

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

SPECIAL EXCEPTION

4756

DECISION

Application:	Gas Station and Car Wash
Applicant:	Potomac Energy Holding, LLC
Opposition:	None
Hearing Date:	May 14, 2015
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval with Conditions

NATURE OF PROCEEDINGS

- (1) Special Exception 4756 is a request for permission to use approximately 0.728 acre of land, in the C-S-C (Commercial Shopping Center) Zone, located on the east side of Baltimore Avenue (US 1), approximately 400 feet north of its intersection with I-95/495 (Capital Beltway), also identified as 10211 Baltimore Avenue, Beltsville, Maryland, for a Gas Station and Car Wash.
- (2) The Planning Board (Exhibit 30) and the Technical Staff (Exhibit 25) recommended approval of the instant Application, with conditions.
- (3) No one appeared in opposition and, at the conclusion of the evidentiary hearing, the record was left open for the inclusion into the record of several documents. Upon receipt of the documents, the record was closed on June 16, 2015.

FINDINGS OF FACT

Subject Property

(1) The subject property is a square shaped parcel located on the northeast side of Baltimore Avenue (US 1) approximately 400 feet north of the I-95/495 (Capital Beltway) College Park exit. It is currently improved with an existing Gas Station with 2 (two) service bays, 2 (two) concrete pump islands, 5 (five) gasoline pump dispensers, a canopy, 3 (three) underground stage tanks, a freestanding sign and 20 surface parking spaces.

Zoning History

(2) Special Exception 1179 was approved in 1968 for a Gas Station on the subject property. The 1990 Subregion I Sectional Map Amendment retained the subject property in the C-S-C Zone. In

1994 the approved Site Plan was revised to modify the existing concrete pump islands to be handicapped accessible, to add one new natural gas dispenser, and to add a portico. (Special Exception 1179 and Variance Special Exception 1779A). In 1997, the Site Plan was again revised to replace the existing freestanding sign.

Master Plan and Sectional Map Amendment

(3) The 2010 Approved Subregion I Master Plan and Sectional Map Amendment placed the subject property in the US 1 Corridor, Focus Area 1 (MP pp. 19-20), and in a designated gateway streetscape zone (MP p. 83). The Master Plan emphasizes the importance of pedestrian-oriented design along the US 1 Corridor. The Master Plan envisions the US 1 Corridor as a walkable main street and emphasizes the importance of high quality design to improve the pedestrian environment along the Corridor.

(4) Plan Prince George's 2035 (Approved General Plan) places the subject property within the Innovation Corridor, a priority investment area and critical economic generator for Prince George's County. The US 1 Corridor is envisioned as the Subregion I "Central Spine" and "Main Street". The urban design strategies and principles of Plan Prince George's 2035 further reinforce the importance of pedestrian oriented design.

Neighborhood and Surrounding Uses

(5) The subject property is located in the Calverton neighborhood in Beltsville, Maryland. It is part of the southern gateway to the US 1 Corridor. It is adjacent to the U.S. Department of Agriculture (USDA), National Agricultural Library, and within 1,000 feet of the main campus of the premier Beltsville Agricultural Research Center. The general neighborhood is bounded to the north by Sunnyside Avenue, to the west by Baltimore Avenue (US 1), to the south by the Capital Beltway (I-95/495) at the border to the City of College Park, and to the east by Rhode Island Avenue.

(6) The uses immediately surrounding the proposed Special Exception are as follows:

North and East-	The National Agricultural Library (and offices) in the R-O-S (Reserved Open Space) Zone.
West-	Baltimore Avenue (US 1) and the Ikea Center Subdivision (located in College Park) developed with multifamily and retail commercial uses in the M-X-T (Mixed Use-Transportation Oriented) Zone.
South-	Jefferson at College Park (Wynfield Apartments) developed with multifamily dwelling units in the M-X-T Zone.

Applicants Proposal

(7) The Applicant is proposing a major revision to the existing Special Exception (SE 1779) for a Gas Station. The project will entail the complete removal of all existing structures on the property and the new construction of a 2,580-square-foot Food or Beverage Store, a 1,344-square-foot Car Wash, a canopy, and six multi-product fuel pump dispensers that provide a total of twelve fueling positions. Both the Gas Station and the Car Wash require approval of a Special Exception in the C-S-C Zone, while a Food or Beverage Store is permitted use.

