

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

MCPB
Item # 7
Date: February 12, 2009

MEMORANDUM

DATE: February 2, 2009

TO: Montgomery County Board of Appeals

FROM: Renée M. Miller, AICP, Senior Planner *RAM*
Development Review Division (301-495-4723)

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Ralph D. Wilson, Zoning Supervisor *RW*

SUBJECT: Special Exception Request (S-2743: Henderson Corner & 355, LLC)

MASTER PLAN: Germantown Master Plan

FILLING DATE: October 13, 2008

PLANNING BOARD: February 12, 2009

PUBLIC HEARING: February 27, 2009

Staff Recommendation: The applicant is requesting a special exception to construct a filling station, with 12 pumping stations and a 3,166 square foot convenience store. The proposed use satisfies all applicable development standards. For these reason, staff recommends APPROVAL of special exception application S-2743, subject to the following conditions:

1. Development of the property must be limited to:
 - a. A self-service automobile filling station, containing six (12 pumping stations) multi-product dispensers located on three pump islands;
 - b. A 3,188 gross square foot building, including a 1,674 square foot convenience food, beverage and customer patron area; and
 - c. 2 underground storage tanks;
2. No more than 7 employees on-site at any one time.
3. Submission of a revised Final Forest Conservation Plan, showing the proposed development's layout.
4. Submission of a revised Preliminary Plan, at which time the adequate public facilities will be determined.

5. A maximum canopy clearance height of 14'-6" and a total canopy height of 18'-6".

I. Application Summary

- A. Site Size and Location:** Site size is approximately 1.27 acres. The site is described as Parcel E, Henderson Corner Subdivision. The site is located on the south side of Ridge Road (MD 27) at its intersection with Henderson Corner Road. (See Attachment 1.)
- B. Zone and Proposed Use:** The site is classified in the C-3 Zone. The applicant is seeking approval to construct an automobile fueling station and convenience store.
- C. Scope of Operations:** The number of self-service pumps will be 6, capable of servicing 12 vehicles, and a canopy. The request includes a 3,188 square foot convenience store. Gas sales and convenience food sales will be 24-hours, 7 days per week. Employees will be scheduled in 3 shifts and have a maximum number of employees per shift of 7.
- D. Master Plan:** The 1989 Germantown Master Plan
- E. Applicant:** Henderson Corner and 355, LLC

II. Application Background

The subject site was rezoned in 1999 from the R-200/TDR zone to the C-3 zone. Subsequently in 2006, the site was the subject of a preliminary plan and site plan for a 4,100 square foot bank with drive-thru teller lanes. Although the bank was approved for the site, circumstances have changed and the property owner is now seeking approval of a special exception for an automobile filling station and a convenience store. The site has an approved final forest conservation plan, which must be revised to show the site design of the proposed use.

III. Applicant's Submittal

The core improvements are the construction of a filling station, including 12 pumping stations and a convenience store. Sixteen parking spaces are proposed and a masonry dumpster enclosure will be located on the southwest corner of the property. The proposed driveway would be located on the southeast side of the property, along Henderson Corner Road, approximately 340-feet south of its intersection with Ridge Road/MD 27. Turning movements are limited to right-in and right-out, and a left-in provided for north-bound access to the site. No access to the site is provided from Ridge Road/MD 27. (See Attachment 2A.) The proposed driveway access and left turn lane are consistent with the approved and recorded Preliminary Plan #120061210.

The applicant's plans call for a 36-foot wide by 86-foot long by 18'-6" high canopy (14'-6" clearance height) to cover the proposed pumping stations. A retaining wall is proposed at the northwestern side of the property. No carwash or service bays are proposed; however, two underground storage tanks will be located on the southeastern-most corner of the site,

adjacent to Henderson Corner Road. Also on-site will be a 3,188 square feet, single-story building, which will include a 1,674 square foot convenience food, beverage and customer sales area. The remainder of the building will be devoted to office and storage use. (See Attachment 2B.) A tower-like feature has been added as a design element to the convenience store.

The applicant is proposing a 10-foot high, 27-inch wide monument sign, canopy signs and wall signs, which will be located on the upper face of the convenience store. (See Attachment 2C.)

The automobile filling station and convenience food and beverage store will operate twenty-four hours per day, seven days per week. The applicant is proposing that the convenience food and beverage store will be staffed in three, eight hour shifts. No more than seven employees will be on-site at any one shift. The shifts will be 6:00 A.M. – 2:00 P.M.; 2:00 P.M. – 10:00 P.M.; and 10:00 P.M. – 6:00 A.M.

IV. Site Description and Surrounding Uses

The site is approximately 1.27 acres in size and is primarily a wooded lot. The site has unusual grades that make the site higher than the surrounding properties and roadways. The lot is somewhat triangular in shape and is bounded on two sides by roadways. Midway along the Henderson Corner side, the property rises several feet to form a plateau, while the side of the property adjacent to Ridge Road/MD-27 slopes steeply downward to the roadway. Currently, there is no access to the site. (See Attachment 3.)

The site is located on an “island” of properties within the Neelsville Village area of Germantown. The triangular “island” is bounded by Ridge Road/MD-27 to the north, Henderson Corner Road to the southeast and Frederick Road/MD-355 to the west. (See Attachment 4.) For purposes of compatibility, staff defined the surrounding area to include the Neelsville Village Shopping Center, Seneca Crossing subdivision and Ridge Road Recreational Facility. The site is surrounded by a mix of uses, including residential, professional business, retail, drive-thru restaurants and a recreational park. The residential properties across Henderson Road are significantly lower in elevation than the subject site and would not have a direct view of the proposed automobile service station. (See Attachment 5.)

V. Master Plan

The site is located within the Neelsville Village analysis area of the 1989 Germantown Master Plan. The Master Plan specifically recommends the site for limited retail use under the C-3 zone. The uses identified in Master Plan as appropriate for the site are a convenience store, a gas station, a car wash and a bank. The Master Plan also recommends that development of the property be sensitive to the “gateway” location through the placement of buildings, landscaping and berms. Additionally, the building materials, roof line and landscaping should be consistent with the retail center across from Frederick

Road/MD-355. (See Attachment 6.) These site layout and design issues will be addressed at the time of site plan review.

Community-Base Planning staff concluded that the proposed canopy height was compatible with the “gateway” concept. The minimum standard for overpass bridges within the Interstate Highway System is 14-feet, 9-inches. They reasoned that maintaining the clearance height at 14’-6” for the canopy to contain light spillage will better establish compatibility with the residential area, even though the houses are at minimum 220 feet away.

VI. Transportation Analysis

Three intersections have been identified as being impacted by the proposed development and were examined by staff to determine the level of traffic impacts within the Germantown East Policy Area. Included in the examination were the existing and background traffic conditions at the intersections (e.g., existing traffic plus traffic to be generated by approved, but unbuilt development in the area), plus the proposed development’s traffic generation. The total of the three numbers (e.g., future traffic generation) was assigned to the intersection to determine the total future critical lane volumes (CLVs). Table 1 below describes the result of this calculation.

Table 1: Intersection Capacity Analysis (Peak Hour Traffic Demands)

Intersection	Existing		Background		Total	
	A.M.	P.M.	A.M.	P.M.	A.M.	P.M.
MD 27/ Brink Rd.	1,019	1,085	1,357	1,422	1,360	1,424
MD 27/ Henderson Corner Rd.	264	755	330	1,014	334	1,011
MD 355/Henderson Corner Rd.	988	981	1,046	1,022	1,050	1,027

As shown above, all identified intersection are currently operating at an acceptable CLV standard during the morning and evening peak hours. It is anticipated that the future traffic volumes will remain at an acceptable level. (See Attachment 7.)

The site has an approved Preliminary Plan for the development of a 4,100 square foot drive-thru bank. A review of the primary trips for the approved bank, in comparison to the proposed automobile filling station, indicates that the proposed filling station would generate an equal number of primary trips in the morning peak hour as the previously approved bank. However, the auto filling station with a convenience store will generate twenty-seven less trips in the evening peak hours. It is concluded that the subject special exception satisfies the Policy Area Mobility Review (PAMR) requirements. (See Attachment 7, page 3).

