

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

SPECIAL EXCEPTION

4815

DECISION

Application:	Gas Station
Applicant:	Hunt Real Estate Development
Opposition:	None
Hearing Date:	October 18, 2018
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval with a Condition

NATURE OF PROCEEDINGS

- (1) Special Exception 4815 is a request for permission to use approximately 43,273 square feet of land, in the C-S-C (Commercial Shopping Center) Zone, located on the west side of Walker Mill Road, approximately 350 feet south of its intersection with Addison Road, also identified as 6618 Walker Mill Road, Capital Heights, Maryland, for a Gas Station and an associated Food or Beverage Store (a permitted use).
- (2) The Technical Staff (Exhibit 17) recommended approval with conditions and the Planning Board did not elect to have a hearing but in lieu thereof adopted the recommendation of the Technical Staff. (Exhibit 20)
- (3) At the conclusion of the evidentiary hearing the record was left open for the inclusion into the record of several documents. Upon receipt of the documents, the record was closed on December 14, 2018.

FINDINGS OF FACT

Subject Property

- (1) The subject property, comprised of one parcel, is currently improved by a vacant contractor's office and shop, and an associated out building with a gravel/deteriorated asphalt parking and circulation area, and signage indicating that the prior use was the Washington Art Glass Studio.
- (2) The subject property sits slightly below the grade of Walker Mill Road and has two existing driveway entrances from Walker Mill Road with free turning movements into the site from both directions of the undivided Walker Mill Road, and an asphalt circular drive around the existing building. All of the existing structures are proposed to be razed.

- (3) The site is generally clear and level with a strip of trees along its southern boundary.

History

- (4) The subject property was developed in 1954 with a 1,434-square-foot commercial building and an 84-square-foot metal shed. There are no existing Use and Occupancy Permits on record with the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) regarding the use history of this property.

A Departure from Parking and Loading Standards (DPLS-434, PGCPB Resolution No. 17-143) for the subject site was approved by the Prince George's County Planning Board on November 30, 2017, for a departure of 18 parking spaces from the 51 spaces required by the Prince George's County Zoning Ordinance for development of a 9,180-square-foot department and variety store (without food or beverage). (Exhibit 8) However, DPLS-434 does not remain relevant with the subject Application because the specified use was never established on the property.

The site has an approved Stormwater Management Concept Plan (5436-2015-00), which was approved on August 11, 2016 and remains valid until August 11, 2019.

Master Plan and Sectional Map Amendment

- (5) The site is located in Planning Area 75A. The applicable Master Plan is the Approved Subregion 4 Master Plan and Sectional Map Amendment, approved on June 1, 2010. The Master Plan designated the site for "Mixed-Use Residential" future land use.

- (6) The Approved Sectional Map Amendment retained the site in the previously-existing C-S-C Zone. The Growth Policy Map in the May, Plan Prince George's 2035 Approved (Plan 2035) General Plan placed the property in the Established Communities category, and the Generalized Future Land Use Map designated it for Mixed Use Land Use. The site is not within a Priority Preservation Area.

Neighborhood and Surrounding Uses

- (7) The neighborhood of the subject property was defined in the Technical Staff Report as having the following boundaries:

North - Addison Road

West - Rollins Avenue Road

South & East - Walker Mill Road

(8) Since Addison Road runs almost due north-south, it cannot form a clear northern boundary; additionally, Walker Mill Road, though classified as an arterial roadway, is not divided by a median and does not form a neighborhood edge so close to the subject property. The Applicant's expert land use planner, Mr. Mark Ferguson, proposed the following neighborhood boundaries, and this is the neighborhood as accepted by your Zoning Hearing Examiner.

North -	Northern limit of I-1 Zoning
East -	Pine Grove Road/Addison Road South
South -	Atwood Street
West -	Cabin Branch/Walker Mill Road/Silver Hill Road

(9) Adjacent to the north of the subject property is the Namco Market Gas Station and Convenience Store in the C-S-C Zone. Adjacent to the west is a Contractor's Storage Yard in the I-1 Zone (Light Industrial) Zone. Adjacent to the south is the Walker Mill Business Park, a collection of many and various retail, church and service commercial uses in mini warehouses in the I-1 Zone. Across Walker Mill Road to the east is the Trinity Baptist Church (formerly St. Paul Baptist Church) in the C-S-C Zone. A Day Care Center was associated with St. Paul Baptist Church; but it is no longer operating.

The remaining land area of the neighborhood is generally industrial in character west of Walker Mill Road. The Walker Mill Business Park subdivision occupies most of the area west of Walker Mill Road, and most of its lots are occupied by Contractor's Storage Yards. Improved lots include the Way of the Cross Church, and Extra Space Storage Facility, and a bus company. There is also a small group of service commercial uses at the western edge of the neighborhood along Walker Mill Road.

