

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MCPB
Item# 2
2/21/02

MEMORANDUM

DATE: February 15, 2002
TO: Montgomery County Board of Appeals
VIA: John A. Carter, Chief, Community Based Planning
FROM: Kathleen A. Reilly, AICP, Community Based Planning

REVIEW TYPE: Special Exception Modification
APPLYING FOR: Automobile Filling Station
APPLICANT: BP Amoco Corporation
CASE NUMBER: S-382-D
REVIEW BASIS: Chapter 59, Zoning Ordinance

ZONE: C-1
LOCATION: 13800 Georgia Avenue
FILING DATE: October 18, 2001
PLANNING BOARD: February 21, 2002
PUBLIC HEARING: March 20, 2002 at Board of Appeals

STAFF RECOMMENDATION: APPROVAL with CONDITIONS:

1. The applicant shall be bound by all submitted statements and plans.
2. The proposed use shall consist of 5 gasoline pumps (10 pumping positions) and the ancillary convenience retail use of 1,100 square feet of patron area.
3. Approval of access permits from the State Highway Administration and County Department of Public Works and Transportation.
4. Conformance with the submitted landscape plan dated 2/1/02 and the submitted lighting plan dated 2/11/02.
5. Approval of a stormwater management concept plan and sediment /erosion control plans from the Department of Permitting Services prior to release of building or sedimentation /erosion control permits, as appropriate
6. Revise all submitted site, landscape and lighting plans to delete the two proposed parking spaces adjacent to the eastern lot line for a total of 13 on-site parking spaces.

THE PROPOSAL

The applicant, BP Amoco Corporation, is requesting approval of a modification to an existing special exception to raze the existing structure and construct a new automobile filling station at the northwest corner of the intersection of Georgia Avenue and Aspen Hill Road in Aspen Hill. The automobile filling station as requested would also contain a convenience store with approximately 1,100 square feet devoted to retail sales. Fifteen parking spaces are proposed in conjunction with this modification. One access point would be provided from Georgia Avenue, a 150-foot public right-of-way maintained by the State Highway Administration. The other access point would be provided from Aspen Hill Road, a 70-foot public right-of-way maintained by the County. Originally, a variance (A-5689) was filed in conjunction with the subject modification for reductions to the landscape strip requirements adjacent to the street right-of-way. Based on site layout revisions, the variance was not needed and was withdrawn by the applicant in a letter to the Board of Appeals dated February 7, 2002.

SITE

The subject site is located at the northwest corner of the intersection of Georgia Avenue and Aspen Hill Road. It is triangular in shape and comprises approximately 33,363 square feet of C-1 zoned land. It is developed with an automobile filling station building with 3 service bays, 6 pumps and a self-serve car wash. The self-serve car wash is located along the property's western line. There is vehicular connection from this site to the adjacent Northgate Shopping Center abutting the site's northern property line. Currently, four access points serve the site: two points are located along Georgia Avenue and two are located along Aspen Hill Road. A large grassy green area forms the site's southeastern corner.

The automobile filling station has operated at this location for many years. Previously approved special exception applications for this site have included: S-187 approved by the Board of Appeals on 2/13/73 to reconstruct the existing structure; S-382 approved on 3/4/75 to demolish and replace the existing structures; BAS-451 approved on 3/24/76 to modernize the existing structure; S-382-A approved on 3/19/92 to permit the reconstruction of an existing automobile service station; S-382-B approved on 1/11/95 to modify the on-site structures and replace pump islands and S-382-C to add a 1,025 square foot convenience store the existing automobile service station. Recent applications, S-382-A and S-382-B and were approved but not implemented and copies of the Board of Appeals opinions for these applications are included in Appendix 1. S-382-C was recommended for approval by the Planning Board on August 13, 1998. It was indefinitely continued by the Board of Appeals and later withdrawn by the applicant.

Neighborhood Description – The site located in the northwest quadrant of the intersection of Georgia Avenue and Aspen Hill Road. The property abutting to the north and west is zoned C-2 and is developed with the Northgate Shopping Center. Across Georgia Avenue and east of the site, the property is zoned RE-2 and contains The Gate of Heaven Cemetery. South of the site and across Aspen Hill Road the properties are zoned R-60 and contain a pet cemetery, a church and a private educational facility. Other approved special exceptions in the area include: BAS 489 for a private educational institution; BAS 2148 for a drive-in restaurant; BAS 1343 automobile filling station and car wash; BAS 1778 for a drive-in restaurant that was not implemented.

Elements of the Proposal - In support of the special exception application, the following summary for the proposed use is offered:

BP Amoco Corporation proposes to replace the existing 2,135 square foot service station building consisting of 3 service bays and the 3 pump islands with a 2,880 square foot building and 5 pump islands (10 pumping positions). The existing service bays would be removed under this application. The proposed pump islands will be covered with a canopy measuring approximately 26 feet X 118 feet. A convenience store, with approximately 1,100 square feet devoted to retail sales, is also proposed within the new building. Products sold at the convenience store will be automobile-related, as well as, pre-packaged convenience foods, coffee and other beverages, and to contract with a vendor to prepare and sell food items. At this time, the applicant has not decided on a definite vendor. Two access points are provided for this use, one along Georgia Avenue and the other access point is provided along Aspen Hill Road. Amoco proposes to operate the service station 24 hours a day, 7 days a week. No more than four employees will be on-site at a given time with a manager making periodic visits to the site. Fifteen parking spaces are proposed for this use. Inter-parcel access will be provided but the car wash will be removed under this application.

ANALYSIS

Master Plan – The site is situated in the Aspen Hill Master Plan area. The 1994 Plan confirms the C-1 zoning for the site. The plan addresses special exception applications and in particular states that “close scrutiny should be given to modifying service stations, especially those requesting the closure of service bays and the addition of convenience food sales. ... attention should be paid to the issues of hours of operation, loss of service bays and potential traffic queuing problems.”

