



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

MCPB
Item #
2/14/2008

MEMORANDUM: SPECIAL EXCEPTION

DATE: January 14, 2008

TO: Montgomery County Planning Board

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

FROM: Damon B. Orobona, Zoning Analyst, Development Review Division *D.B.O.*

SUBJECT: Special Exception No. 2699: ExxonMobil Corporation.
Request for a special exception to permit an automobile filling station, C-1 zone, located at 16201 New Hampshire Avenue, Silver Spring, Maryland.

MASTER PLAN: 1997 Approved and Adopted Cloverly Master Plan

FILING DATE: March 08, 2007
PLANNING BOARD: February 14, 2008
PUBLIC HEARING: February 26, 2008

STAFF RECOMMENDATION: Approval with Conditions:

This matter was previously heard by the Planning Board during the Board's regular session on November 29, 2007. During the November 29th hearing, ExxonMobil presented the original application for an automobile filling station at the subject site, which was recommended for denial by technical staff. Following a discussion of the application by the Planning Board, the applicant requested a deferral of the case to address the following concerns expressed by the Board: (1) safety of the exit-only access point onto New Hampshire Avenue, and (2) location of the convenience store and car wash with respect to the relevant setback requirements.

On January 3, 2008, the applicant submitted revised site plans, and on January 16, 2008, submitted an amended statement of operations. Staff believes that the applicant has adequately addressed the Board's concerns with the submitted revisions. As modified, Staff now recommends approval of the revised application subject to the following eight (8) conditions:

1. Limit use on the property to an automobile filling station with ten (10) pumping stations, a convenience store (with 1,770 square feet of sales

- area), and a single-bay car wash, with no more than seven (7) employees.
2. Limit hours of operation of the automobile filling station and the convenience store from 5:00 a.m. to 12:00 midnight and that of the car wash from 8:00 a.m. to 9:00 p.m.
 3. At the time of subdivision, the applicant must confirm the center line established on the special exception site plan for the non-master planned Old Spencerville Road in coordination with Transportation Planning staff, DPWT staff, and SHA staff.
 4. At the time of subdivision, in coordination with Transportation Planning staff, DPWT staff, and SHA staff, the applicant must determine the appropriate right-of-way and cross-section for Old Spencerville Road, and must dedicate from the established right-of-way center line a minimum of at least half the road right-of-way as public right-of-way for the entire property frontage.
 5. At the time of subdivision, consistent with the 1997 Approved and Adopted *Cloverly Master Plan*, the applicant must show right-of-way dedication for MD 650 (minimum of 60 feet from the road right-of-way center line) and MD 198 (minimum of 60 feet from the road right-of-way center line) on the plan.
 6. At the time of subdivision, in coordination with Transportation Planning staff, DPWT staff, and SHA staff, the applicant must determine the appropriate design for the intersection of MD 650 and Old Spencerville Road, and must show necessary turn lanes into/out of Old Spencerville Road from/to MD 650 and potential northbound U-turn restrictions along MD 650 between MD 198 and Bay Hill Lane. The intersection improvements and other approved turning restrictions must be in place prior to the release of occupancy permits for the proposed special exception use.
 7. The applicant must improve Old Spencerville Road along the property frontage to the cross-section determined as above within six months of the release of building permits for the proposed special exception use. Given the fact that there currently is no other land use proposed along Old Spencerville Road, the roadway may continue to be temporarily blocked to the east of the eastern driveway to the proposed use.
 8. The applicant must remove the existing sidewalk along the property frontage and must provide a new five-foot wide sidewalk along MD 650 between MD 198 and Old Spencerville Road. The sidewalk must be offset two feet from the property boundary and must be in place prior to the release of occupancy permits for the proposed special exception use.

SUMMARY OF REPORT:

Site Size and Location:	Site size is 1.25 acres. The site is located in the northeast corner of the intersection of New Hampshire Avenue (MD 650) and Spencerville Road (MD 198). The site is located approximately two miles south of Ashton and one mile north of Cloverly Town Center.
Zone and Proposed Use:	The site is zoned C-1 and is currently developed with an abandoned filling station. The applicant proposes to raze the abandoned filling station on site and replace it with a filling station consisting of 10 canopied fueling stations, a convenience store, and a car wash. A filling station is a permitted special exception in the C-1 zone.
Master Plan Consistency:	The project complies with the spirit and intent of the Cloverly Master Plan, which specifically addresses the subject property on pages 20 & 21 of the plan.
Traffic Impact:	Transportation staff has imposed conditions of approval relating to the required dedications that must be made at the preliminary plan stage of review.
Zoning Ordinance:	The use conforms to the applicable special exception standards under §§ 59-G-1.21 and 59-G-2.06. The plan meets all development standards for the C-1 zone, and a neighborhood need has been established pursuant to § 59-G-1.24.
Further Action on Petition:	The site will be required to undergo preliminary plan review after the special exception stage is completed.

TABLE OF CONTENTS

I.	Procedural History	5
II.	Relevant Facts and Findings	6
	A. Subject Property and Neighborhood	6
	B. Proposed Use	8
	C. Master Plan Compliance	10
	D. Transportation Analysis	12
	E. Development Standards	12
	F. Community Involvement in Petition	13
III.	Zoning Ordinance Analysis	13
	A. Inherent and Non-inherent Adverse Effects	13
	B. General Conditions Precedent to Approval of Use	15
	C. Specific Conditions Precedent to Approval of Use	19
	D. Need for the Proposed Use	23
IV.	Staff Recommendation	24
V.	Attachments	25
	1. Generalized Location Map	26
	2. Zoning Map	27
	3. Site Plan	28
	4. Community-based Planning Internal Memorandum	29
	5. Environmental Planning Internal Memorandum	30
	6. Transportation Planning Internal Memorandum	31
	7. Development Review Internal Memorandum	37
	8. Research & Technology Internal Memorandum	38
	9. Historic Preservation Internal Memorandum	41
	10. DPS Stormwater Management Plan Acceptance Letter	42

I. PROCEDURAL HISTORY

Petition No. S-2699, filed March 8, 2007, seeks a special exception pursuant to § 59-G-2.06 of the Montgomery County Zoning Ordinance ("Zoning Ordinance" or "Code"), to permit an automobile filling station at 16201 New Hampshire Avenue, Silver Spring, Maryland. The subject property is in the C-1 zone, which allows an automobile filling station by special exception.¹ The subject property is comprised of three parcels: N-890, P-918, and P-864. Currently, the remnants of an abandoned filling station sit on parcel N-890. The additional two parcels are unimproved.

The Montgomery County Board of Appeals ("Board of Appeals") has scheduled a public hearing date for this matter on February 26, 2008. The public hearing will be held by a hearing examiner in the Office of Zoning and Administrative Hearings ("Hearing Examiner"). However, the Montgomery County Planning Board ("Planning Board" or "Board") first executes an initial review of the special exception petition before the Hearing Examiner's public hearing.²

This matter was previously heard by the Planning Board during the Board's regular meeting on November 29, 2007. During the November 29th hearing, ExxonMobil presented the original application for an automobile filling station at the subject site, which was recommended for denial by technical staff at the Maryland-National Capital Park and Planning Commission ("Staff") because the building layout did not meet required setback provisions and the site design presented traffic safety issues due to a proposed exit-only access point onto New Hampshire Avenue. Following a discussion of the above issues by the Planning Board, the applicant requested a deferral of the case to address the Board's concerns. On January 3, 2008, the applicant submitted new site plans, and on January 16, 2008, submitted an amended statement of operations. These revisions will be before the Board on February 14, 2008 for review.

¹ § 59-C-4.2(e)

² § 59-A-4.128.

Staff finds the applicant's revisions acceptable and recommends approval of the special exception subject to the conditions enumerated above.

