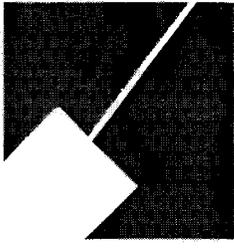


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

**MCPB
Item #7
3/17/05**

MEMORANDUM – SPECIAL EXCEPTION

DATE: March 11, 2005
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review Division *R&K*
FROM: Carlton W. Gilbert, Zoning Supervisor *CG*
Development Review (301-495-4576)

SUBJECT: **Board of Appeals Petition No. S-2631 (Special Exception):**
Germantown Walter Johnson Property, LLC, applicant, requests a special exception for an Automobile Filling Station and Accessory Convenience Store, I-1 Zone; located at southeast corner of E. Gude Drive and Cecil Drive, Rockville, Derwood Industrial Park, Upper Rock Creek Master Plan

FILING DATE: November 13, 2004
PUBLIC HEARING: March 21, 2005

STAFF RECOMMENDATION: Denial for the following reasons:

The special exception is not in compliance with Section 59-G-1.24 of the Zoning Ordinance entitled, "Neighborhood Need". Staff cannot find 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 use to that neighborhood.

PROJECT DESCRIPTION

The applicant, Germantown Walter Johnson Property, LLC has requested a special exception to permit the construction and operation of an automobile filling station with convenience store located at the southwest quadrant of the East Gude Drive and Cecil Street intersection, in Upper Rock Creek, I-1 Zone. The site is bordered by three public right-of-ways, East Gude Drive along the north, Cecil Street along the east and Derwood Drive along the south. The proposed use will include a convenience store with 1,486 square feet of patron area. A total of four pump islands, containing eight multi-product dispensers, are proposed under a canopy. Eighteen parking spaces are proposed in conjunction with this proposed use.

Site Description - The entire subject property contains 39,485 square feet of land and is located at the southwest quadrant of E. Gude Drive and Cecil Street. The property is bounded on a third side by Derwood Circle. The property is identified as Parcel 314, Tax Map GS341, Derwood Industrial Park. The site is rectangular in shape with approximately 196 feet of frontage on Derwood Circle and a depth of approximately 188 feet. The property has approximately 110 feet of frontage on Cecil Street and approximately 209 feet of frontage on Gude Drive. The western property line abuts industrially developed property that consists of a large warehouse distribution facility. The site has been zoned I-1 (light industrial) for many years and is an unrecorded portion of the existing Derwood Industrial Park. Presently the site is vacant and not forested. The topography of the site is relatively flat.

Neighborhood Description – The site is located in the Derwood Industrial Park. The surrounding properties are also zoned I-1 and are developed with a variety of light industrial uses. To the south of the subject property is Derwood Circle which functions as the industrial access road to the interior of the Derwood Industrial Park. Uses within this industrial park are located within one and two-story buildings. Uses include auto repair, warehousing, and wholesale/industrial type uses. The properties north of and across Gude Drive are office buildings facing Gude Drive. To the west of the subject property is a large warehouse distribution facility and further west the CSX and Metro rail tracks. To the east, in the I-1 zone, is Cecil Street and a Shell automobile filling station and a variety of service and light industrial type uses.

The Shell Station and convenience store were approved as a special exception use in 1997. The other approved special exception in the area includes S-1056 for an eating/drinking establishment.

Elements of the Proposal – The applicant is seeking the special exception to permit the construction and operation of an automobile filling station. As shown on the attached site plan, the proposed facility will include an ancillary convenience store. The one-story building housing the convenience store will contain 3,132 square feet of gross floor area, with 1,486 square feet designated for convenience food, beverage and customer sales area. The remaining area of the building will contain an office, restrooms, storage and utility area and cooler space.

A total of four pump islands are proposed, each with two multi-product dispensers, located under a canopy. Access to the property will be provided by two driveways at Derwood Circle. The proposed automobile filling station, as well as the convenience food and beverage store, will operate on a twenty-four hour basis, seven days a week.

A food preparation and take-out food area is included. The facility will be operated in three eight-hour employee shifts with a maximum of two employees during any given shift.

Analysis

Master Plan- The 2004 Upper Rock Creek Area Master Plan does not make specific recommendations for this property, which is located in the Derwood Industrial Park. The Plan recognizes the generally light industrial character of this portion of the Upper Rock Creek Planning Area and reconfirms the I-1 Zone for the area. The Plan refers to an earlier policy study undertaken for the area, which was designed to provide guidance for annexation requests in the Gude Drive-Southlawn Lane industrial area. The property proposed for the automobile filling station is some distance from the municipal boundary, making annexation an unlikely possibility.

This Division has also reviewed the Research and Technology Center memorandum on the neighborhood need for an automobile filling station at this location and supports its findings. While the use may in some circumstances be allowable by special exception in the I-1 Zone, and while the Plan’s recommendation to reconfirm the I-1 Zone in the Upper Rock Creek planning area may make this proposal consistent with the Plan’s recommendation, the absence of demonstrated neighborhood need is a significant finding and one with which the Community Based Planning Division concurs.

Development Standards

The use as proposed meets the development standards for building setbacks, height, and green area for the I-1 zone. The proposed building will be 23 feet in height, and the pump island canopy will be 17.5 feet high will within the height restriction of 42 feet. The required parking is sixteen spaces, including one handicap space, and eighteen parking spaces are provided on site. The building will be located at the northeast corner of the property oriented diagonally and facing toward the southwest. Pump islands will be located in front of the building closer to Derwood Circle.

I-1 DEVELOPMENT STANDARDS

Standard	Required	Provided
Total Tract Area	N.A.	39,485 sq. ft.
Setbacks: Front	10 feet	78 feet
Side	10 feet	10 feet

Rear	10 feet	10 feet
Green Space	10 % (3,948 sq. ft)	27.5% (10,890 sq. ft.)
Building Height	42 feet	23 feet
Canopy Height	42 feet	17.5 feet

Transportation- If the special exception is approved by the Board of Appeals, the Transportation Planning Division staff recommends the following conditions as part of the adequate public facilities test for transportation requirements:

1. Limit the special exception to an automobile filling station with eight pumping positions, and a convenience store of 1,486-square-feet of patron area (or 3,132 total square feet).
2. Widen the northbound lanes along Cecil Street between East Gude Drive and Derwood Circle to permit two large trucks (waiting for the green signal phase) in two delineated northbound lanes. To widen the northbound lanes, the applicant proposes to reduce the width of the raised center median (or to replace it with pavement markings) and then re-stripe the northbound and southbound lanes.
3. Prior to preliminary plan submission, obtain concurrence from the Montgomery County Department of Public Works and Transportation (DPWT) regarding the feasibility of the proposed Cecil Street improvement.
4. Prior to preliminary plan submission, obtain approval from the Montgomery County Department of Permitting Services (DPS) to confirm the adequacy of the internal site circulation for passenger vehicles and delivery trucks.