The proposed modification will not create a traffic queuing problem on site. Currently, the automobile filling station operates 24 hours, and no decrease in hours of operation is proposed. With respect to the closure of the existing service bays, this change in service is the applicant's decision, as there are no

standards or requirements in the Zoning Ordinance by which staff can evaluate this issue. Staff finds that the proposed modification to the existing use meets the standards, requirements, and general conditions set forth in the Zoning Ordinance for such a use. Finally, this request in change of service for the existing use will be determined by the Planning Board and the Board of Appeals

Traffic – The Transportation Planning staff offers the following comments on the subject modification. Under the adopted *Aspen Hill Master Plan*, Georgia Avenue, M-8, (MD 97) is classified as a major highway with a recommended 150-foot right-of-way. The Georgia Avenue Busway Study recommends a 150 to 163 foot right-of-way for the section of Georgia Avenue South of Norbeck Road (MD 28). The existing right-of-way is 150 feet, therefore, no additional right-of-way dedication is recommended. Aspen Hill Road, A-38, is classified as an arterial road with a recommended 80-foot right-of-way. Since this 80-foot right-of-way exists no right-of-way dedication is recommended.

A traffic statement was prepared in accordance with the LATR Guidelines and accepted by Transportation Planning staff. The statement included an analysis of the weekday morning and evening peak hour trips generated by the present land use and the weekday morning and evening peak hour trips generated by the proposed modification. This analysis indicated a reduction in the number of both weekday morning and evening peak hour trips; therefore, a full traffic study was not required.

Under the current operation, staff estimated the 12 fueling positions, car wash stalls, and service bays generate 132 trips during the peak hour of the weekday morning peak period (7:00 a.m. to 9:00 a.m.) and 200 trips during the peak hour of the weekday evening peak period (4:00 p.m. to 6:00 p.m.). Under the proposed operation the 10 fueling positions and convenience store are estimated to generate 122 trips during the peak hour of the weekday morning peak period (7:00 a.m. to 9:00 a.m.) and 190 trips during the peak hour of the weekday evening peak period (4:00 p.m. to 6:00 p.m.). The special exception modification results in an estimated reduction of 10 trips during both the morning and evening peak hour. A traffic count was taken as part of the Traffic Statement analysis for informational purposes. The Aspen Hill Policy area has a critical lane volume (CLV) standard of 1550. The count taken at the Aspen Hill and Georgia Avenue intersection indicated that the intersection is operating at a CLV of 1099 during the morning peak hour and a CLV of 1152 during the evening peak hour. Therefore, the operating conditions of the adjacent intersection should pose no problems with this special exception modification.

Finally, the proposed modification is located in the Aspen Hill Policy Area. As of November 30, 2001 the Aspen Hill Policy Area had a remaining job capacity of 62.

Environmental – A forest conservation plan exemption was granted because

this is a modification to an existing special exception use that was approved prior to July 1, 1991, and does not result in the cumulative clearing of more than 5,000 square feet of forest.

This site is located in the Turkey Branch subwatershed of the Lower Rock Creek watershed. The *Countywide Stream Protection Strategy (CSPS)* assesses the Turkey Branch subwatershed as having poor stream conditions and fair overall habitat conditions, and labels it as a Watershed Restoration Area. Full water quality and quantity control shall be expected to protect the integrity of the Lower Rock Creek Watershed. A stormwater management concept plan has been submitted and will need to be approved by the Department of Permitting Services prior to issuance of permits.

Submitted Special Exception Plan -- The plan as submitted proposes 15 parking spaces. As proposed, the automobile filling station and convenience store will require 11 parking spaces. Two of the proposed spaces are located along the eastern property line and front on the intersection of Aspen Hill Road and Georgia Avenue. These spaces are isolated from the other proposed parking spaces, which are clustered, in close proximity to the proposed building. Staff recommends that these two parking spaces be deleted from the site plan. With the significant canopy and building improvements associated with this modification, these spaces detract from the visual improvements, both building and landscaping, to the site. With this reduction in 2 spaces, 13 proposed spaces will serve the proposed modification. Finally, the applicant has submitted both a landscape plan and lighting plan. Presently, there is minimal landscaping on site. The submitted landscape plan provides adequate landscaping and planting treatments to the property. The submitted lighting plan provides adequate lighting on the site. Staff finds both submissions acceptable as they adequately address the landscaping and lighting for the proposed special exception modification.

Compliance with Specific and General Special Exception Provisions - Staff has reviewed the application for compliance with all applicable special exception provisions and finds the following:

Sec. 59-G-2.06. Automobile filling stations.

- (a) An automobile filling station may be permitted, upon a finding, in addition to findings required in division 59-G-1, that:
 - (1) The use will not constitute a nuisance because of noise, fumes, odors or physical activity in the location proposed.

The proposed modification will not constitute a nuisance based on physical activity at the proposed location.

- (2) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly.

Under this application, the number of existing access points would be reduced from 4 to 2. Staff believes the reduction in access points into this site will not create a traffic hazard at this location.

- (3) The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density and number of similar uses.

The proposed modification at this location will not adversely affect nor retard the logical development of this site, as an automobile filling station is permitted as a special exception use in the C-1 zone. Moreover, this application is a modification to an existing special exception.

- (b) In addition, the following requirements must be complied with:

- (1) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, slightly, solid fence, not less than 5 feet in height, together with a three-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. Location, maintenance, vehicle sight distance provisions and advertising pertaining to screening shall be as provided for in article 59-E. Screening shall not be required on street frontage.

Not applicable.

- (2) Product displays, parked vehicles and other obstructions which adversely affect visibility at intersections or to station driveways are prohibited.

Based on submitted information, there will be no product displays, parked vehicles or other obstructions to adversely affect site access.

- (3) Lighting is not to reflect or cause glare into any residential zone.

The properties south of the site and across Aspen Hill Road, are zoned R-60. However, these properties are not developed with residential uses, but instead are developed with institutional uses, such as a church, a private school and a pet cemetery. At this time, the potential for these properties to redevelop as residential uses is minimal.