II. RELEVANT FACTS AND FINDINGS

A. Subject Property and Neighborhood

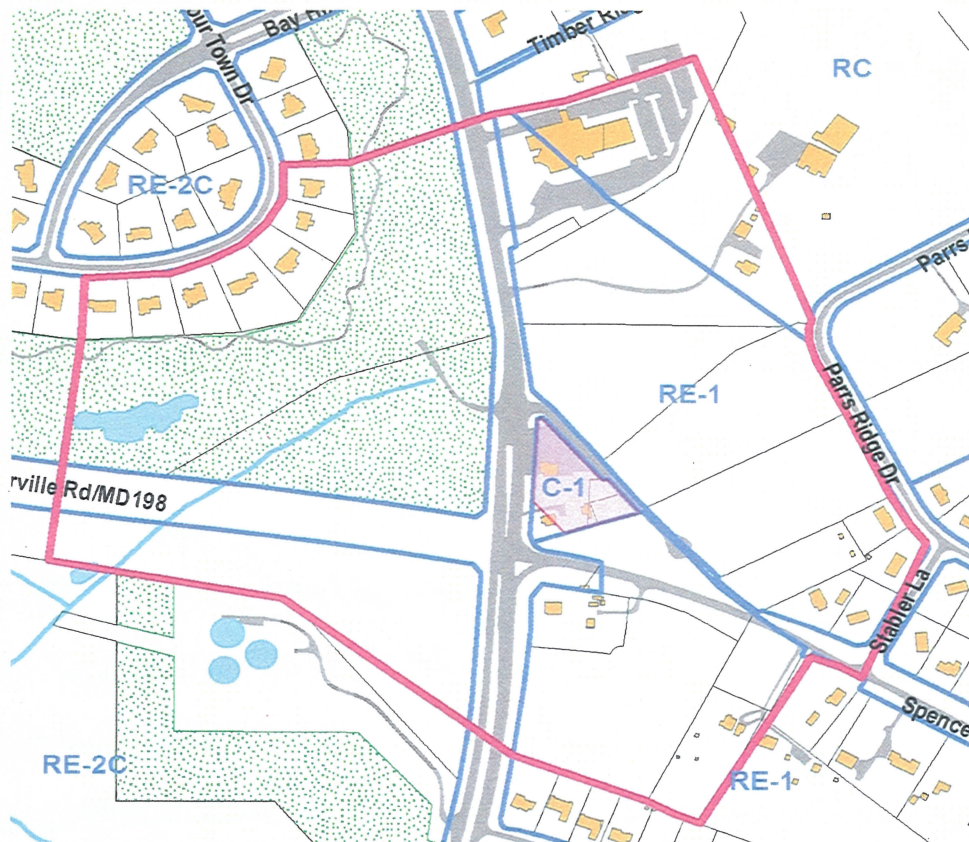
The subject property is located at 16201 New Hampshire Avenue, Silver Spring, Maryland, in the northeast quadrant of the intersection of New Hampshire Avenue (MD 650) and Spencerville Road (MD 198). The subject property is approximately 1.25 acres in size and is generally triangular in shape. It is bordered to the northeast by Old Spencerville Road, to the south by Spencerville Road, and to the west by New Hampshire Avenue. The property has approximately 300 feet of street frontage along New Hampshire Avenue and nearly 400 feet of frontage along Old Spencerville Road. For a generalized location map showing the subject property in relation to the greater area see Attachment 1.

An abandoned 1400 square foot, two-bay filling station currently occupies the subject property. The abandoned filling station was originally constructed in 1964 under Special Exception No. 1660. Another special exception application, CBA-1660-A filed by Exxon Corporation, was approved on the subject property in 1998 for a filling station plan very similar to the application currently before the Board – a plan that proposed razing the existing structure and reconstructing a larger station. However, the 1998 approved special exception was never implemented because of the 1999 merger between Exxon and Mobil Oil and therefore the special exception lapsed.

Staff has defined the neighborhood to include all properties within sight of the proposed station as well as peripheral properties that may be subject to noise, glare, or fumes associated with the proposed use. At the heart of the neighborhood is the intersection of New Hampshire Avenue and Spencerville Road, the stretch of roadway that would likely have the heaviest use from

vehicles traveling to and from the proposed filling station. Although the subject property is zoned C-1, all surrounding properties in the neighborhood are zoned RE-1 or RE-2C, making the area predominantly residential and rural in character. All of the land immediately surrounding the proposed filling station is vacant or very sparsely populated. The most intense residential use in the vicinity of the proposed station is the golf course community of Hampshire Greens, located slightly to the northwest. The nearest home in the Hampshire Greens community is approximately 900 feet away from the subject site. Ashton is approximately two miles north on New Hampshire Avenue; Cloverly Town Center is approximately one mile south. The neighborhood boundary as defined by Staff is outlined below in red. The only other special exception within the neighborhood as defined is a riding academy located to the north of the subject property that was approved on June 28, 1960.

Neighborhood Outline



B. Proposed Use

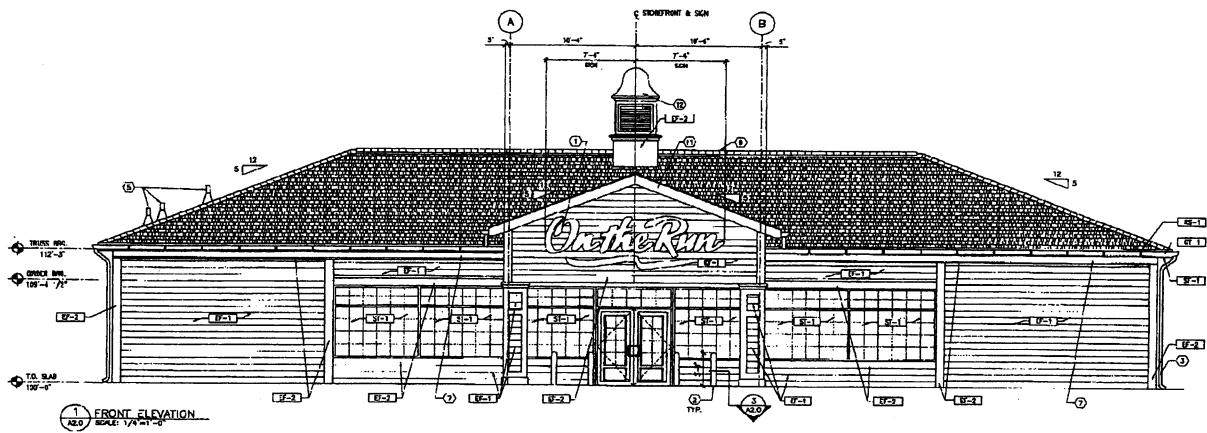
The applicant, ExxonMobil Corporation, proposes to raze the abandoned filling station on the subject property and replace it with a new filling station with an ancillary convenience store and car wash. The applicant is proposing to build the filling station with five double-sided gas pumps (creating a total of 10 fueling positions). Eight filling positions will dispense regular fuel and two will dispense diesel fuel.

The convenience store is proposed as a 3,354 square foot, one-story service building with 1,770 square feet of sales area. The products for sale would be those commonly available in other filling station convenience stores, such as motor oil, wiper fluid, and car accessories. Additionally, the store will offer coffee, soft drinks, snack food, cigarettes, and news publications.

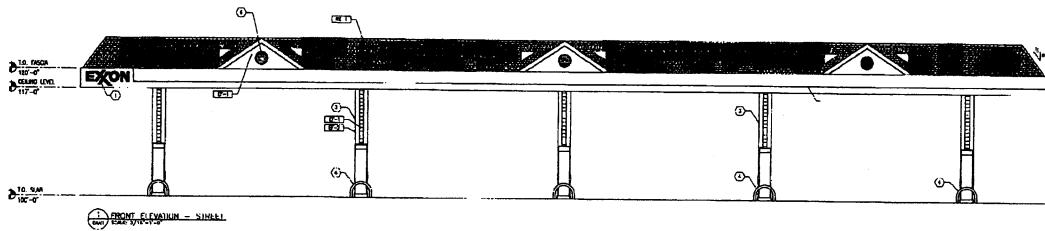
The automatic, single-bay car wash will be housed in an 864 square foot building slightly to the northeast of the convenience store. It is proposed that vehicles will enter the car wash by way of a dedicated car wash lane behind the convenience store so cars in queue will be less visible to the street.

The applicant has made numerous design modifications since filing the original application in an attempt to reflect the area's rural character. The fueling area and convenience store have been reoriented to face the intersection of New Hampshire Avenue and Spencerville Road to minimize the visual impact of the buildings to vehicles traveling along New Hampshire. The convenience store façade is proposed to be constructed with clapboard siding in a tan tone with white trim. The roof is designed as a shingled roof with a copper-capped cupola. Both the canopy and car wash have been designed in a similar fashion with matching materials to complement the convenience store façade and present a more rural character. Finally, a white picket fence is to be erected along the New Hampshire Avenue street frontage along with substantial landscaping to further the property's rural theme and to provide more separation and screening from the road. Various aspects of the design are depicted below.

