-C (Commercial Shopping Center) and M-I-O (Military Installation Overlay) Zones, located on the north side of Marlboro Pike at the northeast quadrant of its intersection with Boones Lane, also identified as 7300 Marlboro Pike and 2814 and 2928 Boones Lane, District Heights, Maryland. The Applicant also seeks Alternative Compliance from the Landscape Manual §4.6.
- (2) The Planning Board did not elect to hold a hearing and in lieu thereof adopted the recommendation of the Technical Staff. The Technical Staff recommended approval of the instant Application. (Exhibit 27)
- (3) At the conclusion of the evidentiary hearing the record was closed.

**FINDINGS OF FACT**

**Subject Property**

- (1) The subject property is located on the north side of Marlboro Pike, at the northeast quadrant of its intersection with Boones Lane. The site consists of three properties, including an existing Food or Beverage Store (7-Eleven) on Parcel A (2928 Boones Lane), a disused car wash on Parcel B (7300 Marlboro Pike), and a vacant outparcel known as Outparcel A (2814 Boones Lane). The subject property is zoned Commercial Shopping Center (C-S-C), is 2.20 acres, and is located on Tax Map 81, Grids E-3, E-4, F-3, and F-4. Marlboro Pike, abutting the subject property to the south, is a variable width, master-planned collector roadway. The full width of the

right-of-way has been dedicated where it abuts the subject property.

### **Zoning History**

(2) The site has previously been subject to two different Special Exceptions. SE 3571 was approved in February 1985 by the Zoning Hearing Examiner for a Car Wash. The Special Exception was filed on 1.76 acres out of the 2.20-acre site, which was one parcel at that time. The Car Wash did not immediately proceed to construction, and a new Special Exception was later filed. SE 3817 was approved by the Prince George's County District Council in June, 1988 for the same Car Wash, but the new development proposal also included a 7-Eleven. The 7-Eleven did not at the time itself require a Special Exception, and so SE 3817 was filed on only the portion of the site containing the Car Wash, or 38,527 square feet (0.88 acre) of the subject property, which is currently existing Parcel B. Following approval of SE 3817, the Car Wash and the 7-Eleven currently on the subject property were constructed. Neither Special Exception is applicable to the currently proposed project, as a Car Wash will no longer be one of the uses on-site, and the previous Special Exceptions were for the Car Wash only.

A Preliminary Plan of Subdivision (PPS) was filed after construction concluded to subdivide the property into three separate parcels; one containing the existing Food or Beverage Store, one containing the existing Car Wash, and one for the remaining land area. PPS 4-89218 was approved by the Prince George's County Planning Board in February 1990 per PGCP Resolution No. 90-47. The PPS was approved for two parcels and one outparcel with no additional development subject to five conditions. The following three conditions are relevant to the subject application:

- (2) **In the event of any further development of Parcel A, such development shall be in compliance with Special Exception No. 3817.**

SE 3817 is discussed above. The subject Special Exception Application will supersede SE 3817; therefore, further development on Parcel A must be in compliance with SE 4832, not SE 3817.

- (4) **Development of proposed Parcel A shall be limited to permitted uses which would generate no more than 224 vehicle trips during the AM or the PM peak hours based on the trip generation rates cited in the 1989 *Guidelines for the Analysis of the Traffic Impact of Development Proposals*. If no corresponding rates are given in the Guidelines, an appropriate rate from the latest edition of the Institute of Transportation Engineers' *Trip Generation Manual* may be used in the evaluating the trip generation potential.**

- (5) **Development of proposed Parcel B [shall] be limited to permitted uses which would generate no more than 48 vehicle trips during the AM and PM peak hours based on the trip generation rates cited in the 1989 *Guidelines for Analysis of the Traffic Impact of Development Proposals* or the latest edition of the Institute of Transportation Engineers' *Trip Generation Manual*.**

As the proposed development includes both Parcel A and Parcel B, the trip caps in Conditions 4 and 5 of the PPS may be combined for an overall site cap of 272 trips during the AM or PM peak hour. Based on Staff's analysis using the Institute of Transportation Engineers Parking Generation manual, the proposed Food or Beverage Store in combination with a Gas Station would generate 247 AM and 248 PM trips. This is within the cap set by the PPS.

Following approval of the PPS, a Final Plat of Subdivision was approved for Parcels A and B and Outparcel A and recorded in Plat Book VJ 157, page 65, in March 1991.

A rezoning application, A-9816-C, was filed concurrently with the PPS to rezone the portion of the property. The subject property is now zoned C-S-C in its entirety.

**Master Plan and Sectional Map Amendment**

- (3) The subject property is located in Planning Area 75A. The applicable Master Plan is the Approved Marlboro Pike Sector Plan and Sectional Map Amendment, approved on November 12, 2009. The Master Plan designated the site for "Commercial" future land use. The Approved Sectional Map Amendment retained the site in the C-S-C Zone.

The Growth Policy Map in the May, 2014 General Plan placed the property in the Established Communities category, and the Generalized Future Land Use Map designated it for Commercial land use. The site is not within a Priority Preservation Area.

**Neighborhood and Surrounding Property**

- (4) The neighborhood of the subject property was defined in the Technical Staff Report as having the following boundaries:

North:	-	Marbury Drive
West	-	Kipling Parkway

East - Ritchie Road/Forestville Road

South - Marlboro Pike

(5) The subject property is surrounded by the following uses:

North - A single one family detached dwelling in the R-55 (One-Family Detached Residential) Zone

East - Vacant properties and one-family detached dwellings in the R-55 Zone

South - Marlboro Pike, with an integrated shopping center zoned C-S-C beyond.

West - The subject property surrounds on three sides, a parcel in the C-S-C Zone used as a faith center. This parcel and the subject property both front on Boones Lane to the west. Beyond Boones Lane is a grocery store in the C-S-C Zone.

The neighborhood contains a wide variety of uses. The northern and eastern portions of the neighborhood contain single-family detached housing. Commercial and institutional uses are located along Marlboro Pike. Multifamily housing is located to the north of Marlboro Pike in the central part of the neighborhood.

### **Applicant's Request**

(6) The proposed use is for the razing of the existing Food or Beverage Store as well as the vacant Car Wash, and their replacement by a new Food or Beverage Store and Gas Station. The new Food or Beverage Store will be relocated to the east and the pump islands will be located parallel to Marlboro Pike; eight MPDs are proposed. The Food or Beverage Store will be 3,500 sq. ft.