Transportation Planning staff cannot make an APF finding at this time that Local Area Transportation Review is satisfied pending review and approval by DPWT and DPS. Per County Code, Transportation Planning staff must make an APF finding of adequacy at time of subdivision. Transportation Planning staff finds that, should DPWT and DPS concur with the applicant's recommended improvements, the proposed action will have no adverse affects on the safety and adequacy of the transportation system.

DISCUSSION

Site Location and Vehicle Access Point

The subject is located on the west side of Cecil Street between East Gude Drive and Derwood Circle. The only vehicular site access point is via Derwood Circle.

Pedestrian Facilities

Pedestrian facilities would not be adversely impacted by the proposed special exception use. Adequate sidewalks already exist along the roadways adjacent to the site.

Adequate Public Facilities Review

An automobile filling station with eight pumping positions, and a convenience store (i.e., defined as having less than 1,650 square feet of patron area) is projected to generate the following number of peak-hour trips:

Site-Generated Peak-Hour Trips within the Weekday Peak Periods			
Morning (6:30 a.m. to 9:30 a.m.)		Evening (4:00 p.m. to 7:00 p.m.)	
New	Total	New	Total
15	98	24	174

Total trips include new, pass-by, and diverted trips, which are as follows:

1. New trips are trips with the primary purpose of purchasing fuel or convenience store items.
2. Pass-by trips are trips that are taken for another primary purpose but along the same route.
3. Diverted trips are trips that are taken for another primary purpose but divert slightly from their primary route.

A traffic study was required to satisfy Local Area Transportation Review (LATR) because this proposed non-residential development generates 30 or more peak-hour trips during the weekday morning and evening peak periods. The table below shows the critical lane volume (CLV) values at the three analyzed intersections based on the results of the submitted traffic study:

Intersection	Weekday Peak Hour	Traffic Condition			
		Existing	Background	Total	Total-Mitigated
East Gude Drive and Crabbs Branch-Way Cecil Street	Morning	1,573 ¹	1,677 ¹	1,706 ¹	1,609 ²
	Evening	1,396	1,568 ¹	1,624 ¹	1,517 ²
Cecil Street and Derwood Circle	Morning	302	322	420	N/A
	Evening	249	275	449	N/A
Derwood Circle and Site Access Point	Morning	Not Currently Existing		176	N/A
	Evening			217	N/A

¹ = This CLV value exceeds the CLV/congestion standard of 1,475 for intersections located within the Derwood Policy Area.

² = The proposed improvement described in Recommendation No. 2 would mitigate the site-generated traffic.

Only the CLV values at the first intersection exceeds the CLV/congestion standard of 1,475 as indicated with a superscript "1". The improvement described in Recommendation No. 2 would increase this intersection's capacity and results in mitigating the site-generated traffic. Mitigation is when the CLV values in the total-mitigated traffic condition is reduced so that it is equal or less than the CLV values in the background traffic condition for both the morning and evening peak hours.

Under the *FY 2005 Annual Growth Policy (AGP)*, the Policy Area Transportation Review component of the APF test is no longer applicable. Thus the remaining staging ceiling capacity for non-residential development was not reviewed for the Derwood Policy Area.

Neighborhood Need – Research and Technology Center staff finds that neighborhood need for a gasoline filling station at this location has not been shown by the applicant's analysis. The staff reviewed the applicant's proof of need analysis using demographic, business establishment, traffic data, field visits, and filling station industry publications.

Criteria Considered in Staff Evaluation

Research Staff reviewed the Needs Analysis report submitted by applicant; we also conducted a field visit to the applicant's development site, and toured the applicant's defined trade area. Staff's principal objective is to ascertain, based on available evidence, whether the neighborhood "needs" the applicant's proposed use. While market factors are considered in the evaluation, there is no intent to assess whether the market can or cannot absorb the proposed use.

In evaluating applicant's proof of need analysis, the following are considered: technical soundness (i.e., any errors, omissions, misinterpretations, or mischaracterizations); the trade area as defined by applicant; public convenience; product diversity (i.e. does the proposed use give the consumer more choice?); and market capacity.

Review of Proof of Need Analysis

Neighborhood Definition

A key part of each applicant's proof of need study is their definition of the neighborhood that is to be served by their proposed establishment. For some land uses, the neighborhood is drawn very broadly, expanding outward many miles and including geographically dispersed clusters of residential and commercial development. Others focus more tightly on the immediate areas adjacent to the proposed use.

Montgomery County zoning ordinance 59-G-1.24 does not specifically define what is meant by neighborhood, therefore, Research staff applies a plain reading of this statute, interpreting "neighborhood" as meaning an area that is primarily residential in character that lies within a reasonable driving time and distance. Therefore, a proposed use must be fairly proximate to the neighborhood.

Staff also interprets that "neighborhood" could include business concentrations such as corporate/industrial parks and commercial areas. While businesses and their employees may serve as a secondary market for the proposed use, it is assumed that the primary target or customer base is a concentration of Montgomery County residents ("the population in the general neighborhood.")

What is the neighborhood for the proposed use? In this case, the applicant has drawn a two-mile ring around its proposed use. The applicant has defined a broad area that extends from Shady Grove Road to Veirs Mill Road and from I-270 to the Rock Creek Regional Park. Park and Planning research staff find that this is too large an area given that there are over 16 competing gas stations in the applicant's trade area already.

Staff believes that the proposed gas station and associated convenience store may not have so wide a market reach as implied by the applicant. We contend that neighborhood residents are more likely attracted to the gas station that is closest to their homes than to one that requires a longer drive. In the needs analysis submitted to M-NCPPC for review, applicant writes that King Farm is located in the vicinity of the proposed gas station. King Farm is 1.3 miles from applicant's proposed gas station. There are other gas stations, including Mobil, which are perhaps more conveniently located to the King Farm development. The question then is on a typical day is a King Farm resident more likely to drive over a mile to the applicant's proposed use to fill his/her vehicle?

The literature on retail pull factors suggests that food stores have a stronger pull factor (i.e. capture rate) than gas stations. Residents are more likely to shop at the grocery store that is nearest their home than one further away but they will fill up their cars whenever and wherever they find a gas station. Yet, what is the draw to any one station given the competitive gasoline market in the area? Research staff believes proximity is the determining factor. Thus, to confirm or deny this assumption, a more convincing quantitative analysis ought to be presented: one that demonstrates the pull factor that the proposed gas station may have on the residential markets in the trade area.

Staff recommends applying to this situation a model frequently used in geographic and real estate trade area analysis, the gravity model. The gravity model is founded on the premise that consumers are typically drawn to larger concentrations of retailing than to smaller ones and that they are willing to travel a greater distance to get there than to a smaller concentration. Thus, a gas station located near a shopping center, for example, would draw customers from a larger trade area than one located alone. Based even on that type of analysis, we would argue that the proposed trade area is too large. The proposed gas station is up against competitive gas stations along Rockville Pike; these gas stations are near restaurants, supermarkets, retail centers, and a row of auto dealerships.