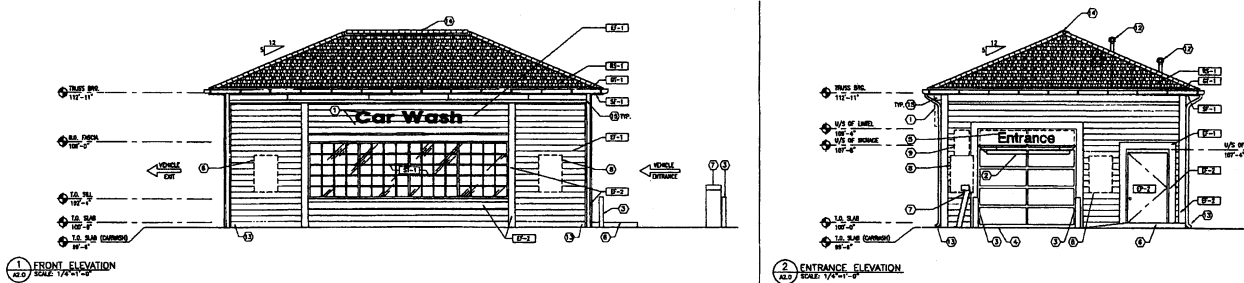
Convenience Store Façade



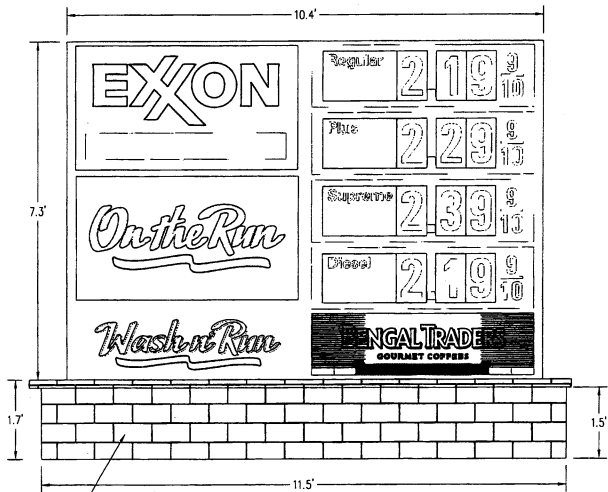
Gas Pump Canopy



Car Wash Façade



Low Monument Sign



The gas station is proposed to be in operation seven days a week, from 5:00AM until midnight. The car wash hours will be limited to 8:00AM until 9:00PM. Normally three employees will be necessary for the operation of the facility; however, there may be times when four employees are needed on site for specific purposes. The proposed sign measures 9 feet tall and 10.4 feet wide. The brick base will match the color of the convenience store.

C. Master Plan Compliance

The property is located within the area covered by the 1997 *Approved and Adopted Cloverly Master Plan*. The Cloverly Master Plan divides the planning area into three sections: the Suburban Communities, the Residential Wedge, and the Agricultural Wedge. The subject property lies within the Residential Wedge. Guidance on how this property should be developed is specifically discussed in the Cloverly Master Plan (pages 20 & 21):

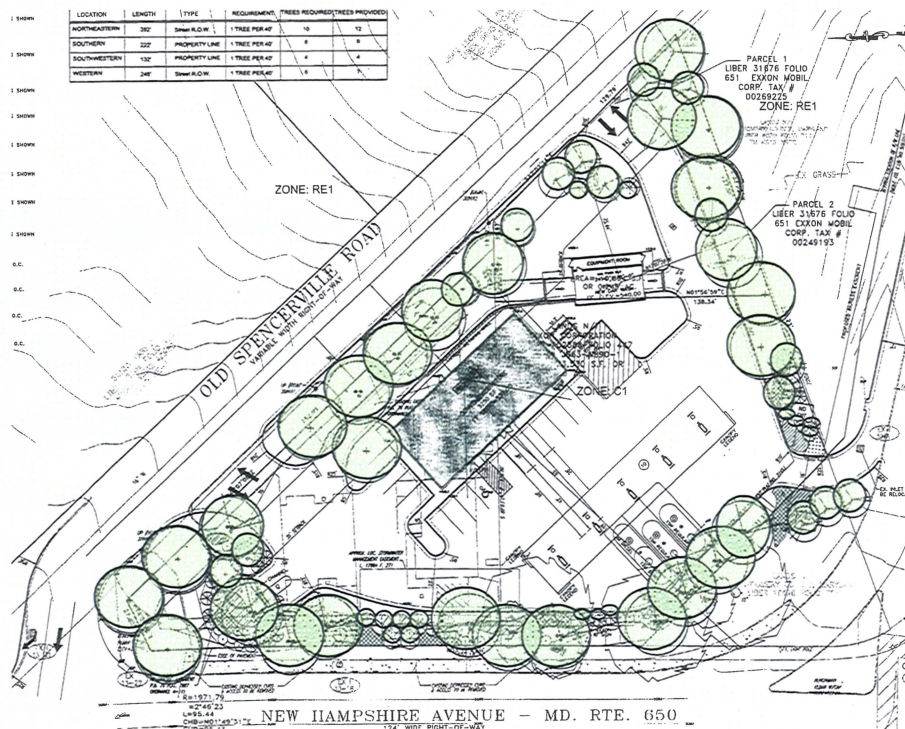
Rezone two properties bordered by Old Spencerville Road, New Hampshire Avenue and Spencerville Road Relocated from RE-1 to C-1. Development of the entire C-1 zoned area at this location should be accomplished with the following design guidelines:

- (1) Commercial buildings should be located in a manner [that] maintains the rural character of New Hampshire Avenue with building setbacks comparable to adjacent properties.
- (2) Driveway entrances shall be minimized in width to maintain a safe and clearly defined edge of pavement along New Hampshire Avenue.
- (3) All proposed landscaping shall enhance and reinforce the rural character of New Hampshire Avenue and Spencerville Road. This shall be accomplished by screening all parking and internal vehicular circulation from the roadway with a low, evergreen hedge. A significant number of deciduous shade trees should be planted around the perimeter of the site to create a natural woodland setting.

- (4) If a gas station is the proposed use for the site, the configuration of the building and canopy should be sited so as to minimize visual impacts from New Hampshire Avenue and Spencerville Road in order to reinforce the rural character of the area.
- (5) Night lighting shall be located predominantly under the canopy to avoid glare and excessive lighting [that] is incompatible with the rural setting.

Taking into account the applicant's deletion of the exit-only access point onto New Hampshire Avenue (from the original application) and replacing the exit-only driveway with a continuous landscaping strip along New Hampshire, Community-based Planning Staff has indicated that the applicant's proposal complies with the Cloverly Master Plan recommendation for this particular site.³ The applicant's proposed landscape plan is revised accordingly to show a continuous landscaping strip in place of the previously proposed exit only driveway along New Hampshire Avenue. The landscaping strip is comprised of a double row of Cherry Laurels, deciduous shrubs, and flowering plants. The applicant's Landscape Plan is reproduced below.

Landscape Plan



³ See Community-based Planning Memorandum at Attachment 4.

The landscape plan proposes a generous natural screening feature along each property line, helping to buffer and shield the use from its adjoining and confronting neighbors.

D. Transportation Analysis

The applicant's original site plan proposes primary access to the filling station by way of two full movement driveways off of Old Spencerville Road, an inbound-only driveway to the site from Spencerville Road (MD 198), and an exit-only along New Hampshire Avenue (MD 650).

In response to traffic safety concerns raised by Staff, the applicant has deleted the exit-only access point along New Hampshire Avenue. With this design improvement, Staff is satisfied that the potential traffic problem caused by the proposed exit-only point along New Hampshire Avenue is adequately addressed.

Transportation staff recommends six conditions for approval⁴ (conditions reproduced on page 2 of the staff report):

E. Development Standards

The proposed filling station complies with all applicable development standards of the C-1 zone. Under the original site plan, the convenience store and car wash were both noncompliant with the 60' building setback standard under § 59-C-4.343(a)(3). However, in the revised plan the applicant has modified the building layout to meet all applicable standards as shown below:

⁴ See Transportation Planning Memorandum at Attachment 6.

Development Standard	Required	Provided	Applicable Zoning Provision
Maximum Lot Area	15 Acres	1.25 Acres	§ 59-C-4.341
Building Height	30'	26'	§ 59-C-4.342
Building Setback from R.O.W. (New Hampshire Ave)	10'	25	§ 59-C-4.343(a)(1)
Building Setback from R.O.W. (Old Spencerville Road)	60' from Center Line of Street to all Buildings	60'	§ 59-C-4.343(a)(3)
Rear Yard Setback from RE-1 Property to the Southeast	35'	39'	§ 59-C-1.323(b)(2)
Minimum Green Area Provided	10% of Lot	40% of Lot (21,779 square feet of green space to the 54,449 total square footage of site)	§ 59-C-4.344
Parking Setback	35'	35'	§ 59-E-2.81(a)
Required Number of Parking Spaces	22	26	§ 59-E-3.7

F. Community Involvement in Petition

In the days before the November 29, 2007 Planning Board hearing, numerous letters from the community were submitted to Staff expressing concerns with the proposed filling station. These concerns related to master plan compliance, environmental effects, and traffic safety issues. Since the requested deferral, the applicant has notified the interested parties regarding the new hearing dates and the modifications to the site design. To date, Staff has not received any concerns relating to the applicant's revised submission.