VII. Environmental Analysis

A Final Forest Conservation Plan (FFCP) was previously approved. The applicant is required to revise this plan to show the new use and its layout.

VIII. Community Comments

Staff has not received any written or oral comments from the community regarding the application.

IX. ANALYSIS

A. 59-G-1.2.1 General Conditions

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.

Staff Analysis: An automobile filling station is a permissible special exception in the C-3 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.

Staff Analysis: The proposed use complies with the automobile filling station standards and requirements of §59-G-2.06. See Section IX.C for analysis.

(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.

Staff Analysis: The site is located within the 1989 Germantown Master Plan. The proposed use is consistent with the general plan and the applicable master plan for the area. The Master Plan identifies the following uses as appropriate for the site: (1) convenience store, (2) gas station, (3) car wash and (4) bank. An automobile filling station would implement a master plan development objective for the site.

(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 Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect with the special exception application was submitted.

Staff Analysis: The proposed special exception use will be in harmony with the general character of the neighborhood considering the population density, design, scale and bulk of the structures, intensity and character of activity, traffic and parking conditions and number of similar uses. The site is one of several parcels located on a triangular piece of land that is surrounded on three sides by roadways. Two of these roads, Ridge Road and Frederick Road, are major arterial roads with rights-of-way greater than 120-feet. The traffic associated with this proposal will be 27 less trips in the P.M. peak hour travel times than the previously approved bank. In addition, the proposed height of the building is significantly lower than the permitted height of the zone and the building materials are similar to the surrounding area.

- (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.*

Staff Analysis: This property is one of several properties surrounded on three sides by major roadways. The proposed building is similar in scale and use to the majority of uses in the area. Additionally, the natural vegetation, proposed landscaping, and topography will restrict the visibility of the physical activity from the residential properties, which lie approximately 200-feet southeast of the site. Because of the site's isolation from the nearest residential community, in addition to the restricted turning movements, the proposed use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site. Lastly, the site is recommended for a limited commercial use, such as a automobile filling station per the Germantown Master Plan.

- (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.*

Staff Analysis: The proposed use will not cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site. The natural vegetation, proposed landscaping and topography will restrict the visibility of the physical activity to the residential properties lying approximately 200-feet southeast of the site. (See Attachments 3 and 5.)

- (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.*

Staff Analysis: The proposed special exception will not increase the number, intensity, or scope of special exceptions sufficiently to affect the area adversely. This site is located in the C-3 zone and is specifically recommended in the master plan as appropriate

for an automobile filling station. Only one special exception, an automobile filling station approved by the Board of Appeals in May 1990, exists in the general 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.*

Staff Analysis: The existence and operation of an automobile filling station at the proposed location is not expected to adversely affect the health, safety, security, morals or general welfare of the residents, visitors or workers in the area.

- (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.*

- (A) *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.*
- (B) *If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Management Policy standards in effect when the application was submitted.*
- (C) *With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic.*

Staff Analysis: The adequacy of public facilities to serve the proposed use will be determined at preliminary plan. This site was previously approved for the development of a 4,100 square foot bank, with drive-thru lanes (Preliminary Plan #120061210). As discussed in Section VI above, all the identified intersection impacted by this proposal are currently operating at an acceptable CLV standard and are anticipated to be at acceptable levels when considering both the background and total development conditions. (See Attachment 7, page 2.)

B. §59-G-1.23 - General Development Standards Applicable standards only)

- (a) *Development Standards. Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.21 or in Section G-2.*

Staff Analysis: Table 2 below lists the applicable development standards of the C-3 zone. As proposed, the proposed development satisfies the development standards of the zone.

Table 2: Applicable Development Standards of the C-3 Zone.

C-3 Zone Development Standards	Standard	Proposed
Building Height (§59-C-4.361)	42-ft (max)	Tower: 29' 6" Flat Roof: 18' -6" Canopy: 18' -6" ¹
Setbacks (§59-G-4.362) (a) From any Street R/W (1) R/W est. on a Master Plan (2) No Master Plan showing R/W (b) From any other lot line (1) Lot adjoins a residential zone not -recommended on a Master Plan for commercial or industrial zoning or -used as a public parking lot, or -used for off-street parking in connection with multi-family, commercial or industrial Zone (2) In all other cases, no setback is required.	10-ft (min) 70-ft Not less than required in the adjoining zone.	±34-ft N/A N/A N/A
Green Area (§59-G-4.363) Green area shall constitute at least 10% of the area of the lot. The green area, including the required setback area shall be landscaped. Where yards are required adjoining a residential zone a solid wall or fence at least 5-ft high or a compact evergreen hedge at least 3-ft high at time of planting shall be provided, unless the site is already effectively screened, in the opinion of the planning board, by a permanent natural or artificial screen. Such wall, fence or hedge shall be located so as to provide the most effective screening for adjoining or facing premises.	10% of lot area	±55%
Roads and Internal Circulation (§59-C-4.364) (a) Access from the abutting major highway shall be by way of channelized service drives, providing for the separation of all vehicular movements, acceleration, deceleration and left-turn storage, except where existing adjoining development makes it infeasible.		<i>Please refer to Section IX.A above, specifically §59- G-1.21(a)(9)</i>
Off-street Parking (§59-C-4.365) (a) All parking shall be located on land classified in the C-3 zone. (b) All parking shall be located to the side or rear of the main building, inside of the building or on the roof. (c) A driveway without parking areas may be located in front of the building.		<i>See §59-G- 1.23(b), below.</i>

(b) Parking Requirements. Special Exceptions are subject to all relevant requirements of Article 59-E.

Staff Analysis: An automobile filling station must provide two parking spaces for each car wash bay or similar service and one parking space per each employee. In addition, a general retail operation must provide five parking spaces for each 1,000 gross leasable square feet. In this case, only seven employees will be on-site at any one time and 1,674 square feet of the service building will be devoted to the convenience store. No carwash or service bays are proposed. Based on the applicant's proposal, it is estimated that sixteen spaces would be required: five will be adjacent to

¹ Staff is recommending a 3-foot reduction to the gas canopy height. See Section V for further discussion.

Ridge Road and the remaining 11 near the convenience store entrance.

Article 59-E also requires parking facilities located along a street right-of-way to provide a landscape strip at least 10 feet in width and a minimum 4-foot wide perimeter landscape area for portions of the site that adjoin properties other than street rights-of-way. In both instances, the applicant must plant a minimum of one tree per 40 feet of lot frontage and perimeter, respectively. The area should be planted with shade or ornamental trees, in combination with an evergreen hedge, a wall or fence or other methods to reduce the visual impact of the parking facility.

The applicant is proposing twenty-nine trees and fifty-two shrubs along the rights-of-way and nine trees and fifteen shrubs along the property line consisting of Sugar Maple and Allegheny Serviceberry trees and Barberry shrubs.

The filling station application satisfies the Article 59-E requirements. (See Attachment 9.)

(c) Minimum Frontage. In the following special exceptions the Board may waive the requirement for a minimum frontage at the street line if the Board finds that the facilities for ingress and egress of vehicular traffic are adequate to meet the requirements of section 59-G-1.21:

- (1) Rifle, pistol and skeet-shooting range, outdoor;*
- (2) Sand, gravel or clay pits, rock or stone quarries;*
- (3) Sawmill;*
- (4) Cemetery, animal;*
- (5) Public utility buildings and public utility structures, including radio, and TV broadcasting stations and telecommunication facilities;*
- (6) Riding stables;*
- (7) Heliport and helistop.*

Staff Analysis: There are no applicable frontage requirements in the C-3 Zone.

(d) Forest conservation. If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

Staff Analysis: This site has a previously approved Final Forest Conservation Plan. The applicant will be required to revise this plan to reflect the layout of the proposed gas station use.

(e) Water quality plan. Not Applicable.

(f) Signs. The display of a sign must comply with Article 59-F.