Hence, staff recommends a tighter trade area boundary: within a half-mile radius of the proposed development site. Staff suggests that the neighborhood for the proposed development focus on traffic zones 480 and 484 (these TAZ's are COG designations; M-NCPPC labels these TAZ 187 and 194).

Who is the target customer for the proposed use? Is it residents of the neighborhood or is it the businesses and employees in the neighborhood? Staff believes that applicant's needs analysis report errs in its identification of the target group. In the neighborhood—traffic analysis zones 187 and 194—the resident population declines over time.

COMPARISON OF APPLICANT'S TRADE AREA POPULATION AND STAFF RECOMMENDED NEIGHBORHOOD POPULATION

Year	Applicant's Trade Area Population*	Staff Recommended Neigh. Population**	Neigh. Share of Trade Area
2000	19,289	1,956	10.1%
2005	23,400	1,848	7.9%
2010	28,343	1,758	6.2%

Source: *Sherwood Consultancy Needs Analysis; **MNCPPC Round 6.4A Forecast

Data, based on the Round 6.4A Forecast, indicate that in the neighborhood surrounding the proposed use, resident population will decline through 2010. The forecast shows no population in TZ 187 where the proposed use will physically locate until 2015. Population in TZ 194 declines through year 2025 before showing gains in 2030.

COMPARISON OF APPLICANT'S TRADE AREA EMPLOYMENT BASE AND STAFF RECOMMENDED NEIGHBORHOOD EMPLOYMENT

Year	App. Trade Area Employment Base*	Neighborhood Employment**	Neigh. Share of Trade Area
2000	56,251	9,711	17.3%
2005	59,800	11,381	19.0%
2010	73,349	11,953	16.3%

Source: *Sherwood Consultancy Needs Analysis; **MNCPPC Round 6.4A Forecast

The data clearly indicate that employment in the larger trade area as well as in the immediate neighborhood will continue to grow. Based on Round 6.4A, employment in the neighborhood will grow about 5 percent at five-year intervals through 2030 or 1.1 percent per year beginning in 2010. Databases available to Research staff confirm applicant's observation: the "gas station would be located in an established industrial park with a large number of employees and businesses having commercial vehicle gasoline needs." There are 128 businesses within a half-mile of applicant's proposed use. There are 32 businesses in Derwood Circle. Thus, staff concludes that employees of neighborhood businesses are the primary target customers for applicant's proposed use. Secondary targets are most likely residents of the neighborhood and perhaps commercial vehicles. The wild card is transient motorists or commuters.

Testing Need

The zoning ordinance does not specify what shall constitute a needs test in special exception cases. Since January 2000, Research staff has employed a set of measures in each of the special exception cases it has handled. Staff considers these reasonable tests that address the requirements of Zoning Ordinance 59-G-1.24. Need is tested in three ways: convenience, capacity, and market factors.

Convenience

The zoning ordinance recognizes the importance of convenience of goods and services to the neighborhood. Staff sees that "public convenience" can be served in two main ways:

Neighborhood's Proximity to services/goods

In this instance, the question becomes: does the neighborhood have convenient access to fuel? The applicant's needs study and field observations by M-NCPPC staff confirm that gas stations and associated convenience stores are well represented in the neighborhood. Applicant, as shown in his report, identified 16 filling stations offering the usual selection of grades. Eight of these have associated convenience stores.

Staff accepts at face value, applicant's contention, that the North Rockville Trade Area could absorb another filling station. Applicant has argued that the need for another gas station in the Trade Area was made years earlier by the consultant who prepared the needs analysis for the Shell station at 300 East Gude Drive. That Shell station is 0.1 miles from the applicant's proposed use. In that earlier report, it was suggested that the Trade Area could absorb an additional four gas stations.

The applicant, however, has not shown that there is an emergent need by the neighborhood or even by transient motorists for another filling station. The neighborhood is served by an ample number of stations; moreover, within a mile of applicant's proposed development there are five stations and four of these have associated convenience stores.

COMPETING GAS STATIONS: DISTANCE & VARIETY

Distance (in miles)	Address	Station
0.1	300 E Gude Dr	Shell
0.4	15190 Frederick Rd	College Plaza Shell
0.8	15211 Frederick Rd	College Plaza Exxon
0.9	15701 Frederick Rd	Courthouse Amoco
1.0	15821 Frederick Rd	Seven-11 Citgo
1.2	1215 E Gude Dr	Exxon
1.3	15805 Frederick Rd	Crown
1.3	801 Hungerford Dr	Getty
1.3	790 Hungerford Dr	Sunoco
1.4	700 Gaither	King Farm Mobil
1.7	260 N Washington	Crown
1.9	200 N Washington	Exxon
1.9	16705 Crabbs Branch	Exxon
2.6	1250 W Montgomery	Shell
3.1	15830 Shady Grove Rd	Crown

Source: Switchboard.Com; <http://maps.yahoo.com>

Choice Available in the Neighborhood

Research staff reads the zoning ordinance as allowing for a variety of choices in each neighborhood. "Absolute need," that is just enough goods/services to fulfill the projected minimum requirements of neighborhood residents and no more, is not implied here.

Choice provides convenience to a neighborhood because residents can have access to a selection of offerings near their location. Residents are not required to travel long distances or travel times to obtain the advantages of choices (i.e. competitive pricing) commonly available to most other neighborhoods. In this case, the applicant's study identified 16 gas stations in the Rockville North Trade area; eight of these have convenience stores. While there is a greater number of Shell and Exxon stations in the trade area, there are other providers including Chevron, Citgo, Crown, Freestate, Getty, Mobil, Sunoco and Texaco. Thus consumers do not lack for number and variety of gas stations.

Next to the applicant's proposed development site, there is already a Shell gas station with an associated medium-sized convenience store. Half-mile from the applicant's proposed development is an Amoco and a mile from the proposed development, there is another Citgo with an associated Seven-11 convenience store. Thus, there appears to be no compelling neighborhood need for the proposed use.

Capacity

The zoning ordinance recognizes that the existing supply of service/goods should be considered when reviewing the needs study of a special exception applicant in its language ("...considering the present availability of such uses to that neighborhood..."). Thus, Research staff believes that it is important to know the capacity of existing service/goods providers to provide for the needs of the neighborhood. If these suppliers are at the point where their supplies are exhausted and they cannot provide any more, then an additional supplier may be justified. If the existing array of establishments can easily meet current and future neighborhood need, there is little pressure to expand the supply.

The ability of existing fuel providers to meet future demand is hard to measure because station managers are very hesitant to give out sales data and are not interested in providing information that might encourage suppliers to enter the market. The applicant does estimate, based on generally accepted metrics, present and future gasoline demand in the Rockville North Trade Area. The applicant's needs analysis report indicates that gas stations in the Rockville North Trade Area distributed 24,280,000 gallons of fuel in 2004. The six gas stations within a one-mile driving distance of the applicant's proposed development distributed over 9.6 million gallons in 2004. Would this amount meet consumer demand in the staff defined neighborhood? Using the same resident demand factor (465 gallons per resident per year) and employee demand (650 gallons per vehicle per year)—as reported in applicant's report—we calculate that neighborhood demand in 2005 would be 5.8 million gallons and 6.1 million gallons in

2010. Thus, we contend that existing gas stations can meet neighborhood needs—particularly those of residents and employees of neighborhood businesses.

