



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
4/24/03
Item #2

MEMORANDUM

DATE: April 18, 2003
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning
FROM: Bill Landfair, AICP, for the Department of Park and Planning
Sue Edwards, Team Leader, I-270 Team *Sue WPC*

REVIEW TYPE: Special Exception
APPLYING FOR: Automobile Filling Station/Convenience Store
REVIEW BASIS: Chapter 59, Zoning Ordinance
MASTER PLAN: Germantown

CASE NUMBER: S-2568
APPLICANT: IO Limited Partnership, LLLP
LOCATION: NE Quadrant of MD 118 and Bowman Mill Drive,
Germantown

FILING DATE: February 3, 2003
PLANNING BOARD: April 24, 2003
PUBLIC HEARING: April 30, 2003

STAFF RECOMMENDATION

Approval of the proposed special exception with the following conditions:

1. The applicant shall be bound by all of its submitted statements and plans.
2. Approval of an amended preliminary plan of subdivision by the Montgomery County Planning Board in accordance with the Subdivision Regulations, Chapter 50 of the County Code.
3. Approval of an amended site plan by the Planning Board in accordance with Division 59-D-3 of the Zoning Ordinance. The site

plan must address staff concerns regarding the provision of additional green space, improved opportunities for pedestrian access, and mitigation of lighting.

4. Approval of a Final Forest Conservation Plan prior to issuance of sediment and erosion control permits.
5. Compliance with stormwater and sediment control regulations of the Montgomery County Department of Permitting Services. The Stormwater Management Concept Plan must be consistent with the Final Forest Conservation Plan.
6. Compliance with all county, state and federal technical standards and permitting requirements for underground fuel storage tanks.

PROPOSAL DESCRIPTION

Introduction - The applicant has requested a special exception to permit the construction and operation of an automobile filling station with ancillary convenience store on property located in the southeast quadrant of the intersection of MD 118 (Germantown Road) and Bowman Mill Drive, Germantown, in the C-3 Zone. The development would include a convenience store building measuring 3,062 square feet in size, six multi-product dispensers on six islands covered by a canopy, and 25 parking spaces. The facility would operate 24 hours a day, seven days a week.

The subject property was recently rezoned to the C-3 Zone in Local Map Amendment G-788. That application was filed under the Optional Method with a Schematic Development Plan (SDP) providing binding elements that included a 3,100 square foot one-story building, a maximum building coverage of 5.5% of the site, a minimum green area of 35% of the site, and several prohibited uses. During the review of the rezoning application, the applicant made clear its intention to develop the property with an automobile filling station and ancillary convenience store. However, because that use requires approval of a special exception from the Board of Appeals, the use was not made a binding element of the SDP.

In their support of the rezoning application, the Planning Board and District Council recognized the benefit of the binding elements proffered in the SDP and believed that the potential impact of the use could be further addressed during subsequent review processes. The staff did not support the zoning application; however, we are recommending approval of the special exception with the conditions noted above. Staff finds that there are still a number of outstanding issues related to the application including the provision of additional green space, improved opportunities for pedestrian access, and mitigation of lighting but believe these issues can be adequately addressed at site plan.

Subject Property - The subject property contains 55,965 square feet of land located in the southeast quadrant of the intersection of MD 118 and Bowman Mill Drive. This location is about a mile southwest of the I-270 interchange with MD 118, a six-lane divided highway that extends past the subject property and the Germantown Town Center. The property has approximately 257 feet of frontage along MD 118, 249 feet of frontage along Bowman Mill Drive, and 276 feet of frontage along a dedicated but unbuilt portion of the Walter Johnson loop road. The unimproved site is nearly square in shape and relatively level, but about halfway into its depth it drops in elevation about six to eight feet toward Walter Johnson Road. The property is heavily wooded except for its northwest corner with trees extending 30 to 40 feet in height. The site does not contain any streams, wetlands, floodplains or other significant environmental features.

Surrounding Neighborhood – The surrounding neighborhood is bounded on the northwest by MD 118, on the northeast by Wisteria Drive, on the southeast by a regional stormwater management facility and on the south by the back ridgeline of the Germantown Historic District. The neighborhood includes the Germantown Master Plan's Analysis Area TC-6 and the Historic District.

The land use and zoning pattern of the neighborhood reflects a variety of uses classified in the O-M, C-T and R-200 zones. The uses within Analysis Area TC-6 include the historic Pumphrey/Mateney House, which has been converted into offices. Other uses include parking lots for a nearby MARC commuter rail station, a Verizon Telephone Dial Center, a veterinary clinic, a medical office complex, and a copy center. The uses within the Germantown Historic District are primarily historic single-family homes and a bank building. The closest of these homes to the subject property is approximately 800 feet away. The Historic District also includes the MARC station. Because of the railroad tracks, there are four pedestrian crossovers connecting the District with Analysis Area TC-6.

Adjoining the subject property to the northeast is an undeveloped parcel in the O-M Zone that extends from MD 118 to Walter Johnson Road. Confronting the property to the southeast, is the Verizon Dial Center located in the O-M and R-200 Zones. This facility exists by special exception (BA-2903) and is undergoing expansion of its building and parking lot. Further to the southeast is the Pumphrey/Mateney House. Confronting to the south, across Bowman Mill Drive, is a 270-space parking lot for the MARC station.

Elements of Proposal - The applicant has requested a special exception to permit the construction and operation of an automobile filling station with ancillary convenience store. As shown in the attached site plan, the development would include a convenience store building measuring 3,062 square feet in size, six multi-product dispensers on six islands covered by a canopy, and 25 parking spaces. The facility would operate 24 hours a day, seven days a week.

The one-story convenience store building would be located near Walter Johnson Road. The building would have four finished sides and utilizes a variety of building materials including stone and brick for the walls and a metal seam gable roof. Approximately 1,760 square feet of the building would be devoted to convenience food, beverage and customer service area. The remainder of the building would contain a cashier/sales area, storage and utility area, restroom, cooler space/storage, and an office. The HVAC equipment would be adjacent to the building enclosed by a fence. The dumpster enclosure would be across a drive aisle on the north side of the building.

The six multi-product dispensers would be located on six islands providing a total of 12 fueling positions. The multi-product dispensers would be located near MD 118 and protected by a canopy measuring 24 feet by 154 feet with a gable roof similar in design to that of the convenience store. The height would be 15 feet four inches to the bottom of the canopy and 22 feet nine inches to the peak of the gable. Two underground fuel tanks would be located immediately north of the fueling area.

A total of 25 parking spaces, including one handicap space, would be provided in close proximity to the convenience store. A total of three vehicular points of access are proposed for the property, one driveway entrance from Bowman Mill Drive and two entrances from Walter Johnson Road. The unimproved portion of Walter Johnson Road adjacent to the property would be constructed with two lanes as part of the development.

The proposed landscaping would include a mixture of shade and ornamental trees, evergreen trees, shrubs, perennials, and ornamental grasses. The lighting would consist of 20-foot high pole-mounted lights for the parking areas and drive aisles; wall-mounted fixtures illuminating building walls and sidewalks; and flush mounted down lights with flat lenses under the canopy. Metal halide lamps with full cut-off fixtures are proposed. One monument sign measuring eight feet by ten feet is proposed for the northwest corner of the property.

The facility would operate twenty-four hours a day, seven days per week. There would be three employee shifts of eight hours per shift starting at 6:00 a.m. One sales associate and one assistant manager would work each shift, with a station manager rotating among the shifts as necessary.

ANALYSIS

Master Plan – The subject property falls within analysis area TC-6 of the Germantown Master Plan, adopted and approved in 1989. The Master Plan recommends that this analysis area be a quiet, green, pedestrian-oriented enclave that provides relief from the intense development of the nearby Germantown Town Center and serves as a buffer for the Germantown Historic District.

During its review of Local Map Amendment G-788, the Planning Board questioned whether existing development in the neighborhood was consistent with that goal of the Master Plan. The Planning Board noted, in particular, that the MARC parking lots, with their expanse of asphalt occupying a significant amount of the land area adjacent to the Historic District, appear to be larger than was ever contemplated by the Master Plan.

In granting the rezoning application, the District Council agreed with the Planning Board's conclusions. The Planning Board and the District Council were aware of the applicant's intention to proceed with a special exception and develop the property with an automobile filling station and ancillary convenience store. The Council believed that the use would be in general harmony with the Master Plan goals for the area, particularly when considered in light of existing development in the vicinity (see attached resolution). The Council found that the construction of Bowman Mill Drive (after the adoption of the Germantown Master Plan) changed the character of the subject property and the surrounding area. The Council noted that it "turned the subject property into a strategically located corner lot, with dual access off Bowman Mill Drive and the future Walter Johnson loop road, whereas the Master Plan assumed the loop road would be the sole access point to the property. The new intersection created at Bowman Mill Drive and relocated MD 118 has a different character from and affects the rest of the enclave making it less pedestrian-oriented".

Design Issues - The staff finds that the special exception would relate appropriately to the surrounding neighborhood in terms of its siting, landscaping, scale, height, and building materials. There are still a number of outstanding issues related to the provision of additional green space, improved opportunities for pedestrian access, and mitigation of lighting. These issues, which are more fully discussed below, can be addressed at site plan.