Staff Analysis: The applicant is proposing one monument sign, at the driveway entrance to the site. The sign's area is approximately 49.5 square feet and is 10-feet high from grade and 27-inches wide at the base. The monument sign will be illuminated from the interior. In addition, the applicant is proposing four, 4-foot by 4-foot wall signs. Two of the wall signs are located on the tower (one on the north side and one on the east side), the third is proposed on the entrance to the convenience store and the fourth is proposed on the gas canopy. According to the information submitted by the applicant, these signs will be illuminated from the sign's interior. The proposed satisfies the Article 59-F requirements.

C. Specific Standards (§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.*

Staff Analysis: For all the reasons set forth in Section IX.A. of this report, in response to General Condition §59-G-1.21(a)(6), the use will not cause any objectionable noise, fumes, odors or physical activity proposed at this location.

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

Staff Analysis: For all the reasons set forth in Section VI with regards to Traffic and Section IX.A. of this report in response to General Condition §59-G-1.21(a)(9), the use will not create a traffic hazard or traffic nuisance.

(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.*

Staff Analysis: For all the reasons set forth in Section V with regards to the compliance with the Master Plan and Section IX.A of this report in response to General Condition §59-G-1.21(a)(4) – (7), the use will not adversely affect, nor retard the logical development of the general neighborhood.

D. 59-G-1.2.1 Standard for Evaluation

The standard for evaluation under 59-G-1.2.1 requires consideration of the inherent and non-inherent effects of the proposed use at the proposed location. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects, alone, are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are the physical and operational effects not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent effects, are a sufficient basis to deny a special exception. The inherent and non-inherent effects must be analyzed to determine whether the effects are acceptable or would create adverse impacts sufficient to request a denial of the application.

The inherent characteristics of an automobile filling station include the following: (1) fuel pumps; (2) a structure providing storage space and shelter for employees; (3) traffic generated by customers, employees, and fuel delivery trucks; (4) potential for queuing vehicles on-site; (5) noise associated with the use; (6) signage advertising gas products and prices; (7) outdoor lighting; (8) longer hours of operation than the average business establishment; (9) environmental impacts that may include fumes from idling vehicles and potential spillage of automobile fluids; and (10) underground fuel storage tanks. Although a convenience store is not a use necessarily associated with an automobile filling station, it is increasingly common to find this service type provided by a modern automobile filling station; however, staff still considers the convenience store to be a non-inherent characteristic of the site. The proposed automobile filling station is on one of several parcels which are bounded on three sides by roads that have dedicated rights-of-way larger than 100-feet, causing this location to be isolated from the nearest residential development. In addition, the topology of the area is such, that any view of the convenience store, will not be seen from the houses. (See Attachment 5.) The applicant is proposing to install low shrubbery, as to create a “wall” that would provide additional screening to any potential car lights that would intrude on the residential homes. The non-inherent adverse effects of the convenience store, alone or in conjunction with the inherent effects, are not a sufficient basis to deny the subject special exception application, in this case.

E. 59-G-1.24 Neighborhood Need

Under §59-G-1.24, before granting a special exception for an automobile filling station, the Board of Appeals must find that a need exists for the proposed station to serve the population in the general neighborhood considering the availability of similar uses in the area. The applicant presented a written report from Lipman, Frizzell and Mitchell, LLC. The analysis provided by the consultant’s report demonstrates sufficient proof of a need in this neighborhood for the proposed automobile filling station. (See Attachment 10.)

X. CONCLUSION

Based on review of the application and all information of record, staff concludes that the application, with the conditions imposed by staff, satisfies all relevant standards for grant of

an automobile filling station special exception. For these reasons, staff recommends that special exception application S-2743 for an automobile filling station, with a 3,166 square foot convenience store located on the south side of Ridge Road/MD-27 at its intersection Henderson Road, Germantown, MD, be granted.

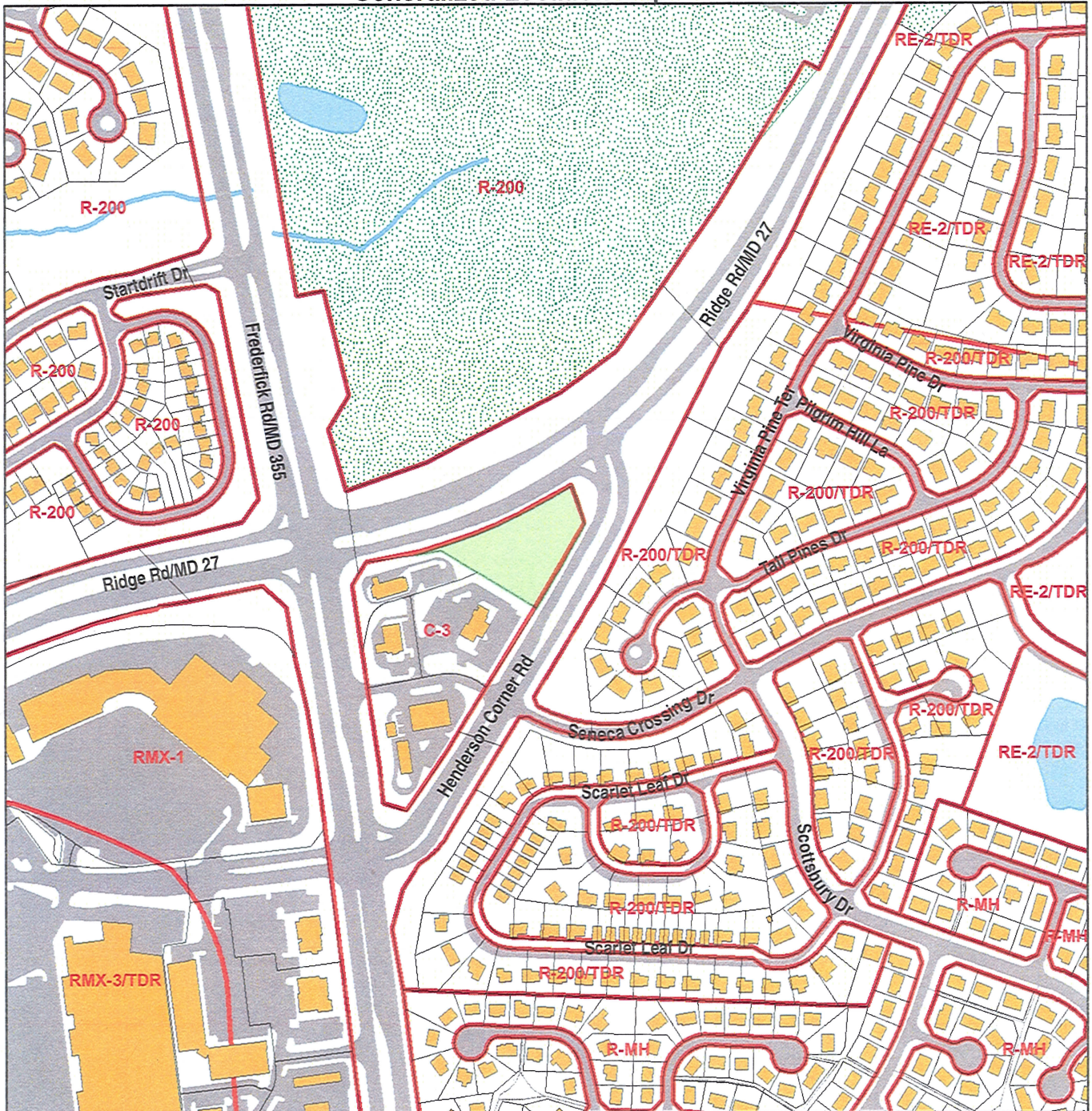
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ATTACHMENTS

- Attachment 1-** General Location Map
- Attachment 2-**
- A. Special Exception Site Plan, as submitted by the applicant, dated May 5, 2008
 - B. Architectural Rendering, as submitted by the applicant, dated January 15, 2009
 - C. Proposed Signage, as submitted by the applicant, dated January 15, 2009
- Attachment 3-** Site Photographs
- Attachment 4-** Surrounding Area Map
- Attachment 5-** Cross-Section, as submitted by the applicant, dated January 13, 2009
- Attachment 6-** Memorandum from Sue Edwards, Community-Based Planning to Renée M. Miller, AICP, received January 26, 2009
- Attachment 7-** Memorandum from Ki Kim, Transportation Planning Division, to Renée M. Miller, Development Review Division, received January 22, 2009
- Attachment 8-** Memorandum from Patrick Butler, Development Review Division-Subdivision, to Renée M. Miller, Development Review Division, received January 23, 2009
- Attachment 9-** Special Exception Landscape and Lighting Plan, as submitted by the applicant, dated January 13, 2009
- Attachment 10-** Memorandum from Krishna Akundi, Research and Technology Division, to Renée M. Miller, Development Review Division, received January 23, 2009

ATTACHMENT 1

Generalized Location Map



LEGEND

-  Subject Site
-  Parcel
-  Building
-  Paved Area
-  Lake and Pond
-  Stream and River

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-NPPC.