Applicant does not provide evidence that area fuel providers could not handle the neighborhood's fuel needs. Research staff visited the proposed development site and surrounding area but did not observe customers waiting in long lines for fuel at any of the stations.

Staff's calculation did not take into account commercial vehicles and commuters. We concur with applicant's finding that the commercial vehicle market is small and that some segment of commercial vehicles will have access to a private fuel supply. The needs of those that do not, we believe, can adequately be satisfied by gas stations in the North Rockville Trade Area if not by those in immediate proximity to the proposed development.

Staff recognizes that the ordinance is not calling for absolute need, that additional suppliers can be allowed beyond the minimum needed to supply the neighborhood. However, in this case, staff concludes there is not a compelling capacity problem to justify the addition of applicant's establishment to this neighborhood.

If we accept applicant's needs analysis as stated, there is under-served demand. This analysis, however, is too broad and does not address neighborhood need. The research staff recommends that applicant consider a tighter market area—the immediate neighborhood surrounding the proposed use. Even after making that adjustment, staff's evaluation does not find a community need for another gas station.

However, there may well be a stronger argument for a convenience store at that location especially for the employees—as pointed out at a meeting with the applicant. But, the applicant's needs analysis report does not examine this issue and that is not a matter requiring staff evaluation.

Environment

Environmental Planning staff has reviewed the Special Exception request referenced above. Staff recommends approval of this request with the following conditions:

1. The applicant must comply with stormwater and sediment control regulations of the Montgomery County Department of Permitting Services (DPS).
2. Fuel storage tanks must meet required technical standards and must comply with all county, state and federal air and water quality permitting requirements.

Forest Conservation

The site has a Small Property exemption (No.4-05087E) from the requirements of Chapter 22A (Forest Conservation Law). The property is grass covered and devoid of other vegetation so the project will not impact on forests, specimen trees or significant trees.

Environmental Guidelines

This site is not located within a Special Protection Area. There are no sensitive environmental features onsite, but a small tributary to Rock Creek originates near the property.

Watershed Protection

The property is in the Southlawn Branch of the Upper Rock Creek Watershed. The *Montgomery County Countywide Stream Protection Strategy* (CSPS, 1998) lists subwatershed stream conditions as 'poor', habitat conditions as 'good', and in-stream habitat as 'fair', based on data available at the time. High imperviousness and water quality impacts from the neighborhood's industrial uses impact biological communities. CSPS has designated Southlawn as an urban watershed management area (outside the City of Rockville) because of the need to address existing urban water quality impacts on this watershed as a first priority. DPS will continue to work with businesses in the area to identify pollution prevention measures to improve water quality conditions.

Water and Sewer Availability

Public water (Category W-1) and sewer (Category S-1) in Montgomery County's Ten-Year Water and Sewage System Plan, currently serve the property. A 50-foot wide storm drain easement traverses the property from northwest to southeast.

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.

Dust

Dust is not expected to be problematic since the entire site will be paved or landscaped.

Noise

The property is located less than one-quarter mile from the Frederick Road/East Gude Drive intersection, and surrounded on three sides by public roads. The nearby CSX and Metro rail tracks are a major noise source. Offices, commercial and small business establishments surround this site. The property is not adjacent to any residential uses. Tank trucks refilling gasoline storage tanks will be the primary additional source of noise disturbance resulting from the project.

Landscaping and Lighting- The applicant has submitted a conceptual landscape plan which staff finds acceptable. Approximately the entire perimeter of the site will be landscaped with trees and ornamental shrubs. The applicant's photometric study reflects no adverse lighting beyond the limits of the property. The location of the free-standing sign is shown on the attached site plan.

Subdivision- The site is an unrecorded parcel and as such will be required to submit a preliminary plat of subdivision and receive approval from the Planning Board.

Community Concerns

Property owners of the Shell station located across the street of the subject property have expressed concerns to staff regarding this application.

Compliance with Specific and General Special Exception Provisions

Sec. 59-G-1.2. Conditions for granting.

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 and operational characteristics not 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, adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse 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 typically associated with an automobile filling station. From the applicant's submission and statement of operations, staff does not find any non-inherent effects from related to the subject application.

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 filling station is located within an industrial business area. The only adjacent building, to the west, has no windows on the side adjacent to the subject property. The use will not constitute a nuisance for any of these reasons.

(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.

Parking for both the filling station and convenience store is located well inside the property. The closest parking space is located 25 feet from Derwood Circle.

- (8) In a C-1 zone, an automobile, 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-1.21. 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 use is permissible in the I-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 use complies with the standards and requirements set forth in Section G-2.06 for an automobile filling station.

- (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 Upper Rock Creek Master Plan supports the I-1 zone for the subject site and the proposed use is allowed by special exception in that zone.

- (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 surrounding area is developed as an industrial park with various industrial and commercial uses. The proposed use will be in harmony with the general character of the surrounding neighborhood when considering the above cited 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 use 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.

The use will not cause any of these adverse effects.

- (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.

There is one other filling station existing on the east side of Cecil Street (S-2291) and a restaurant within the industrial park (S-1056). The adjacent area is not residential but is an industrial park.

- (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 proposed special exception 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.

- (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.

If the Board of Appeals approves the subject special exception, the applicant will need to proceed through the subdivision review process and the property would require approval by the Planning Board prior to being recorded.

- (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.

Sec. 59-G-1.24. 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 users 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.

Staff believes that the applicant has not adequately demonstrated that a neighborhood need for the proposed automobile filling station exists. Therefore, staff recommends denial of this application.

Conclusion – Staff does not believe that the proposed special exception use is in compliance with Section 59-G-1.24 of the Zoning Ordinance entitled, “Neighborhood Need”. Staff cannot find 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. Therefore, staff recommends denial of this application.