(8) The Applicant has also requested a Departure from Design Standards (DDS-626) from Section 4.7 of the 2010 Prince George's County Landscape Manual (Landscape Manual). The Applicant's request for Alternative Compliance was denied in March 2015 by the Planning Director. The Planning Board approved DDS-626 on May 12, 2015 subject to conditions. (Exhibit 42)

(9) The Applicant has also requested a Departure from Parking and Loading Standards (DPLS-411) from Section 27-582(a) of the Zoning Ordinance for the elimination of the loading space requirement due to the 50-foot setback requirement from a residential property set forth in Section 27-579. The Planning Board approved DPLS-411 on May 12, 2015 subject to conditions. (Exhibit 43)

(10) The Applicant has also requested a Departure from Sign Design Standards (DSDS-684) from Section 27-614(a)(l) of the Zoning Ordinance in order to allow a freestanding sign on a property where the main building associated with the freestanding sign is set back less than 40 feet from the front streetline. The proposed building is set back 24 feet from the front streetline along Baltimore Avenue (US 1) and therefore a Departure of approximately 16 feet is requested. The Planning Board approved DSDS-684 on May 12, 2015 subject to conditions. (Exhibit 44)

LAW APPLICABLE

(1) A Special Exception for a Gas Station in the C-S-C Zone is permitted pursuant to §27-461(b)(1)(B) in accordance with §27-358 of the Zoning Ordinance. There are no specific criteria for a Special Exception for a Car Wash but 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 use, in the area for other trades and commercial uses.

(3) 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;

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan;
and

(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).

Burden of Proof

(4) The Court of Appeals of Maryland has frequently expressed the applicable standards for judicial review of the grant or denial of a Special Exception use. The Special Exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The Special Exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the Plan.

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 Board 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. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. 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. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974). These standards dictate that if a requested Special Exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

CONCLUSIONS OF LAW

General Requirements

(1) §27-317(a) requires that the proposed Use and Site Plan be in harmony with the general purposes of the Zoning Ordinance, §27-102, the general purposes of the Commercial Zones, §27-446(a), and the specific purposes of the C-S-C Zone, §27-474(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 of the Zoning Ordinances 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 redeveloped Gas Station is located at a signalized intersection in the immediate vicinity of an interchange, 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 this site are the 2013 General Plan, the 2010 Approved Master Plan and Sectional Map Amendment for Subregion I, 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

The Plan Prince George’s 2035 classified the subject site in its Growth Policy Map¹ in the Employment Areas category, and the Generalized Future Land Use² Map designated it for Commercial land use.

“Employment Areas” are described by the General Plan as “areas commanding the highest concentrations of economic activity in four targeted industry clusters – healthcare and life sciences; business services; information, communication, and electronics; and the Federal Government.”³

1 M-NCPPC, Plan Prince George’s 2035-Adopted General Plan (May, 2014), as amended by Prince George’s County Planning Board Resolution 14-10, Attachment B, Page 15 (not affected by Revisions in CR-26-2014).

2 General Plan, as amended by Prince George’s County Planning Board Resolution 14-10, Attachment B, Page 9 (not affected by Revisions in CR-26-2014).

3 General Plan, as amended by Prince George’s County Planning Board Resolution 14-10, Attachment B, Page 14 (not affected by any Revisions in CR-26-2014).

“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.”⁴

The approval of the instant Application will allow the subject property to continue to serve as a part of the node of existing retail commercial uses on the north side of the intersection of Baltimore Avenue and the Beltway.

As the approval of the Application will not constitute a new land use, require the expansion of existing water and sewer systems, or involve a change in zoning, none of the thirteen enumerated Policies of the General Plan’s Land Use Element are directly applicable to this Application. Policy 9, however, which is to, “limit the expansion of new commercial zoning outside of the Regional Transit Districts and Local Centers to encourage reinvestment and growth in designated centers and in existing commercial areas”⁵ will be furthered by the approval of this revision as it represents reinvestment in an existing commercial area.

Master Plan

The Future Land Use Map in the Approved Master Plan and Sectional Map Amendment for Subregion I (Planning Areas 60, 61, 62, and 64, approved on June 23, 2010 designates the property for “Commercial (Retail/Office)” land use.