Green Space and Pedestrian Access

The Master Plan states, "special exception uses should not be approved if they conflict with the intent to achieve a passive pedestrian environment in this area." For this reason, staff recommends that the property have two vehicular points of access rather than three, and that the one driveway entrance that is eliminated (on Walter Johnson Road) be converted to green space. This green space would be in the southwest corner of the property closest to and most in the view shed of the nearby Historic District and the historic Pumphrey/Mateney House. As such, it could help act as a buffer between the historic sites and the proposed commercial use. It is also nearest the MARC parking lots and could be developed so as to encourage people parking in these lots to walk comfortably and safely to the convenience store, without having to compete with vehicles in a driveway.

With appropriate landscaping in this green space to enhance the convenience store building, buffer the commercial use, and draw pedestrians to the building, the intent of the master plan would be more fully met.

Mitigation of Lighting

The lighting design consists of pole-mounted area lights, wall-mounted fixtures, and flush-mounted down lights with flat lenses under the canopy. The applicant is proposing metal halide lamps and full cut-off fixtures. The illumination levels proposed on the submitted point-by-point photometric analysis indicate an average illumination of 26.27 footcandles under the canopy and an average illumination of 3.08 footcandles in the parking areas and driveways. The surroundings in terms of the existing illuminated context can be categorized as light as opposed to dark surroundings typically found in rural areas. The Illuminating Engineers Society of North America (IESNA) standard practice guidelines for pump islands in a light surrounding recommend an average illumination of 10 footcandles. The IESNA standard practice for driveways and parking areas in light surroundings is an average of 2 footcandles.

Staff feels that the illumination levels proposed under the canopy area and in the parking areas are excessive and should be reduced to the recommended standard practice illumination levels per the IESNA. The recommended reductions should reduce the potential for perceived sky glow. Staff also recommends that the height from the bottom of the canopy be reduced to the minimum industry standard of 14 feet 6 inches and that a "skirt" be installed around the perimeter of the canopy in order to further hide the light source, focus on the intended subject and minimize the impacts of glare. Staff feels that with these measures, the lighting design should sufficiently address safety and would not have any adverse impacts to surrounding properties related to glare, light trespass or sky glow.

Development Standards – The special exception would comply with all relevant development standards for the C-3 Zone found in Section 59-C-4.36 of the Zoning Ordinance and those requirements which are specific to automobile-related uses in the C-3 Zone found in Section 59-C-4.367 of the Ordinance. These requirements include a building height limitation of 42 feet, minimum setbacks from street right-of-way and property lines, a minimum green area of at least 10 percent of the lot, and maximum building coverage of 35 percent. The special exception is also consistent with the binding elements approved in accordance with the Schematic Development Plan in Local Map Amendment G-788. These binding elements limit the building height to one-story, limit the building coverage to 5.5 percent of the site, require a minimum of 35 percent green area for the site, and prohibit a number of uses that would otherwise be allowed in the C-3 Zone. The table below indicates compliance with the relevant standards.

	C-3 Zone*	Proposed	Binding Elements**
Building Height	42 feet max.	28 feet (one-story)	one-story
Building Setbacks -from any com./industrial zone -from any residential zone -from any r/w greater than 120' -from controlled major highway or limited access freeway	10 feet 50 feet 50 feet 50 feet	10 feet 108 feet 108 feet N/A	N/A
Green Area	10 percent 5,597 sq.ft.	35.5 percent 19,856 sq.ft.	35 percent 19,588 sq.ft.
Building Coverage	35 percent	12.1 percent	N/A

*Includes those requirements which are specific to automobile-related uses in the C-3 Zone.

**Binding elements approved in accordance with the Schematic Development Plan in Local Map Amendment G-788.

The special exception would comply with all relevant development standards related to access, circulation and parking found in Sections 59-C-4.364, 59-C-4.365, and 59-E-3.7 of the Zoning Ordinance. Access would be from Bowman Mill Drive and Walter Johnson Road, both of which function as service roads for vehicular traffic entering the neighborhood from MD 118. The 25 parking spaces proposed exceed the minimum requirement by ten spaces.

Transportation – The Transportation Planning staff, based upon a review of the submitted traffic analysis, recommends the following conditions at preliminary plan review as part of the adequate public facilities test for transportation requirements related to the special exception.

1. The total development is limited to six multi-product dispensers providing a total of 12 fueling positions and a 3,062 square foot convenience store.
2. The applicant participates in constructing a separate southbound right-turn lane, a second northbound left-turn lane, a second eastbound left-turn lane, and re-striping of the separate westbound right-turn lane on Wisteria Drive as a shared through and right-turn lane at the intersection of MD 118 and Wisteria Drive.
3. The applicant participates in constructing a second westbound left-turn lane, a second northbound left-turn lane, and modification of the signal to eliminate eastbound-westbound split phasing at the intersection of MD

118 and Middlebrook Road. The applicant also participates in removing the channelized island located in the southeast quadrant of this intersection.

Policy Area Transportation Review

The subject property is located within the Germantown Town Center Policy Area. Based on the FY 03 AGP staging ceiling capacity, there is sufficient capacity available for both housing and employment developments (599 housing units and 3,958 jobs as of March 31, 2003) in that policy area.

Local Area Transportation Review

The submitted traffic analysis was prepared to determine the impact of the automobile filling station and convenience store on the surrounding roadway network. It is based on the traffic analysis prepared for Local Map Amendment G-788 and has been updated to reflect the elements of the special exception. Staff agrees with the conclusion of the traffic analysis that the proposed development, with the roadway improvements described in the conditions above, would not have an adverse impact on surrounding roadways.

The traffic analysis identified three local intersections as critical intersections to be affected by the development of the subject property and were examined to determine whether they meet the applicable congestion standard of 1,500 Critical Lane Volume (CLV) for the Germantown Town Center Policy Area. The CLV impacts of the proposed development on these intersections were analyzed and are summarized in the table below:

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour								
	Existing		Background		Total*		Total**	
	AM	PM	AM	PM	AM	PM	AM	PM
MD 118/Middlebrook Road	1190	1372	1331	1589	1534	1603	1494	1406
MD 118/Wisteria Drive	950	1526	1382	1858	1394	1875	1295	1440
Walter Johnson Road/Wisteria Drive	444	507	623	742	627	748	627	748

* Total development conditions without proposed roadway improvements

** Total development conditions with proposed roadway improvements

As shown in the table, all existing intersections analyzed are currently operating at acceptable levels of congestion (CLV standard is 1,500) except the intersection of MD 118/Wisteria Drive during the PM peak hour. Under the

background development condition (developments approved but not built), the intersections of MD 118/Middlebrook Road and MD 118/Wisteria Drive exceed the acceptable congestion standard. Under the total development conditions, the unacceptable conditions at the intersections identified under the background development conditions further deteriorate without additional roadway improvements. The applicant has proposed to participate, with other area developments, in constructing roadway improvements at intersections where unacceptable conditions are projected. These improvements are described in the conditions above and would allow the intersections to operate at acceptable CLVs.

Site Access and Vehicular/Pedestrian Circulation

Staff finds the proposed site access points and the ingress/egress proposal shown on the special exception plan safe and adequate. Staff also finds that the internal pedestrian circulation using sidewalks, existing along Bowman Mill Drive and proposed along Walter Johnson Road, and internal walkways as shown on the special exception plan safe and adequate.

Environmental – The Environmental Planning staff recommends approval of the special exception with the following conditions:

1. Approval of a Final Forest Conservation Plan prior to issuance of sediment and erosion control permits.
2. Compliance with stormwater and sediment control regulations of the Montgomery County Department of Permitting Services. The Stormwater Management Concept Plan must be consistent with the Final Forest Conservation Plan.
3. Compliance with all county, state and federal technical standards and permitting requirements for underground fuel storage tanks.

Forest Conservation

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) and Final Forest Conservation Plan were approved for the subject property in conjunction with the approval of a preliminary plan for a different use in August 2000. The Forest Conservation Plan indicated a total of 1.3 acres of required reforestation. As partial fulfillment of this requirement, 1.2 acres are recorded in the Mason Island Forest Mitigation Bank. This can be applied to the special exception. The remaining 4,356 square feet of required reforestation should be accounted for on the Final Forest Conservation Plan. The Forest Conservation Plan should indicate reforestation already provided in the mitigation bank and proposed landscaping credit. Sawtooth Oak (*Quercus accutissima*) and Barberry (*Barberis thunbergi*) are non-native invasive plant species that must be replaced with

suitable native species in order to be credited. There are two specimen trees on the subject property which are in poor condition and do not require mitigation for removal.

Watershed Protection

The subject property is in the Gunner's Branch subwatershed of the Middle Great Seneca Creek watershed. Gunner's Branch has fair stream and habitat conditions and has been designated a Watershed Restoration Area by the *Countywide Stream Protection Strategy*. All water quantity and quality controls are expected to prevent fuel, oil and other contaminants from entering the water system via wastewater or uncontrolled storm runoff.

Environmental Guidelines

The subject property is not located within a Special Protection Area or within the Patuxent River Primary Management Area. There are no streams or stream valley buffers within the property.

Air Quality

All installations that are potential sources of air pollution (including stationary sources such as gasoline storage tanks and fuel pumps in automobile filling stations) are regulated and require permits of approval from county and state authorities. State regulations (COMAR 26.11.24 and COMAR 26.11.13.04C) require the use of both Stage I and Stage II systems. Stage I vapor recovery systems trap gasoline vapors emitted during refilling of storage tanks by a tank truck, while Stage II vapor recovery systems capture gasoline vapors emitted during vehicle refueling. Using Stage I with Stage II recovery creates a closed system that recovers all gasoline vapors and returns them to the gasoline storage tank for eventual return to the fuel processing plant.