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.

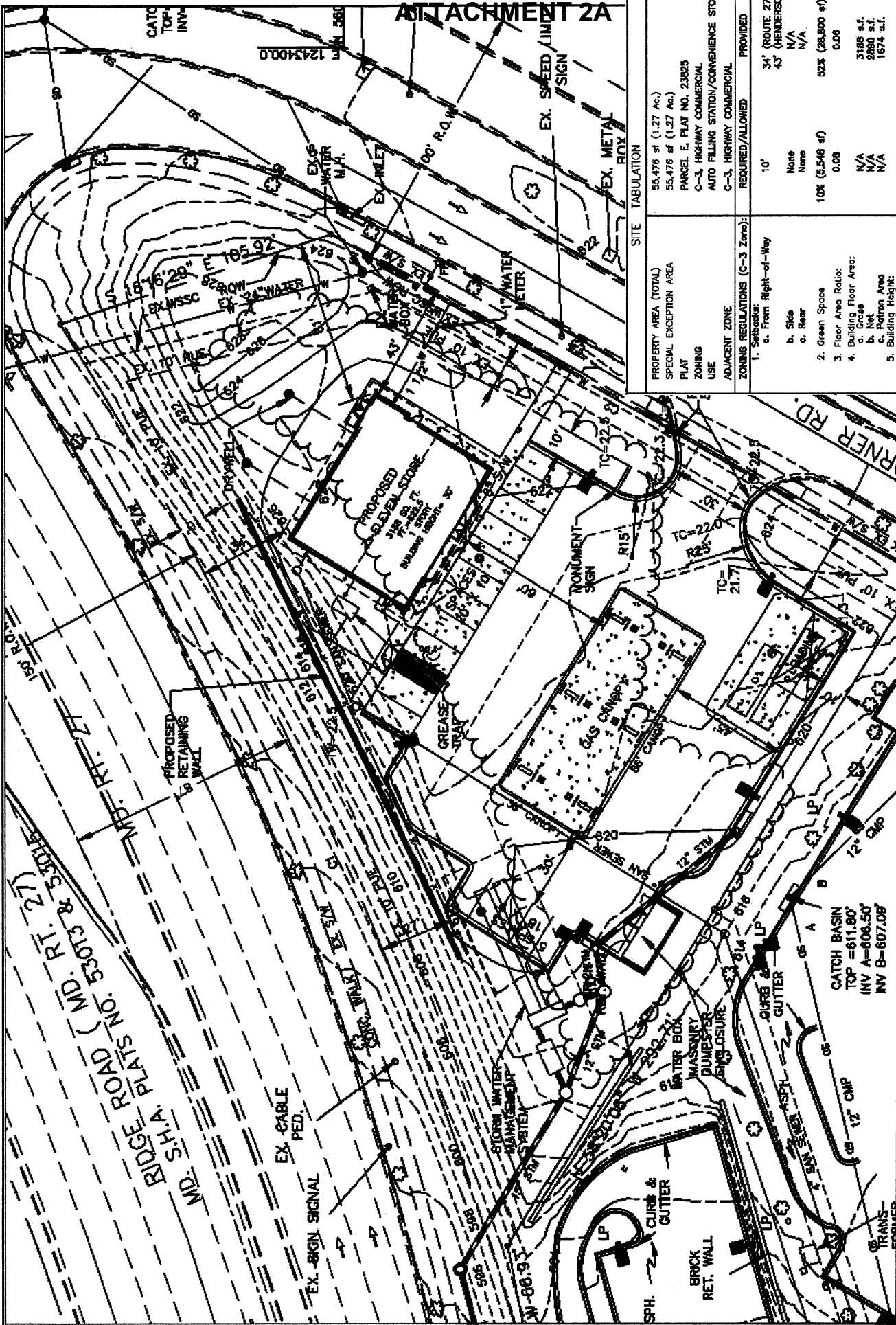
1 inch = 400 feet
Address: Ridge Rd (MD27) and Henderson Corner Rd

Key Map

NTS

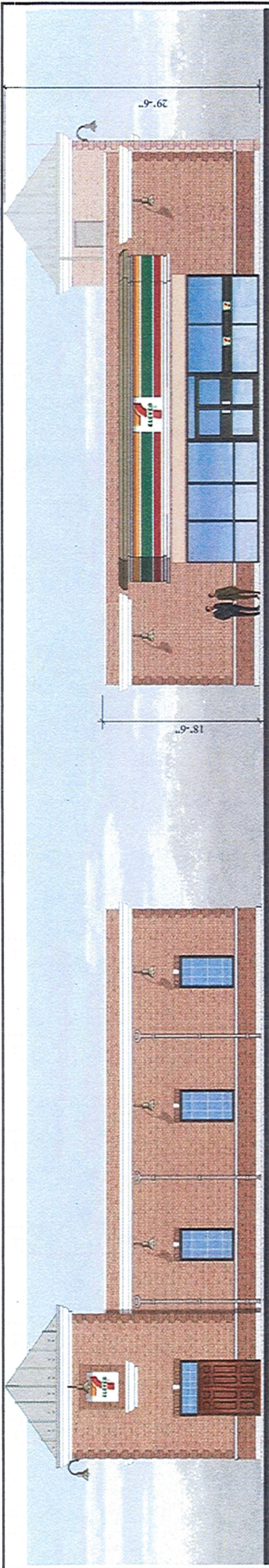


ATTACHMENT 2A



SITE TABULATION	
PROPERTY AREA (TOTAL)	55,476 sf (1.27 Ac.)
SPECIAL EXCEPTION AREA	55,476 sf (1.27 Ac.)
PLAT	PARCEL E, PLAT NO. 23825
ZONING	C-3, HIGHWAY COMMERCIAL
USE	AUTO FILLING STATION/CONVENIENCE STORE
ADJACENT ZONE	C-3, HIGHWAY COMMERCIAL
ZONING REGULATIONS (C-3 Zone):	REQUIRED/ALLOWED
1. Substrate:	PROVIDED
a. From Right-of-Way	10'
b. Side	None
c. Rear	None
2. Green Space	0.08
3. Floor Area Ratio:	0.08
4. Building Floor Area:	102 (5,548 sf)
a. Gross	N/A
b. Net	N/A
c. Patron Area	N/A
5. Building Height:	42' max.
Store	30'
Canopy	42' max.
6. Parking:	16 (5/1000 LFA)
a. Total	16
b. HCP	1
c. Loading	1
d. Parking Lot Setback:	10'
from any r.o.w.	4'
from other prop. lines	10'
7. Buffer Yards:	N/A

Not to Scale



FRONT ELEVATION



RIGHT SIDE ELEVATION



SIDE CANOPY ELEVATION



LEFT SIDE ELEVATION



REAR ELEVATION

24x36 SHEET SCALE: 3/16" = 1'-0"

4 2 0 4 8 12

11x17 SHEET SCALE: 3/32" = 1'-0"

4 2 0 4 8 16 24

NOTE: SIGNAGE IS ILLUSTRATIVE ONLY.