Because of an oddity in the Plan Boundaries – the subject site is the only privately-owned land in the subregion south of the Beltsville Agricultural Research Center – the Plan text does not discuss the area of the subject site: its area-specific detailed evaluations and recommendations begin on the north side of BARC, with the exception of a vision statement that proposes that Baltimore Avenue be improved with a “heavily planted streetscape gateway from of I-495 north to Sunnyside Avenue and through the BARC landscape.”⁶

The Development Pattern element of the Plan does contain a number of more general Policies for the portion of the Subregion in the Developing Tier which are applicable to the instant Application:

4 General Plan, as amended by Prince George’s County Planning Board Resolution 14-10, Attachment B, Page 8 (not affected by any Revisions in CR-26-2014).

5 General Plan, as amended by Prince George’s County Planning Board Resolution 14-10, Attachment B, Page 22 (not affected by any Revisions in CR-26-2014).

6 M-NCPPC, Approved Master Plan and Sectional Map Amendment for Subregion I (Planning Areas 60, 61, 62, and 64 (June, 2010), p. 19.

The first is to, “preserve and enhance the suburban neighborhood character.”⁷ The Plan proposes the following Strategy to implement this policy: “Encourage high-quality design that seeks to improve existing shopping centers and promotes and enhances the character of neighborhoods.”⁸ The approval of the instant Application would implement this Policy by replacing the existing, obsolescent station with a new station with architecture that is complementary to that of the other commercial uses in the neighborhood, and with a high-quality site design that will greatly improve safe vehicular circulation into and through the station.

The Plan’s fourth Policy for land in the Developing Tier is to, “improve vehicular and pedestrian circulation and safety.”⁹ While the Plan’s recommended strategies address streets and streetscapes, the reconstruction of the existing station at the subject site will materially improve vehicular safety by improving the area and configuration of the on-site vehicular circulation. The roadside pedestrian safety will also be improved by the installation of a new landscaped area that will separate the sidewalk from the adjoining vehicular areas on site.

The Plan’s fifth Policy for land in the Developing Tier is to, “promote and enhance commercial uses and encourage a safe shopping, working and living environment.”¹⁰ While the Plan’s recommended strategies are oriented to shopping centers, the reconstruction of the subject site in accordance with the subject Application would represent a substantial enhancement of an existing commercial use, including enhancement of its safety.

Other Applicable Functional Master Plans

The Application conforms to the Green Infrastructure Plan as there are no Regulated Areas (or even Evaluation Areas) of the County’s Green Infrastructure Network which will be affected by the subject project.

With regard to the Historic Sites and Districts Plan, while County Site #66-001 (Site of Brown’s Tavern) is located within the defined neighborhood of the Application, that Site contains only the foundations of a historic tavern, and it was improved as a pocket park as a part of the Camden at College Park development.

The Water Resources Functional Master Plan addresses broad regulatory policy and large-

⁷ Master Plan, p. 13.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

scale watershed planning, and as such makes no recommendations which are directly applicable to the instant Application.

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

The Countywide Master Plan of Transportation classifies this segment of Baltimore Avenue as an arterial roadway, with a variable right-of-way within a range of 90' to 120'. The Plan's intent for improvement is only to add a median (which already exists in front of the subject property); the number of existing lanes (six) is commensurate with the Master Plan of Transportation's recommendation of 4 - 6 lanes.

In conclusion, because the proposed Gas Station reconstruction is not in conflict with the General Plan, the Master 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;

As this Application proposes the renewal of a long-existing use at a site which is being developed 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 instant Application would recognize the needs of the County's workers by renewing an existing use 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 Gas Station will be in harmony with this Purpose when 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 distance and DDS-626 addressing the 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 Gas Station would be in harmony with this Purpose when developed in accordance 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 DDS-626 addressing the buffering of incompatible adjoining uses.

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

The subject Gas Station would be in harmony with this Purpose when 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 renewal of the instant Gas Station 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 Gas Station would be in harmony with this Purpose when 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.

- (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 instant Gas Station would be in harmony with this Purpose as follows:

The Gas Station is a renewal of an existing station in a developed area. The proposed use will add only 2 new MPDs, and as such will not add materially to the existing 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.

Additionally, it 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.

Furthermore, however, the subject 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, and by virtue of its location in the close proximity of a planned activity center.

(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;

As the subject Gas Station is a renewal of an existing station, approval of the instant Application will have no impact on the natural features in the County. It will not generate noise pollution, and the use will be in compliance with the County's Woodland Conservation policies by virtue of its exemption from the requirement for a Tree Conservation Plan because no woodland exists on the site. No steep slopes or scenic vistas will be affected. 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 Gas Station. §27-317(a)(1)

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

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

As noted by the foregoing discussion, 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 Gas Station to continue to provide a useful and convenient site for a needed service.