Fuel storage tank and fuel pump installation and use, must comply with the control guidelines and air quality permitting requirements of the Maryland Department of the Environment (MDE). In particular, the applicant must properly install, maintain and use Stage I and Stage II Vapor Recovery systems and a Vapor balance line, and must obtain applicable air quality permits to construct.

Inherent and Non-inherent Adverse Effects – The first step in analyzing the inherent and non-inherent adverse effects of a special exception is to define the boundaries of the surrounding neighborhood. In this case, the neighborhood is bounded on the northwest by MD 118, on the northeast by Wisteria Drive, on the southeast by a regional stormwater management facility and on the south by the back ridgeline of the Germantown Historic District. The neighborhood includes the Germantown Master Plan's Analysis Area TC-6 and the Historic District. The land use and zoning pattern of the neighborhood reflects a variety of uses in office and residential zones.

Analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. It is understood that every special exception has some or all of these effects in varying degrees. What must be determined during the course of review is where these effects are acceptable or would create adverse impacts sufficient to result in denial. To that end, inherent adverse effects associated with the use must be determined. In addition, non-inherent effects must be determined as these effects may, by themselves, or in conjunction with inherent effects, form a sufficient basis to deny a special exception.

The inherent adverse effects associated with automobile filling stations include the amount of impervious surface and its effect on stormwater management, the potential environmental impact from spillage of oils and other automotive fluids, fumes associated with start-ups and idling, queuing of vehicles entering the fueling islands, noise from outdoor activities and deliveries, lighting and signage. The staff finds that the physical and operational characteristics of the proposed use are no different than what is typically encountered with an automobile filling station. Automobile filling stations, including those with ancillary convenience stores, are increasingly operating 24 hours a day. Fuel storage tank and fuel pump installation and use, must comply with the control guidelines and air quality permitting requirements of the state. The overall size of the facility is not unusually large. With the absence of a car wash and repair facilities, the proposed use would have fewer impacts than a generic automobile filling station.

The staff has recommended certain modifications to the canopy and lighting system to mitigate lighting. Staff feels that with these measures, the lighting design should sufficiently address safety and would not have any adverse impacts to surrounding properties related to glare, light trespass or sky glow.

Community Concerns - The Germantown Alliance has criticized on numerous occasions the lighting levels of projects approved in Germantown. The community asks staff to carefully analyze light levels at property boundaries and to be mindful of the “glow” emitted from commercial activities.

General and Specific Special Exception Provisions – The staff has reviewed the petition for compliance with the applicable special exception provisions. As noted in the attachment, all general and specific requirements for an automobile filling station found in Sections 59-G-1.21 and 59-G-2.06 of the Zoning Ordinance would be satisfied. In addition, the special exception conforms to the neighborhood need requirement for the use found Section 59-G-1.24 of the Zoning Ordinance.

Conclusion – The staff finds that the special exception satisfies all of the applicable special exception provisions for an automobile filling station found in the Zoning Ordinance. Therefore, we recommend approval with the conditions found at the beginning of the report.

Montgomery County Zoning Ordinance

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 automobile filling station is an allowed special exception in the C-3 Zone and the convenience store is an allowed accessory use.

(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 special exception would satisfy all of the requirements for the use found in 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 adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a 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 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 District Council, in its review of Local Map Amendment G-788, found the use to be in harmony with the Master Plan goals for the area, particularly when considered in light of existing development in the immediate vicinity

(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 use would be in harmony with the general character of the neighborhood considering these criteria. The convenience store building and canopy has been designed to be architecturally compatible with the neighborhood. There is adequate queuing and ample parking provided on-site. The use would be the only automobile filling station in the neighborhood.

- (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 use would not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood, irrespective of any adverse effects the use might have elsewhere in the zone. The impacts from the use would be inherent and, with the absence of a car wash and repair facilities; it may have fewer impacts than a generic automobile filling station. There would be no non-inherent adverse effects.

- (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.

The use would not cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity or any other adverse effects irrespective of any adverse effects the use might have elsewhere in the zone. To the extent any of the foregoing effects are noticeable, they are inherent in the use. Physical activity is limited outdoors to the use of the multi-product dispensers, and all activity for the ancillary use is conducted within the convenience store building. Fumes and odors would be reduced by the use of vapor recovery nozzles, and noise levels and traffic activity would be masked by vehicular activity on the adjacent roadways. Staff has recommended certain modifications to the canopy and lighting system to mitigate lighting. Staff feels that with these measures, the lighting design would not have any adverse impacts to surrounding properties related to glare.

- (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.

When considering the number, intensity or scope of special exception uses in the surrounding neighborhood, the proposed use would not adversely affect any nearby residences. There are no other automobile filling stations in the immediate neighborhood.

- (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 of any adverse effects the use might have if established elsewhere in the zone.

The use would have no such affect on the area and may offer a level of convenience not currently available to residents, visitors, and workers. Pedestrian and vehicular access would be safe.

- (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.

- (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. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

The special exception would be subject to approval of a revised preliminary plan to reflect the change in use of the property and amend the previously approved Adequate Public Facility conditions incorporated in the original preliminary plan conditions.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

The staff has found no evidence that the proposal would reduce the safety of vehicular or pedestrian traffic.

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 fumes and odors generated by the use would be reduced by the use of vapor recovery nozzles, and noise levels and traffic activity would be masked by vehicular activity on the adjacent roadways. Physical activity is limited outdoors to the use of the multi-product dispensers, and all activity for the ancillary use is conducted within the convenience store building.

(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.

The use would not create a traffic hazard or traffic nuisance. Circulation onto and out of the site would be controlled in part by existing traffic signals, at the intersections of MD 118 and Wisteria Drive to the north and MD 118 and Dawson Farm Road to the south. Sight distance at the driveway entrances is good, on-site circulation is adequate, and substantial parking is proposed. There are no schools, significant parks or playgrounds, hospitals, or other places of public assembly nearby that might be impacted.

(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 District Council, in its review of Local Map Amendment G-788, found the use to be in harmony with the Master Plan goals for the

area, particularly when considered in light of existing development in the immediate vicinity. The automobile filling station would be the seventh along MD 118, including those in the Germantown Town Center. While the existing stations are capable of handling current and future demand, the proposed station would enhance convenience for the local population.

(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, sightly, solid fence, not less than 5 feet in height, together with a 3-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.

The subject property does not directly abut a residential zone. The view of the canopy, fuel dispensing operation and convenience store would be screened from the nearest residential development by topography. The staff has found that the use would relate appropriately to the surrounding neighborhood in terms of its landscaping.

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

No signs, product displays, parked vehicles or other obstructions are proposed that would adversely affect visibility at intersections or driveway entrances. There is ample room on-site for the queuing of vehicles at the pump islands.

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

The staff has recommended certain modifications to the canopy and lighting system to mitigate lighting. Staff feels that with these measures, the lighting design should sufficiently address safety and would not have any adverse impacts to surrounding properties related to glare, light trespass or sky glow. The nearest residence is approximately 800 feet away.

- (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.

All driveways would be at least 20 feet from the intersection of the front and side street lines. No driveway would exceed 30 feet in width.

- (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.

All multi-product dispensers (gasoline pumps) would be located at least 10 feet behind the building line. The proposed dispensers would be located in conformance with the submitted site plan. The driveway entrances are at least 20 feet apart and perpendicular to the curb. No outdoor storage or similar activities are proposed.

- (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.

The applicant has stated that no light automobile repair work would be done at the automobile filling station.

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

The applicant has stated that no vehicles would be parked so as to over hang 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.

Not applicable.

59-G-1.24. Neighborhood need.