The neighborhood east of Walker Mill Road is mostly multi-family dwelling developments, with some townhouse and a few single-family dwellings mixed in, and an elementary school site (the former Thomas Claggett Elementary School on Addison Road South, now used as the Thomas Claggett Teacher Leadership Center).

Finally, there is a retail commercial concentration around the intersection of Addison Road and Walker Mill Road. Uses in the commercial area include a McDonald's restaurant, a Citgo Gas Station, a self-service car wash, and a collection of miscellaneous retail, medical office and restaurant uses in the Addison Square Shopping Center which runs along the east side of Addison Road.

Applicants' Proposal

(10) The Applicants propose razing all of the existing structures on the site (Parcel B) and to construct a Gas Station with associated Food or Beverage Store. A new 3,010-square foot Food or Beverage Store, and six multi-product dispensers with a 3,096-square-foot canopy (36 feet by 86 feet) are proposed. The new facility will be provided with modern stormwater management using Environmental Site Design (ESD) techniques where no stormwater management now exists. Additionally, the existing building is served by a holding tank for sewage disposal; the new facility will be connected to public sewer. The two existing entrances along Walker Mill Road will be combined, reducing the number of entrances from two to one.

LAW APPLICABLE

(1) A Special Exception for a Gas Station in the C-S-C Zone is permitted pursuant to §27-461 in accordance with §27-358 of the Zoning Ordinance. All Special Exceptions must be found to comply with the general criteria of §27-317.

(2) Section 27-358 states:

(a) A Gas Station may be permitted, subject to the following:

(1) The subject property shall have at least one hundred and fifty (150) feet of frontage on and direct vehicular access to a street with a right-of-way width of at least seventy (70) feet;

(2) The subject property shall be located at least three hundred (300) feet from any lot on which a school, outdoor playground, library, or hospital is located;

(3) The use shall not include the display and rental of cargo trailers, trucks, or similar uses, except as a Special Exception in accordance with the provisions of Section 27-417;

(4) The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited;

(5) Access driveways shall be not less than thirty (30) feet wide unless a lesser width is allowed for a one-way driveway by the Maryland State Highway Administration or the County Department of Public Works and Transportation, whichever is applicable, and shall be constructed in compliance with the minimum standards required by the County Road Ordinance or Maryland State Highway Administration regulations, whichever is applicable. In the case of a corner lot, a driveway may begin at a point not less than twenty (20) feet from the point of curvature (PC) of the curb return or the point of curvature of the edge of paving at an intersection without curb and gutter. A driveway may begin or end at a point not less than twelve (12) feet from the side or rear lot line of any adjoining lot;

(6) Access driveways shall be defined by curbing;

(7) A sidewalk at least five (5) feet wide shall be provided in the area between the building line and the curb in those areas serving pedestrian traffic;

(8) Gasoline pumps and other service appliances shall be located at least twenty-five (25) feet behind the street line;

(9) Repair service shall be completed within forty-eight (48) hours after the vehicle is left for service. Discarded parts resulting from any work shall be removed promptly from the premises. Automotive replacement parts and accessories shall be stored either inside the main structure or in an accessory building used solely for the storage. The accessory building shall be wholly enclosed. The building shall either be constructed of brick (or another building material similar in appearance to the main structure) and

placed on a permanent foundation, or it shall be entirely surrounded with screening material. Screening shall consist of a wall, fence, or sight-tight landscaping material, which shall be at least as high as the accessory building. The type of screening shall be shown on the landscape plan.

(10) Details on architectural elements such as elevation depictions of each facade, schedule of exterior finishes, and description of architectural character of proposed buildings shall demonstrate compatibility with existing and proposed surrounding development.

(b) In addition to what is required by Section 27-296(c), the Site Plan shall show the following:

(1) The topography of the subject lot and abutting lots (for a depth of at least fifty (50) feet);

(2) The location and type of trash enclosures; and

(3) The location of exterior vending machines or vending area.

(c) Upon the abandonment of a Gas Station, the Special Exception shall terminate and all structures exclusively used in the business (including underground storage tanks), except buildings, shall be removed by the owner of the property. For the purpose of this Subsection, the term "abandonment" shall mean nonoperation as a Gas Station for a period of fourteen (14) months after the retail services cease.

(d) When approving a Special Exception for a Gas Station, the District Council shall find that the proposed use:

(1) Is necessary to the public in the surrounding area; and

(2) Will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses.

(3) Section 27-317 states:

(a) A Special Exception may be approved if:

(1) The proposed use and Site Plan are in harmony with the purpose of this Subtitle;

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

(6) The proposed Site Plan is in conformance with an approved Tree Conservation Plan.

(7) The proposed Site Plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).