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

As the proposed Gas Station renewal involves the replacement of a compatible service commercial use (with a permitted retail component) in the immediate vicinity of a mixed-use area, this Purpose is not directly applicable to the instant Application.

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

The renewal of the existing Gas Station would implement this Purpose by its planting and fencing which provides screening in accordance with DDS-626 that addresses the buffering between it and its residential neighbor.

(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 its location in a concentration of complementary uses which will allow for efficiency of use of the street network through combination of vehicle trips.

(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;

As the subject 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;

By allowing for the renewal of a complementary service commercial use which will appropriately supplement the general retail character of the neighboring commercial uses, approval of this Application will increase the stability and viability of the developing commercial area.

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

As the subject Gas Station 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 (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 an existing commercial use that will enhance the tax base and provide additional employment for residents of the County. §27-317(a)(1)

(4) The instant Application is also in harmony with the Purposes of the C-S-C, §27-454(a)(1):

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

While the subject Application proposes the renewal of a service commercial use (with its by-right retail component), it is not in conflict with this Purpose. The reconstruction of this Gas Station – which does not propose visually disruptive auto repair services – will complement the broad varieties of retail uses which are found in the neighborhood along Baltimore Avenue.

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

As described above, the subject use – when redeveloped in accordance with the provisions of the ordinance that promote a safe and orderly operation – fulfills this Purpose by being a compatible service use.

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

As this use is compatible with general retail uses, it 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 instant Application. §27-317(a)(1)

(5) Special Exception commercial uses such as Gas Stations and Car Washes 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. The Planning Board has approved, subject to conditions, a Departure from Design Standards (DDS-626) (Exhibit 42), a Departure from Parking and Loading Standards (DPLS-411) (Exhibit 43), and a Departure from Sign Design Standards (DSDS-684) (Exhibit 44). With the requested Departures, the Amended Site and Landscape Plans (Exhibit 47), 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)

(6) The proposed redevelopment of the subject property with commercial uses conforms to the land use designation in the 2010 Subregion I Master Plan. The Master Plan recommends a commercial land use for the subject property, and the proposed use conforms to the Plan Prince George's 2035 vision. Therefore, the proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or the General Plan. §27-317(a)(3)

(7) A Gas Station has been in continuous operation on this property for more than 45 years and it has not had (and will not have) any adverse effects on the health, safety, or welfare of residents or workers in the area. The instant proposal is designated to provide for the safe internal flow of pedestrians and vehicles on-site and for the safe ingress and egress of vehicles. §27-317(a)(4)

(8) The proposed uses will not be detrimental to the use or development of adjacent properties or the general neighborhood. The redevelopment of the existing Gas Station mirrors the redevelopment of the adjacent properties and the general neighborhood. Modernization of the site will be complementary to the Main Street vision noted in the Subregion I Master Plan. §27-317(a)(5)

(9) The Site and Landscape Plans (Exhibit 47) are in conformance with the approved Standard Letter of Exemption (S-075-14) from the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance which expires on May 30, 2016. The Plan is also in conformance with the goals, policies, and strategies contained in the Environmental Infrastructure section of the Subregion I Master Plan. Because the site is less than 40,000 square feet in size and has no previous approved Tree Conservation Plans, a Standard Exemption Letter was issued by the Environmental Planning Section. No other environmental issues relate to the Applicant's proposal. §27-317(a)(6)

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

Gas Station

- (11) The subject property has 200 feet of frontage on, and direct vehicle access to, Baltimore Avenue (US 1) (100 foot right of way). (Exhibit 47(d), Note 6(a)(1)) §27-358(a)(i)
- (12) The subject property is not located within 300 feet of any lot on which a school, outdoor playground (Shadyside Park is 1,000 feet), library or hospital is located. (Exhibit 47(d), Note 6(a)(2)) §27-358(a)(2)
- (13) Exhibit 47(d), Note 6(a)(3) states “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”. §27-358(a)(3)
- (14) Exhibit 47(d), Note 6(a)(4) states “The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited.” §27-358(a)(4)
- (15) Exhibit 47(d) provides a two-way 30.8 foot wide access driveway and a one way 20 foot driveway off of Baltimore Avenue (US 1). §27-358(a)(5)
- (16) All access driveways are defined by curbing as required. (Exhibit 47(d)) §27-358(a)(6)
- (17) Exhibit 47(d) provides a six (6) foot wide sidewalk along Baltimore Avenue (US 1). §27-358(a)(7)
- (18) Gasoline pumps and other service appliances are located a minimum of 42.6 feet behind the street lines. §27-358(a)(8)
- (19) No repair services shall be conducted on the subject property. §27-358(a)(9)
- (20) The design, architecture and building materials will be compatible with existing and surrounding development such as the Buffalo Wild Wings. (Exhibit 49) §27-358(a)(10)
- (21) The Revised Site and Landscape Plans, Exhibit 47(a)-(j), are in compliance with §27-358(b).
- (22) Upon the abandonment of the 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. (Exhibit 47(d), Note 6(c)) §27-358(c)
- (23) The proposed redevelopment is a continuation of an existing use. The need for this development was determined in 1968 with the approval of SE-1779 and again with each subsequent approved revision. The proposed redevelopment of this facility will not unduly restrict the