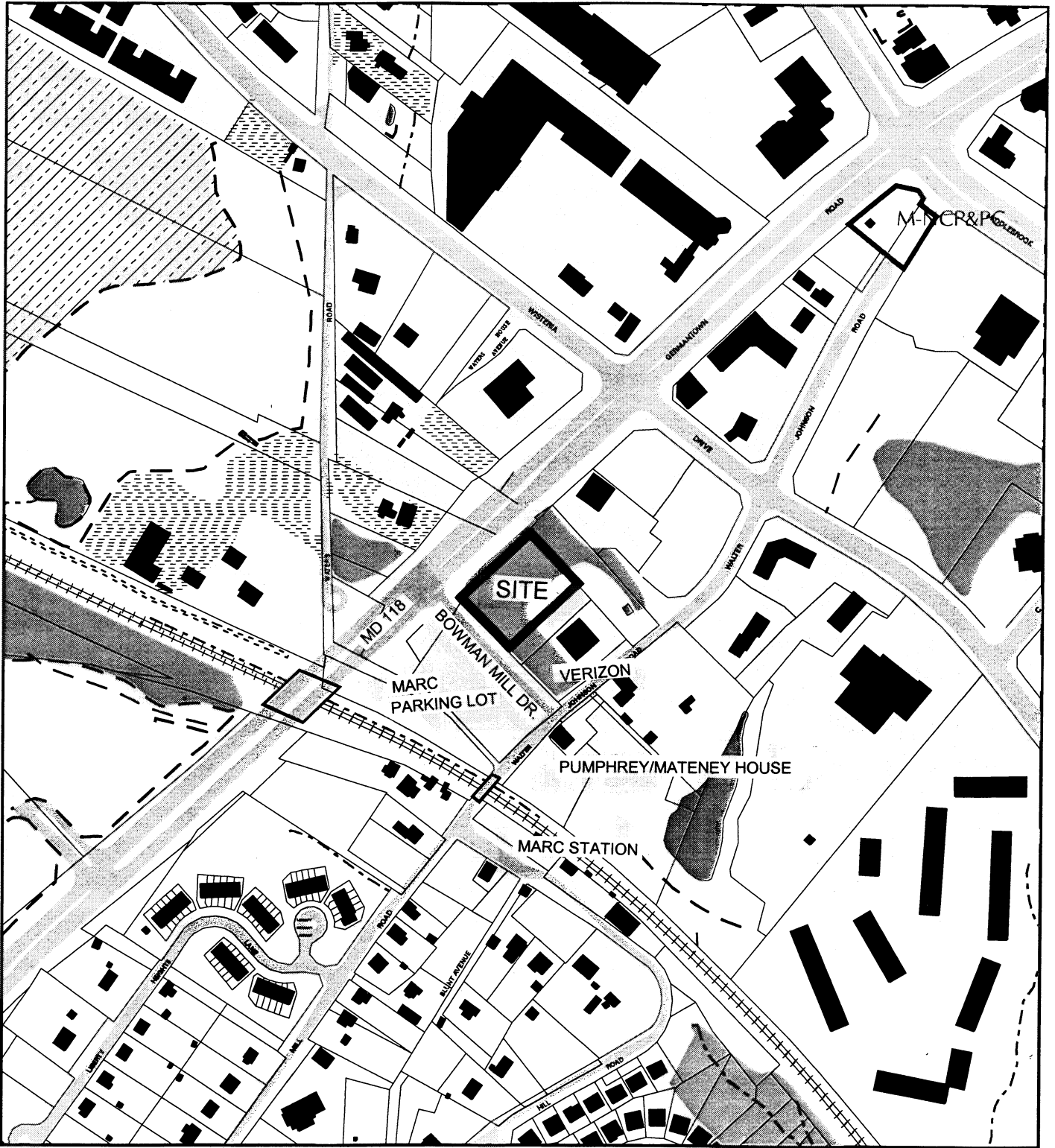
In addition to the findings and requirements of Article 59-G, the following special exceptions may only be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar 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) Swimming pool, community.
- (6) Swimming pool, commercial.

The Research & Technology Center staff has reviewed the proof of need analysis submitted by the applicant in support of the special exception and conducted a field visit to the subject property and surrounding neighborhood. The staff memorandum is attached as an exhibit.

In summary, the applicant has utilized several methods commonly employed by real estate market analysts. Most of these methods use industry-wide data or historical sales trends at the County level to approximate likely sales potential at the local level. Review of these methods and the applicant's calculations show no errors, omissions, or mischaracterizations. Calculations show a potential market for additional filling stations within this area. The staff concludes that the proposed automobile filling station and ancillary convenience store would satisfy the need requirement of "public convenience and service" as defined by the Zoning Ordinance.

VICINITY MAP FOR
S-2568



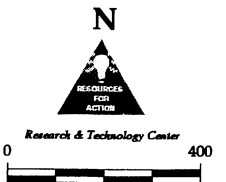
Map compiled on April 18, 2003 at 11:56 AM | Site located on base sheet no - 227NW13

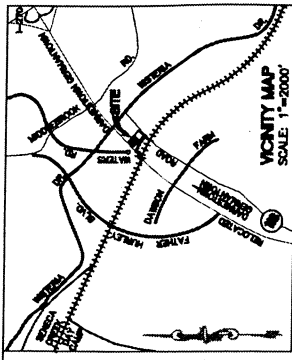
NOTICE

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.

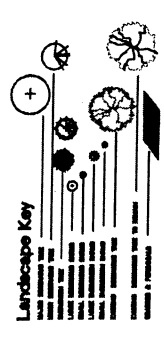
This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area 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





BENCHMARK
 BM 2798 (4) 200-338 ELEV. 494.750 (D40029)
 BOWMAN MILL AND BOWMAN MILL RD. NORTH OF
 WESTERN DRIVE

LEGEND
 CONCRETE CURB & GUTTER
 PROPOSED CURB & GUTTER
 PROPOSED ASPHALT DRIVE
 EXISTING ASPHALT DRIVE
 EXISTING STREET TIE IN
 EXISTING SIDEWALK



Plant List

SYMBOL	PLANT NAME	QUANTITY	DATE
(Symbol)	6 Sugar Maple	10	10/10/00
(Symbol)	10 Oregon Grape Holly	10	10/10/00
(Symbol)	6 Bottlebrush Buckeye	10	10/10/00
(Symbol)	9 Viburnum	10	10/10/00
(Symbol)	1 Barbican Spruce	10	10/10/00
(Symbol)	9 Viburnum	10	10/10/00
(Symbol)	5 Colonial Hydrangea	10	10/10/00
(Symbol)	2 Sweetbay Magnolia	10	10/10/00
(Symbol)	10 Viburnum	10	10/10/00
(Symbol)	7 Sambath Oak	10	10/10/00
(Symbol)	2 Barbican Spruce	10	10/10/00

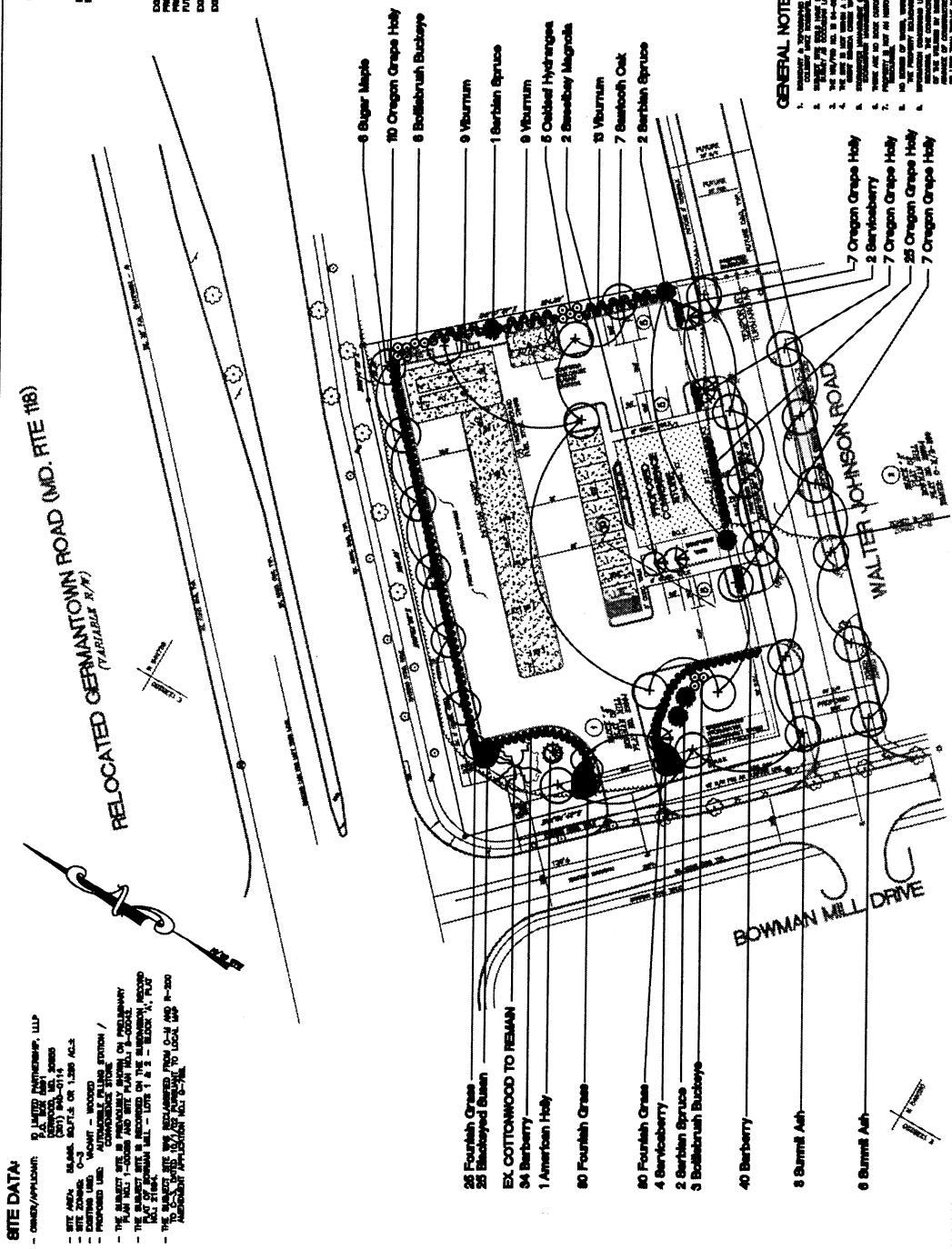


**Landscape Plan to Accompany
 SPECIAL EXCEPTION PLAN
 AUTOMOBILE FILLING STATION
 AND CONVENIENCE STORE
 RELOCATED GERMANTOWN ROAD (MD. RTE. 198)
 AND BOWMAN MILL DRIVE**

DATE: JANUARY 12, 2000
 DRAWN BY: [Name]
 CHECKED BY: [Name]

Colbert Metz Rosenfeld, Inc.
 Landscape Architects & Planners
 10000 Park Road
 Baltimore, Maryland 21286
 Telephone: (410) 853-3030
 Facsimile: (410) 853-7983

NO.	DATE	REVISIONS	BY	SHEET # OF #



SITE DATA
 OWNER/APPLICANT: [Name]
 SITE AREA: 1.64 AC.
 ZONING: C-3
 PROPOSED USE: AUTOMOBILE FILLING STATION / CONVENIENCE STORE
 THE SUBJECT SITE IS INCORPORATED IN THE SUBDIVISION RECORD MAP OF GERMANTOWN MILL - LOTS 1 & 2 - BLOCK "A", PLAT [Number], RECORD [Number], AND IS SUBJECT TO LOCAL ORDINANCES AND REGULATIONS.