III. ZONING ORDINANCE ANALYSIS

A. Inherent and Non-inherent Adverse Effects

The standard of evaluation for a special exception use requires consideration of the inherent and non-inherent adverse effects on the location, vicinity, and general neighborhood where the use is proposed.⁵ Inherent adverse effects are the harmful effects caused by the physical and operational characteristics necessarily associated with the particular use irrespective of the size or scale of operations.⁶ Non-inherent adverse effects are any harmful effects caused by physical and operational characteristics not necessarily inherently associated with the particular special exception use, or adverse effects created by unusual characteristics of the site.⁷

Any analysis of inherent and non-inherent adverse effects must first establish what physical and operational characteristics are necessarily associated with a particular special exception use. As established by precedent, the following are the inherent physical and operational characteristics necessarily associated with an automobile filling station: (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.

Any adverse effects of the proposed automobile filling station that result from the above ten characteristics are considered inherent adverse effects. Alone, inherent adverse effects are not sufficient to constitute a denial.⁸ On the other hand, adverse effects that are not characteristic of an automobile filling

⁵ § 59-G-1.2.1.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

station use are considered non-inherent adverse effects, which may be sufficient to result in the denial of the special exception application.⁹

Based on findings by the Hearing Examiner in previous automobile filling station applications, a convenience store and car wash are non-inherent characteristics of an automobile filling station. However, these affiliated uses have become common features of the modern-day filling station.¹⁰

In the instant case, although there is a car wash and convenience store proposed in the application, there are no non-inherent adverse effects that would result from the operation of these accessory uses to warrant denial solely on this basis. The convenience store is proposed to be open long hours (5:00AM until Midnight), but not long enough to be considered unreasonable for the use proposed as these hours are typical for filling station convenience stores and other convenience stores in the area are open similar hours. Additionally, the car wash hours have been limited from 8:00AM until 9:00PM to mitigate any potential adverse effects on the community. As sited, the car wash would not be substantially visible from New Hampshire or Spencerville Road because of the placement behind the convenience store. Substantial landscaping and a rural-style façade design have been proposed to further help the convenience store and car wash fit into the rural surroundings. These design elements mitigate the possible adverse effects stemming from the non-inherent characteristics of the convenience store and car wash.

The car wash and convenience store are the only non-inherent characteristics associated with the proposed use. It is Staff's conclusion that there are no adverse effects above and beyond those necessarily inherent to an automobile filling station.

B. General Conditions Precedent to Approval of Use

§ 59-G-1.21. General Conditions.

⁹ *Id.*

¹⁰ See Board of Appeals Case No. CBA-2740-A, dated August 3, 2007.

- (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.

Analysis: An automobile filling station is an allowable special exception use in the C-1 zone.

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

Analysis: The proposed filling station will comply with the standards and requirements set forth in § 59-G-2.06 (as detailed in Part III.C infra).

- (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.

Analysis: As discussed in Part II.C., supra, the proposed filling station will be consistent with the specific guidance for development on the subject property contained in pages 20 & 21 of the Cloverly Master Plan.

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and

character of activity, traffic and parking conditions and number of similar uses.

Analysis: The filling station would not, by its nature, increase population density in the neighborhood. The filling station has been architecturally designed to blend in with its more rural neighbors, the scale and bulk of the structures would be buffered by the applicant's proposed landscaping, and no similar uses are present in the neighborhood as defined by Staff.

- (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.

Analysis: There is no evidence that the filling station would be detrimental to the use, peaceful enjoyment, or economic value of the surrounding properties or the general neighborhood.

- (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.

Analysis: The application satisfies this standard because the site's design mitigates potential objectionable noises, vibrations, fumes, odors, dust, illumination, glare, and physical activity at the subject site by utilizing large distances from adjacent single-family homes and generous landscaping screens bordering each property line. Additionally, site lighting will be located predominantly under canopy so as to avoid glare that would be incompatible with the surrounding rural setting.

- (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.

Analysis: Although there is one other existing special exception (a horse riding academy) in the neighborhood, the addition of the filling station would not increase the intensity or scope enough to affect the area adversely. Further, the filling station proposal is consistent with the Cloverly Master Plan. Therefore, by definition above, the use will not alter the nature of the area.

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

Analysis: There is no evidence that the proposed use would 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.
 - (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.
 - (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.

Analysis: The impact of the proposed filling station on public facilities is evaluated at the special exception and preliminary plan stages of review. A traffic study was required for the filling station application per the *Local Area Transportation Review (LATR) Guidelines* since the filling station is estimated to generate 30 or more peak-hour trips during the typical weekday morning (6:30AM – 9:30AM) and evening (4:00PM – 7:00PM) peak periods.

The consultant for the applicant submitted a traffic study (dated April 3, 2007; Revised July 3, 2007) that determined traffic-related impacts of the proposed use on the nearby roadway intersections during weekday morning and evening peak periods. The traffic study estimated that the proposed special exception use, an automobile filling station with ten pumping stations, a convenience store, and a car wash, will generate approximately 173 total peak-hour trips during the weekday morning peak-period, and 218 total peak-hour trips during the weekday evening peak-period. Transportation Staff's review of the traffic study indicated that it complied with the requirements of the *LATR Guidelines* and the traffic study scope.¹¹

Further, the applicant has received a letter from DPS stating that the applicant's proposed stormwater management concept plan is acceptable.¹² The site will be adequately served by police and fire protection, water, and sanitary sewer. The use will have no impact on school systems.

C. Specific Conditions Precedent to Approval of Use

§ 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.

¹¹ See Transportation Planning Memorandum at Attachment 6.

¹² See Attachment 10.

Analysis: There is no evidence showing that the proposed use will constitute a nuisance because of noise, fumes, odors, or physical activity. There are large distances from the nearest single-family homes that will help to buffer any noise or odors, and activity from the use will be adequately screened by the generous landscaping proposed around the perimeter of the filling station.

- (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.

Analysis: Traffic safety issues were at the heart of the previous staff report on this application dated November 16, 2007. In an attempt to correct the safety issues, the applicant has deleted the previously proposed exit-only access point along New Hampshire Avenue. Transportation staff is satisfied that this modification will allow the use to function in the area without creating a traffic hazard or 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.

Analysis: The proposed filling station will be consistent with the Cloverly Master Plan recommendations for the site. Therefore, the proposed station will not affect the logical development of the neighborhood considering the character and density of the area. There are no other filling stations in the neighborhood as defined.

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

- (1) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, slightly, solid fence, not less than 5 feet in height, together with a 3-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. Location, maintenance, vehicle sight distance provisions and advertising pertaining to screening shall be as provided for in article 59-E. Screening shall not be required on street frontage.

Analysis: The proposed filling station abuts a residential zone on the property's southeast property line. This residential zoned land is an undeveloped lot owned by Montgomery County. It is not recommended for reclassification in the Cloverly Master Plan. Given the applicant's landscaping plan, the filling station would be effectively screened from the abutting residential zone by generous plantings, trees, and shrubs.

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

Analysis: The submitted plans indicate that no displays or other obstructions would adversely affect visibility at intersections or access driveways.

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

Analysis: Staff finds that the submitted lighting plan will not cause any unacceptable reflection or glare that will affect nearby residential homes. Two of the property's lot lines are bordered by streets (New Hampshire and Old Spencerville) and the other lot line is bordered by vacant RE-1 zoned land held by Montgomery County. These vacant surrounding characteristics help buffer the site from nearby single-family homes. The applicant's photometric plan shows that footcandle levels surrounding ExxonMobil's property lines will be minimal or nonexistent.

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

Analysis: The proposed layout satisfies this standard. All ingress and egress driveways to the site are at least 20 feet from the intersections of New Hampshire/Old Spencerville and New Hampshire/Spencerville (MD 198). The proper width of the ingress/egress driveways must be determined by the appropriate authority prior to the issuance of building permits.

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

Analysis: The gasoline pumps and vacuum area are both located at least 10 feet behind the building line. The storage activities associated with the use are to be conducted inside the convenience store building. There is over 20 feet between the various driveways, and all driveways are shown perpendicular to the curb.

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

Analysis: This application does not propose to offer automobile repair work.

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

Analysis: The site layout does not contain any parking spaces that would allow a vehicle to be parked in a location that overhangs into the public right-of-way.

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

Analysis: The applicant is requesting a single-bay car wash as part of this special exception application.

D. Need for the Proposed Use

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 Thomas Point Associates, Inc. that demonstrates such a need in this neighborhood. In particular, the report states that the area will experience heavy traffic demands over the next five years, that there are limited alternative modes of transit in the area, and that the proposed station offers different products and services than the other stations within driving distance to the site. Additionally, the report estimates that the existing filling stations in the area cannot meet the demand for gasoline. Residents in the Cloverly area demand 6.4 million gallons of gasoline yearly. However, the existing filling stations cannot meet this demand as there is a 1.3 million gallon gap in the amount of gas provided to the area. Research & Technology staff carefully reviewed the submitted report and found that the analysis provides sufficient proof of neighborhood need for the filling station.¹³

¹³ See Research & Technology Internal Staff Memorandum at Attachment 8.