availability of land, or upset the balance of land use, in the area for other trades and commercial uses. §27-358(d)

Parking and Loading Regulations

(24) Based on the gross floor area of the proposed Food or Beverage Store (2,580 square feet), a total of 17 parking spaces and one loading space are required to serve the property. The Applicant proposes to provide 17 parking spaces. The Applicant has requested a Departure (DPLS-411) for the one required loading space and the Planning Board approved DPLS-411 on May 12, 2015, subject to conditions. (Exhibit 43)

Landscape Manual

(25) The instant Application to modernize an existing Gas Station involves new construction and is subject to the requirements of the 2010 Prince George's County Landscape Manual (Landscape Manual). The Application is in general conformance with Sections 4.2, 4.3, 4.4, and 4.9 of the Landscape Manual.

- **Section 4.2, Requirements for Landscape Strips along Streets**-The proposal is subject to Section 4.2 along its Baltimore Avenue (US 1) frontage. The Revised Site and Landscape Plans (Exhibit 47) provides the appropriate schedule showing compliance with the requirements of this Section.
- **Section 4.3, Parking Lot Requirements**-The Revised Site and Landscape Plans (Exhibit 47) proposes to demolish the existing parking lot and construct a new one, making the parking area subject to the requirements of Section 4.3. The Plan provides a Section 4.3c., Interior Parking Lot Landscaping, Landscape Schedule that is correct and demonstrates conformance with the requirements of this Section.
- **Section 4.4, Screening Requirements**-A dumpster enclosure proposed to be constructed of masonry materials that are compatible with the building has been provided.
- **Section 4.9, Sustainable Landscaping Requirements**-The site is subject to the requirements of Section 4.9. A schedule is provided on the Landscape Plan, Exhibits 47(f) and (g), and is in accordance with these requirements.

(26) The Application for Alternative Compliance (AC-14024) for the subject property from Section 4.7 of the Landscape Manual was denied by the Planning Director in March 2015. The Applicant is seeking Departures from Section 4.7, Buffering Incompatible Uses, along its northern, eastern, and southern property lines. The Planning Board approved DDS-626 on May 12, 2015, subject to conditions. (Exhibit 42)

Tree Canopy Coverage

(27) This Application is subject to the Prince George's County Tree Canopy Coverage Ordinance. The Special Exception area of 0.73 acre is zoned C-S-C and is required to provide ten percent, or 3,171 square feet, in Tree Canopy Coverage (TCC). A TCC worksheet has been provided on the Landscape Plan specifying that this requirement is being met through the proposed tree plantings on-site. (Exhibits 47(f) and (g))

Signage

(28) The Applicant is proposing building, canopy, and freestanding signage that are prototypical franchise-style for Dash-In and Shell. The building signs and window stickers will be the red and green Dash-In logos, while the canopy sides and canopy signage will be the red and yellow logos that are typical for Shell. The freestanding sign will be a combination of both and will include three types of gasoline price signs. The signage is within the allowed square footage and height (freestanding sign). A Departure for the placement of the sign, per Section 27-614(2)(1) of the Zoning Ordinance, was requested. DSDS-684 was approved by the Planning Board subject to conditions on May 12, 2015. (Exhibit 44)

Zone Standards

(29) The Applicants proposal is in compliance with the requirements of the C-S-C Zone.

DISPOSITION

Special Exception 4756 is Approved, subject to the following Conditions:

1. Prior to certification of the Special Exception, a copy of an approved Stormwater Management Concept Plan and letter from the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) shall be submitted to the Environmental Planning Section.
2. DDS-626, DPLS-411 and DSDS-684 shall all be finally Approved.