- (4) When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot as defined in section 59-A-2.1, and such driveways shall not exceed 30 feet in width; provided, that in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 40 feet from the center line of any abutting street or highway.

The proposed driveway entrance on Georgia Avenue will be 35 feet in width. The driveway entrance on Aspen Hill Road is proposed to be 30 feet in width. Georgia Avenue is under the jurisdiction of State Highway Administration (SHA) while Aspen Hill Road is under the jurisdiction of the County Department of Public Works and Transportation. Thus, the ultimate width and design of each driveway will be determined by the respective government agency when issuing the access permits for this site.

- (5) Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line; and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

The proposed gasoline pumps will be located a minimum of 30 feet behind the building line. All storage and similar activities will be conducted within the proposed buildings.

- (6) Light automobile repair work may be done at an automobile filling station; provided, that no major repairs, spray paint operation or body or fender repair is permitted.

No repair work is proposed under this application.

- (7) Vehicles shall not be parked so as to overhang the public right-of-way.

No parking areas are located near the public right-of-way.

- (8) In a C-1 zone, an automobile, light truck and light trailer rental, as defined in section 59-G-2.07, and in a C-2 zone, an automobile, truck and trailer rental lot, as defined in section 59-G-2.09, may be permitted as a part of the special exception, subject to the provisions set forth for such uses in this section. In addition, a car wash with up to 2 bays may be allowed as an accessory use as part of the special exception.

No vehicle rentals are proposed under this application.

Sec. 59-G-1.2. Conditions for granting a special exception.

59-G-1.2.1. Standard for evaluation. A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.

The inherent adverse effects associated with an automobile filling station include the environmental impacts of spillage of oils, and other automobile fluids, fumes from idling vehicles, queuing of vehicles, noise, signage,

lighting and hours of operation. Staff finds that the physical and operational characteristics of the proposed use are no different than what is associated with an automobile filling station. The application is a modification of an approved automobile filling station. From the applicant's submission and statement of operations, staff does not find any non-inherent effects related to the subject modification that would warrant denial.

59-G-1.21. General conditions.

(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) Is a permissible special exception in the zone.

The proposed modification is allowed in the C-1 Zone.

(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

The proposed modification complies with the standards and requirements for an automobile filling station under Section 59-G-2.06 of the Zoning Ordinance

(3) Will be consistent with the general plan for the physical development of the District, including any master plan thereof adopted by the Commission. Any decision to grant or deny special exception must be consistent with a recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that the granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

The proposed modification is consistent with the approved and adopted Aspen Hill Master Plan.

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

The modification will be in harmony with the neighborhood considering these criteria.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed modification will not have a detrimental effect for any of these reasons.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

With the recommended conditions, the modification will not have a detrimental effect for any of these reasons.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

The proposed modification will not increase the number, intensity, and scope of the approved special exceptions in the area.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective on any adverse effects the use might have if established elsewhere in the zone.

The proposed modification will not cause any of these effects.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.

The site will be served by adequate public facilities.

- (i) If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.

The property is subdivided, therefore a preliminary plan is not required.

59-G-1.25. Neighborhood need.

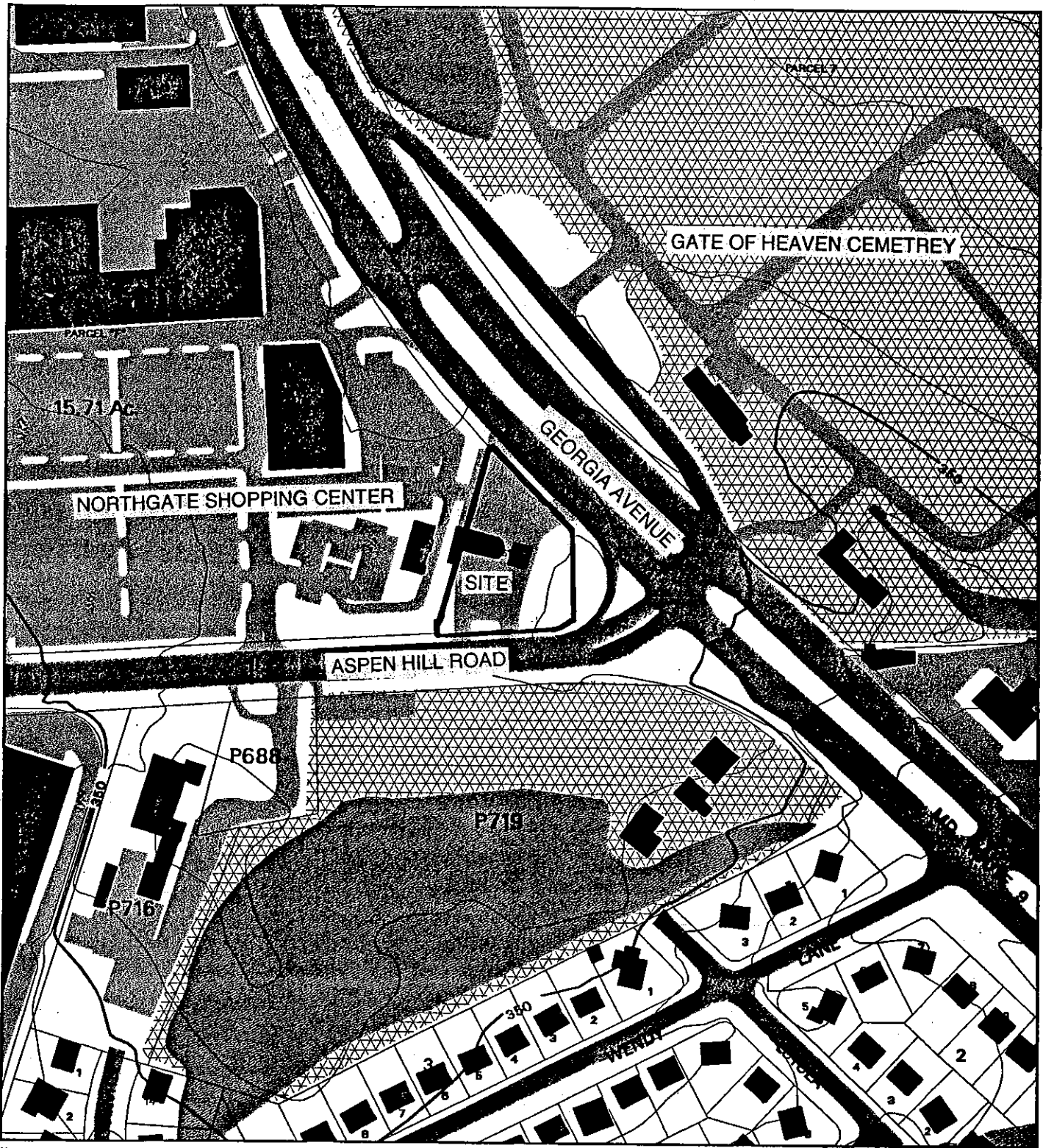
In addition to the findings required in Section 59-G-1.21 and Division 59-G-2, the following special exceptions may only be granted when the board, the hearing examiner, or the district council, as the case may be, finds from a preponderance of the evidence of record that, for the public convenience and service, a need exists for the proposed use for service to the population in the general neighborhood, considering the present availability of such uses to that neighborhood