NO.	DESCRIPTION	MANUFACTURER	COLOR
B1	FACE BRICK 1 1/2" x 3 1/2" x 7 1/2"	LAMBERTVILLE	DOUGLASS
B2	FACE BRICK 1 1/2" x 3 1/2" x 7 1/2"	LAMBERTVILLE	DOUGLASS
B3	FACE BRICK 1 1/2" x 3 1/2" x 7 1/2"	LAMBERTVILLE	DOUGLASS
B4	GLASS	VARIOUS	VARIOUS
B5	GLASS	VARIOUS	VARIOUS
B6	GLASS	VARIOUS	VARIOUS
B7	GLASS	VARIOUS	VARIOUS
B8	GLASS	VARIOUS	VARIOUS
B9	GLASS	VARIOUS	VARIOUS
B10	GLASS	VARIOUS	VARIOUS
B11	GLASS	VARIOUS	VARIOUS
B12	GLASS	VARIOUS	VARIOUS
B13	GLASS	VARIOUS	VARIOUS
B14	GLASS	VARIOUS	VARIOUS
B15	GLASS	VARIOUS	VARIOUS
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B18	GLASS	VARIOUS	VARIOUS
B19	GLASS	VARIOUS	VARIOUS
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B21	GLASS	VARIOUS	VARIOUS
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B23	GLASS	VARIOUS	VARIOUS
B24	GLASS	VARIOUS	VARIOUS
B25	GLASS	VARIOUS	VARIOUS
B26	GLASS	VARIOUS	VARIOUS
B27	GLASS	VARIOUS	VARIOUS
B28	GLASS	VARIOUS	VARIOUS
B29	GLASS	VARIOUS	VARIOUS
B30	GLASS	VARIOUS	VARIOUS
B31	GLASS	VARIOUS	VARIOUS
B32	GLASS	VARIOUS	VARIOUS
B33	GLASS	VARIOUS	VARIOUS
B34	GLASS	VARIOUS	VARIOUS
B35	GLASS	VARIOUS	VARIOUS
B36	GLASS	VARIOUS	VARIOUS
B37	GLASS	VARIOUS	VARIOUS
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B49	GLASS	VARIOUS	VARIOUS
B50	GLASS	VARIOUS	VARIOUS

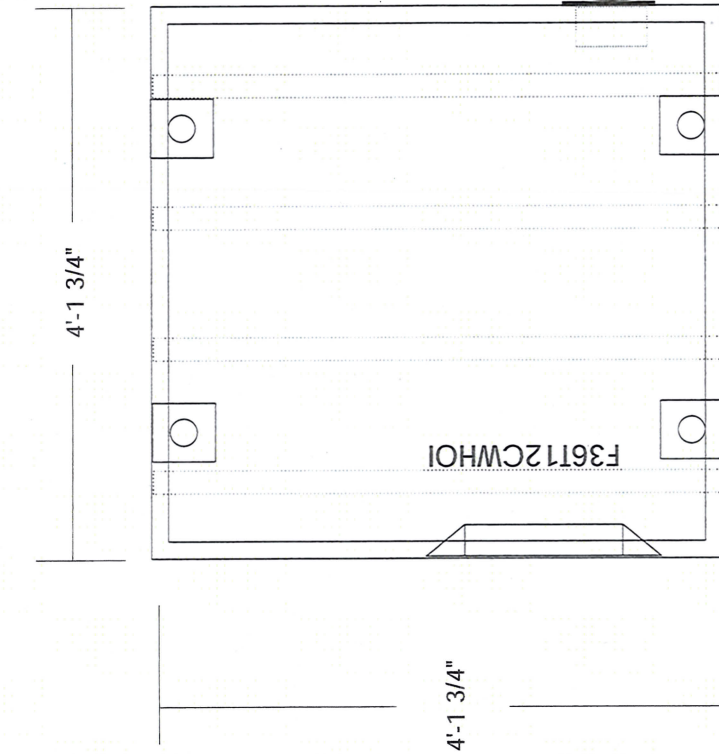
21040 HENDERSON CORNER RD.
GERMANTOWN, MD
MONTGOMERY COUNTY



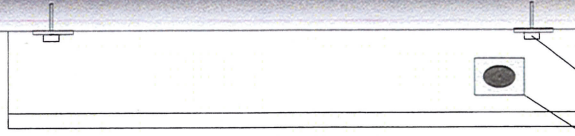
7-ELEVEN INC.
1-15-09

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

4' X 4' ILLUMINATED WALL SIGN



SIDE VIEW



W/P DISCONNECT SWITCH

1/4" X 3" LAG BOLTS

SCALE: 3/4" = 1'-0"

ELECTRICAL DATA
 1 256-448 JEFFERSON BALLAST
 4 F36T12CWWHO LAMPS
 AMPS 1.9
 VOLTS 120

DATE:	1/16/08
SALESMAN:	LARRY
DRAWN BY:	SW
FILE:	4X4WALLMASTER2
SCALE:	3/4" = 1'-0"

FT. 25/25

sq. ft.

ANCHORS REQUIRED
AND
P 120 V

CLOSE TO ROAD

10'-0" 1 1/2"

" x 84" anchor
bolts (6 req.)
space between
brick faces filled
with concrete.

1/2"=1'-0"

#3 rebar

rete footing.
ick structure.

18" 13"

1d Plexiglass

mps

100MPH Coastal

or the footing 3000PSI

5'-1 1/2"

5'-1 1/2"

10'-3"

11'-7"

142"

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ATTACHMENT 3

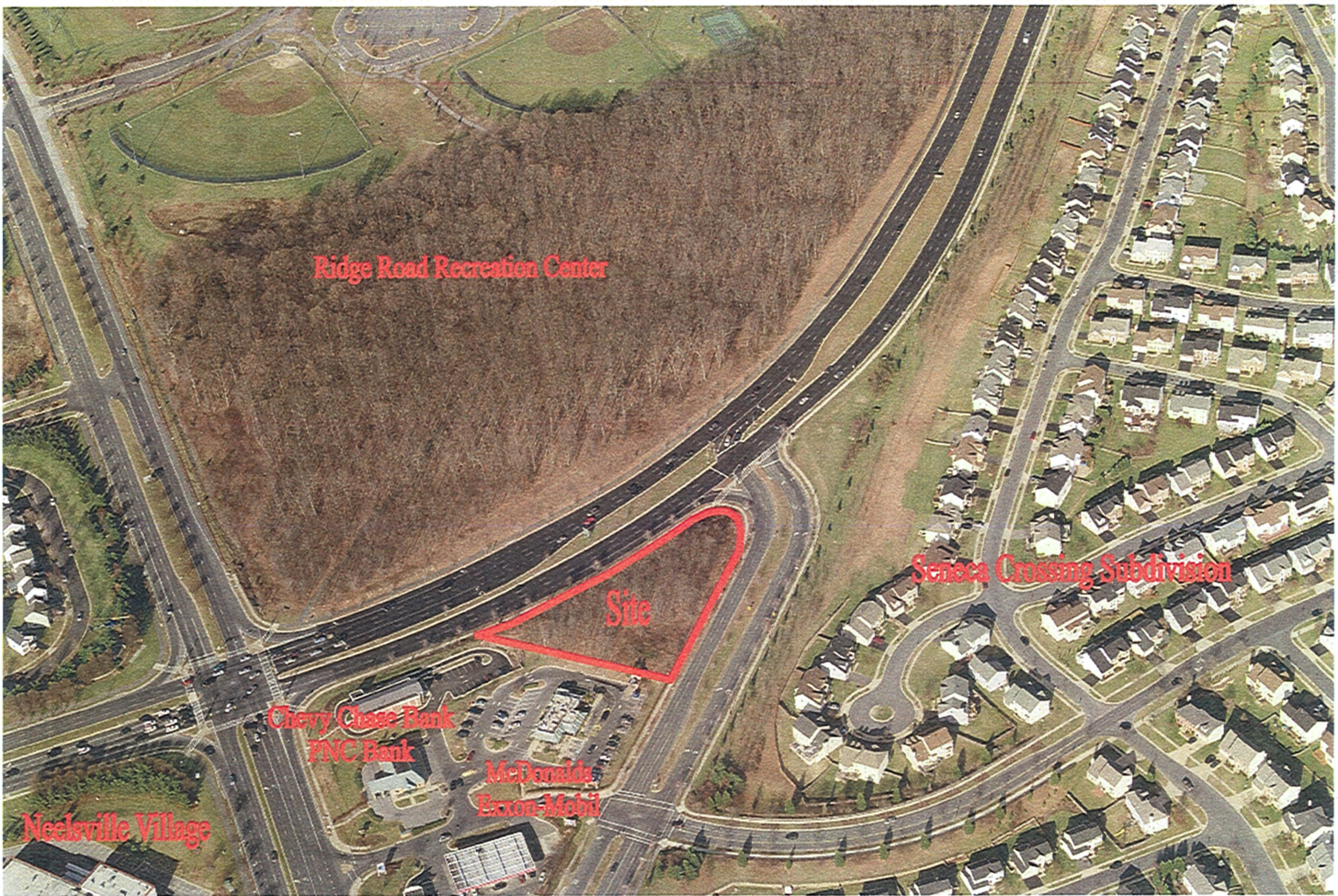


Figure 2: Henderson Corner, site is on left



Figure 4: Looking @ site from Henderson Corner



Figure 1: Henderson Corner, looking NE





Figure 3: Seneca Crossing Subdivision

ATTACHMENT 4

Surrounding Area Map



LEGEND

-  Subject Site
-  Parcel

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-NPPC.