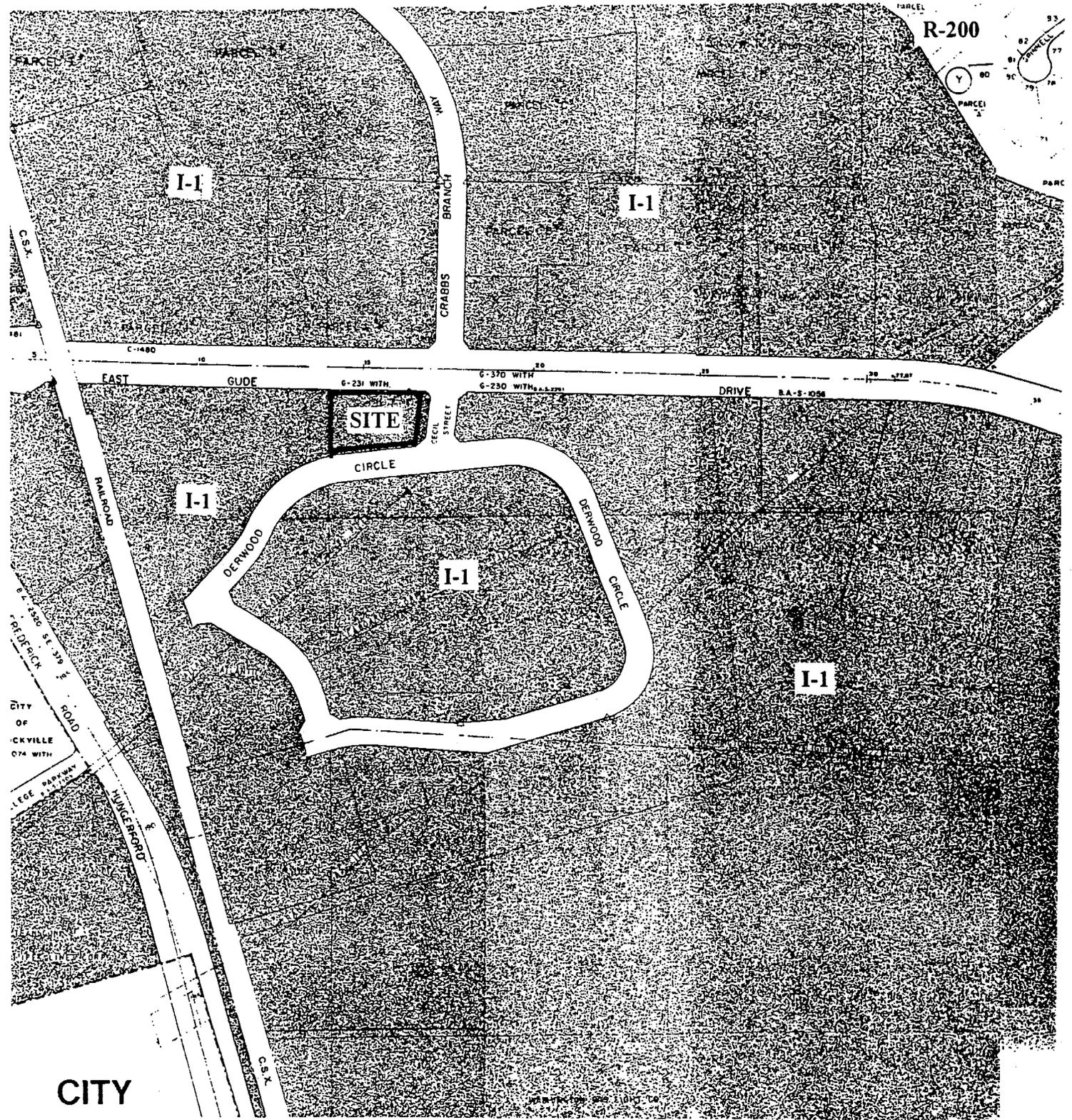
Attachments:

Vicinity Map
Zoning Map
Site Plan
Research & Technology Staff Memo
Transportation Planning Staff Memo
Transmittal of the Traffic Study

Attachment 1
Attachment 2
Attachment 3
Attachment 4
Attachment 5
Attachment 6



ATTACHMENT 2

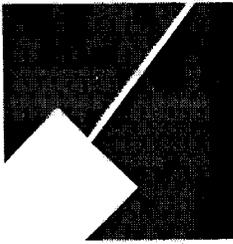


CITY

EXISTING ZONING

GUDE DR/CECIL ST FILING STATION
SPECIAL EXCEPTION

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

TO: Gilbert Carlton
Development Review

VIA: Karl Moritz, Acting Chief
Research & Technology Center

FROM: Krishna Akundi, Senior Planner 
Gary Goodwin, Research Coordinator 
Research & Technology Center

Date: March 10, 2005

RE: **E. Gude Drive Auto filling station and convenience store**

Findings: **Applicant's proposal does not sufficiently address community need**

Introduction

Research & Technology Center staff has reviewed the proof of need analysis for a 7-Eleven Convenience and associated "Citgo" gas station at the junction of Cecil Street, Derwood Circle and East Gude Drive near the Derwood Industrial Park. We conducted this review to determine if the applicant's report and use achieves the objective of 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

In this instance, the applicant proposes to develop a 24-hour 'gas and go' retail sales facility with eight gasoline fueling sites that is associated with a 3,132 square foot convenience store on a 0.7 acre parcel. The applicant targets four groups as the customer base for the proposed development: residents, workers, commercial vehicles, and commuters—i.e. persons driving through the trade area on their way to some other destination.

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 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..."

Criteria Considered in Staff Evaluation

Research Staff reviewed the Needs Analysis report submitted by applicant; we also conducted a field visit to the applicant's development site, and toured the applicant's defined trade area. Staff's principal objective is to ascertain, based on available evidence, whether the neighborhood "needs" the applicant's proposed use. While we consider market factors in our evaluation, it is not our intent to assess whether the market can or cannot absorb the proposed use.

In evaluating applicant's proof of need analysis, we consider the following: technical soundness (i.e., any errors, omissions, misinterpretations, or mischaracterizations); the trade area as defined by applicant; public convenience; product diversity (i.e. does the proposed use give the consumer more choice?); and market capacity.

Review of Proof of Need Analysis

Neighborhood Definition

A key part of each applicant's proof of need study is their definition of the neighborhood that is to be served by their proposed establishment. For some land uses, the neighborhood is drawn very broadly, expanding outward many miles and including geographically dispersed clusters of residential and commercial development. Others focus more tightly on the immediate areas adjacent to the proposed use.

Montgomery County zoning ordinance 59-G-1.24 does not specifically define what is meant by neighborhood, therefore, Research staff applies a plain reading of this statute, interpreting "neighborhood" as meaning an area that is primarily residential in character that lies within a reasonable driving time and distance. Therefore, a proposed use must be fairly proximate to the neighborhood.

Staff also interprets that "neighborhood" could include business concentrations such as corporate/industrial parks and commercial areas. While businesses and their employees may serve as a secondary market for the proposed use, we assume that the primary target or customer base is a concentration of Montgomery County residents ("the population in the general neighborhood.")

What is the neighborhood for the proposed use? In this case, the applicant has drawn a two-mile ring around its proposed use. The applicant has defined a broad area that extends from Shady Grove Road to Veirs Mill Road and from I-270 to the Rock Creek Regional Park. Park and Planning research staff find that this is too large an area given that there are over 16 competing gas stations in the applicant's trade area already.

Staff believes that the proposed gas station and associated convenience store may not have so wide a market reach as implied by the applicant. We contend that neighborhood residents are more likely attracted to the gas station that is closest to their homes than to one that requires a longer drive. In the needs analysis submitted to M-NCPPC for review, applicant writes that King Farm is located in the vicinity of the proposed gas station. King Farm is 1.3 miles from applicant's proposed gas station. There are other gas

stations, including Mobil, which are perhaps more conveniently located to the King Farm development. The question before us then is on a typical day is a King Farm resident more likely to drive over a mile to the applicant's proposed use to fill his/her vehicle?