- (1) Automobile filling station.
- (2) Automobile and light trailer rental lot, outdoor.
- (3) Automobile, truck and trailer rental lot, outdoor.
- (4) Automobile sales and service center.
- (5) Medical and dental clinics.
- (6) Swimming pool, community.
- (7) Swimming pool, commercial.

After review of a needs statement by the Research and Technology Division, staff finds that the existing service station has been operating in the same site for over 30 years. The fact that this operation has been sustained and is now prepared to invest in modernizing the station clearly shows that the broader community supports this automobile filling station with their patronage. These factors strongly indicate a community need for this use.

Conclusion - Staff recommends approval of the submitted special exception modification with the conditions stated on page 1 of this report.

VICINITY MAP FOR
S-382-D



Map compiled on February 12, 2002 at 4:30 PM | Site located on base sheet no - 218NW04

NOTICE

The planimetric, property and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



N



Research & Technology Center



1:2400

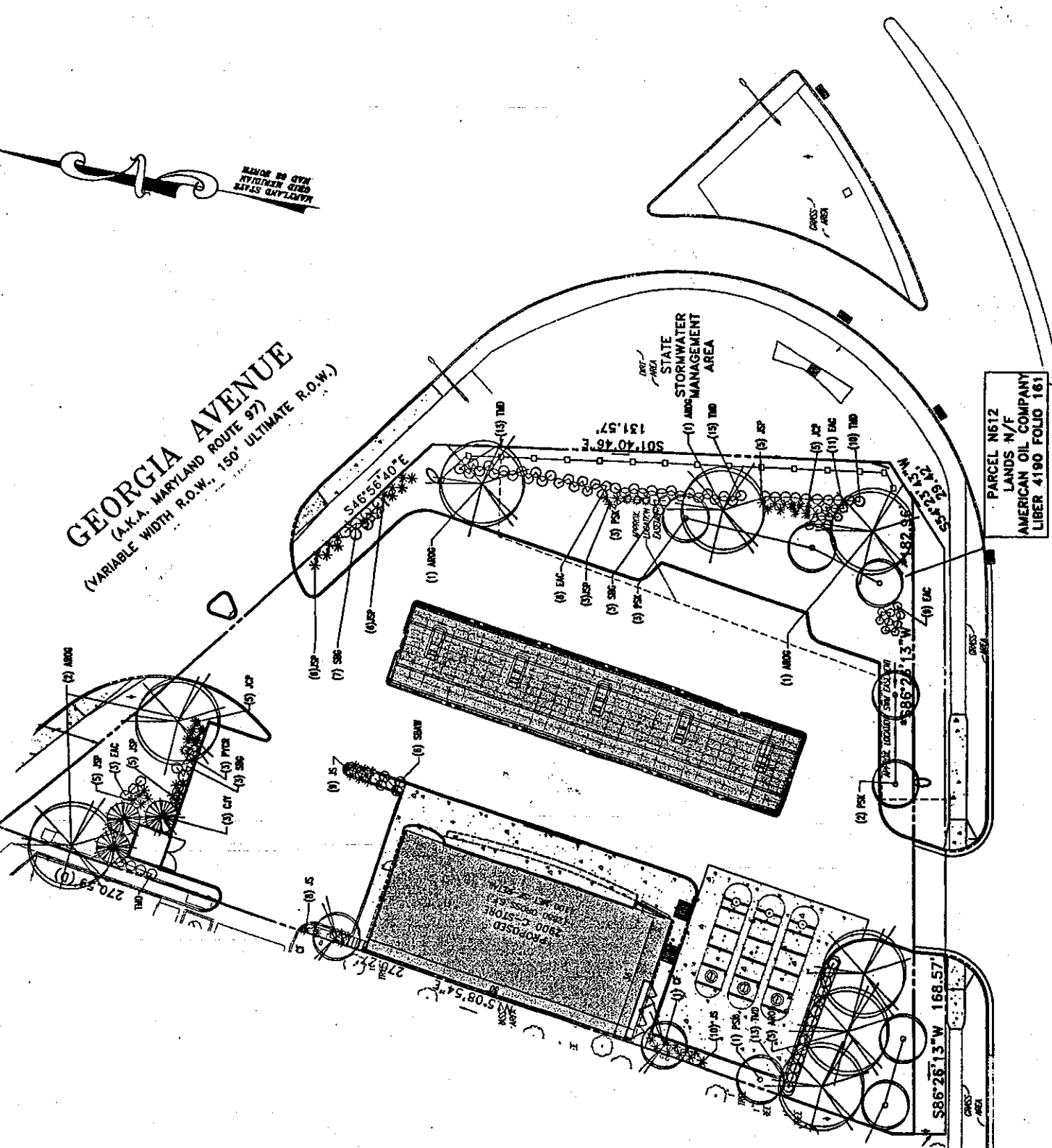
MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