IV. STAFF RECOMMENDATION

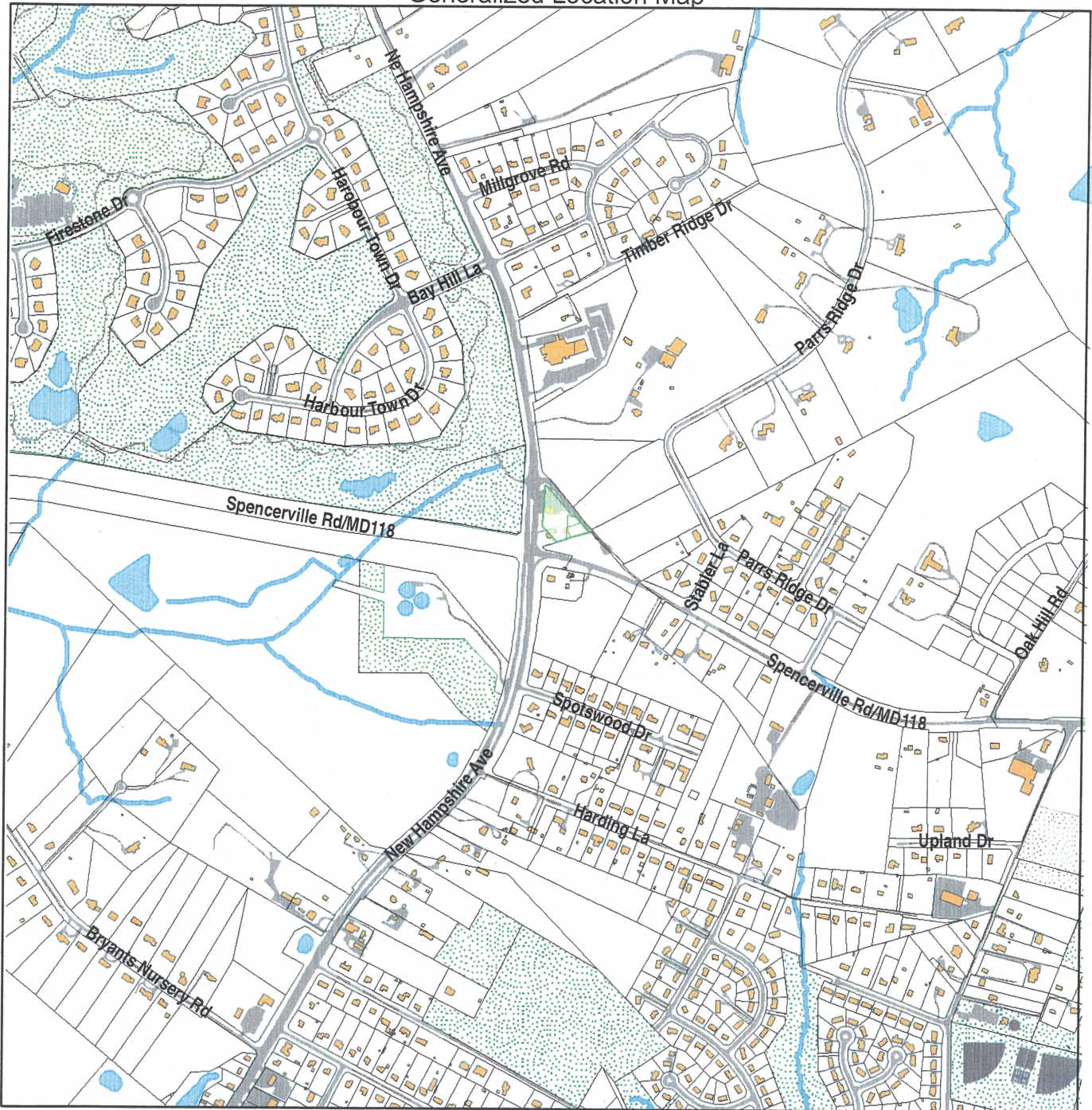
Based on the forgoing analysis, Staff recommends that Petition S-2699, a special exception to permit an automobile filling station in the C-1 zone, located at 16201 New Hampshire Avenue, Silver Spring, Maryland, be approved subject to the conditions set forth at the beginning of this report.

V. ATTACHMENTS

1. Generalized Location Map
2. Zoning Map
3. Site Plan
4. Community-based Planning Internal Memorandum
5. Environmental Planning Internal Memorandum
6. Transportation Planning Internal Memorandum
7. Development Review Internal Memorandum
8. Research & Technology Internal Memorandum
9. Historic Preservation Internal Memorandum
10. DPS Stormwater Management Concept Plan Acceptance Letter

ATTACHMENT 1

Generalized Location Map



LEGEND

- S-2699 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.

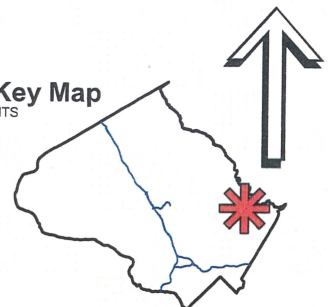
This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area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