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.

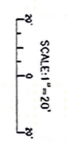
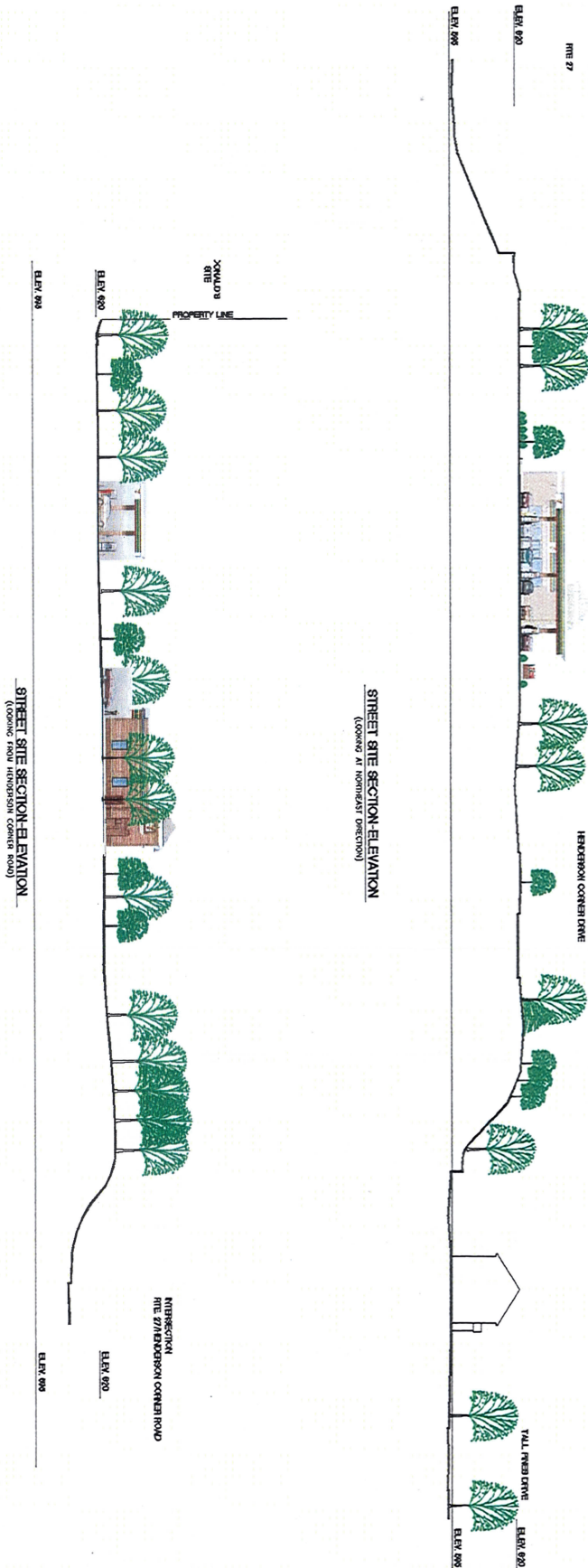
1 inch = 400 feet

Address: Ridge Rd (MD27) and Henderson Corner Rd

Key Map
NTS



rmm (g:\reneelgisprojects\S-2743 (SAM-Attachment).mxd)



Attachment 5

<p>DATE: JANUARY, 09</p> <p>SHEET: 001</p> <p>1 OF 1</p>	<p>7-ELEVEN</p> <p>21040 HENDERSON CORNER ROAD</p> <p>MONTGOMERY COUNTY, MARYLAND</p> <p>EXHIBIT</p> <p>SITE SECTIONS/ELEVATIONS</p>	<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	DATE	DESCRIPTION											<p>Drawn By: JDM</p> <p>Checked By: JDM</p> <p>Approved By: RDM</p>	<p>HURON CONSULTING</p> <p>25410 CENTURY BLVD</p> <p>SUITE 230</p> <p>SCHEMANTOWN, MD 20854</p> <p>PHONE: (301) 526-2514</p> <p>FAX: (301) 526-2524</p> <p>www.huronconsult.com</p>
DATE	DESCRIPTION															



ATTACHMENT 6

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

January 29, 2009

TO: Renee Miller, Building Division
FROM: Sue Edwards, Vision Division (301-495-4518) *SUE*
SUBJECT: S-2743 Automobile Filling Station/Convenience Store

This memo contains the Vision Division comments on the Special Exception application for an automobile filling station at 21040 Henderson Corner Road, Germantown, MD.

Master Plan Conformance

The 1989 Germantown Master Plan addresses this property as Analysis Area NE-8 (Neelsville Village) on page 84:

“The triangular property between MD 355, existing, and MD-27 and proposed M-27/Henderson Corner Road is recommended for limited retail use under the C-3 Zone. The uses appropriate at this location are limited to a convenience store, a gas station, a car wash, and a bank. The development of this property should recognize its gateway location through placement of the buildings, landscaping and berming, and building design. The building materials, roof line, and landscaping should be consistent with those of the convenience retail center (Neelsville Village Center) across MD 355. Further, the development of this property should be compatible with the proposed residential development across MD 27 and particular care should be taken in the design, height, and location of exterior lighting fixtures.”

This triangular property has developed with two banks, a fast food restaurant with drive through window, and a gas station with car wash. This property was previously approved for a bank with drive-through that was not built.

The use of this property as an automobile filling station with accessory convenience store conforms to the land use recommendations of the 1989 Germantown Master Plan. A new master plan is being developed for the Germantown Employment Corridor Sector Plan but the study area of this sector plan does not extend to the east side of MD 355.

Vision Division, 301-495-4555, Fax: 301-495-1304
8787 Georgia Avenue Street, Silver Spring, Maryland 20910
www.MontgomeryPlanning.org

Community Compatibility

This site is noted in the Master Plan as a gateway into Germantown and is adjacent to the Seneca Crossing subdivision on the east side of Henderson Corner Road. The visibility of the convenience store building and the canopy covering the fueling islands are important design considerations in this location.

The purpose of the canopy covering the fueling stations is to protect patrons from the effects of weather while refueling their vehicles. The height of such a canopy is dictated by the height needed to permit trucks to pass underneath. Staff applied the standard for overpass bridges on the Interstate Highway System (from *A Policy on Design Standards—Interstate System* by the American Association of State Highway and Transportation Officials) to evaluate the height of the proposed canopy.



The applicant depicts the canopy height as 18 feet 6 inches at the top with 14 feet 6 inches of clearance. Above is a photograph taken on January 23, 2009 at the I-O Partnership property at 19412 Walter Johnson Road, also containing a 7-11 convenience store. This photograph was taken at approximately 10:00 am while the fuel tanker truck delivered product. The photo depicts how there is adequate room for the fuel truck to pass under the canopy at 14 feet 6 inches.

The subject site is also higher in elevation than the surrounding area including the residential community to the east. Maintaining a clearance height of 14 feet 6 inches for

the canopy to contain light spillage will better establish compatibility with the residential area, even as the houses are at least 250 feet away.