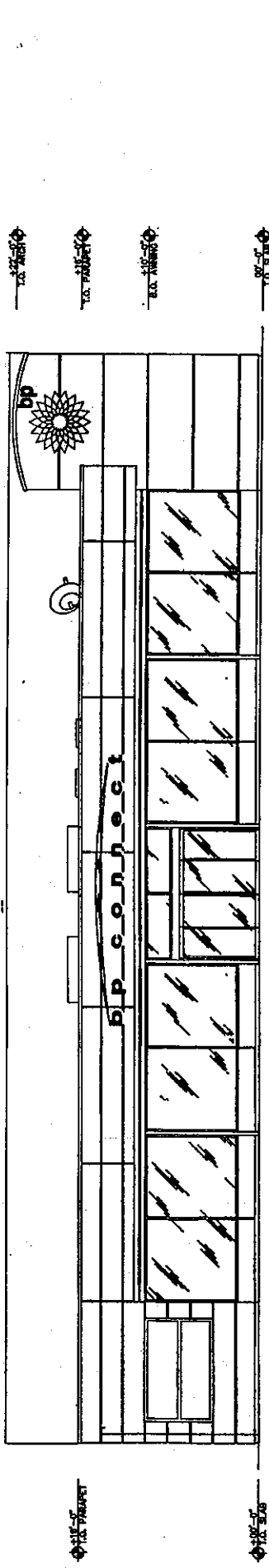
8787 Georgia Avenue - Silver Spring, Maryland 20910-3763

GEORGIA AVENUE
(A.K.A. MARYLAND ROUTE 97)
(VARIABLE WIDTH R.O.W., 150' ULTIMATE R.O.W.)

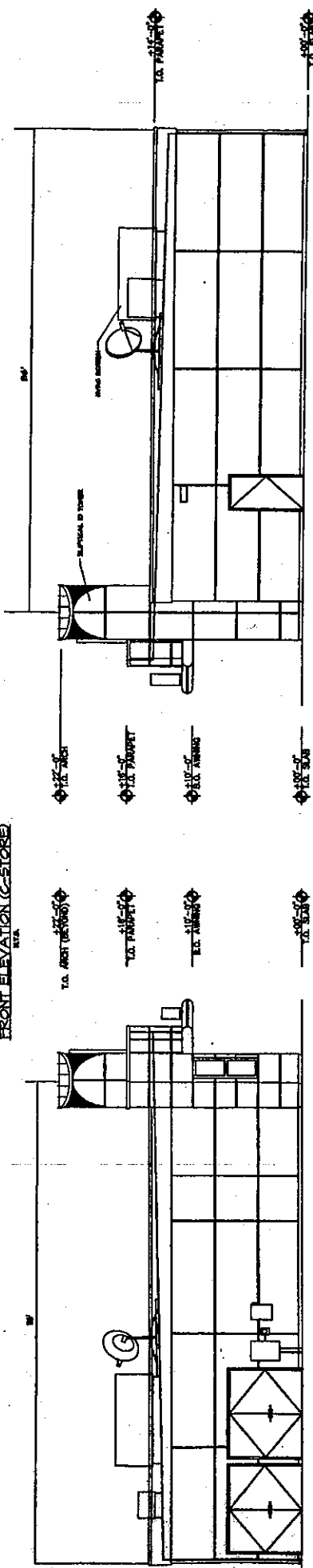
PARCEL N612
LANDS N/F
AMERICAN OIL COMPANY
LIBER 4190 FOLIO 161

MARYLAND STATE
GRID REFERENCE
MAD 88 NUMBER



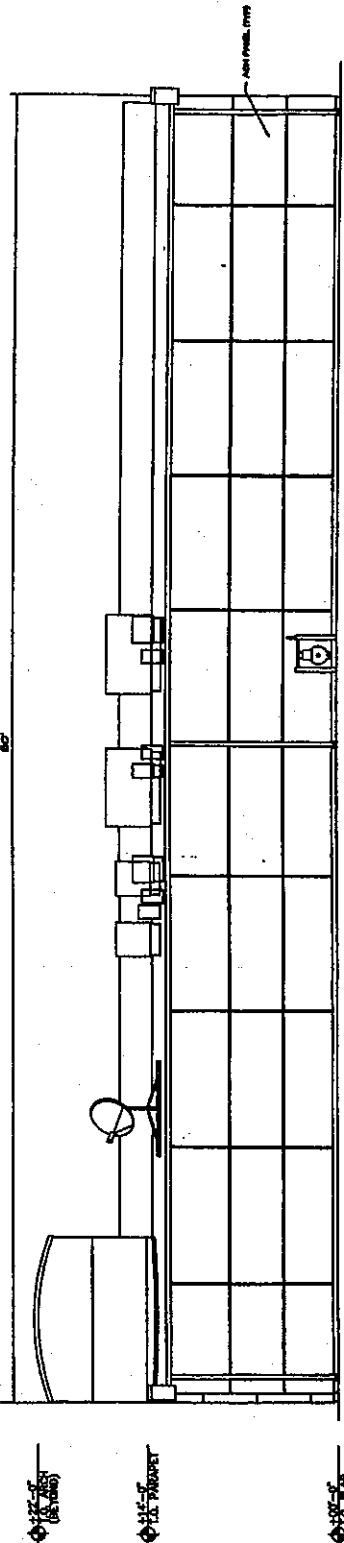


FRONT ELEVATION (2-STORY)
N.T.S.