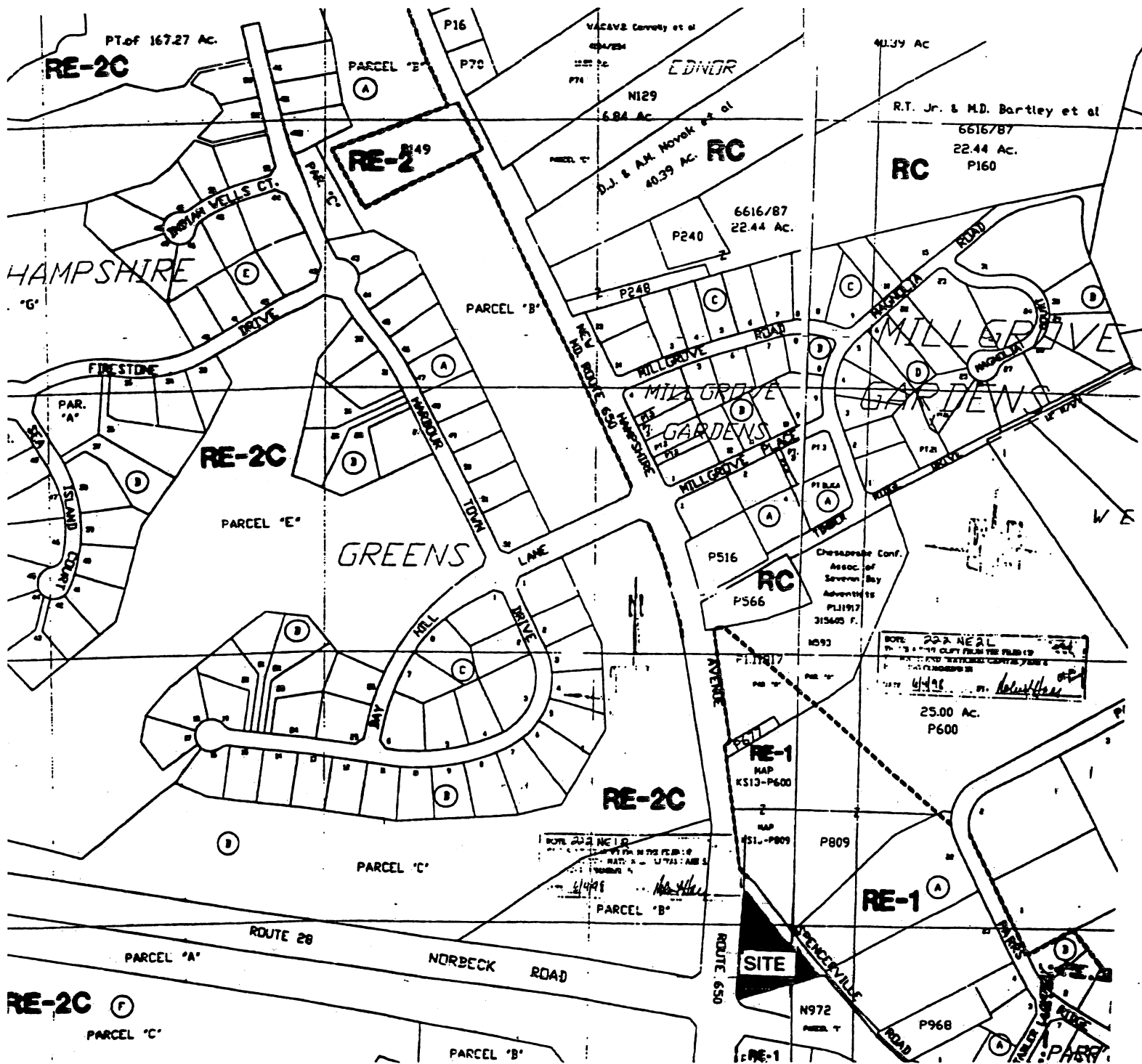
1 inch = 1,000 feet

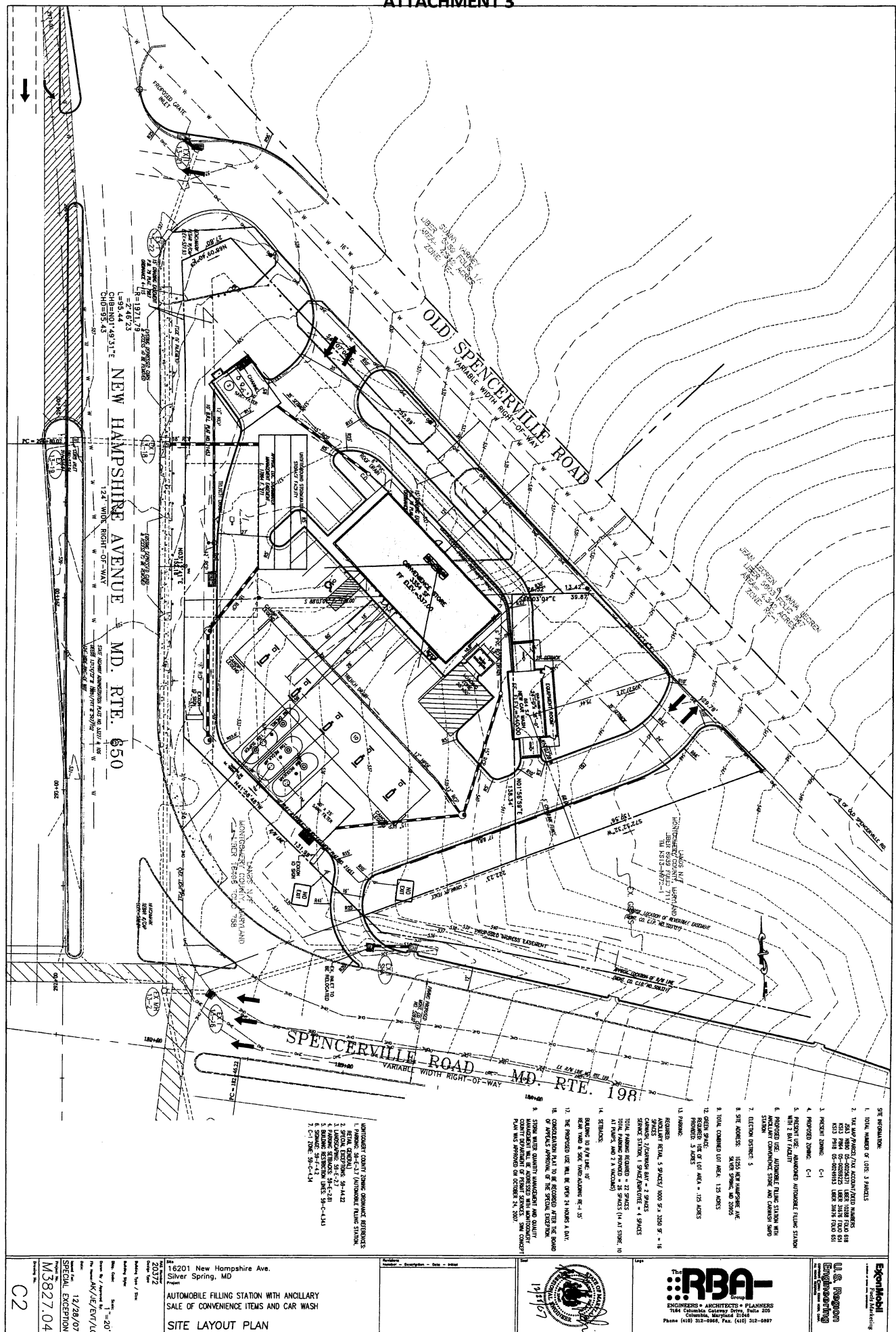
Address: 16201 New Hampshire Avenue

Key Map

NTS







February 1, 2008

REVISED MEMORANDUM

TO: Damon Orobona, Development Review Division
VIA: Bill Barron, Community-Based Planning Division
FROM: Calvin Nelson, Jr., Community-Based Planning Division
SUBJECT: Special Exception Case No. S-2699, ExxonMobil Petition

The triangular-shaped site is located on the corner of Spencerville road (MD 198) and New Hampshire Avenue (MD 650), in the Residential Wedge area of the Cloverly Master Plan. The Planning Board Draft of the Master Plan reconfirmed the C-1 zoning for the abandoned service station located on the northern most parcel at the intersection of New Hampshire Avenue and Spencerville Road. The Planning Board did not recommend a change in zoning for the two adjacent RE-1 Zoned parcels, to the south and east. The County Council decided to rezone the two RE-1 Zoned parcels, one of which included an existing residence. The Council also recommended five design guidelines to be added to the master plan, with two specific guidelines to be applied if a gas station were to be developed on the entire C-1 zoned property. The Cloverly Master Plan was approved and adopted in July, 1997 and made the following recommendations for the property (S-2699):

“Rezone two properties bordered by Old Spencerville Road, New Hampshire Avenue and Spencerville Road Relocated from RE-1 to C-1. Development of the entire C-1 zoned area at this location should be accomplished with the following design guidelines:


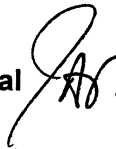
1. Commercial buildings should be located in a manner which maintains the rural character of New Hampshire Avenue with building setbacks comparable to adjacent properties.
2. Driveway entrances shall be minimized in width to maintain a safe and clearly defined edge of pavement along New Hampshire Avenue.
3. All proposed landscaping shall enhance and reinforce the rural character of New Hampshire Avenue and Spencerville Road. This shall be accomplished by screening all parking and internal vehicular circulation from the roadway with a low, evergreen hedge. A significant number of deciduous shade trees should be planted around the perimeter of the site to create a natural woodland setting.
4. If a gas station is the proposed use for the site, the configuration of the building and canopy should be sited so as to minimize impacts from New Hampshire Avenue and Spencerville Road in order to reinforce the rural character of the area.
5. Night lighting shall be located predominately under the canopy to avoid glare and excessive lighting which is incompatible with the rural setting.”

The site and landscaping plans for the subject site have been revised to meet the intent of the design guidelines.



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

MEMORANDUM

DATE: September 5, 2007
TO: Damon Orobona
FROM: Marion Clark, Countywide Planning, Environmental 
VIA: Jorge Valladares, P.E., Countywide Planning, Environmental 
SUBJECT: Special Exception 2699 Exxon Mobile Station

Recommendation: Approval

Forest Conservation

This special exception is exempt from Forest Conservation and does not require a Tree Save Plan. There is one significant tree, a White Oak, in good condition, to be removed.

Environmental Guidelines

This property is not located in a Special Protection Area or Primary Management Area. There are no wetlands, streams or floodplains on site.

Water Quality

Northwest Branch watershed is in fair condition and is the largest of three contributing watersheds to the Anacostia watershed (CSPS 1998). The Bryant's Nursery tributary where the subject property is located is currently in excellent condition, but bank instability is pronounced and needs special protection. On site infiltration using bioretention methods should be seriously considered for stormwater management.



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

February 4, 2008

MEMORANDUM

TO: Damon B. Orobona, Zoning Analyst/Senior Planner
Development Review Division

VIA: Daniel K. Hardy, Acting Chief
Transportation Planning

FROM: Cherian Eapen, Planner/Coordinator
Transportation Planning
301-495-4525

SUBJECT: Special Exception Case No. S-2699
ExxonMobil Automobile Filling Station with Ancillary Convenience Store and Car
Wash
Parcels N890, P864, and P918
16201 & 16255 New Hampshire Avenue, Silver Spring
Cloverly Policy Area

This memorandum presents Transportation Planning staff's Adequate Public Facilities (APF) review of the subject special exception petition for an automobile filling station with ten (10) pumping stations, a 3,354 square-foot convenience store (with 1,770 square-feet of sales area), and a single-bay car wash to the northeast corner of New Hampshire Avenue (MD 650) and Spencerville Road (MD 198) in Silver Spring within the Cloverly Policy Area. The property is zoned C-1.

The subject special exception petition was previously considered by the Planning Board on November 29, 2007, and was deferred. In 1998, a special exception petition for an automobile filling station without a car wash was approved on a portion of the current site (Parcel B; Brown's Corner; CBA-1660-A), but was never implemented. An abandoned building currently exists on the property.

RECOMMENDATIONS

Transportation Planning staff recommends that the following conditions be part of the transportation-related requirements to grant approval of this special exception request (based on our review of the revised special exception site plan dated December 28, 2007):

1. Limit use on the property to an automobile filling station with ten (10) pumping stations, a 3,354 square-foot convenience store (with 1,770 square-feet of sales area), and a single-bay car wash, with no more than seven (7) employees.