The new facility will be provided with modern stormwater management using Environmental Site Design (ESD) techniques where only an outdated stormwater management detention pond now exists.

The existing entrance along Marlboro Pike will be relocated to the east, further away from the intersection, providing greater safety.

The outparcel area will receive supplemental landscape plantings.

### LAW APPLICABLE

(1) A Special Exception for a Gas Station and a Food or Beverage Store in the C-S-C/ M-I-O Zone is permitted pursuant to §27-461(b)(1)(B) in accordance with §27-358 and §27-355 of the Zoning Ordinance. All Special Exceptions must be found to comply with the general criteria of §27-317.

(2) Section 27-358 states:

(a) A Gas Station may be permitted, subject to the following:

(1) The subject property shall have at least one hundred and fifty (150) feet of frontage on and direct vehicular access to a street with a right-of-way width of at least seventy (70) feet;

(2) The subject property shall be located at least three hundred (300) feet from any lot on which a school, outdoor playground, library, or hospital is located;

(3) The use shall not include the display and rental of cargo trailers, trucks, or similar uses, except as a Special Exception in accordance with the provisions of Section 27-417;

(4) The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited;

(5) Access driveways shall be not less than thirty (30) feet wide unless a lesser width is allowed for a one-way driveway by the Maryland State Highway Administration or the County Department of Public Works and Transportation, whichever is applicable; and shall be constructed in compliance with the minimum standards required by the County Road Ordinance or Maryland State Highway Administration regulations, whichever is applicable. In the case of a corner lot, a driveway may begin at a point not less than twenty (20) feet from the point of curvature (PC) of the curb return or the point of curvature of the edge of paving at an intersection without curb and gutter. A driveway may begin or end at a point not less than twelve (12) feet from the side or rear lot line of any adjoining lot;

(6) Access driveways shall be defined by curbing;

(7) A sidewalk at least five (5) feet wide shall be provided in the area between the building line and the curb in those areas serving pedestrian traffic;

(8) Gasoline pumps and other service appliances shall be located at least twenty-five (25) feet behind the street line;

(9) Repair service shall be completed within forty-eight (48) hours after the vehicle is left for service. Discarded parts resulting from any work shall be removed promptly from the premises. Automotive replacement parts and accessories shall be stored either inside the main structure or in an accessory building used solely for the storage. The accessory building shall be wholly enclosed. The building shall either be constructed of

brick (or another building material similar in appearance to the main structure) and placed on a permanent foundation, or it shall be entirely surrounded with screening material. Screening shall consist of a wall, fence, or sight-tight landscaping material, which shall be at least as high as the accessory building. The type of screening shall be shown on the landscape plan.

(10) Details on architectural elements such as elevation depictions of each facade, schedule of exterior finishes, and description of architectural character of proposed buildings shall demonstrate compatibility with existing and proposed surrounding development.

(b) In addition to what is required by Section 27-296(c), the Site Plan shall show the following:

- (1) The topography of the subject lot and abutting lots (for a depth of at least fifty (50) feet);
- (2) The location and type of trash enclosures; and
- (3) The location of exterior vending machines or vending area.

(c) Upon the abandonment of a Gas Station, the Special Exception shall terminate and all structures exclusively used in the business (including underground storage tanks), except buildings, shall be removed by the owner of the property. For the purpose of this Subsection, the term "abandonment" shall mean nonoperation as a Gas Station for a period of fourteen (14) months after the retail services cease.

(d) When approving a Special Exception for a Gas Station, the District Council shall find that the proposed use:

- (1) Is necessary to the public in the surrounding area; and
- (2) Will not unduly restrict the availability of land, or upset the balance of land

(3) Section 27-355 states:

(a) A food or beverage store may be permitted, subject to the following:

- (1) The applicant shall show a reasonable need for the use in the neighborhood;
- (2) The size and location of, and access to, the establishment shall be oriented toward meeting the needs of the neighborhood;
- (3) The proposed use shall not unduly restrict the availability of land, or upset the balance of land use, in the area for other allowed uses;
- (4) In the I-1 and I-2 Zones, the proposed use shall be located in an area which is (or will be) developed with a concentration of industrial or office uses;
- (5) The retail sale of alcoholic beverages from a Food or Beverage Store approved in accordance with this Section is prohibited; except that the District Council may permit an existing use to be relocated from one C-M zoned lot to another within an urban renewal area

established pursuant to the Federal Housing Act of 1949, where such use legally existed on the lot prior to its classification in the C-M Zone and is not inconsistent with the established urban renewal plan for the area in which it is located.

(4) Section 27-317 states:

(a) A Special Exception may be approved if:

(1) The proposed use and Site Plan are in harmony with the purpose of this Subtitle;

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

(6) The proposed Site Plan is in conformance with an approved Tree Conservation Plan.

(7) The proposed Site Plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).

(5) The Application must also satisfy the general purposes of Commercial Zones (§27-446) and the specific purposes of the C-S-C Zone (§27-454).

(6) §27-446(a) states:

(a) The purposes of Commercial Zones are:

(1) To implement the general purposes of this Subtitle;

(2) To provide sufficient space and a choice of appropriate locations for a variety of commercial uses to supply the needs of the residents and businesses of the County for commercial goods and services;

(3) To encourage retail development to locate in concentrated groups of compatible commercial uses which have similar trading areas and frequency of use;

(4) To protect adjacent property against fire, noise, glare, noxious matter, and other objectionable influences;

(5) To improve traffic efficiency by maintaining the design capacities of streets, and to lessen the congestion on streets, particularly in residential areas;

- (6) To promote the efficient and desirable use of land, in accordance with the purposes of the General Plan, Area Master Plans and this Subtitle;
- (7) To increase the stability of commercial areas;
- (8) To protect the character of desirable development in each area;
- (9) To conserve the aggregate value of land and improvements in the County; and
- (10) To enhance the economic base of the County.

(7) §27-454(a)(1) provides:

- (1) The purposes of the C-S-C Zone are:
  - (A) To provide locations for predominantly retail commercial shopping facilities;
  - (B) To provide locations for compatible institutional, recreational, and service uses;
  - (C) To exclude uses incompatible with general retail shopping centers and institutions; and
  - (D) For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.