CONCLUSIONS OF LAW

General Requirements

(1) Section 27-317(a) requires that the proposed Use and Site Plan be in harmony with the general purposes of the Zoning Ordinance, §27-102, the purposes for Commercial Zones generally, §27-446(a), and the specific purposes of the C-S-C Zone, §27-454(a)(1).

(2) The general Purposes of the Zoning Ordinance are listed in §27-102(a). The instant Application is in harmony with the general Purposes as follows:

- (1) *To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;*

The proposed Gas Station will be designed to provide a safe, modern facility with modern stormwater management (where none now exists) and a reduced number of vehicular entrances. Additionally, it will provide a public health upgrade by removing an existing holding tank and connecting to public sewer. As such, it will thus promote the health and safety of the present and future inhabitants of the County.

- (2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

The relevant Plans which apply to this site are the 2014 General Plan, the 2010 Approved Subregion 4 Master Plan and Sectional Map Amendment, and a number of Functional Master Plans, including the Green Infrastructure Plan, the County Master Plan of Transportation, the Public Safety Facilities Master Plan, The Historic Sites and Districts Plan, and the Water Resources Functional Master Plan.

General Plan

The General Plan classified the subject site in its Growth Policy Map¹ in the Established Communities category, and the Generalized Future Land Use Map² designated it for Mixed Use land use.

“Established Communities” are described by the General Plan as “the County’s heart – its established neighborhoods, municipalities and unincorporated areas outside designated centers,”³ and recommends that, “Established communities are most appropriate for context-sensitive infill and low- to medium-density development....”⁴

“Mixed Use” land use is described by the General Plan as, “Areas of various residential, commercial, employment and institutional uses. Residential uses may include a range of unit types. Mixed-use areas may vary with respect to their dominant land uses, i.e. commercial uses may dominate in one mixed-use area, whereas residential uses may dominate in another.”⁵ The note under the Generalized Future Land Use Map, however, directs the reader that, “by definition, this

¹ M-NCP&PC, Plan Prince George’s 2035 – Approved General Plan (May, 2014), p. 107.

² General Plan, p. 101.

³ Ibid., p. 106.

⁴ Ibid., p. 20.

⁵ Ibid., p. 100.

map should be interpreted broadly and is intended to provide a countywide perspective of future land use patterns. To identify the future land use designation for a specific property, please refer to the property's relevant Approved Sector or Master Plan."⁶ Given its location at a site in a commercial area, next to an industrial area with a mix of service commercial uses, approval of the subject Application would constitute context-sensitive infill.

Master Plan

The applicable Master Plan is the Approved Subregion 4 Master Plan and Sectional Map Amendment, approved on June 1, 2010. Map 4-3, the Future Land Use Map, recommends the subject property for "Mixed-Use Residential" land use⁷ (though the foldout Land Use Map indicates "Industrial" land use). It is presumed that the foldout map is erroneous, because the Plan text is consistent with the mixed-use residential land use designation.

While the subject property is located on a parcel which was a part of a separate, older subdivision, and is zoned differently, for the purposes of the Master Plan it can be considered as part of the Walker Mill Business Park, which is the subject of a number of discussions in the Plan.

In its Summary of Economic and Market Opportunities, the Plan has a specific discussion of its vision for the Walker Mill Business Park area:

"The current Walker Mill Business Park in Capitol Heights also provides an opportunity to attract and develop a transformative project. Very little development has occurred in the business park, leaving large lots available for new development. Observations from local real estate professionals and an analysis performed by University of Maryland indicate that the business park is not ideally located to attract the type of industrial and employment-generating uses once envisioned for the site. As such, local residents and elected officials have indicated a desire to see alternative uses proposed for the site. The overwhelming majority of respondents desire to see a mixture of high-value, owner-occupied residential development with supporting retail and service uses located near the intersection of Walker Mill and Addison Roads."⁸

The land use shading of Map 3-1, "Vision" in the area of the subject property indicates a desire for "Neighborhood-Serving Mixed Use"⁹ in the area of the subject property.

The specific land use recommendation of the Development Pattern Element is under Policy 2, which is to, "promote and enhance commercial uses to serve the neighborhoods while also encouraging a safe shopping, working and living environment within the subregion."¹⁰ Under that

⁶ Ibid., p. 101.

⁷ M-NCP&PC, Approved Subregion 4 Master Plan and Sectional Map Amendment (June, 2010), p. 62.

⁸ Master Plan, pp. 43-44.

⁹ Ibid., p. 49.

¹⁰ Ibid., p. 65

Policy is listed a Strategy to, “limit mixed-use zones outside of the centers,”¹¹ with a listed exception of “Walker Mill/Addison Road mixed-use.”