- 26 Fourleaf Grass
- 25 Bottlebrush Buckeye
- EX COTTONWOOD TO REMAIN
- 54 Barberry
- 1 American Holly
- 80 Fourleaf Grass
- 80 Fourleaf Grass
- 4 Barberry
- 2 Barbican Spruce
- 3 Bottlebrush Buckeye
- 40 Barberry
- 8 Summil Ash
- 6 Summil Ash

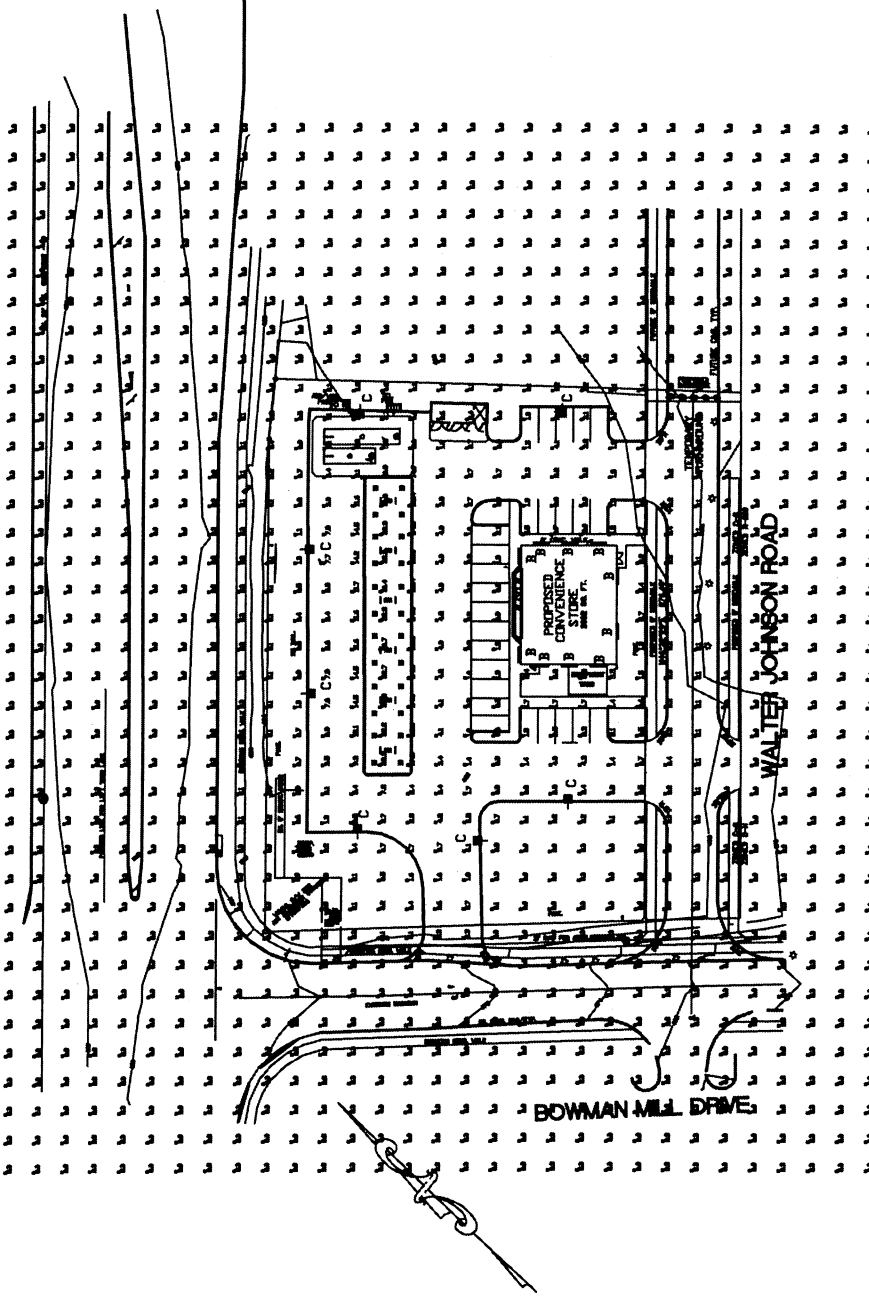
- 6 Sugar Maple
- 10 Oregon Grape Holly
- 6 Bottlebrush Buckeye
- 9 Viburnum
- 1 Barbican Spruce
- 9 Viburnum
- 5 Colonial Hydrangea
- 2 Sweetbay Magnolia
- 10 Viburnum
- 7 Sambath Oak
- 2 Barbican Spruce
- 7 Oregon Grape Holly
- 2 Barberry
- 7 Oregon Grape Holly
- 25 Oregon Grape Holly
- 7 Oregon Grape Holly

GENERAL NOTES

- CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE PROPOSED PLAN AND THE PROVISIONS OF THE SUBDIVISION RECORD MAP.
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- THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THE SUBDIVISION RECORD MAP.

SPECIAL EXCEPTION TO PERMIT AN AUTOMOBILE FILLING STATION IN A C-3 ZONE WILL BE GRANTED IF THE PROPOSED CONSTRUCTION IS IN ACCORDANCE WITH SECTIONS 66-3-4.1(1) & 66-3-2.6 OF THE SUBDIVISION RECORD MAP.

RELOCATED GERMANTOWN ROAD (MD. RTE 118)
(VARIABLE R/W)



MAINTAINED FOOTCANDLE VALUES AT GRADE,
USING A 172 MAINTENANCE FACTOR.



FLAT LENS
SCOTTSDALE



GREENBRIAR
FLAT LENS

Rev.	Date	By

INDUSTRIAL
LAYOUT
MONTGOMERY CO. MD.
10-59587
SHEET 1 OF 1

SPECIAL EXCEPTION PLAN
AUTOMOBILE FILLING STATION
AND CONVENIENCE STORE
RELOCATED GERMANTOWN ROAD (MD. RTE. 118)
AND BOWMAN MILL DRIVE

COBERT METZ ROSENKIL, INC.
10000 WOODBURN ROAD
BETHESDA, MARYLAND 20814
TELEPHONE (410) 852-3038
FACSIMILE (410) 852-7903

NO.	DATE	REVISIONS	BY	SHEET 3 OF 5

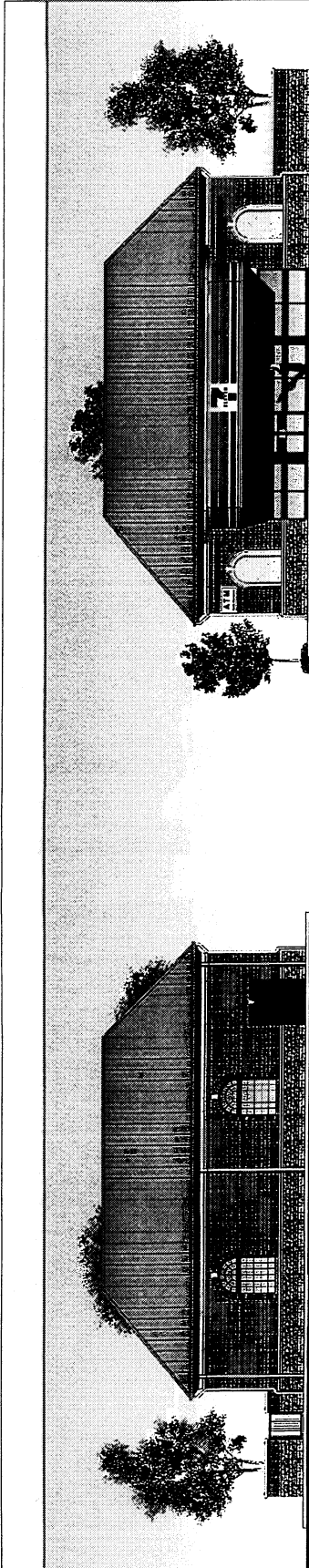
LAWSIT PREPARED FOR CLIENT'S REQUEST TO ACHIEVE NO MORE THAN 5 AT PROP. LINE.
A 1/2" AVENUE OF 5' AND A 1/2" AVENUE OF 30' UNDER CARRY

STATION	BY	DATE	REVISIONS	SCALE	DATE

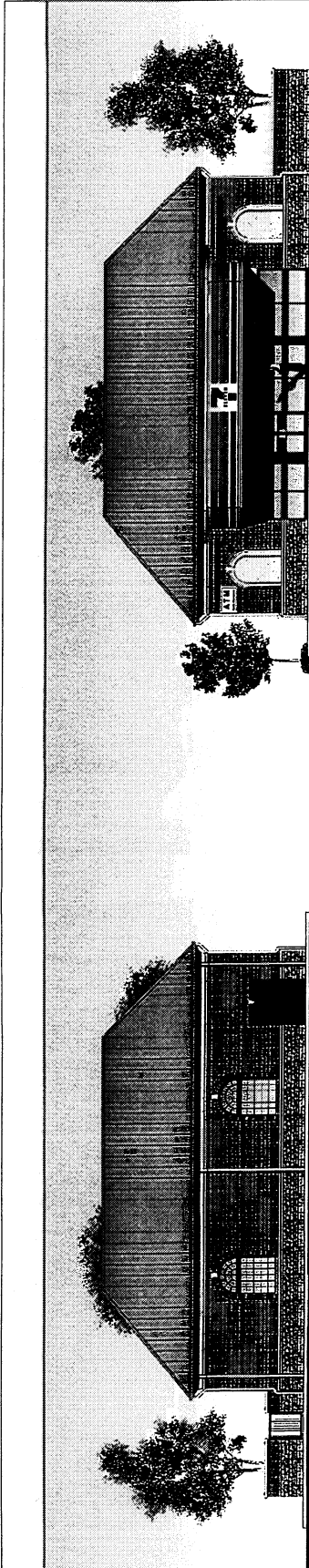
LAND	AREA	NO.	DATE	NO.	DATE

SPECIAL EXCEPTION TO PERMIT AN AUTOMOBILE FILLING STATION IN A C-3 ZONE WILL BE GRANTED PROVIDED THE PROPOSED DEVELOPMENT CONFORMS WITH SECTIONS 86-C-13.0 & 86-4-1.05 OF THE MONTGOMERY COUNTY CODE.