2. Limit hours of operation of the automobile filling station and the convenience store to 5:00 a.m. to 12:00 midnight and that of the car wash to 8:00 a.m. to 9:00 p.m.
3. At the time of subdivision, in coordination with Transportation Planning staff, the Montgomery County Department of Public Works and Transportation (DPWT) staff, and the Maryland State Highway Administration (SHA) staff, the applicant must determine the appropriate right-of-way and cross-section for the non-master-planned Old Spencerville Road, and must confirm the centerline shown for the roadway on the special exception site plan.
4. At the time of subdivision, the applicant must show and dedicate (as needed) a minimum of at least half the road right-of-way as public right-of-way from the established right-of-way centerline along the entire property frontage.
5. The applicant must improve Old Spencerville Road along property frontage to the cross-section determined per Condition No. 3 above within six months of release of building permits for the proposed special exception use. Since there is no other land use proposed along Old Spencerville Road, the roadway may continue to be temporarily blocked to the east of the eastern driveway to the proposed use.
6. At the time of subdivision, consistent with the 1997 Approved and Adopted *Cloverly Master Plan*, the applicant must show right-of-way dedication for MD 650 (minimum of 60 feet from the road right-of-way centerline) and MD 198 (minimum of 60 feet from the road right-of-way centerline) on the plan.
7. At the time of subdivision, in coordination with Transportation Planning staff, DPWT staff, and SHA staff, the applicant must determine the appropriate design for the intersection of MD 650 and Old Spencerville Road, and must show necessary turn lanes into/out of Old Spencerville Road from/to MD 650 and potential northbound U-turn restrictions along MD 650 between MD 198 and Bay Hill Lane. The intersection improvements and other required turning restrictions must be in place prior to the release of occupancy permit for the proposed special exception use.
8. The applicant must remove the existing sidewalk along the property frontage and must provide a new five-foot wide sidewalk along MD 650 between MD 198 and Old Spencerville Road. The sidewalk must be offset two from the property boundary and must be in place prior to the release of occupancy permit for the proposed special exception use.

DISCUSSION

Site Location, Vehicular Access, and Pedestrian/Bikeway Facilities

The subject special exception use is proposed within the northeast quadrant of New Hampshire Avenue (MD 650) and Spencerville Road (MD 198) in Silver Spring. The intersection of MD 650 and MD 198 is traffic signal controlled. The proposed use is bounded by Old Spencerville Road along the northeast boundary of the property. Old Spencerville Road (approximately 400 feet

north of MD 198) extends southeast from MD 650 towards MD 198, and is a non-master-planned roadway of undesignated functional classification and with variable right-of-way width, under SHA jurisdiction. It ends at a cul-de-sac to the southeast of the site near MD 198. Its approach to MD 650 is STOP sign controlled. The roadway is currently barricaded approximately 300 feet southeast of MD 650.

Primary access to the site is proposed in the revised special exception site plan from Old Spencerville Road via two full movement driveways. Additionally, an inbound only driveway is proposed into the site from MD 198, off the deceleration lane that facilitates westbound MD 198 to northbound MD 650 movement. The automobile filling station and the convenience store are proposed to be open from 5:00 a.m. to 12:00 midnight and the car wash from 8:00 a.m. to 9:00 p.m., seven days a week. The use is proposed to have seven employees who will work in shifts.

MD 650 is a two-lane highway to the north of MD 198 and is a four-lane highway to the south of MD 198. The roadway has a posted speed limit of 45 mph in the vicinity of the site. MD 198, to the east of MD 650 is a two-lane highway with a posted speed limit of 40 mph. Norbeck Road Extended, to the west of MD 650, is a two-lane highway with a posted speed limit of 40 mph. An off-road shared use path exists along the west side of MD 650 to the north towards Ednor Road. An off-road shared use path exists also along the north side of Norbeck Road Extended to the west towards Layhill Road. MD 650 is currently serviced by the Metrobus Route Z2, with stops approximately 500 feet to the south of the site.

Staff finds that the proposed special exception use will not adversely affect area pedestrian/bicyclist accessibility or safety with the recommended replacement of the existing sidewalk along the MD 650 property frontage with a new five-foot wide sidewalk.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The Approved and Adopted 1997 *Cloverly Master Plan* includes the following nearby master-planned roadway, bikeway and pedestrian facilities:

1. New Hampshire Avenue (MD 650), as a two-lane major highway (M-12) with a minimum right-of-way width of 120 feet to the north of Spencerville Road (MD 198) to Ednor Road and with a minimum right-of-way width of 125 feet to the south of MD 198 to Bryant's Nursery Road with a rural streetscape. A Class I shared use path (PB-23) is recommended to the north of MD 198 to Ednor Road, and Class II bike lanes are recommended to the south of MD 198 to the Intercounty Connector (ICC) in the *Cloverly Master Plan* (BL-11 in the 2005 *Countywide Bikeways Functional Master Plan*) for New Hampshire Avenue. The master plan Class I bikeway designation for the section of New Hampshire Avenue between MD 198 and Ednor Road is upgraded to a dual bikeway classification (DB-8) in the *Countywide Bikeways Functional Master Plan*.
2. Norbeck Road Extended, as a two to four-lane divided major highway (M-18), with a minimum right-of-way width of 150 feet between New Hampshire Avenue to the east and Layhill Road (MD 182) to the west. A Class I shared use path (PB-33) is recommended in

the master plan for the above section of Norbeck Road Extended (also, SP-21 in the *Countywide Bikeways Functional Master Plan*).

3. Spencerville Road (MD 198), as a four-lane divided major highway (M-76), with a minimum right-of-way width of 120 feet between Thompson Road to the east and New Hampshire Avenue to the west. A Class I shared use path (PB-34) is recommended in the master plan for the above section of Spencerville Road (also, SP-21 in the *Countywide Bikeways Functional Master Plan*).

Old Spencerville Road, along the northeast property boundary, is not a master-planned roadway.

Local Area Transportation Review

A traffic study was required for the subject special exception petition per the *Local Area Transportation Review (LATR) Guidelines* since the proposed use was estimated to generate 30 or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

The applicant submitted a detailed traffic study (dated April 3, 2007; Revised July 3, 2007) that determined traffic-related impacts of the proposed use on the nearby roadway intersections during weekday morning and evening peak periods. Staff review of the traffic study indicated that it complied with the requirements of the 2004 *LATR Guidelines* and the traffic study scope. Subsequent to November 2007, staff also concluded that in this case, the findings of the traffic study would satisfy the draft *LATR/PAMR Guidelines* being developed as a guide to transportation impact mitigation for the 2007-2009 Growth Policy. Recently, the applicant also submitted an addendum to the traffic study (dated January 11, 2008) to document site access changes that were proposed in the revised site plan.

The traffic study estimated that the proposed special exception use, an automobile filling station with ten pumping stations, a convenience store, and a car wash, will generate approximately 173 total peak-hour trips during the weekday morning peak-period, and 218 total peak-hour trips during the weekday evening peak-period. A summary of the above is provided in Table 1.

TABLE 1
SUMMARY OF TRIP GENERATION
PROPOSED EXXONMOBIL AUTOMOBILE FILLING STATION

Trip Generation	Morning Peak Hour			Evening Peak Hour		
	In	Out	Total	In	Out	Total
Total Trips – Automobile Filling Station with 10 Pumping Stations (Upcounty station with a convenience store and a car wash)	92	81	173	111	107	218
“Pass-by” Trips (AM – 60%, PM – 50%)	55	49	104	56	53	109
“New” Trips	37	32	69	55	54	109

Source: Wells and Associates, LLC. ExxonMobil Filling Station Traffic Impact Study; April 3, 2007, Revised July 3, 2007.

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the study intersections for the weekday morning and evening peak hours within the respective peak periods from the traffic study is presented in Table 2.

TABLE 2
SUMMARY OF CAPACITY CALCULATIONS
PROPOSED EXXONMOBIL AUTOMOBILE FILLING STATION

Intersection	Traffic Conditions					
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Norwood Rd/Norbeck Rd Extended	1,326	1,148	1,340	1,156	1,345	1,164
MD 650/MD 198/Norbeck Rd Extended	979	1,053	993	1,071	1,007	1,100
MD 198/Good Hope Rd	1,283	1,300	1,298	1,310	1,306	1,324
MD 650/Ednor Rd	1,160	1,186	1,175	1,200	1,184	1,213
MD 650/Old Spencerville Rd	483	404	490	411	547	504
MD 650/Briggs Chaney Rd	843	892	867	908	873	916

Source: Wells and Associates, LLC. ExxonMobil Filling Station Traffic Impact Study; April 3, 2007, Revised July 3, 2007.
Wells and Associates, LLC. ExxonMobil Filling Station LATR Study Addendum; January 11, 2008.
FY 2007-09 Congestion Standard for Cloverly Policy Area: 1,450 CLV.

As shown in Table 2, the weekday morning and evening peak-hour capacity analysis presented in the traffic study indicated that under Total (Build) traffic conditions, CLV at the study intersections would below the applicable congestion standard of 1,450 CLV. Therefore the application satisfies the LATR requirements of the APF test.