### **Necessity**

(8) The Zoning Ordinance and the County Code do not define the term "necessary". However, undefined words or phrases shall be construed according to common usage, while those that have acquired a particular meaning in the law shall be construed in accordance with that meaning. (Prince George's County Code, Section 27-108.01(a)) Webster's New World Dictionary (2<sup>nd</sup> College Edition) defines it as "essential" and "indispensable". In Brandywine Enterprises, Inc. v. County Council, 117 Md. App. 525,540 (1997), the Court of Special Appeals addressed the definition of "necessary" in the County's Zoning Ordinance as it relates to rubble fills and noted that "necessary"... means necessary rather than reasonably convenient or useful." The Court went on to note that the best method for determining need for a rubble fill would be to assess whether there would be an actual deficit of capacity. In a case involving liquor licenses, Baltimore County License Beverage Association, Inc. v. Kwon, 135 Md. App. 178, 194 (2000), the Court of Special Appeals held that the meaning is dependent upon the context in which "necessary" is used. The Court then found that "necessary," in this instance, means that the transfer of the liquor license to the transfer site will be 'convenient, useful, appropriates suitable, proper, or conducive' to the public in that area." Thus, the proper standard to apply in the review of the instant request is whether the Gas Station will be "convenient, useful, appropriate, etc." given the nature of the use.



### **Special Exceptions**

(9) The Court of Appeals provided the standard to be applied in the review of a Special Exception Application in Schultz v. Pritts 291 Md. 1, 432 A.2d 1319, 1325 (1981):

Whereas, the Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements; he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the [administrative body] that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material... .But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an Application for a special exception use is arbitrary, capricious, and illegal.

The record in this case reveals "no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan". It would, therefore, be proper to grant the request, once alternative compliance is granted and the conditions addressed below are satisfied.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **General Requirements**

(1) Section 27-317(a) requires that the proposed Use and Site Plan be in harmony with the general purposes of the Zoning Ordinance §27-102(a), the general purposes of the Commercial Zones §27-446(a), and the specific purposes of the C-S-C Zone §27-454(a)(1).

(2) The general purposes of the Zoning Ordinance are listed in §27-102(a). The instant Application is in harmony with the general purposes as follows:

(1) *To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;*

The proposed Food or Beverage Store in combination with a Gas Station will be redeveloped to provide substantive environmental and safety upgrades in the form of modern stormwater management (where only an outdated detention pond now exists), a more safely-located vehicular

entrance, and updated landscaping, and will thus promote the health and safety of the present and future inhabitants of the County by continuing to provide for a safe and convenient accommodation of the shopping public.

(2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

The relevant Plans which apply to the subject property are the 2014 General Plan, the 2009 *Approved Marlboro Pike Sector Plan and Sectional Map Amendment*, and a number of Functional Master Plans, including the Green Infrastructure Plan, the County Master Plan of Transportation, the Public Safety Facilities Master Plan, The Historic Sites and Districts Plan, and the Water Resources Functional Master Plan.

### **General Plan**

As noted above, the General Plan classified the subject site in its Growth Policy Map<sup>1</sup> in the Established Communities category, and the Generalized Future Land Use Map<sup>2</sup> designated it for Commercial land use.

“Established Communities” are described by the General Plan as “the County’s heart – its established neighborhoods, municipalities and unincorporated areas outside designated centers,<sup>3</sup> and recommends that, “Established communities are most appropriate for context-sensitive infill and low- to medium density development....<sup>4</sup> “Commercial” land use is described by the General Plan as, “retail and business areas, including employment uses such as office and service uses. A range of services are provided at the neighborhood to regional level. New commercial areas have access to multimodal transportation options.”<sup>5</sup> Given its location at a site long used commercially in a historic commercial corridor, the approval of the subject Application would constitute context-sensitive infill.

### **Master Plan**

As noted above, the applicable Master Plan is the *Approved Marlboro Pike Sector Plan and Sectional Map Amendment*, approved on November 17, 2009. Figure III-2a, the Approved Land Use Map, recommends the subject property for “Commercial” land use.<sup>6</sup>

It is to be noted that the *Approved Subregion 4 Master Plan and Endorsed Sectional Map Amendment*, and which encompasses the subject property was approved in June, 2010, subsequent to the *Marlboro Pike Sector Plan*; the text of the *Subregion 4 Plan*, however, states that,

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<sup>1</sup>M-NCP&PC, Plan Prince George’s 2035 – Approved General Plan (May, 2014), p. 107

<sup>2</sup>General Plan, p. 101.

<sup>3</sup>Ibid., p. 106.

<sup>4</sup>Ibid., p. 20

<sup>5</sup>Ibid., p. 100

<sup>6</sup>M-NCP&PC, Approved Marlboro Pike Sector Plan and Sectional Map Amendment (November, 2009), p. 23.

“The Subregion 4 plan encompasses Marlboro Pike within its boundaries. The adoption of the Subregion 4 Master Plan does not alter the legal status of the Marlboro Pike Sector Plan as the guiding policy for the area. The plans will mirror each other, and in certain locations, the Subregion 4 plan will expand upon land use concepts recommended in the Marlboro Pike Sector Plan. All of the recommendations from the Marlboro Pike Sector Plan have been accepted as a foundation for this Subregion 4 Master Plan. The goal is to build upon those recommendations, provide for future connections, and develop complementary land use plans to those provided in the Marlboro Pike Sector Plan. (In the event that there are any contradictions in the two documents, the 2009 *Approved Marlboro Pike Corridor* [sic] *Sector Plan and Sectional Map Amendment* will supersede any information provided in this document.) For details see the Marlboro Pike Corridor [sic] Sector Plan.”<sup>7</sup>

In addition to the base land use recommendation, Figure III-3, the Priority Area Map, indicates that the subject property is located in an Activity Node and in Priority Area 6. The Sector Plan’s first strategy in its first Community Development Policy to promote the redevelopment of Marlboro Pike is to, “focus upgraded commercial development into activity nodes, which are proposed as clusters of denser and more distinct commercial development in sections along the corridor.”<sup>8</sup>

Priority Area 6 is the “Donnell Drive Retail and Restaurant Hub.” The Sector Plan describes a Vision for Priority Area 6, but does not propose any specific goals, policies, strategies or recommendations for its implementation.