The literature on retail pull factors suggests that food stores have a stronger pull factor (i.e. capture rate) than gas stations. Residents are more likely to shop at the grocery store that is nearest their home than one further away but they will fill up their cars whenever and wherever they find a gas station. Yet, what is the draw to any one station given the competitive gasoline market in the area? We believe proximity is the determining factor. Thus, to confirm or deny our assumption, a more convincing quantitative analysis ought to be presented: one that demonstrates the pull factor that the proposed gas station may have on the residential markets in the trade area.

We recommend applying to this situation a model frequently used in geographic and real estate trade area analysis, the gravity model. The gravity model is founded on the premise that consumers are typically drawn to larger concentrations of retailing than to smaller ones and that they are willing to travel a greater distance to get there than to a smaller concentration. Thus, a gas station located near a shopping center, for example, would draw customers from a larger trade area than one located alone. Based even on that type of analysis, we would argue that the proposed trade area is too large. The proposed gas station is up against competitive gas stations along Rockville Pike; these gas stations are near restaurants, supermarkets, retail centers, and a row of auto dealerships.

Hence, staff recommends a tighter trade area boundary: within a half-mile radius of the proposed development site. *Staff suggests that the neighborhood for the proposed development focus on traffic zones 480 and 484* (these TAZ's are COG designations; M-NCPPC labels these TAZ 187 and 194).

Who is the target customer for the proposed use? Is it residents of the neighborhood or is it the businesses and employees in the neighborhood? Staff believes that applicant's needs analysis report errs in its identification of the target group. In the neighborhood—traffic analysis zones 187 and 194—the resident population declines over time.

COMPARISON OF APPLICANT'S TRADE AREA POPULATION AND STAFF RECOMMENDED NEIGHBORHOOD POPULATION

Year	Applicant's Trade Area Population*	Staff Recommended Neigh. Population**	Neigh. Share of Trade Area
2000	19,289	1,956	10.1%
2005	23,400	1,848	7.9%
2010	28,343	1,758	6.2%

Source: *Sherwood Consultancy Needs Analysis; **MNCPPC Round 6.4A Forecast

Data, based on the Round 6.4A Forecast, indicate that in the neighborhood surrounding the proposed use, resident population will decline through 2010. The forecast shows no population in TZ 187 where the proposed use will physically locate until 2015. Population in TZ 194 declines through year 2025 before showing gains in 2030.

**COMPARISON OF APPLICANT’S TRADE AREA EMPLOYMENT BASE AND
STAFF RECOMMENDED NEIGHBORHOOD EMPLOYMENT**

Year	App. Trade Area Employment Base*	Neighborhood Employment**	Neigh. Share of Trade Area
2000	56,251	9,711	17.3%
2005	59,800	11,381	19.0%
2010	73,349	11,953	16.3%

Source: *Sherwood Consultancy Needs Analysis; **MNCPPC Round 6.4A Forecast

The data clearly indicate that employment in the larger trade area as well as in the immediate neighborhood will continue to grow. Based on Round 6.4A, employment in the neighborhood will grow about 5 percent at five-year intervals through 2030 or 1.1 percent per year beginning in 2010. Databases available to Research staff confirm applicant’s observation: the “gas station would be located in an established industrial park with a large number of employees and businesses having commercial vehicle gasoline needs.” There are 128 businesses within a half-mile of applicant’s proposed use. There are 32 businesses in Derwood Circle. Thus, staff concludes that employees of neighborhood businesses are the primary target customers for applicant’s proposed use. Secondary targets are most likely residents of the neighborhood and perhaps commercial vehicles. The wild card is transient motorists or commuters.

Testing Need

The zoning ordinance does not specify what shall constitute a needs test in special exception cases. Since January 2000, Research staff has employed a set of measures in each of the special exception cases it has handled. Staff considers these reasonable tests that address the requirements of Zoning Ordinance 59-G-1.24. Need is tested in three ways: convenience, capacity, and market factors.

Convenience

The zoning ordinance recognizes the importance of convenience of goods and services to the neighborhood. Staff sees that “public convenience” can be served in two main ways:

Neighborhood’s Proximity to services/goods

In this instance, the question becomes: does the neighborhood have convenient access to fuel? The applicant’s needs study and field observations by M-NCPPC staff confirm that gas stations and associated convenience stores are well represented in the neighborhood.

Applicant, as shown in his report, identified 16 filling stations offering the usual selection of grades. Eight of these have associated convenience stores.

Staff accepts at face value, applicant's contention, that the North Rockville Trade Area could absorb another filling station. Applicant has argued that the need for another gas station in the Trade Area was made years earlier by the consultant who prepared the needs analysis for the Shell station at 300 East Gude Drive. That Shell station is 0.1 miles from the applicant's proposed use. In that earlier report, it was suggested that the Trade Area could absorb an additional four gas stations.

The applicant, however, has not shown that there is an emergent need by the neighborhood or even by transient motorists for another filling station. The neighborhood is served by an ample number of stations; moreover, within a mile of applicant's proposed development there are five stations and four of these have associated convenience stores.

COMPETING GAS STATIONS: DISTANCE & VARIETY

Distance (in miles)	Address	Station
0.1	300 E Gude Dr	Shell
0.4	15190 Frederick Rd	College Plaza Shell
0.8	15211 Frederick Rd	College Plaza Exxon
0.9	15701 Frederick Rd	Courthouse Amoco
1.0	15821 Frederick Rd	Seven-11 Citgo
1.2	1215 E Gude Dr	Exxon
1.3	15805 Frederick Rd	Crown
1.3	801 Hungerford Dr	Getty
1.3	790 Hungerford Dr	Sunoco
1.4	700 Gaither	King Farm Mobil
1.7	260 N Washington	Crown
1.9	200 N Washington	Exxon
1.9	16705 Crabbs Branch	Exxon
2.6	1250 W Montgomery	Shell
3.1	15830 Shady Grove Rd	Crown

Source: Switchboard.Com; <http://maps.yahoo.com>

Choice Available in the Neighborhood

Research staff reads the zoning ordinance as allowing for a variety of choices in each neighborhood. "Absolute need," that is just enough goods/services to fulfill the projected minimum requirements of neighborhood residents and no more, is not implied here.

Choice provides convenience to a neighborhood because residents can have access to a selection of offerings near their location. Residents are not required to travel long distances or travel times to obtain the advantages of choices (i.e. competitive pricing) commonly available to most other neighborhoods.

In this case, the applicant's study identified 16 gas stations in the Rockville North Trade area; eight of these have convenience stores. While there is a greater number of Shell and Exxon stations in the trade area, there are other providers including Chevron, Citgo, Crown, Freestate, Getty, Mobil, Sunoco and Texaco. Thus consumers do not lack for number and variety of gas stations.

Next to the applicant's proposed development site, there is already a Shell gas station with an associated medium-sized convenience store. Half-mile from the applicant's proposed development is an Amoco and a mile from the proposed development, there is another Citgo with an associated Seven-11 convenience store. Thus, from a layperson perspective, there appears to be no compelling neighborhood need for the proposed use.