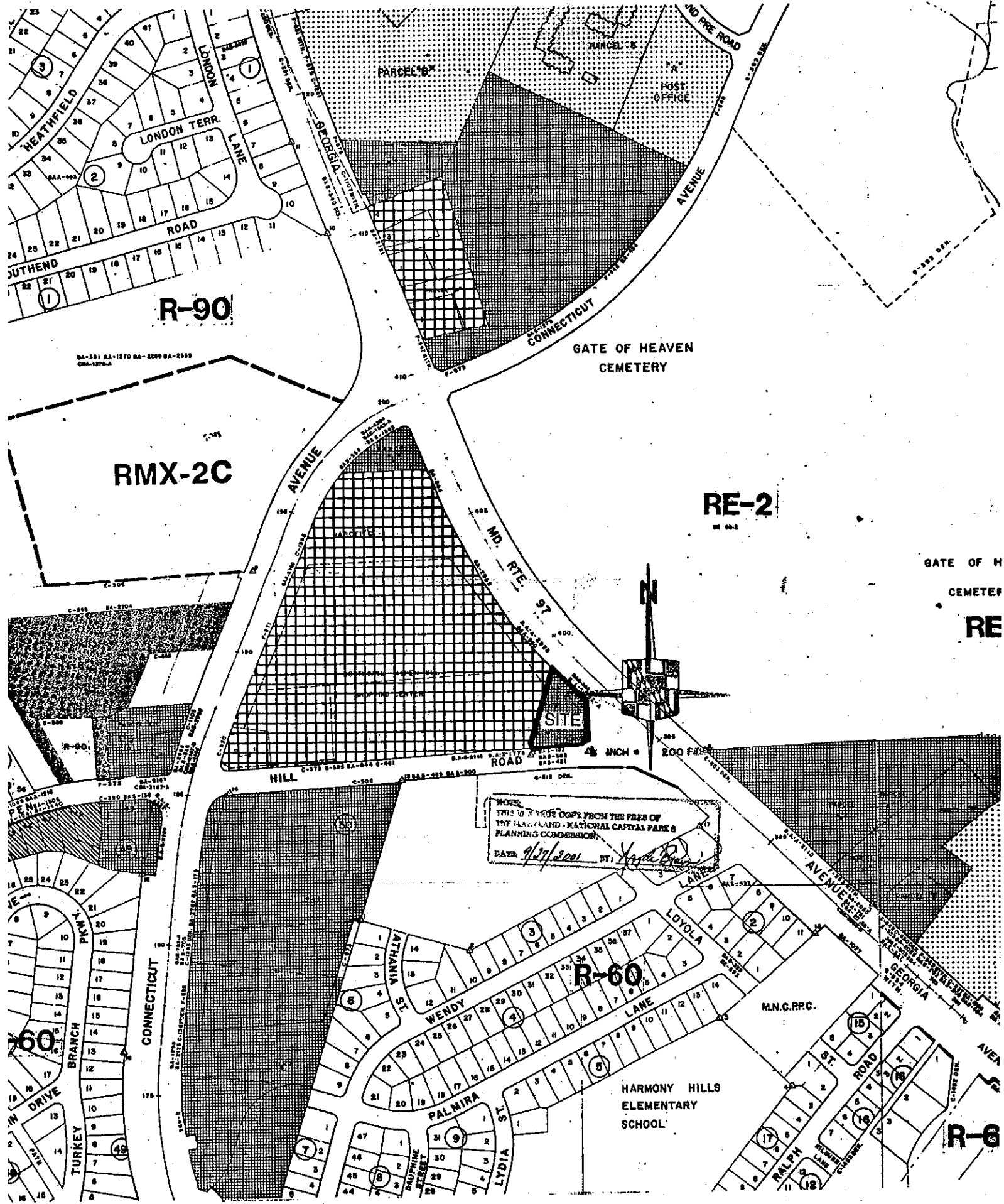
LEFT ELEVATION (2-STORY)
N.T.S.

RIGHT ELEVATION (2-STORY)
N.T.S.



REAR ELEVATION (2-STORY)
N.T.S.

BUILDING ELEVATIONS



R-90

RMX-2C

RE-2

GATE OF HEAVEN
CEMETERY

SITE

NOTE:
THIS IS A TRUE COPY FROM THE FILES OF
THE MARYLAND - NATIONAL CAPITAL PARK &
PLANNING COMMISSION
DATE: 9/27/2001 BY: [Signature]

R-60

HARMONY HILLS
ELEMENTARY
SCHOOL

GATE OF H
CEMETERY
RE

R-6

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
Telephone

100 Maryland Avenue, Area Code 301
Rockville, Maryland 20850 7-6600

Case No. S-382-A

MAR 25 1992

PETITION OF AMOCO OIL Development Review Division
(Hearings held December 12, 1990 and November 20, 1991)

OPINION OF THE BOARD

This proceeding is on a petition filed for a modification of a special exception pursuant to Section 59-G-2.06 of the Zoning Ordinance to permit the reconstruction of an automobile filling station.

The subject property is part of Parcel A, Aspen Hill Shopping Center, and part of Parcel C, Northgate Aspen Hill Shopping Center, located at 13800 Georgia Avenue, Silver Spring, Maryland, in the C-1 and C-2 Zones.

Decision of the Board: Modification to the Special Exception GRANTED to Petitioner only, subject to the conditions enumerated herein.

On June 14, 1990, Amoco Oil filed a petition for modification of an existing special exception for an automobile filling station. Originally scheduled to be heard on August 8, 1990, the hearing was rescheduled at the request of the petitioner and was held on December 12, 1990. Following the first hearing and prior to the Board's issuing its Opinion, the petitioner asked the Board to reopen the record and permit it to modify its proposal. The Board agreed, and on August 6, 1991, the petitioner submitted a revised plan. A second hearing was scheduled and held on November 20, 1991.

Jody Kline, Esquire, represented the applicant and had as his witnesses William H. Gabler, Project engineer for Amoco Oil Company, William M. Gordon, Business Development Representative for Amoco, Neil A. Weinstein, Landscape Architect and a member of the American Institute of Certified Planners, and Carl F. Starkey, Traffic Engineer. Sue Carter, Esquire, represented the petitioner at the second hearing.