Policy Area Mobility Review

On November 13, 2007, the County Council adopted the FY 2007-09 Growth Policy that is applicable to completed subdivision applications filed on or after January 1, 2007. The new Growth Policy requires each subdivision application to pass a Policy Area Mobility Review (PAMR) test. The subject special exception case requires subdivision approval and is located in the Cloverly Policy Area. The applicability of APF findings at time of special exception review and at time of subdivision review is the subject of an active zoning text amendment, ZTA 07-17. In FY2008 however, staff concludes that the subdivision application would not require further study to satisfy PAMR requirements under the 2007-2009 Growth Policy since the Cloverly Policy Area is operating under "acceptable" conditions.

DKH:CE:tc
Attachment

cc: Shahriar Etemadi
Cathy Conlon
Bill Barron
Jody S. Kline, Esq.
Nancy Randall
John Borkowski
Shawn Burnett
Greg Leck

mno to do re revised S-2699.doc




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

MEMORANDUM

Date: September 6, 2007

To: Damon Orobona
Community Based Planning Division

From: Taslima Alam 

Subject: Board of Appeals Petition No. S-2699

On May 26, 2000, a record plat was recorded among the land records of Montgomery County known as Brown Corner, Parcel "B". As part of a proposed special exception review, additional parcels (Parcels 864 and 918) were included with this parcel to build a proposed Automobile Filling Station. Parcels 864 and 918 were never subdivided or platted in the land records. In order to combine the unplatted parcels with the platted parcel B and acquire a building permit, the applicant will be required to submit a Preliminary Plan Application and record a plat in the land records pursuant to Chapter 50 of the Subdivision Regulations.



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

August 31, 2007

Memorandum

To: Damon Orobona, Development Review

Via: Roselle George, Research & Technology Center, 301-650-5627

From: Krishna Akundi, Senior Planner

Re: Evaluation of the Proof of Need Analysis for ExxonMobil gas station and convenience store, Special Exception S-2699

Finding: **Applicant shows a need for the proposed 3,250 square foot gas station and convenience store at 16001-16255 New Hampshire Avenue.**

Background

ExxonMobil Corporation proposes an automobile filling station with an ancillary convenience store and car wash on three parcels of land in the Cloverly Planning Area at the intersection of New Hampshire Avenue and Spencerville Road. On May 31, 2007 applicant (ExxonMobil through its legal representative Miller, Miller, & Canby.) submitted a proof of need analysis for review as required by County Zoning Ordinance 59-G-1.25

A special exception may only be granted if the Hearing Examiner "finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentration in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood".

The ordinance gives a strong indication what avenues of analyses an applicant should pursue and what needs to be proved to support a special exception.

(1) Analysis of Market Demand & Proof of Undersupply in County

The applicant must conduct a market demand analysis and prove that there is an undersupply of automobile filling stations to meet Montgomery County demand.

(2) Analysis of Existing Similar Uses & Proof That Neighborhood Will Not Be Saturated

The applicant must complete an inventory of existing and planned automobile filling stations (or gas stations) offering facilities and amenities that would compete with the subject property. Since all gas stations are not designed the same, but vary in terms of the number of pumps, availability of diesel fuel, an ancillary convenience store, or a car wash, the applicant must indicate what product they are proposing to build and how many similar and nearly similar products are within “the same general neighborhood” of the proposed development. Using this information, the applicant must show that an additional facility will not lead to multiplicity or saturation of similar uses.

Proposed – Needs Study

The applicant commissioned Thomas Point Associates Inc. to provide a needs study. The applicant in making its case used the following: field surveys, master plan documents, demographic data, industry data, and a retail opportunity analysis from Claritas—an internationally recognized market analysis research company.

Staff, in conducting its evaluation was guided by the following questions:

1. What is the “general neighborhood”? How has applicant defined the *market area*?
2. What are the *economic and demographic characteristics* of the market area?
3. Has applicant identified the *competition*—all automobile filling stations that are directly and indirectly competitive with the subject property?
4. Does applicant examine *market demand*, i.e., show that there is an undersupply of fuel and convenience stores in the general neighborhood not currently being met by the existing gas station market.

Staff Assessment of Applicant’s Analysis of Existing Similar Uses & Proof That Neighborhood Will Not Be Saturated

Applicant shows that the neighborhood— an area which they define as being within a four to eight minute drive from the intersection of New Hampshire and Spencerville Road— will experience heavy traffic demands over the next five years. Their data show that between 1999 and 2005, average annual daily traffic in the neighborhood’s major cross streets increased 54 percent.

Applicant makes the case that with limited alternative modes of transportation available, automobile traffic in the area will increase. Most of this traffic generation will come from the non-resident worker population and ‘pass-by’ traffic. The applicant suggests that with these long commutes, services available from existing gas stations will not meet the needs of the population.

Applicant claims that there are nine other gas stations in the defined neighborhood that are similar in most respects to the proposed station. In contrast to existing stations, the proposed station offers a car wash. Eight of the nine existing gas stations have an ancillary convenience store: the average size is 338 square feet. The proposed gas station will have a 3,250 square foot convenience store. The proposed station, on the other hand, does not provide service bays while seven of the nine existing stations provide tune-up and other related mechanical services. Nearly all stations provide an equally ample number of pumps. Four of the nine existing stations offer diesel fuel. The proposed station will add to the market area's brand variety: national chains such as Sunoco, British Petroleum, Chevron, Citgo, and Exxon; as well as low cost retail outlets such as Excel, Econoline, Garcia's, and Lowest Price. The comparative analysis, however, does not count four 7-11 stores with gas station pumps.

Applicant makes the technical argument that because of the size, age, and amenities provided by the proposed station, it does not saturate the market.

Staff Assessment of Applicant's Analysis of Market Demand & Proof of Undersupply in County

The applicant's retail opportunity analysis shows that the Cloverly planning area could absorb an additional \$8.4 million in gasoline station with convenience store sales. The Research and Technology Center (RTC) also subscribes to Claritas. RTC staff found that within a 4-minute drive time of the proposed station's location; there is a \$3.0 million sales opportunity for gasoline stations with convenience stores. And, within an eight-minute drive time of the proposed location there is a \$22.0 million opportunity.

Applicant estimates that residents in the Cloverly Planning area demand 6.4 million gallons of gasoline yearly. However, the existing gas stations cannot meet demand—there is a 1.3 million gallon gap. RTC staff accepts that the proposed gas station could capture some of that opportunity.

Staff concludes that the applicant's submitted report provides sufficient proof of need.

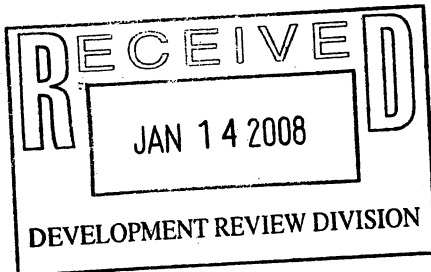
Manarolla, Kevin

Subject: Review of 16201 New Hampshire Ave Silver Spring 20905

Upon review of 16201 New Hampshire Ave, Silver Spring, MD 20905, this property has not been designated as historic on either the Master Plan or the Locational Atlas. This will not impact any know historic resources.

Kevin Manarolla
Senior Administrative Assistant
Montgomery County Planning Department
Countywide Planning--Historic Preservation Section
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax

*This is the way to
handle this.
Thank you.
JMC*



ATTACHMENT 10



THE RBA GROUP

OCT 29 2007

RECEIVED

DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid Joynér
Director

October 24, 2007

Mr. Kevin Liang
The RBA Group
7164 Columbia Gateway Drive, #205
Columbia, MD 21046-2144

Re: Stormwater Management **CONCEPT** Request
for Silver Spring Exxon Mobil
Preliminary Plan #: N/A
SM File #: 230939
Tract Size/Zone: 1.25 acres/C-1
Total Concept Area: 1.25 acres
Lots/Block: N/A
Parcel(s): N890, P864, P918
Watershed: Northwest Branch

Dear Mr. Liang:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via underground detention and on-site water quality control via construction of two Separator Sand Filters. Onsite recharge is not required for redevelopment projects.

The following items will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The underground detention facility will employ a Hydrobrake Fluidic-Amp device, or MCDPS approved equal, to achieve the necessary detention time.

This list may not be all-inclusive and may change based on available information at the time.

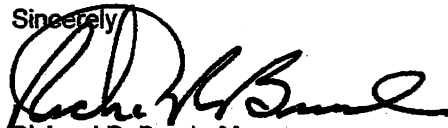
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this

office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mark Etheridge at 240-777-6338.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm mce

cc: C. Conlon
S. Federline
SM File # 230939

QN -ON; Acres: 1.25
QL - ON; Acres: 1.25
Recharge is not provided