Capacity

The zoning ordinance recognizes that the existing supply of service/goods should be considered when reviewing the needs study of a special exception applicant in its language ("...considering the present availability of such uses to that neighborhood..."). Thus, Research staff believes that it is important to know the capacity of existing service/goods providers to provide for the needs of the neighborhood. If these suppliers are at the point where their supplies are exhausted and they cannot provide any more, then an additional supplier may be justified. If the existing array of establishments can easily meet current and future neighborhood need, there is little pressure to expand the supply.

The ability of existing fuel providers to meet future demand is hard to measure because station managers are very hesitant to give out sales data and are not interested in providing information that might encourage suppliers to enter the market. The applicant does estimate, based on generally accepted metrics, present and future gasoline demand in the Rockville North Trade Area. The applicant's needs analysis report indicates that gas stations in the Rockville North Trade Area distributed 24,280,000 gallons of fuel in 2004. The six gas stations within a one-mile driving distance of the applicant's proposed development distributed over 9.6 million gallons in 2004. Would this amount meet consumer demand in the staff defined neighborhood? Using the same resident demand factor (465 gallons per resident per year) and employee demand (650 gallons per vehicle per year)—as reported in applicant's report—we calculate that neighborhood demand in 2005 would be 5.8 million gallons and 6.1 million gallons in 2010. Thus, we contend that existing gas stations can meet neighborhood needs— particularly those of residents and employees of neighborhood businesses.

Applicant does not provide evidence that area fuel providers could not handle the neighborhood's fuel needs. Research staff visited the proposed development site and surrounding area but did not observe customers waiting in long lines for fuel at any of the stations.

Our calculation did not take into account commercial vehicles and commuters. We concur with applicant's finding that the commercial vehicle market is small and that some segment of commercial vehicles will have access to a private fuel supply. The

needs of those that do not, we believe, can adequately be satisfied by gas stations in the North Rockville Trade Area if not by those in immediate proximity to the proposed development.

Staff recognizes that the ordinance is not calling for absolute need, that additional suppliers can be allowed beyond the minimum needed to supply the neighborhood. However, in this case, staff concludes there is not a compelling capacity problem to justify the addition of applicant's establishment to this neighborhood.

Market Factors

Few, if any, special exception needs studies directly address the issue of neighborhood need. Instead of using the tests outlined above, these studies focus on market demand. Market demand studies understate the capacity of existing suppliers to satisfy the needs of the neighborhood and they frequently overstate the case of consumer's need for choice maintaining that neighborhoods have an unlimited interest in more choices.

With that stated, research staff recognizes that while market studies do not provide the best measure of neighborhood need, the applicant should still demonstrate a good case of market demand for their service/goods and indicate that they understand general market dynamics (i.e. made a good site selection, developed good site access and design).

The applicant shows that gas stations in the North Rockville Trade Area distributed 24.28 million gallons in 2004 but that the trade area could absorb an additional 4.02 million gallons to meet unmet demand. We accept applicant's contention for new gas stations in the Trade Area at face value; *however, we question the need for a gas station at the proposed site.*

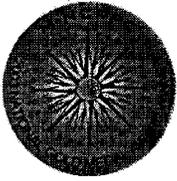
Would applicant's proposed use relieve pressure on the adjacent Shell station? This question is not addressed. Would neighborhood businesses prefer another gas station at the proposed location next to the existing Shell station? No survey has been conducted to address this question.

Putting aside issues such as supply and demand and even neighborhood need, consumer behavior would suggest that a gas station at the proposed site would not be wanting for business. Transient motorist are just as likely to stop at the proposed gas station as at any other station in the neighborhood and trade area. Employees in the Derwood Industrial Park are just as likely to fuel up at the proposed station as at the Shell station or at any other station on their way to work or home. It is unlikely that price would be a factor in choosing the Shell over the proposed Citgo since they are next to each other at the same location. Consumer behavior, however, is difficult to model. Consumers are attracted to easy access, better design, new as opposed to old, brand name, and complementary shopping among other incentives. Thus, we do not doubt that a Citgo gas station with an associated Seven-11 convenience store at the proposed site will have customers. Yet, we find no need for another gas station in the neighborhood.

Conclusion

If we accept applicant's needs analysis as stated, there is under-served demand. This analysis, however, is too broad and does not address neighborhood need. The research staff recommends that applicant consider a tighter market area—the immediate neighborhood surrounding the proposed use. Even after making that adjustment, *our evaluation does not find a community need for another gas station.*

However, there may well be a stronger argument for a convenience store at that location especially for the employees—as pointed out at a meeting with the applicant. But, the applicant's needs analysis report does not examine this issue and that is not a matter requiring staff evaluation.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Montgomery County Department of Park and Planning

March 3, 2005

MEMORANDUM

TO: Carlton Gilbert, Supervisor
Development Review Division

VIA: Daniel K. Hardy, Supervisor *DKH*
Transportation Planning

FROM: Ed Axler, Planner/Coordinator *EA*
Transportation Planning

SUBJECT: Special Exception Case No. S-2631
Derwood Circle 7-11
Derwood Policy Area

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject special exception case and future preliminary plan.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions as part of the transportation-related requirements to the subject special exception:

1. Limit the special exception to an automobile filling station with eight pumping positions, and a convenience store of 1,486-square-feet of patron area (or 3,132 total square feet).
2. Widen the northbound lanes along Cecil Street between East Gude Drive and Derwood Circle to permit two large trucks (waiting for the green signal phase) in two delineated northbound lanes. To widen the northbound lanes, the applicant proposes to reduce the width of the raised center median (or to replace it with pavement markings) and then re-stripe the northbound and southbound lanes.
3. Prior to preliminary plan submission, obtain concurrence from the Montgomery County Department of Public Works and Transportation (DPWT) regarding the feasibility of the proposed Cecil Street improvement.

4. Prior to preliminary plan submission, obtain approval from the Montgomery County Department of Permitting Services (DPS) to confirm the adequacy of the internal site circulation for passenger vehicles and delivery trucks.

Transportation Planning staff cannot make an APF finding at this time that Local Area Transportation Review is satisfied, pending review and approval by DPWT and DPS. Per County Code, Transportation Planning staff must make an APF finding of adequacy at time of subdivision. Transportation Planning staff finds that, should DPWT and DPS concur with the applicant's recommended improvements, the proposed action will have no adverse affects on the safety and adequacy of the transportation system.

DISCUSSION

Site Location and Vehicle Access Point

The subject is located on the west side of Cecil Street between East Gude Drive and Derwood Circle. The only vehicular site access point is via Derwood Circle.

Pedestrian Facilities

Pedestrian facilities would not be adversely impacted by the proposed special exception use. Adequate sidewalks already exist along the roadways adjacent to the site.