The opposition was represented by Betty Hepburn, Chairman, the Citizens Advisory Committee for the Aspen Hill Master Plan.

Petitioner's Proposal

The property is a triangular shaped piece of land located in the northwest quadrant of the intersection of Georgia Avenue and Aspen Hill Road. To the west is the Northgate Shopping Center; north and northeast is the Gate of Heaven Cemetery. Directly east and southeast is a C-1 shopping center on the east side of Georgia Avenue. Immediately south of the property is a pet cemetery and southwest is a church. The Aspen Hill Shopping Center is in the southeast quadrant of Aspen Hill Road and Connecticut Avenue. The subject property is predominantly in the C-1 Zone. Subsequent to obtaining a special exception for the existing service station. Amoco executed a lease agreement with the owner of the Northgate Shopping Center to provide more space for the planned expansion. That leased property is in the C-2 Zone.

Mr. Gabler, project engineer for Amoco, described the current facility as a very old service station which is in need of serious renovation. He stated that the configuration as well as the underground tanks, lines and the equipment have outlived their usefulness and will not meet new federal standards which will become effective in the near future.

Points of access are two curb cuts on Georgia Avenue and two curb cuts on Aspen Hill Road. While there is no formal connection between the station and the rest of the shopping center, the existing curb separating the two is worn down in several places and customers access the shopping center across these worn curbs. Mr. Gabler then explained that Amoco has entered into a lease agreement with Northgate Shopping Center for 18,000 square feet, making the size of the entire property 51,618 square feet.

Amoco first proposed to build a 24 X 52 foot convenience store and over the convenience store a 127 X 32 foot canopy to cover both the store and the six proposed pump islands. A car wash will be located on the newly leased property and will be 22 X 44 feet. Approach to the car wash will accommodate stacking of up to 12 cars. Additionally, Amoco will install new underground tanks and pipes to comply with new federal and state codes. Amoco also proposed to consolidate the two curb cuts on Georgia Avenue and the two curb cuts on Aspen Hill Road into one curb cut on each street.

The revised plan still includes demolition of all existing improvements, including underground tanks and pipes. Instead of a convenience store and carwash, however, Amoco proposes to construct a one-story, four-bay service facility. The plan still includes six pump islands which will be covered by a canopy, to measure 38' X 121', and a cashier's booth (20' X 20') which will also be under the canopy.

The service building will measure 90' X 30' and will be located to the rear of the property. A trash enclosure will be placed on the Georgia Avenue side of the building. The cashier's booth will have two pay positions and will sell cigarettes and candy. Three 12,000 gallon underground tanks will be located toward the rear on the Georgia Avenue side of the site.

The plan to reduce the number of curb cuts, leaving one on Georgia Avenue and one on Aspen Hill Road, remains unchanged. Two points of access will also be provided between the filling station and the shopping center. ✓

The service facility will be open from 6:00 AM to 6:00 PM, and the cashier's booth will be open 24 hours a day. Five to seven employees are planned for both the service facility and the filling station. The plan designates 20 parking spaces, enough for both employees and cars being serviced. Amoco proposes two signs, as they have now, but they will be placed in a slightly different location so they comply with the ordinance.

According to the landscape architect, the plan meets all the parking, setback, and green space requirements of the Zoning Ordinance. The Department of Environmental Protection has granted a stormwater management quantity waiver, and Amoco will be providing an oil grit separator for stormwater quality management. The site already has public water, and public sewer service will be extended to the site as part of the renovation.

The petitioner's traffic expert explained that the revised plan will have no impact on traffic in the area because it essentially updates what is already on the site. Internal circulation will be improved compared to existing conditions because the traffic patterns will be better defined and all pump islands concentrated in the center of the site.

Betty Hepburn, Chairman of the Citizens Advisory Committee for the Aspen Hill Master Plan, appeared at the first hearing and urged the Board to consider seriously the Planning Board Staff recommendations. No one appeared in opposition at the second hearing, and no one submitted statements in opposition to the revised proposal.

FINDINGS OF THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Technical Staff of M-NCPPC recommended denial of the first proposal (Exhibit No. 15) and approval of the revised plan (Exhibit No. 28), with conditions.

Findings of the Board

Based on the testimony and evidence in the record the Board finds that the proposed modification as revised satisfies the general conditions for special exceptions as defined by Section 59-G-1.21 of the Montgomery County Code, as well as the specific conditions of Section 59-G-2.06 for a gasoline filling station. The Board finds that the revised plan will not result in increased activity at the site. Rather, it will update the facility, maintain the service aspect of the station, and improve the appearance of the property. The plan will also result in safer and more efficient internal circulation and access from the adjoining property and roads.

Therefore, this modification to the special exception to permit the reconstruction of an automobile filling station is hereby granted to the Petitioner only, subject to the following conditions:

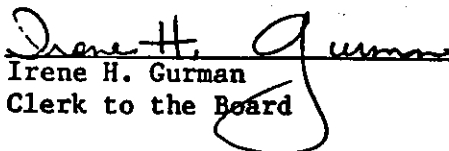
1. Petitioner is bound by all oral and written testimony, and all evidence and exhibits in the record.
2. Petitioner must submit a landscape, lighting, and signage plan to Technical Staff at M-NCPPC for review and approval. Plantings around the brick trash enclosure are not necessary. Two copies of the approved plan will be submitted to the Board for its records. All plant material will be maintained and replaced as necessary.
3. Construction will conform to plans entered in the record as Exhibit No. 26(a)-(c).
4. Petitioner must connect to public sewer service for the site.
5. Petitioner must obtain access permits from the State Highway Administration.
6. Hours of operation for the service facility will be from 6:00 a.m. - 6:00 p.m., Monday through Friday, and 24 hours daily for the filling station. A maximum of seven people may be employed.
7. Petitioner must obtain approval of a preliminary plan of subdivision from the Montgomery County Planning Board, if necessary.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled petition.