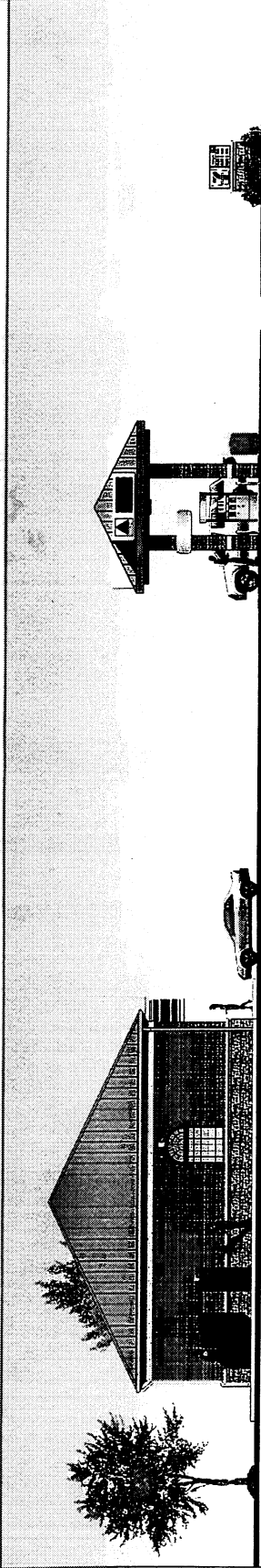
Based on the information provided, all dimensions and boundary locations were determined from a recent survey and are shown on this plan. The engineer hereby certifies that the information provided is true and correct to the best of his knowledge and belief. The engineer does not warrant the accuracy of the information provided for any purpose other than that for which it was prepared. The engineer's liability is limited to the professional services rendered by him or her.



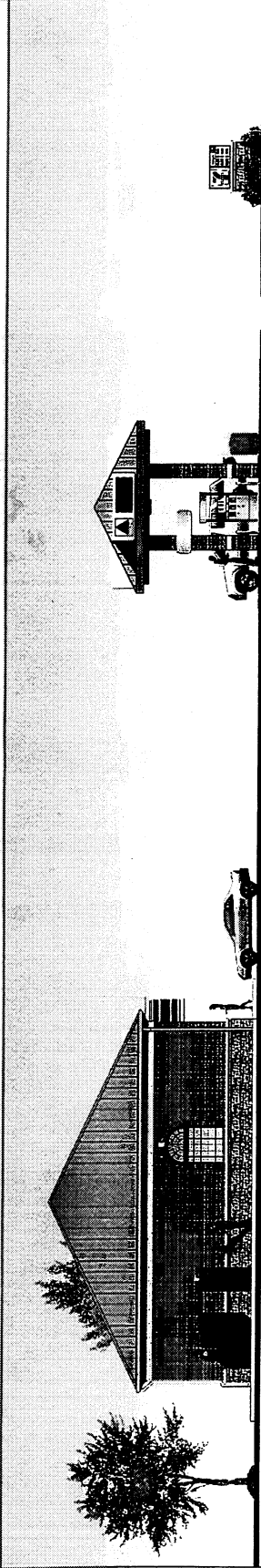
REAR ELEVATION



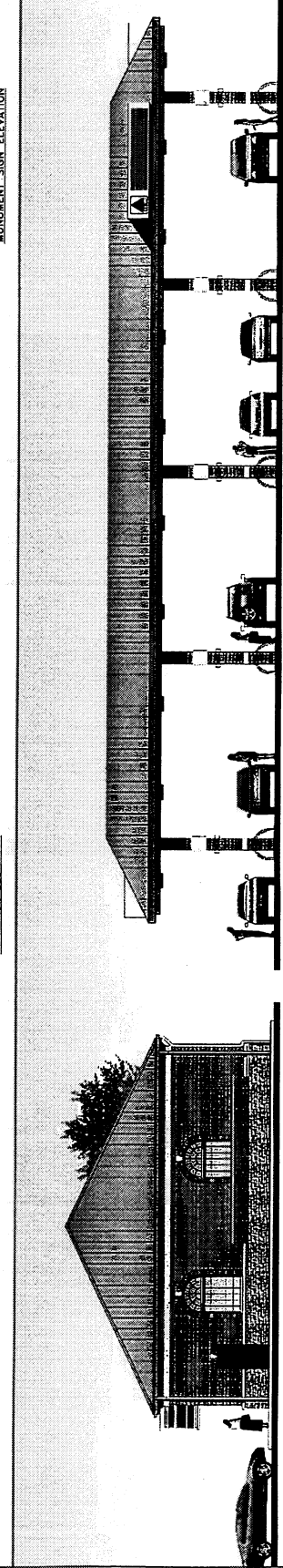
FRONT ELEVATION W/O CANOPY



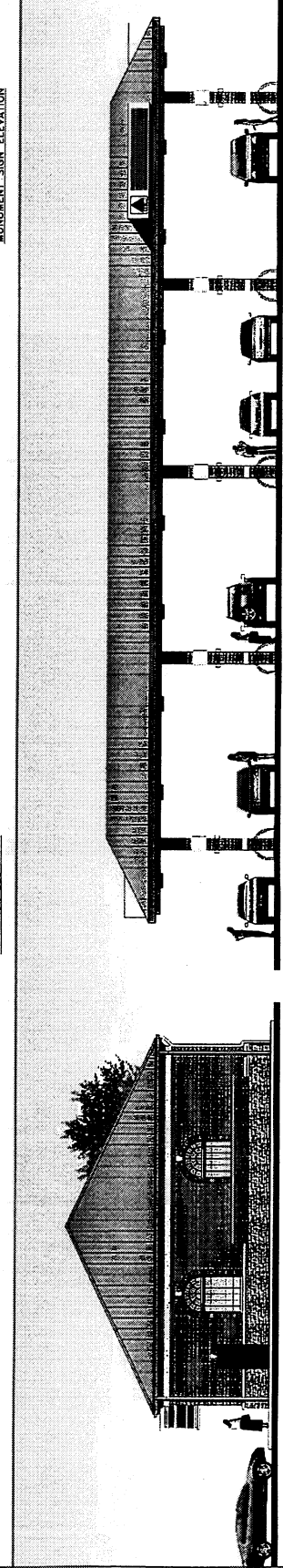
LEFT SIDE ELEVATION



MONUMENT SIGN ELEVATION



RIGHT SIDE ELEVATION



GASOLINE CANOPY ELEVATION

URS
 4 North Park Drive, Suite 300
 Hunt Valley, Maryland 21030
 (410)785-7220

MATERIAL SPECIFICATIONS	DATE
1. ALL SPECIFICATIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED	08/11/08
2. ALL MATERIALS SHALL BE NEW UNLESS OTHERWISE NOTED	
3. ALL MATERIALS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED	
4. ALL MATERIALS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED	
5. ALL MATERIALS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED	
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8. ALL MATERIALS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED	
9. ALL MATERIALS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED	
10. ALL MATERIALS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED	

STORE #2541-32967
 ROUTE 118 @ BOWMANS MILL
 GERMANTOWN, MD 20169
 MONTGOMERY COUNTY



7-ELEVEN INC.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

TO: Bill Landfair
Planner Coordinator
Community Based Planning Division

VIA: Frederick R. Peacock, Master Researcher
Research & Technology Center

FROM: Gary Goodwin, Research Coordinator
Research & Technology Center

Date: April 10, 2003

RE: **7-11 Automobile Filling Station – Proof of Need Analysis
Route 118 & Bowman Mill Dr.
Germantown, MD**

Findings: **Applicant’s proposed filling station would provide convenience to
Germantown residents**

Introduction

Research & Technology Center staff has reviewed the proof of need analysis for a 7-11 automobile station at Route 118 and Bowman Mill Drive, Germantown. We conducted this review to determine if the applicant’s report complied with Montgomery County Zoning Ordinance (59-G-1.24), which requires an applicant to prove neighborhood need when seeking a special exception for an automobile filling station.¹

Staff reviewed the applicant’s proof of need analysis and conducted a field visit to the applicant’s proposed site and surrounding areas.