The Sector Plan does contain a number of Policies and Strategies, however, which the proposed redevelopment would implement. The Plan seeks continuous sidewalks along Marlboro Pike.<sup>9</sup> It seeks to minimize driveway entrances,<sup>10</sup> seeks to require the planting of canopy trees,<sup>11</sup> seeks to require 10 percent tree canopy coverage,<sup>12</sup> and seeks to require the upgrade of stormwater management to meet modern standards.<sup>13</sup> The proposed redevelopment will accomplish all of these policies and strategies.

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<sup>7</sup> M-NCP&PC, *Approved Subregion 4 Master Plan and Endorsed Sectional Map Amendment (June, 2010)*, p. 9.

<sup>8</sup> *Marlboro Pike Sector Plan*, p. 25.

<sup>9</sup> *Sector Plan*, p. 48.

<sup>10</sup> *Ibid.*, p. 61.

<sup>11</sup> *Ibid.*, p. 74.

<sup>12</sup> *Ibid.*, p. 77.

<sup>13</sup> *Ibid.*, p. 75.

<sup>14</sup> *Ibid.*, p. 56

<sup>15</sup> *Ibid.*

The specific recommendations of the Plan regarding the Marlboro Pike streetscape include the following:

“Policy 2: Implement a boulevard streetscape between main street areas throughout the corridor to improve the overall look and function of the corridor.”<sup>14</sup>

It is noted that the Technical Staff Report suggests that a “main street streetscape” is appropriate instead; according to the list of areas in which the main street streetscape is supposed to be implemented,<sup>15</sup> however, the main street streetscape would terminate to the west of the subject property, at Boone’s Lane.

While the Plan’s recommendations for streetscape improvements necessarily occur within the public right-of-way and thus are outside the limits of the proposed Special Exception, it is worth stating that the existing paving section of Marlboro Pike in front of the subject property appears to be 60’ wide; the boulevard streetscape with median (or turn lane) would require 64’ of paving width, and 85’ of right-of way, even though the Plan also calls for a Collector Roadway standard (80’ wide). Notably, the streetscape design also calls for a 5’-wide sidewalk, which is proposed as a part of the Applicant’s frontage improvements.

Because the proposed Application is consistent with the Sector Plan’s land use recommendation and its environmental recommendations (including the use of environmentally sensitive design for stormwater management at the subject property), the approval of the subject Food or Beverage Store in combination with a Gas Station would be in harmony with the recommendations of the Sector Plan.

### **Other Applicable Functional Master Plans**

The Special Exception area is not mapped as containing any Regulated Areas of the County’s Green Infrastructure Network; as such, the subject application conforms to the Green Infrastructure Plan.

With regard to the Historic Sites and Districts Plan, no historic sites or resources are located immediately proximate to subject site; The Epiphany Church and Cemetery, County Historic Site 75A-006, is approximately 875’ as such, but it fronts on a different road, and in any case the commercial character of the uses at the subject property will not change. As such the approval of the subject Application will not have an adverse impact on this Functional Master Plan.

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The Water Resources Functional Master Plan addresses broad regulatory policy and large-scale watershed planning, and as such makes no recommendations which are directly applicable to the subject Application.

No proposed sites for Public Safety facilities are in the area affected by the subject Application.

The Countywide Master Plan of Transportation was approved on the same date as the approval of the Marlboro Pike Sector Plan, discussed above, which amended Master Plan of Transportation by its adoption. The Countywide Master Plan of Transportation proposes Marlboro Pike Sidewalk and Bikeway Improvements, describing them as, “Planning for the Marlboro Pike Sector Plan has indicated the need for continuous sidewalks and streetscape improvements along this corridor. Pedestrian safety features should also be incorporated, where feasible. Due to right-of-way constraints, full bike lanes may not be feasible.”<sup>16</sup>

As described above, sidewalks in accordance with the Plan’s recommendations are proposed; as such, the subject Application is in conformance with this Functional Master Plan.

In conclusion, because the proposed Food or Beverage Store in combination with a Gas Station are not in conflict with the General Plan, the Sector Plan or the applicable Functional Master Plans, approval of the subject Application will be in harmony with the Ordinance’s purpose of implementing those Plans.

(3) *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

Because this Application proposes the redevelopment of two long-existing uses at a site which is being redeveloped in accordance with provisions of the laws which assure the adequacy of local public facilities, approval of it would be in harmony with this purpose of promoting the conservation of a community which will be developed with adequate public facilities.

(4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;*

Approval of the subject Application would recognize the needs of the County’s workers by redeveloping two existing uses in a developed area, and so would abet the orderly growth and development of the County, making the subject Application in harmony with this Purpose of the Ordinance.

(5) *To provide adequate light, air, and privacy;*

The subject Food or Beverage Store in combination with a Gas Station will be in harmony with

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<sup>16</sup> M-NCP&PC, *Approved Countywide Master Plan of Transportation* (November, 2009), p. 27.

this Purpose as it will be developed in conformance with the various regulations in the Zoning Ordinance to ensure the provision of adequate light, air and privacy, both for the occupants of the subject site and for its neighbors. These principles include the provision of sufficient setback distances, buffering between the proposed use and neighboring uses, and conformance with height limitations in order to allow for access to light and air.

- (6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

The subject Food or Beverage Store in combination with a Gas Station would be in harmony with this Purpose as it will be developed with the various principles that have been codified in the Zoning Ordinance to promote the beneficial relationships between land and buildings, including conformance with the Tables of Permitted Uses for the various zones as laid out in the Ordinance, and in conformance with the provisions of the Landscape Manual which provide for the screening of service functions and the buffering of incompatible adjoining uses.

- (7) *To protect the County from fire, flood, panic, and other dangers;*

The subject Food or Beverage Store in combination with a Gas Station would be in harmony with this Purpose as it will be developed in conformance with regulations established in the body of the Zoning Ordinance, as well as other County Ordinances, which are intended to protect from fire, flood, panic and other dangers, namely: the floodplain regulations, stormwater management regulations, the Fire Prevention Code, the Building Code, and the Tables of Permitted Uses for the various zones.

- (8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;*

Because the subject use is commercial in nature, this Purpose is not directly applicable to this Application.