The foregoing Resolution was proposed by K. Lindsay Raufaste and concurred in by Judith B. Heimann, Chairman. Members Green and Strang have read the record and exhibits of the December 12, 1990 session and concurred in the majority decision. Howard Jenkins, Jr. was necessarily absent for the November 20, 1991 hearing and did not participate in the foregoing Resolution.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 19th day of March, 1992.


Irene H. Gurman
Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four-months' period within which the right granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

RECORDED JAN 13 1995

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Telephone
Area Code 301
217-6600

Case No. S-382-B

PETITION OF AMOCO OIL COMPANY
(Hearing held December 7, 1994)

OPINION OF THE BOARD

Effective date of Opinion: January 11, 1995

Case No. S-382-B is the petition of Amoco Oil Company for a modification to an existing special exception pursuant to Section 59-G-2.06 of the Zoning Ordinance to permit: (1) remodeling of the existing service station building; (2) reconstruction of one pump island and replacement of existing pumps with multi-hose dispensers; (3) extension of two pump islands and replacement of existing pumps with multi-hose dispensers; (4) installation of new canopies over each pump island; (5) replacement of the existing underground tanks and transmission lines with a new underground tank system; (6) connection of the site to a WSSC sanitary sewer; and (7) repaving of the entire site and addition of landscaping.

The subject property is part of Parcel A, Aspen Hill Shopping Center, and part of Parcel C, Northgate Aspen Hill Shopping Center, located at 13800 Georgia Avenue, Silver Spring, Maryland, in the C-1 and C-2 Zones.

Decision of the Board: Modification to the Special Exception GRANTED, subject to the conditions enumerated below.

Petitioner's Proposal

Jody Kline, Esquire, represented the petitioner, Amoco Oil Company, and called William Gabler, an expert in design and operation of service stations and Craig Shuman, an expert in civil engineering, as witnesses. He explained that the proposed modification is a more modest version of a modification which the Board of Appeals approved in 1992.

Witnesses explained that the modification proposes to renovate the service station building and to replace outdated pumping and storage equipment. The existing three-bay service building will be upgraded with new windows, doors, facade and interior improvements. A new internal cashier's area will be constructed as well. The existing three pump islands will remain, and each will be equipped with new multi-product dispensers and a canopy. Two will be extended. The number of fueling positions will be reduced from 12 to 10. The old storage tanks and transmission lines will be replaced with a double-walled underground tank system which will meet Stage Two vapor recovery standards. The paving will be replaced and landscaping will be added. Finally, the proposal includes connecting the site to the WSSC sanitary sewer located on the opposite side of Georgia Avenue.

The hours of operation for the service bays will be 6:00 AM to 6:00 PM, Monday through Friday, and 7:00 AM to 1:00 PM on Saturday. The modification proposes to extend the hours of gasoline sales to 24 hours a day, 7 days a week. Six employees will continue to be sufficient to staff the business. As an existing service station, the business continues to satisfy a neighborhood need.

Twelve parking spaces are required and are provided, including one space which is dedicated for handicapped access. No changes are proposed to the existing signs. Lighting fixtures will be replaced with 14' box-type downward projected models, and the locations will remain unchanged. The landscaping will be enhanced.

Witnesses explained that the petitioner will seek waivers for both quantity and quality stormwater management. The proposal will not increase the amount of impervious surface. If waivers are not granted, a sand filtration system will be proposed. As explained in testimony, the site is large and slopes generally from the northwest to the southeast, toward the driveways on Aspen Hill Road. It would be difficult but not impossible to grade entire site to drain to one location.

FINDINGS OF THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Technical Staff of Maryland-National Capital Park and Planning Commission recommended approval with conditions (Exhibit No. 15).

Findings of the Board

Based on the testimony and evidence in the record which is binding on the petitioner, the Board finds that the proposed modification satisfies the general conditions for special exceptions as defined by Section 59-G-1.21 of the Montgomery County Code, as well as the specific requirements contained in Section 59-G-2.06.

The only issue presented by this renovation and remodeling proposal involves stormwater management. The Board is uncomfortable with the petitioner's plan to apply for a waiver for quality control of stormwater runoff. An oil/grit separator was approved for the modification which was approved in 1992 but never implemented. The Board will require that the petitioner install a quality management system in conjunction with this modification. The petitioner will need to work with the Department of Environmental Protection about the specific system to be installed, but the Board intends that the level of treatment be commensurate at least with that provided by an oil/grit separator system.

Therefore, this modification to the special exception to permit the remodeling and renovation of the existing gasoline filling station, as described in this Opinion, is hereby granted, subject to the following conditions:

1. Petitioner is bound by the testimony, both oral and written, and all evidence and exhibits in the record.
2. Petitioner must submit a landscape and lighting plan to the Technical Staff of the Maryland-National Capital Park and Planning Commission for review and approval. The plan must indicate considerable enhancement of the existing landscaping. One copy of the approved plan must be submitted to the Board for its records. One copy must be submitted to the Zoning Supervisor at the Department of Environmental Protection (DEP). All plant material must be installed as approved and maintained and replaced as necessary.
3. Hours of operation for gasoline sales may be 24 hours a day, 7 days a week. For the service bays, the hours are 6:00 AM to 6:00 PM, Monday through Friday, and 7:00 AM to 1:00 PM on Saturday.
4. Petitioner may apply for a stormwater quantity waiver from DEP. Petitioner must obtain approval from DEP of a stormwater quality plan which achieves a level of treatment commensurate at least with that provided by an oil/grit separator.
5. Construction must comply with Exhibit No. 7.
6. All terms and conditions of the original special exception, and any modifications, remain in full force and effect unless altered by this Opinion.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled petition.

The foregoing Resolution was proposed by William S. Green, and concurred in by Helen R. Strang, Allison Bryant, Judith B. Heimann, Chairman, and K. Lindsay Raufaste.

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 11th day of January, 1995.

Tedi S. Osias

Tedi S. Osias

Executive Secretary to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four-months' period within which the special exception granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.