Review of Proof of Need Analysis

The applicant’s analysis utilizes several methods commonly employed by real estate market analysts. Most of these methods use industry-wide data or historical sales trends

¹ Montgomery County Zoning Ordinance (59-G-1.24) states “...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...”

at the County level to approximate likely sales potential at the local level. Review of these methods and the applicant's calculations show no remarkable errors, omissions, misinterpretations, or mischaracterizations. Calculations show a potential market for additional filling stations within this area.

Field Observations

The proposed filling station would be part of an established retail cluster lining the north and south sides of Germantown Road. This commercial area is occupied by neighborhood shopping establishments including the Germantown Commons Shopping Center, the Germantown Center, and Sugarloaf Centre. In addition to retailing, office buildings (leased space and owner occupied) are found in the same area. These offerings serve local residents as well as the community residing beyond the immediate area.

Six filling stations are found near the proposed site offering four major gas brands.

1. Amoco
2. Exxon
3. Citgo
4. Mobil
5. Exxon
6. Shell

The applicant's proof of need analysis does not specify which brand would be offered at the proposed station.

Distinguishing Factor

The proposed station would be the seventh station in an expanding neighborhood and community shopping area and employment center. The existing stations are likely to have the capacity to handle current and future demand and do provide residents with competitive choices in terms of service and price. However, the proposed filling station would enhance convenience to gasoline products.

The proposed station would offer a level of convenience not currently enjoyed by local residents and employees. First, it would be easily accessible to drivers entering and leaving the heavily used Germantown MARC station that accommodates hundreds of riders each day. The station will have one access on Bowman Mill and two access points on Walter Johnson Rd.

Second, the proposed station would provide gasoline to those traveling northbound lanes of Germantown road. It would be the first filling station a driver would approach traveling northbound from the existing residential areas along Germantown Road for several miles. At this time, four out of six filling stations are located on the north side of Germantown Road making them more readily accessible to southbound drivers who can reach them via right turns. Northbound travelers can reach these stations only at principal intersections that allow left hand turns. The proposed station would start to balance the number of stations easily accessible for travelers on each side of Germantown Road.

This may help decrease current or potential congestion at intersections on this well traveled road.

Conclusion

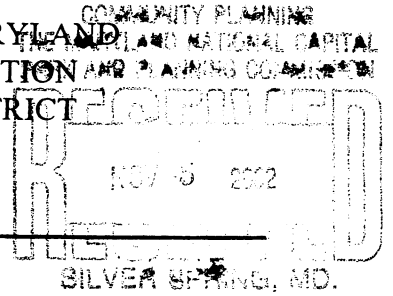
If constructed, the applicant's station will fit into the overall retail environment already existing on Germantown Road. The proposed station will satisfy the need requirement of "public convenience and service" as defined by the Montgomery County Zoning Ordinance.

Resolution No. 14-1447

Introduced: October 1, 2002

Adopted: October 1, 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY



By: County Council

Subject: APPLICATION NO. G-788 FOR AMENDMENT TO THE ZONING ORDINANCE
MAP, Stanley D. Abrams, Attorney for I.O. Limited Partnership, L.L.P., Applicant,
OPINION AND RESOLUTION ON APPLICATION
Tax Account Nos. 02-00017523, 02-00018276

OPINION

Application No. G-788 requests reclassification from the O-M and R-200 Zones to the C-3 Zone of 1.6 acres known as Lot 1, Block A, Bowman Mill Subdivision, located at the southeast quadrant of the intersection of relocated MD Route 118 and Bowman Mill Drive, Germantown, in the 9th Election District. The application was filed under the Optional Method authorized under §59-H-2.5, which permits binding limitations with respect to land use, density and development standards or staging.

Two Hearing Examiner reports, dated December 7, 2001 and August 1, 2002, recommended denial of the application, as did Technical Staff of the Maryland-National Capital Park & Planning Commission. However, the Montgomery County Planning Board, after having initially recommended denial of the application, voted on May 23, 2002 to recommend approval. The Planning Board found that with the binding elements proffered by the Applicant in the schematic development plan (SDP), the potential impact of the rezoning can be adequately addressed in subsequent review processes including site plan and special exception. The Planning Board also questioned whether existing development in the area is consistent with the goal stated for the area in the *1989 Germantown Master Plan*, which was to establish a “quiet, green, pedestrian-oriented enclave.” The Planning Board noted, in particular, that the MARC parking lots, with their expanse of asphalt occupying a significant amount of the land area adjacent to the Historic District, appear to be larger than was ever contemplated by the Master Plan. The District Council agrees with the Planning Board’s conclusions.

The subject property is located in the Germantown and Vicinity Planning Area about a mile southwest of the I-270 interchange with MD Route 118, a six-lane divided highway that extends past the subject property and the Germantown Town Center. The subject property is located at the

intersection of Bowman Mill Drive and Route 118, and contains about 257 feet of frontage along Route 118 and 249 feet of frontage along Bowman Mill Drive. The site forms a nearly square-shaped parcel and is relatively level, but about halfway into its depth it drops in elevation about six to eight feet toward a dedicated right-of-way for an unbuilt portion of Walter Johnson Road. The property is heavily wooded except for its northwest corner and the trees extend 30 to 40 feet in height. The site does not contain any streams, wetlands, floodplains or other significant environmental features.

The subject property was classified under the R-R Zone by the 1958 countywide comprehensive zoning. Subsequently, the R-R Zone was changed to the R-200 Zone, although the density remained the same. This residential zoning density was reconfirmed by comprehensive zonings in 1974, 1984 and again in 1987. A portion of the subject property was reclassified to the O-M Zone under LMA G-509 in 1987. The last comprehensive zoning was applied in 1990 and confirmed the existing split zoning designation for the site.

The surrounding area is bounded on the northwest by Route 118, on the northeast by Wisteria Drive, on the southeast by the regional stormwater management facility and on the south by the back ridge line of the Germantown Historic District. This area includes the *1989 Germantown Master Plan's* Analysis Area TC-6 and the Historic District.

The land use and zoning pattern of the area reflects a variety of uses classified under office and residential zones. Land uses within the Germantown Historic District are primarily historic single-family homes and a bank building. The District also includes the MARC commuter railroad station, which is a replica of the original station that burned down. There are some four pedestrian crossovers that connect the Historic District with Analysis Area TC-6. The uses within Analysis Area TC-6 include two individual historic resources, the Pumphrey/Mateney House, which has been converted to commercial use, and the site of the former Madeline Waters House, which burned down some years ago. Other uses include the parking lots for the MARC station, the Verizon Telephone Dial Center, and several low-intensity office uses. Portions of the area also contains streetscape, trees and low-scale, ornamental Washington-type streetlights.

In an attempt to maintain a connection between the Historic District south of the railroad tracks and the individual historic resources located north of the tracks, a bridge over the railroad was converted to pedestrian use and re-designed to be compatible with the historic resources. It contains brick paving stones, ornamental Washington-type streetlights, historic-type benches and iron fencing. The bridge is a popular amenity in the area and is used by area residents and commuters.

Bowman Mill Drive also was constructed in a manner designed to be consistent with and complement Germantown's historic resources. It is a two-lane road flanked by pedestrian walkways,

street trees and ornamental Washington-type streetlights. The design of this road and the pedestrian bridge, however, do not change the fact that the MARC parking lots are a predominant land use. They run the complete length of Bowman Mill Drive, in part confronting the property that is the subject of this application, and they surround the Pumphrey Mateney House on three sides. On the north side of the railroad tracks, the brick walkway leading to the pedestrian bridge rests on a small island between parking lots.

The Applicant proposes to limit development under the C-3 Zone by means of an SDP. The plan contains binding elements that include a 3,100-square foot one-story building, a maximum building coverage of 5.5% of the site, a minimum green area of 35% of the site, and several prohibited uses. The prohibited uses include storage of waste material, auto parts, refuse and motor vehicles within any required setback; automobile, truck, boat and trailer sales, service and rentals; building supply stores; eating and drinking establishments including drive-ins; heavy equipment sales and service; and billiard parlors, bowling alleys, miniature golf courses, and roller rinks. Proposed signage will comply with the county code and no major motor vehicle repair operations will be conducted on-site.

The proposed building would have access from Bowman Mill Drive and the future extension of Walter Johnson Road. These would be the only access points and would provide for access to parking and the uses that are eventually authorized for the site. Some 13,753 square feet of the site will be dedicated for the extension of Walter Johnson Road. It is the Applicant's present intention to develop the property with an automobile filling station with twelve pumps, a canopy cover and a convenience store. The convenience store would occupy about 1,850 square feet of the proposed building as retail space and the balance of the building would be used for bathrooms, office space and storage. The automobile filling station use would require a special exception from the Board of Appeals and, therefore, is not a binding element of the SDP.