- (9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;*

The redevelopment of the subject property would be in harmony with this Purpose because it would augment the tax base of the County directly and through the employment provided to its workers.

- (10) *To prevent the overcrowding of land;*

The subject Food or Beverage Store in combination with a Gas Station would be in harmony with this Purpose as it will occur on a site which will be redeveloped in accordance with various principles that have been codified in the Ordinance to ensure the prevention of overcrowding,

including the provisions of the Table of Uses that provides for the compatibility of uses, height limits, and setbacks. Note also that the new use will only cover 37.9% of the subject property's area with imperviousness, which is comparable to the lot coverage limits of the nearby R-55 zoned land, and less than the 49.9% which is covered by the existing development.

*(11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;*

The approval of the subject Food or Beverage Store in combination with a Gas Station would be in harmony with this Purpose because of several factors.

As noted above, the proposed use is a redevelopment of an existing site with two existing uses in a developed area. The proposed use will add some new trips to the road network compared with the existing uses, but will offset that addition by the relocation of the existing entrance from Marlboro Pike to provide greater intersection separation, and therefore greater safety, lessening the danger or traffic on the streets. Its approval will be in accordance with the provisions of the Subdivision Ordinance which assures the adequacy of local public facilities.

Also, the proposed Food or Beverage Store in combination with a Gas Station will be developed in accordance with the regulations established in the body of the Zoning Ordinance (and other County ordinances) which are intended to lessen the danger and congestion of traffic on roads, such as the requirements for the provision of adequate off-street parking, and the separation of entrances from nearby intersections.

*(12) To insure the social and economic stability of all parts of the County;*

As the Zoning Ordinance is the principal tool for the implementation of the planning process by enacting legal requirements which implement the planning goals that strive to maintain the social and economic stability of the County, conformance with the requirements and regulations of the Zoning Ordinance is prima facie evidence of the Application's harmony with this Purpose.

Beyond that, however, the subject Food or Beverage Store in combination with a Gas Station would promote the economic and social stability of the County by contributing to the tax base, by continuing to provide a useful and convenient service to the surrounding community.

*(13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;*

Because the subject Food or Beverage Store in combination with a Gas Station is a redevelopment of an existing developed site, approval of the instant Application will have no impact to the

natural features in the County: It will not generate noise pollution beyond that expected by other commercial uses, and the use will be in compliance with the County's Woodland Conservation policies by virtue of its exemption from the requirement for approval of a Tree Conservation Plan. No steep slopes or scenic vistas will be affected. The proposed Food or Beverage Store in combination with a Gas Station will be provided with modern stormwater management measures to supplement the existing, outmoded retention pond, and will thus better act against water pollution and protect the stream valleys than the existing development at the subject property. By conformance to these principles and regulations, the approval of this Application would be in harmony with this Purpose.

The final two Purposes,

(14) *To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and*

(15) *To protect and conserve the agricultural industry and natural resources*

are not directly applicable to the approval of this Food or Beverage Store in combination with a Gas Station. §27-317(a)(1)

(2) The instant Application is also in harmony with the general purposes of the Commercial Zones, §27-446(a), as follows:

(1) *To implement the general purposes of this Subtitle;*

As noted *supra* the subject proposal will implement the general purposes of the Zoning Ordinance.

(2) *To provide sufficient space and a choice of appropriate locations for a variety of commercial uses to supply the needs of the residents and businesses of the County for commercial goods and services.*

The approval of this facility at this location will allow the proposed Food or Beverage Store to continue to provide a useful and convenient site for a needed service, and will allow the new Gas Station to do the same.

(3) *To encourage retail development to locate in concentrated groups of compatible commercial uses which have similar trading areas and frequency of use;*

Because the proposed Food or Beverage Store in combination with a Gas Station involves (1) a retail use in a retail zone; and (2) the proposed service commercial use is a replacement of a service commercial use (the Car Wash) at the subject property; and (3) because the subject property is located in a corridor where there is already a mix of retail and service commercial



uses, including several vehicle repair service commercial uses, the approval of this Application would be in harmony with this purpose of Commercial Zones generally.

*(4) To protect adjacent property against fire, noise, glare, noxious matter, and other objectionable influences;*

The redevelopment of the subject property into a Food or Beverage Store in combination with a Gas Station would implement this Purpose by the preservation of the existing treed areas and by the supplemental planting which provide screening between it and its residential neighbors.

*(5) To improve traffic efficiency by maintaining the design capacities of streets, and to lessen the congestion on streets, particularly in residential areas;*

The approval of the subject Application will improve traffic efficiency by the relocation of vehicular entrances.

*(6) To promote the efficient and desirable use of land, in accordance with the purposes of the General Plan, Area Master Plans and this Subtitle;*

Because the subject Food or Beverage Store in combination with a Gas Station will meet the intent for the land use provided for in the Master Plan, it will fulfill this purpose for Commercial Zones.

*(7) To increase the stability of commercial areas;*

The redevelopment of the subject property with a combination of a renewed retail commercial use and a complementary service commercial use which are together in keeping with the existing character of the surrounding commercial area will promote the stability of the surrounding commercial area by replacing a failed commercial use (the Car Wash) with a new, viable use.

*(8) To protect the character of desirable development in each area;*

Because the subject property will: (1) be redeveloped and operated in accordance with the provisions specifically provided in the Ordinance to promote the safe and orderly layout and operation of Gas Stations and Food or Beverage Stores, and (2) be compatible with the materials, scale and character of the architecture of the surrounding development, the approval of this Application will fulfill this Purpose.

The final two purposes,

*(9) To conserve the aggregate value of land and improvements in the County; and*

*(10) To enhance the economic base of the County are fulfilled by allowing for the redevelopment of existing commercial uses that will enhance the tax base and provide additional employment for residents of the County.*

are fulfilled by allowing for the redevelopment of existing commercial uses that will enhance the tax base and provide additional employment for residents of the County. §27-317(a)(1)

(3) The instant Application is also in harmony with the specific purpose of the C-S-C Zone, §27-454(a)(1), as follows:

*(A) To provide locations for predominantly retail commercial shopping facilities;*

While the subject Application proposes a new service commercial use (in addition to its associated retail component), it will replace an existing service commercial use, and thus is not in conflict with this Purpose. The new Gas Station – which does not propose visually disruptive auto repair services – will be in keeping with the character of commercial uses which are found around the neighboring intersection.