Staff Recommendation:

Staff in the Vision Division have determined that the proposed use as an automobile filling station and convenience store and the special exception request conform with the 1989 Germantown Master Plan. Staff concurs that the canopy clearance height of 14 feet 6 inches is compatible with the adjoining residential development.

G: Edwards/S-2743.end staff memo.012909
N:/renee.S-2743.end staff memo.012909

ATTACHMENT 7



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

January 21, 2009

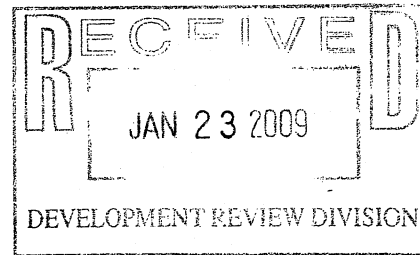
MEMORANDUM

TO: Renee Miller, Analyst
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning *[Signature]*

FROM: Ki H. Kim, Planner/Coordinator
Transportation Planning *[Signature]*

SUBJECT: Special Exception No. S-2743
Henderson Corner
Germantown East



This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject special exception application. The application is for the proposed auto filling station, to be located in the southwest quadrant of the intersection of MD 27 and Henderson Corner Road in the Germantown East Policy Area.

RECOMMENDATION

Based on our review of the submitted traffic analysis and site plan, Transportation Planning staff recommends the following conditions as part of the APF test for transportation requirements related to approval of this special exception application.

1. Total development under this preliminary plan application is limited to an auto filling station with 3,188 square feet of convenience store as shown on the site plan and analyzed in the traffic study.
2. The applicant shall dedicate 87 feet of right-of-way from the centerline of Ridge Road (MD 27) for a total of a 150-foot right-of-way width required for this Major Highway.

DISCUSSION

Site Access and Vehicular/Pedestrian Circulation

The site is located on the west side of Henderson Corner Road and south of Ridge Road (MD 27) with one vehicular access from Henderson Corner Road. The access to the site will be limited to a right-in, right-out, and left-in from Henderson Corner Road. Staff finds that the access point and the vehicular circulation system shown on the development plan are adequate.

There are five-foot sidewalks existing along Ridge Road (MD 27) and Henderson Corner Road, and the applicant will provide a six-foot sidewalk from Henderson Corner Road to the convenience store. Staff finds the pedestrian circulation system to be safe and adequate for existing facilities along surrounding roadways and construction of the proposed new sidewalk within the site.

Roadway Classification

Ridge Road (MD 27) is classified as a Major Highway (M-27) with recommended 150 feet of right-of-way with a shared-use path on the opposite side of the street and sidewalks on both sides. Henderson Corner Road is classified as an Arterial Roadway (A-273) with recommended 100 feet of right-of-way with sidewalks on both sides.

Local Area Transportation Review

A traffic analysis was prepared to determine the impact of a proposed auto filling station development with 3,188 square feet of convenience store on area roadway network. Staff agrees with the conclusion of the traffic study that the proposed development of the subject site would not have an adverse impact on the surrounding roadways.

Three local intersections were identified as critical intersections to be affected by the proposed development and were examined to determine whether they meet the applicable congestion standard of 1,425 Critical Lane Volume (CLV) for the Germantown East Policy Area. The existing and background traffic conditions (existing traffic plus traffic to be generated by the approved but unbuilt developments in the area) were analyzed. The proposed development's trips were added to the existing and the background traffic to determine the total future traffic. The total future traffic was assigned to the critical intersections to determine the total future CLVs. The results of CLV calculation for these intersections are summarized in Table I.

Table I

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour						
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
MD 27/ Brink Rd.	1,019	1,085	1,357	1,422	1,360	1,424
MD 27/ Henderson Corner Rd.	264	755	330	1,011	334	1,014
MD 355/Henderson Corner Rd.	988	981	1,046	1,022	1,050	1,027

As shown in the above table, all identified intersections analyzed are currently operating at an acceptable CLV standard (CLV standard is 1,425) during both the morning and evening peak hour. Acceptable level of traffic conditions are projected to be maintained under the background and total development conditions.

Policy Area Mobility Review (PAMR)

The subject site has an approved Preliminary Plan for the development of a drive-thru bank with a footprint of 4,500 square feet and a plat was recorded. A review of the primary trips for approved drive-thru bank and the proposed auto filling station with 3,188 square feet of convenience store indicates that the proposed auto filling station would generate an equal number of primary trips in the morning peak hour and 27 fewer primary trips than the bank in the evening peak hour. Therefore, the subject special exception application meets the PAMR requirements.

Summary

Transportation Planning staff concludes that the application meets the minimum transportation requirements and has no objection to approving the proposed petition.

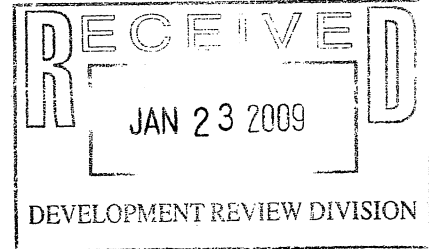
KK:tc

ATTACHMENT 8



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

MEMORANDUM



Date: January 5, 2009

To: Renee Miller, Senior Planner
Zoning Review

From: Patrick Butler, Planner *P.B.*
Subdivision Review

Subject: Board of Appeals Petition No. S-2743
21040 Henderson Corner Road

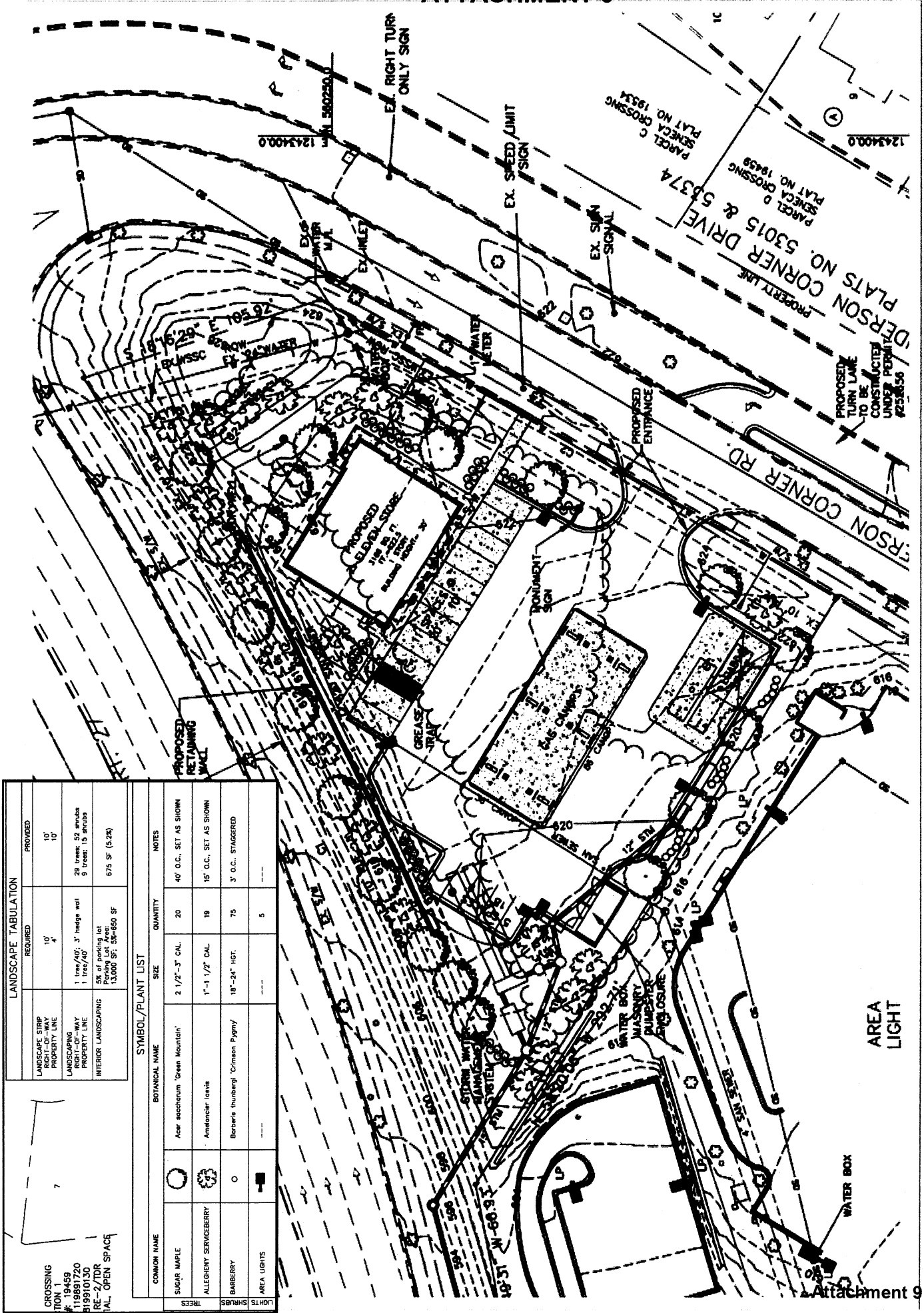
The subject property was previously limited to approval of a 4,100 square foot bank with drive-thru lanes by Preliminary Plan number 120061210.