The District Council concludes that the proposed location complies with the requirements of the C-3 Zone. The subject property meets the initial threshold requirement stated in the purpose clause of the C-3 Zone, because it is adjacent to a six-lane highway. In addition to this threshold requirement, the purpose clause of the C-3 Zone states that the zone is intended "to provide sites for commercial uses related to the traveler and highway user that may require large land areas, but do not depend on adjacent uses for comparison shopping or pedestrian trade; and sites for commercial facilities which are related to the traveler and highway user." Code § 59-C-4.360. The potential uses are indisputably commercial facilities related to the traveler and highway user, fully consistent with the requirements of the C-3 Zone. Given that the subject site would have direct access only from Bowman Mill Drive and the future Walter Johnson Road, the proposed rezoning is also consistent with the intent

of the C-3 Zone that “direct access to the highway be controlled by restricting development to service road access.” *See Code § 59-C-4.360.*

The District Council finds that the proposed development will be compatible with existing and planned land uses in the surrounding area. The moderate-intensity uses authorized by the C-3 Zone are not inconsistent with a transitional area between the intensive uses of the Town Center core areas and the neighboring Historic District. The restrictions of the SDP require a minimum 35% green area on the subject site and a low-scale building along the same lines as other buildings in the area. The proposed rezoning and development will not have an adverse impact on the Germantown Historic District, which is located, on average, roughly 1,000 feet from the subject property, on the other side of the railroad tracks, in another master plan analysis area (Clopper Village). Visibility from most of the Historic District to the subject site is limited because of intervening uses and trees. The proposed rezoning and development will not have an adverse impact on either of the two individual historic resources: the closest of these, the Pumphrey-Mateney House, is located 800 feet from the site and is screened from it by the Verizon dial center building and trees. Moreover, the evidence indicated that the integrity of the historic resources in the area has been compromised by developments in the immediate vicinity, including new townhouses visible on a ridgeline, the MARC parking lots, and a postal service distribution facility located slightly north/northeast of the Historic District.

The proposed rezoning and development would be in general harmony with the Master Plan goals for this area, particularly when considered in light of existing development in the immediate vicinity. Although the master plan does not recommend the C-3 Zone for this location, it recommends the C-3 Zone for nearby locations within Town Center core areas. Moreover, the Planning Board called into question the appropriateness of following Master Plan goals that do not comport with development that has already taken place in the area. The Master Plan calls for a quiet, pedestrian-oriented enclave in Analysis Area TC-6, as a buffer for the Historic District. This has largely been achieved along Walter Johnson Drive, as development there has been limited to a pedestrian scale. However, the construction of Bowman Mill Drive changed the character of the subject property and the surrounding area. It turned the subject property into a strategically located corner lot, with dual access off of Bowman Mill Drive and the future Walter Johnson loop road, whereas the Master Plan assumed that the loop road would be sole access point to the property. The new intersection created at Bowman Mill Drive and relocated Route 118 has a different character from and affects the rest of the enclave, making it less pedestrian-oriented. In addition, although MARC-related parking was contemplated for this location in the Master Plan, the present vast expanse of parking areas is larger than anticipated, and arguably has changed the quiet, passive and pedestrian-oriented character called for in the Master Plan.

The District Council determines that the proposed zoning bears sufficient relationship to the public interest to justify it. The Planning Board's favorable recommendation supports the conclusion reached above that the proposed zoning is consistent with general planning goals for the area and in general harmony with the Master Plan. The Applicant's revised SDP includes a binding commitment to delay occupancy until necessary mitigation is provided to offset the impact of the development on two key intersections. While opposition evidence suggested that the Applicant's analysis of gaps in traffic on Route 118 could have been more thorough, the Applicant's traffic evidence remains sufficient to demonstrate that traffic generated by the proposed development will be able to access the site by way of Bowman Mill Drive in a safe, adequate and efficient manner without adverse impact on existing traffic.

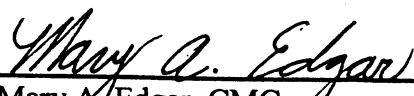
For these reasons and because to approve the instant zoning application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the matter set forth below.

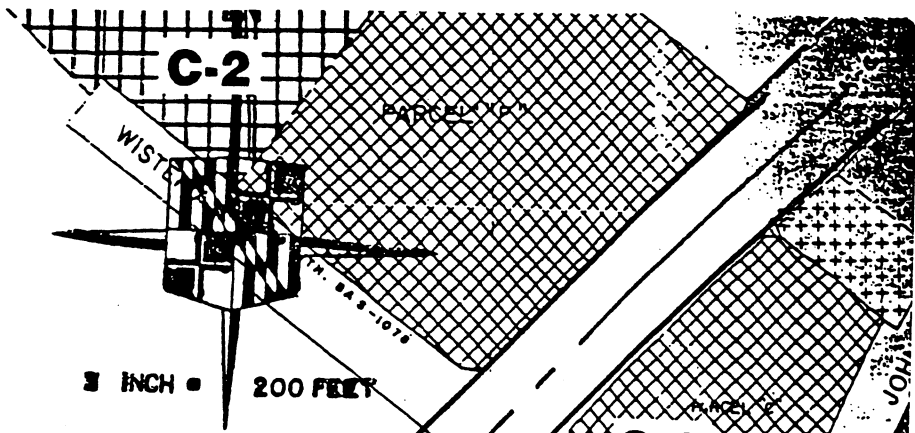
ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-788, for the reclassification from the O-M and R-200 Zones to the C-3 Zone of 1.6 acres known as Lot 1, Block A, Bowman Mill Subdivision, located at the southeast quadrant of the intersection of relocated MD Route 118 and Bowman Mill Drive, Germantown, in the 9th Election District, is approved subject to the specifications and requirements of the Schematic Development Plan, Ex. 130 (a), and the Declaration of Covenants, Ex. 130 (b); provided, however, that within 10 days of receipt of the District Council's approval resolution, the Applicant must submit the Schematic Development Plan to the Hearing Examiner for certification in accordance with §59-D-1.64; and provided, further, that upon receipt of the District Council's approval resolution, the Applicant must immediately file the Declaration of Covenants in accordance with §59-H-2.54.

This is a correct copy of Council action.

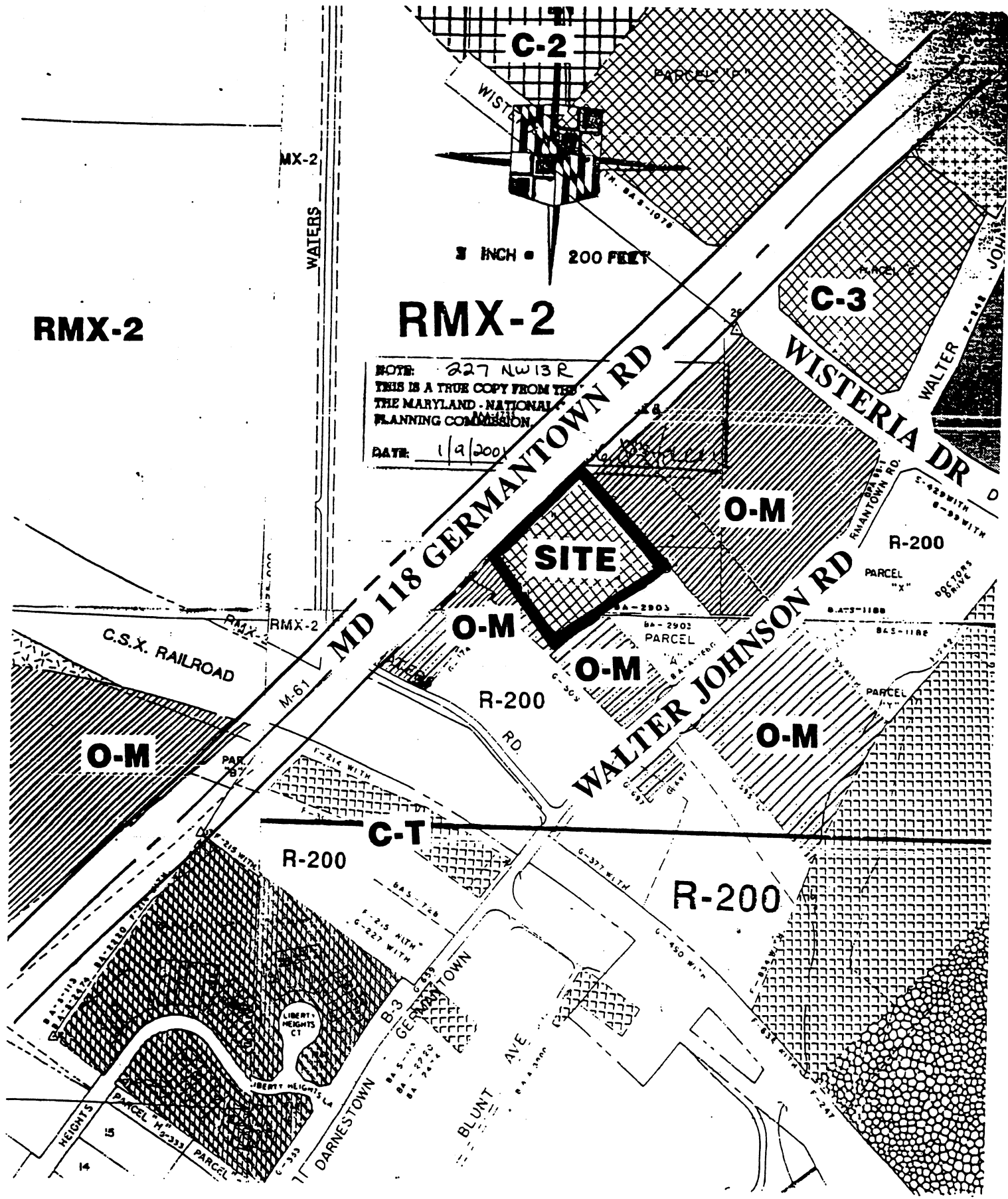

Mary A. Edgar, CMC
Clerk of the Council



RMX-2

RMX-2

NOTE: 227 NW13R
 THIS IS A TRUE COPY FROM THE
 THE MARYLAND NATIONAL
 PLANNING COMMISSION
 DATE: 1/9/2001



EXISTING ZONING