*(B) To provide locations for compatible institutional, recreational, and service uses;*

As described *supra*, the redevelopment of the subject property – when redeveloped in accordance with the provisions of the Ordinance that promote a safe and orderly operation – fulfills this Purpose with its compatible service use component which replaces an existing service commercial use.

*(C) To exclude uses incompatible with general retail shopping centers and institutions; and*

Because the proposed uses are compatible with general retail uses, this Application fulfills this Purpose.

*(D) For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.*

This Purpose is not applicable to the subject Application. §27-317(a)(1)

(4) The instant Application is also in harmony with the Purposes of the M-I-O Zone, §27-548.51, as follows:

The Purposes of the Military Installation Overlay Zone are to regulate the development and use of structures and property in order to promote land uses compatible with operations at Joint Base Andrews; to protect the safety and welfare of individuals in the area from the adverse impacts associated with high levels of noise from flight operations and the potential for aircraft accidents associated with proximity to Joint

Base Andrews operations. The intent of the regulations is to recognize the rights of individual property owners while reducing interference with the military operations at Joint Base Andrews.

Part 10C includes three Impact Maps which establish the boundaries of the M-I-O Zone. Figure A establishes the area subject to restrictions related to height, Figure B establishes the area subject to restrictions related to noise, and Figure C establishes the area subject to the restrictions related to Accident Potential/Clear Zones North and South.

(5) Requirements for maximum permissible structure height in the M-I-O Zone are found in Section 27-548.54. The subject site is located under the limits of Traditional Surface G, and as such is subject to the height restrictions.

The provisions of §27-548.54(e)(2)(E) apply as follows: The distance between the nearest edge of Surface A to a point on Surface B approximately horizontal (east-west) to the nearest edge of the subject property is 9,120 feet;  $9,120 \div 50 = 182$  feet. The distance between the edge of Surface B at a point horizontal to the property and the nearest edge of the property is 399 feet;  $399 \div 7 = 57$  feet.  $182 \text{ feet} + 57 \text{ feet} = 239 \text{ feet}$ . §27-548.54(e)(2) then requires that the difference between the highest elevation on the subject property (273) and the height of the runway surface (274), or one (1) foot, be added to the 239-foot result to yield a highest permissible structure of 240 feet.

No proposed buildings or structures approach this limit. Given this, the proposed application will be in conformance with the provisions of the Military Installation Overlay Zone. §27-317(a)(1)

(6) Special Exception commercial uses such as Gas Stations and Food or Beverage Stores are presumed compatible with other commercial uses provided the established setbacks, lot coverage, landscaping, minimum acreage, traffic and parking improvements, and all other regulations can be met. The proposed redevelopment of the subject property will bring the subject property into conformance with current requirements and development standards. No departures or waivers are requested. With the approval of the requested Alternative Compliance, the Revised Site and Landscape Plan, the Revised Special Exception Boundaries, and the recommended conditions of approval, the proposed uses will be in conformance with all of the applicable requirements and regulations of the Zoning Ordinance. §27-317(a)(2)

(7) The instant Application is in harmony with the purposes of the Zoning Ordinance generally to implement the General and Master Plans and to provide for the efficient and desirable use of land in accordance with those Plans. Given its harmony, the approval of these uses will not impair the integrity of neither the approved Master Plan nor the County's General Plan. §27-317(a)(3)

(8) The subject Application is in conformance with the principles laid out in the purposes of the Zoning Ordinance, is in compliance with the provisions of the Zoning Ordinance, and is in

compliance with the provisions of other State and County regulations for effects to the public health, safety and welfare. Beyond those basic principles, the substantive improvements to the existing development, including the relocation of vehicular entrances from Marlboro Pike, the incorporation of modern stormwater management into the proposed development and the provision of additional landscaping to further buffer the development on the subject property from abutting single-family residences, will actively improve the health, safety and welfare of residents and workers in the area as compared to the development currently existing on the subject property. §27-317(a)(4)

(9) The character of the commercial component of the development has been and will continue to be compatible with the surrounding commercial uses, and its replicant with a new service commercial use (the proposed Gas Station) will not be detrimental to the use or development of adjacent properties or the general neighborhood. §27-317(a)(5)

(10) The subject property has received an exemption from the requirement for a Tree Conservation Plan. §27-317(a)(6)

(11) There are no regulated environmental features on the subject property that would require preservation and/or restoration. §27-317(a)(7)

### **Gas Station**

(12) Marlboro Pike has a right-of-way width exceeding seventy feet, and the site has direct vehicular access to it. Boone's Lane has an ultimate right-of-way width of 70' along the subject property's frontage, and the existing right-of-way line is 35' from Boone's Lane's centerline. The subject property has 330.43' of frontage on Marlboro Pike, and 228.77' of frontage on Boone's Lane. §27-358(a)(1)

(13) With the Revised Special Exception Boundary (Exhibit 48), no lots containing schools, hospitals or outdoor playgrounds exist within 300' of the subject site. §27-358(a)(2)

(14) No display or rental of any vehicles is proposed at the subject site. §27-358(a)(3)

(15) No storage or junking of any vehicles is proposed at the subject site. §27-358(a)(4)

(16) The Special Exception Site Plan indicates that each of the proposed access driveways will be 35' wide. The edges of the driveways are 541' from the side lot line of the adjoining lot facing Boones Lane, and 33' from the side lot line of the abutting undeveloped lot facing Marlboro Pike. The proposed driveway along Marlboro Pike begins approximately 143' east of the point of curvature of the intersection of Marlboro Pike and Boones Lane; the proposed driveway on Boones Lane begins approximately 30' north of the point of curvature of the intersection. §27-358(a)(5)