An APF finding from the Board will be required at the time of Preliminary Plan or building permit review.

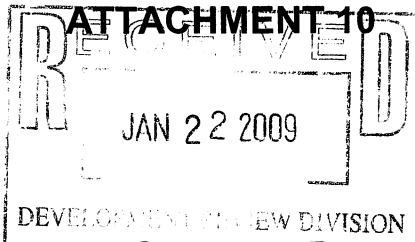
LANDSCAPE TABULATION		REQUIRED	PROVIDED
LANDSCAPE STRIP	10'	10'	10'
PROPERTY LINE	4'		
LANDSCAPING	1 tree/40'; 3' hedge wall	28 trees; 32 shrubs	
RIGHT-OF-WAY	1 tree/40'	9 trees; 15 shrubs	
PROPERTY LINE			
INTERIOR LANDSCAPING	5% of parking lot	675 SF (5.2%)	
	Parking Lot Area:		
	13,000 SF; 5% = 650 SF		

SYMBOL/PLANT LIST			
COMMON NAME	BOTANICAL NAME	SIZE	QUANTITY
SUGAR MAPLE	Acer saccharum 'Green Mountain'	2 1/2" - 3" CAL.	20
ALLEGHENY SERVICEBERRY	Ambrosia 'Ivory'	1" - 1 1/2" CAL.	19
BARBERRY	Berberis thunbergii 'Crimson Pygmy'	18" - 24" HGT.	75
AREA LIGHTS			5

COMMON NAME	NOTES
SUGAR MAPLE	40' O.C., SET AS SHOWN
ALLEGHENY SERVICEBERRY	15' O.C., SET AS SHOWN
BARBERRY	3' O.C., STAGGERED



Not to Scale



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

January 22, 2009

Memorandum

To: Renee Miller, Development Review

From: Krishna Akundi, Senior Planner

Re: Evaluation of the Proof of Need Analysis for a gas station at Henderson Corner Rd and Ridge Road in Germantown, Special Exception S-2743

Finding: Applicant has satisfied the proof of need analysis requirement as provided in County Zoning Ordinance 59-G-1.24

Background

Henderson Corner & 355 LLC has proposed an auto filling station with accessory convenience store near the intersection of Henderson Corner Road and Ridge Road in the Germantown East policy area. Applicant, through 7-Eleven Inc., commissioned a proof of need analysis as required by County Zoning Ordinance 59-G-1.24.

In addition to the findings and requirements of Article 59-G, the following special exceptions [including Automobile filling station] 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:

Present Availability

Applicant has considered the present availability of identical or similar uses to that neighborhood. Residents and commuters have access, within a one mile drive of subject site, to six gas stations. An Exxon (the Milestone Tiger Mart) and Sunoco@ Milestone are adjacent to subject site. Both these brand-name stations have a convenience store. The Exxon also provides its patrons with a car wash and garage. A short drive north of subject site, on Frederick road, there are two non-brand stations. The WXpress has a convenience store while the FreeState has a snack shop. Given applicant's suggestion that the subject

Applicant referring to a study by the National Association of Convenience Stores (NACS) finds that the typical gas station sells 1.44 million gallons a year. Under applicant's calculations, the trade area is in undersupply—the trade area demands 16.45 million gallons of gasoline a year and the existing nine stations sell only 12.96 million gallons per year; thus, another gas station is needed.

Suppliers to the gas station industry— those who supply underground storage tanks and dispensing machinery— have reported both in research studies as well as in expert testimony that a typical gas station could supply between 2.19 million and 2.88 million gallons a year. Authors of a 1996 Rand Journal of Economics article—Dynamic Pricing in Retail Gasoline Markets—find that a typical gas station could sell 2.4 million gallons per year. There is a host of evidence contradicting applicants supply estimate. If any of these alternative gas station supply estimates were used, there would be no undersupply in the trade area: the existing nine gas stations could supply at least 19.8 million gallons per year or 25.9 million gallons at most.

Has applicant proved that it is necessary to have another gas station in the trade area? No, because a wealth of evidence shows that existing gas stations can support demand: these nine gas stations have enough capacity. **Necessary, however, is not the criterion in Montgomery County. The criterion is need. Need has been defined by the Maryland Courts to mean “expedient (suitable), reasonably convenient, and useful.”**

Government should not judge whether something is useful. The market will determine if another gas station in the trade area is useful or not.

site would serve as a gateway location, staff catalogued all gas stations in Germantown that may compete with subject in drawing commuter traffic. The trade area, as defined by applicant, is served by nearly all the major brands: Chevron, Exxon-Mobil, Sunoco, Shell, and British Petroleum. There are three existing 7-Eleven stores, a WXpress, FreeState and Liberty gas—all of which provide gasoline from lesser known refiners.

<u>Station Name</u>	<u>Address</u>	<u>Brand</u>	<u>Miles from Subject</u>
Henderson Corner 7-11	21040 Henderson Corner Rd	—	0.0
Milestone Tiger Mart	21101 Frederick Rd	Exxon	0.1
Milestone	21000 Frederick Rd	Sunoco	0.2
FreeState Petroleum	20650 Frederick Rd	—	0.6
WXpress	20510 Frederick Rd	—	0.8
Town Center	19738 Germantown Rd	Sunoco	0.9
Town Station on the Run	19815 Germantown Rd	Exxon	0.9
7-Eleven	19700 Frederick Rd	—	1.8
Middlebrook Square	11606 Middlebrook Rd	Chevron	1.9
Century Auto Service	19931 Aircraft Drive	BP Amoco	2.1
7-Eleven	19786 Crystal Rock Dr	—	2.2
Chevron	12301 Middlebrook Rd	Chevron	2.6
Flagship Mobil & Carwash	19235 Frederick Rd	Sunoco	2.7
Germantown Shell	12901 Wisteria Dr	Shell	2.7
Middlebrook Exxon	12918 Middlebrook Rd	Exxon	2.9
7-Eleven	19412 Walter Johnson Rd	—	2.9
Clarksburg Grocery & Grill	23329 Frederick Rd	—	3.2
Liberty	23300 Clarksburg Rd	—	3.4

Whether the proposed gas station results in a multiplicity or saturation of similar uses in the same general neighborhood is irrelevant to the evaluation of need. As applicant rightly points out, the ordinance that governs automobile filling stations [59-G-1.24] does not require consideration of saturation or multiplicity.

Need for Proposed Use to Serve the Population

The Zoning Hearing Examiner in the Germantown Walter Johnson LLC case has summarized Maryland case law as it relates to the proof of need analysis requirement for automobile filling stations in Montgomery County. One set of measures an applicant may consider is level of supply and level of demand in neighborhood. Applicant uses generally accepted data sources and methodologies to estimate auto fuel demand. Since supply data at individual gas stations is rarely if ever made available for proprietary reasons, the level of supply must be estimated. Estimating the supply of fuel at gas stations is controversial. There is fierce debate within the industry and among experts.