Adequate Public Facilities Review

An automobile filling station with eight pumping positions, and a convenience store (i.e., defined as having less than 1,650 square feet of patron area) is project to generate the following number of peak-hour trips:

Site-Generated Peak-Hour Trips within the Weekday Peak Periods			
Morning (6:30 a.m. to 9:30 a.m.)		Evening (4:00 p.m. to 7:00 p.m.)	
New	Total	New	Total
15	98	24	174

Total trips include new, pass-by, and diverted trips, which are as follows:

1. New trips are trips with the primary purpose to purchase fuel or convenience store items.
2. Pass-by trips are trips that are taken for another primary purpose but along the same route.
3. Diverted trips are trips that are taken for another primary purpose but divert slightly from their primary route.

A traffic study was required to satisfy Local Area Transportation Review (LATR) because this proposed non-residential development generates 30 or more peak-hour trips during the weekday morning and evening peak periods. The table below shows the critical lane volume (CLV) values at the three analyzed intersections based on the results of the submitted traffic study:

Intersection	Weekday Peak Hour	Traffic Condition			
		Existing	Background	Total	Total-Mitigated
East Gude Drive and Crabbs Branch-Way Cecil Street	Morning	1,573 ¹	1,677 ¹	1,706 ¹	1,609 ²
	Evening	1,396	1,568 ¹	1,624 ¹	1,517 ²
Cecil Street and Derwood Circle	Morning	302	322	420	N/A
	Evening	249	275	449	N/A
Derwood Circle and Site Access Point	Morning	Not Currently Existing		176	N/A
	Evening	Not Currently Existing		217	N/A

¹ = This CLV value exceeds the CLV/congestion standard of 1,475 for intersections located within the Derwood Policy Area.

² = The proposed improvement described in Recommendation No. 2 would mitigate the site-generated traffic.

Only the CLV values at the first intersection exceeds the CLV/congestion standard of 1,475 as indicated with a superscript “1”. The improvement described in Recommendation No. 2 would increase this intersection’s capacity and results in mitigating the site-generated traffic. Mitigation is when the CLV values in the total-mitigated traffic condition is reduced so that it is equal or less than the CLV values in the background traffic condition for both the morning and evening peak hours.

Under the *FY 2005 Annual Growth Policy (AGP)*, the Policy Area Transportation Review component of the APF test is no longer applicable. Thus the remaining staging ceiling capacity for non-residential development was not reviewed for the Derwood Policy Area.

EA:gw

cc: Lee Cunningham
Greg Leck
Sarah Navid



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING
COMMISSION

Transmittal of the Traffic Study

DATE: February 18, 2005
TO: 1. Greg Leck, MC DPWT (three copies)
 2. Bob Wells, MCDPWT (one copy)
FROM: Ed Axler, Transportation Planning

Lee Cunningham will directly send copies of "Local Area Transportation Review Analysis" (or traffic study) dated November 2004, to you.

Special Exception No: S-2651

Plan Name: Citgo/7-11

Note: Given the special exception approval, traffic study would be revised as necessary and distributed to DPWT and SHA with the future preliminary plan.

Traffic Consultant: Lee Cunningham of Lee Cunningham & Associates

Location & Accesses: As shown on Exhibit 1 (page 2), the site is located in the southwest quadrant of the intersection of East Gude Drive and Cecil Street (opposite Crabbs Branch Way). As shown on Exhibit 3 (page 3), the two vehicular site access points are from Derwood Circle (via Cecil Street to East Guide Drive).

Land Use: As discussed on page 1, Introduction, and shown on Table 4 (page 10), the traffic study was analyzed for automobile filling station with 8 pumping positions and a convenience retail store (i.e., considered an accessory use because the patron area is less than 1,650 square feet). By not proposing to sell diesel fuel, the on-site circulation does not have accommodate the daily turning movements of larger trucks, besides the normal fuel and convenience store delivery trucks.

Policy Area: Derwood

Staging Ceiling: No longer applicable under the FY 2005 AGP

Land Use: ▶ Non-Residential Residential Other

COMMENTS:

Traffic Counts

The traffic counts were collected on October 20, and 21, 2004, when in the Montgomery County Public Schools were in session.

Reassigned Background Traffic from East Gude Drive via Cecil Street to the Site on Derwood Circle

Exhibit 8 (page 12) shows the diversion of site-generated trips into to the site.

Trip Distribution and Assignment: Refer to Exhibit 7 on page 11.

Local Area Transportation Review (LATR) Standards

Under the LATR Guidelines, when the number of site-generated, new, peak-hour trips are between 30 and 250, the maximum number of significant intersections in each direction would be one (i.e., or in this case East Gude Drive/Crabbs Branch Way-Cecil Street). Under the *FY 2005 Annual Growth Policy*, the CLV/congestion standard of 1,475 was used for the two analyzed intersections

Intersection Congestion Levels: The CLV values are shown on:

- Table 1 (page 4) for the existing traffic condition
- Table 3 (page 10) for the background traffic condition
- Table 5 (page 13) for the total traffic condition

The CLV values exceed the congestion standard at the intersection of East Gude Drive and Crabbs Branch Way-Cecil Street. At this intersection, a proposed improvement is described in the last paragraph on page 13. Even though the CLV value with the improvement in the total traffic condition still exceeds the congestion standard, this CLV value is less than the CLV value without the improvement in the background traffic condition (i.e., mitigating the site-generated traffic).

Pedestrian Statement Refer to pages 16 to 20, plus note the Class I bike path on the south side of East Gude Drive.

ACTION: Please review and comment the feasibility of removing or reducing the width of the four-foot median on the 44-foot-wide Cecil Street/south leg of the intersection with East Gude Drive. This extra width would permit the northbound approach lanes to be widened to two 12-foot lanes. The wider 12-foot lanes could operation as a two-lane approach rather than the existing functional one-lane approach -- given the large trucks that leave the Derwood Industrial Park from Cecil Street. Please comment on the following related topics:

1. **For Greg Leck:** Since this is an industrial area, do you agree that Cecil Street operationally is a one-lane northbound approach to the intersection with East Gude Drive with the larger trucks? If so, is the removal or width reduction of the existing four-foot median a feasible proposal to widen the northbound Cecil Street approach lanes? Do you support 12-foot lanes or do large trucks require even wider lanes? Is the southbound receiving lane on Cecil Street of adequate width (i.e., approximately 20-foot wide now) for trucks?

2. For Bob Wells: Do this intersection and the small segment of Cecil Street have an abnormally larger-than- anticipated number of accidents associated with large trucks turning into or from Cecil Street? Likewise, would removing or reducing the width of the existing four-foot median create potential conflicts that would cause additional accidents?

Please respond by telephone, phone-mail, or email by March 1, 2005, so that Transportation Planning staff's can prepare our memo in time for the Planning Board hearing scheduled on March 10, 2005. The written documentation could follow and be provided upon request at the March 1, 2005- Planning Board hearing. The public hearing for Hearing Examiner is scheduled March 27, 2005.

Attachment by Lee Cunningham

cc: Lee Cunningham
Carlton Gilbert
Dan Hardy

EA:\s2651tis.doc