- (17) The Special Exception Site Plan indicates that the access driveways are to be defined by curbing. §27-358(a)(6)
- (18) The Special Exception Site Plan indicates a 5' wide sidewalk along the site's frontages along both Marlboro Pike and Boones Lane. §27-358(a)(7)
- (19) The Special Exception Site Plan indicates that the concrete pad under the nearest gas pump will be approximately 25' behind the closest street line. §27-358(a)(8)
- (20) No repair service is proposed. §27-358(a)(9)
- (21) The architectural details of the proposed structure will harmonize with the commercial character of the surrounding commercial development along Marlboro Pike including the adjacent Lidl grocery store, the Forestville Auto Service Center building across the street, and the free standing Golden Skillet restaurant. §27-358(a)(10)
- (22) Topography of the subject lot and its surroundings has been shown on the subject Special Exception Site Plan. §27-358(b)(1)
- (23) The location and details for the construction of a trash enclosure have been shown on the subject Special Exception Site Plan. §27-358(b)(2)
- (24) No exterior vending machines or a vending area are proposed; sales will be inside the proposed convenience store. §27-358(b)(3)
- (25) Upon the abandonment of a Gas Station, the Special Exception shall terminate and all structures exclusively used in the business (including underground storage tanks), except buildings, shall be removed by the owner of the property. The term "abandonment" shall mean nonoperation as a Gas Station for a period of fourteen (14) months after the retail services cease. §27-358(c)
- (26) The approval of Special Exception 4832 for a Gas Station is in accordance with the District Council's legislative intent that the "necessary to the public in the surrounding area" provision in §27-358(d)(1) is tantamount to a finding that a proposed Gas Station is "convenient, useful, appropriate, suitable, proper, or conducive" to providing fuel to the motoring public. Thus the Zoning Ordinance requires a standard less strict than that expressed in Brandywine Enterprises, Inc. v. County Council, 117 Md. App. 525, 700 A2d 1216 (1997) and more stringent than that expressed in Baltimore County Licenses Beverage Assoc., Inc. v. Kwon, 135 Md. App. 178, 761, A2d 1027 (2000). Its location in a commercial/industrial area is suitable and appropriate, as it is convenient and useful to traffic which passes the site in the vicinity of Marlboro Pike and Boones Lane. §27-358(d)(1)

(27) The Applicant submitted a Needs Analysis dated April 22, 2020, in order to support a finding that the Gas Station was necessary to the public in the surrounding area. According to the study, there is a reasonable need in the area for Gas Stations, which are specifically combined with convenience stores. The combined services offered by this pairing are not found at most of the Gas Stations in the area, which are generally combined with auto repair shops instead. Because the proposed Gas Station will help meet unmet demand for this pairing of services, it will be found convenient and useful by the public. The Applicant has provided that the use is necessary if it can be determined to be convenient and useful to the public, as has been determined in prior Maryland applications cited within Applicants SOJ and Needs Analysis. The Gas Station meets the criterion, and therefore can be considered necessary.

(28) The proposed uses will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses. The new Gas Station is being developed on the site of an existing 7-Eleven and a disused Car Wash. The Applicant's Needs Analysis shows there is demand for the Gas Station and paired services, which will be useful to the public. The proposal to redevelop the site and add a Gas Station complements the existing Food or Beverage Store use on the site and, therefore, does not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses.

(29) §27-358(d)(2) requires that, "the District Council shall find that the proposed use... Will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses." As the proposed use is in the midst of a group of compatible commercial and industrial uses which has grown up around the subject site and its historic use, because it will be constructed to a high standard of site planning, and because it is modest in scale, these facts all support a conclusion that the proposal will not upset the balance of land use, or restrict the availability of land for other trades and commercial uses.

### **Food or Beverage Store**

(30) The Applicant submitted a Market Study dated April 22, 2020, in order to support a finding that the Food or Beverage Store (convenience store) was needed in the neighborhood. According to the Study, there is a reasonable need in the area for convenience stores, which are specifically combined with Gas Stations. The combined services offered by this pairing are not found at most of the Gas Stations in the area, which are generally combined with auto repair shops instead. Because the proposed 7-Eleven will help meet unmet demand for this pairing of services, it will be found convenient and useful by the public. Under Maryland law, in this context, a service is needed if it can be determined to be convenient and useful to the public. The Food or Beverage Store meets this criterion, and therefore can be considered needed. §27-355(a)(1)

(31) The 7-Eleven's location, access points, and size orient it to meeting the needs of the neighborhood. The site is in between an integrated shopping center and a residential community of single-family homes, where it is well placed to serve both. Its access points onto Boones Lane and Marlboro Pike will facilitate patrons coming from these areas. The size of the establishment is appropriate to the size of the land area available on site. §27-355(a)(2)

(32) The proposed uses will not unduly restrict the availability of land, or upset the balance of land use, in the area for other allowed uses. The new 7-Eleven is being developed on the site of an existing 7-Eleven and a disused Car Wash. It appears the Car Wash has been abandoned since at least 2012, meaning that there was ample opportunity for another use to move into the property. That another use has not heretofore filled this void shows that the demand for land in the area is not exceptionally high. The site's redevelopment should not pose an obstacle for other potential uses which might want to move into the area. §27-355(a)(3)

(33) The subject property is located within the C-S-C Zone; therefore, this criterion does not apply. §27-355(a)(4)

(34) No retail sale of alcoholic beverages is proposed. §27-355(a)(5)

#### **Alternative Compliance AC-20010**

(35) The subject Application proposes Alternative Compliance for the provisions of Section 4.6 of the Landscape Manual for Buffering Special Roadways, which arises because Marlboro Pike is designated a Historic Road. The requirements for depth of the planted strip and the number of plant units are met, but Section 4.6(c)(2)(A) provides that, "all plant material required by this section shall be located outside of public utility easements adjacent to the right-of-way." This requirement is different from the ordinary requirements for planted strips along streets of Section 4.2, which requires instead that, "The landscape strip should [emphasis added] be located outside the public utility easement. If landscaping is proposed and approved within the public utility easement, the owner shall maintain or replace the plant material as stated in Section 1.6, Maintenance and Enforcement."

(36) Section 1.3 of the Landscape Manual provides that, "Requests for alternative compliance may be approved for any application to which the requirements of this manual apply, when one or more of the following conditions are present:

- (1) Topography, soil, vegetation, or other site conditions are such that full compliance with the requirements of this manual is impossible or impractical; or improved environmental quality would result from the alternative compliance.

- (2) Space limitations, unusually shaped lots, prevailing practices in the surrounding neighborhood, in-fill sites, and for improvements and redevelopment in older communities.
- (3) Change of use on an existing site increases the buffer required by Section 4.7, Buffering Incompatible Uses, of this manual, more than it is feasible to provide.
- (4) Safety considerations make alternative compliance necessary.
- (5) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the design criteria in Sections 3, Landscape elements and Design Criterial, of this manual.

Section 1.3b further provides that, “A proposed alternative compliance measure must be equally effective than normal compliance in terms of quality durability, hardiness, and ability to fulfill the design criteria in Section 3.”

(37) In the instant Application, the condition which applies to the approval of Alternative Compliance is provision (2), namely that the proposal at the subject site constitutes redevelopment in an older community. In the matter of compliance with Section 4.6, Alternative Compliance is proposed to be provided by increasing the depth of the planted strip from a requirement of 10’ (but over land containing a 10’ wide public utility easement) to an increased depth ranging from 10’ to 13’, and with the stipulation that the property owner maintain the required plantings in perpetuity. The Planning Director accordingly forwarded her recommendation of approval to the Zoning Hearing Examiner.

### **Parking/Loading**

(38) The proposed development is required to provide parking in conformance with Part 11-Off Street Parking and Loading of the Zoning Ordinance. A total of 25 parking spaces is normally required for a Food or Beverage Store and Gas Station, however, the required parking may be reduced up to 15 percent, under certain circumstances, in accordance with Section 27-568(b) of the Zoning Ordinance. The Applicant has applied the 15 percent reduction in this instance, which brings the requirement down to 22 parking spaces. It is noted that the proposed Plan satisfies the interior parking lot planting requirements of the 2010 Prince George’s County Landscape Manual, and is located within the area formerly known as the Developing Tier. The parking schedule should be updated to reflect that the existing impervious area exceeds 40 percent of the net lot area of the site, in order to demonstrate the parking reduction criteria, per Section 27-568(b)(1) is met by this Application. The Site Plans shows that 22 parking spaces are provided and that the handicap-accessible parking space and loading spaces have been provided, in accordance with Part 11 of the Zoning Ordinance.



**Tree Canopy**

(39) This Application is subject to the requirements of the Tree Canopy Coverage Ordinance. The subject site is located within the C-S-C Zone and required to provide 10 percent of the site area in tree canopy coverage (TCC). The subject site is 2.20 acres in size and a total of 0.220 acre or 10,237 square feet of TC is required. The TCC schedule provided by the Applicant indicates that 16,900 square feet of coverage is to be provided, exceeding and satisfying the requirement.

**Sign Regulations**

(40) The development includes a single 25-foot-tall pylon sign, adjacent to the corner of Marlboro Pike and Boones Lane, three fuel island canopy-mounted identity signs and decorative striping, and two building-mounted identity signs are provided on the 7-Eleven store. Six window vinyl signs and an interior-hanging ATM sign are also provided. The signage package conforms to the sign face area requirements of Part 12 of the Zoning Ordinance for signs in the C-S-C Zone. Full cut-off LED lighting fixtures are proposed and are acceptable.

**Landscape Manual****(41) Section 4.2 Requirements for Landscape Strips Along Street**

The proposal is subject to Section 4.2 along its frontage on Marlboro Pike. The Applicant has provided a Landscape Plan demonstrating conformance with the requirements. (Exhibit 36)

**Section 4.3-2 Parking Lot Requirements**

The Application is subject to Section 4.3-2 for interior planting and has provided the required amount of interior green area and shade trees to meet this requirement. (Exhibit 36)

**DISPOSITION**

Special Exception 4832 and Alternative Compliance 20010 are APPROVED subject to the following Conditions:

1. Prior to certification of the Special Exception, the Site and Landscape Plan shall be revised, as follows:
  - a. Under General Note 19, remove item (a)(10), as no repair services are being offered on-site.

- b. Under General Note 19, add reference to Section 27-358(c), in order to demonstrate the Special Exception shall terminate, should the Gas Station be abandoned.
- c. Under General Note 1, specify that the site is also in Grids E-4, F-3, and F-4 of Tax Map 81.
- d. Clarify whether Bufferyard 1 will include a 6-foot board on board fence (per the Landscape Schedule) or a wall (per the plan drawing).
- e. On the Site and Landscape Plans, show the height and type of the existing and proposed fences within Bufferyards 2 and 3.
- f. Provide a note on the Site Plan indicating that the proposed building height is consistent with the height requirements of the Military Installation Overlay Zone.
- g. Remove the designation “MD, Rte. 4” from Marlboro Pike on the Plans, as Marlboro Pike is not a state road.
- h. On the Site Plan, provide a distance and bearing for the street line along Marlboro Pike.
- i. Remove the Maryland-National Capital Park and Planning Commission approval blocks from the Plan.
- j. Add a general note stating that no alcoholic beverages will be sold within the Food or Beverage Store.
- k. Demonstrate that the existing impervious area exceeds 40 percent of the net lot area of the site and update the parking schedule to indicate that the site qualifies for the 15 percent parking reduction pursuant to Section 27-568(b)(1) of the Prince George’s County Zoning Ordinance.
- l. Correct Landscape Plan Note indicating that Section 4.6 plantings along the site’s frontage of Marlboro Pike.
- m. Provide the correct landscape schedule for Section 4.6-2 on the Landscape Plan.
- n. Add a Landscape Plan Note indicating that Section 4.6 plantings along the site’s frontage of Marlboro Pike shall be maintained in perpetuity by the property owner.

2. Prior to certification of the Special Exception Site Plan, a Stormwater Management Concept Approval letter and Plan shall be submitted.
3. Prior to issuance of the first permit for the subject property, an approved Woodland Conservative Ordinance Exemption Letter shall be included in the permit.
4. Prior to certification, the Applicant, and the Applicant's heirs, successors, and/or assignees shall revise the Site Plan to provide the following:
  - a. A striped bicycle lane along the subject site's frontage on Marlboro Pike, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement.
  - b. A 5-foot-wide sidewalk along the frontage of Boones Lane and Marlboro Pike, unless modified by the Prince George's County Department of Public Works and Transportation, with written correspondence.
  - c. Continental style crosswalks at driveway entrances, unless modified by the Prince George's County Department of Permitting, Inspections and Enforcement.
  - d. Inverted U-style bicycle racks.
5. All Plans shall be revised to be consistent with Exhibit 48, Modified Special Exception Boundary.