The Master Plan’s Transportation Systems Element includes a recommendation to, “extend a new rapid bus service from Landover Gateway south to the Suitland Metro Station with stops at FedEx Field, the Morgan Boulevard Metro Station throughout the Central Avenue Corridor, the Addison Road-Seat Pleasant Metro Station, and along Walker Mill and Silver Hill Roads.”¹² It is important to note that no right-of-way reservation is identified with this recommendation, nor are any stops identified.

Because the proposed Application is consistent with the Master Plan’s land use recommendations to promote neighborhood-serving commercial uses, does not impair its transportation recommendations, its environmental recommendations (including the use of environmentally sensitive design for stormwater management at the subject property and conformance with the Tree Canopy Coverage provisions), the approval of the subject Gas Station would be in harmony with the recommendations of the Master Plan.

Other Applicable Functional Master Plans

The Special Exception area is not mapped as containing any Regulated Areas of the County’s Green Infrastructure Network; as such, the subject Application conforms to the Green Infrastructure Plan.

With regard to the Historic Sites and Districts Plan, no historic sites or resources are located within the vicinity of the subject site; as such, the approval of the subject Application will have no adverse impact on this Functional Master Plan.

The Water Resources Functional Master Plan addresses broad regulatory policy and large-scale watershed planning, and as such makes no recommendations which are directly applicable to the subject Application.

No proposed sites for Public Safety facilities are in the area affected by the subject Application.

The Countywide Master Plan of Transportation preceded the adoption of the Subregion 4 Master Plan, which amended Master Plan of Transportation by its adoption. As the subject Application is in conformance with the transportation recommendations of the Master Plan, the subject Application is also in conformance with this functional Master Plan.

In conclusion, because the proposed Gas Station is not in conflict with the General Plan, the Sector Plan or the applicable Functional Master Plans, approval of the subject Application will be in

¹¹ Ibid.

¹² Ibid., p. 248.

harmony with the Ordinance's Purpose of implementing those Plans.

- (3) ***To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;***

Because this Application proposes the redevelopment of an existing developed site and will not represent enough of an expansion to require a test for the adequacy of local public facilities, approval of it would be in harmony with this Purpose of promoting the conservation of a community which will be developed with adequate public facilities.

- (4) ***To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;***

Approval of the subject Application would recognize the needs of the County's workers by redeveloping a site in a long-developed area in conformance with all applicable modern development regulations, and so would abet the orderly growth and development of the County, making the subject Application in harmony with this Purpose of the Ordinance.

- (5) ***To provide adequate light, air, and privacy;***

The subject Gas Station will be in harmony with this Purpose as it will be developed in conformance with the various regulations in the Zoning Ordinance to ensure the provision of adequate light, air and privacy, both for the occupants of the subject site and for its neighbors. These principles include the provision of sufficient setback distances, buffering between the proposed use and neighboring uses, and conformance with height limitations in order to allow for access to light and air.

- (6) ***To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;***

The subject Gas Station would be in harmony with this Purpose as it will be developed in accordance with the various principles that have been codified in the Zoning Ordinance to promote the beneficial relationships between land and buildings, including conformance with the tables of permitted uses for the various zones as laid out in the Ordinance, and in conformance with the provisions of the Landscape Manual which provide for the screening of service functions and the buffering of incompatible adjoining uses.

- (7) ***To protect the County from fire, flood, panic, and other dangers;***

The subject Gas Station would be in harmony with this Purpose as it will be developed in conformance with regulations established in the body of the Zoning Ordinance, as well as other County Ordinances, which are intended to protect from fire, flood, panic and other dangers, namely:

the Floodplain Regulations, Stormwater Management Regulations, the Fire Prevention Code, the Building Code, and the Tables of Permitted Uses for the various zones.

- (8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;***

Because the subject use is commercial in nature, this Purpose is not directly applicable to this Application.

- (9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;***

The redevelopment of the subject site with a new Gas Station would be in harmony with this Purpose because it would augment the tax base of the County directly and through the employment provided to its workers.

- (10) *To prevent the overcrowding of land;***

The subject Gas Station would be in harmony with this Purpose as it will be constructed in accordance with various principles that have been codified in the Ordinance to ensure the prevention of overcrowding, including the provisions of the Table of Uses that provides for the compatibility of uses, height limits, and setbacks.

- (11) *To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;***

The approval of the subject Gas Station would be in harmony with this Purpose because of several factors. First, the proposed Gas Station is a redevelopment of an existing commercial use in a developed area, and as such will not add materially to the existing traffic on the streets. Its approval will be in accordance with the provisions of the Subdivision Ordinance which assures the adequacy of local public facilities. Secondly, the combination of the two existing entrances into one will lessen the danger to local traffic. And finally, the proposed Gas Station will be developed in accordance with the regulations established in the body of the Zoning Ordinance (and other County ordinances) which are intended to lessen the danger and congestion of traffic on roads, such as the requirements for the provision of adequate off-street parking, and the separation of entrances from nearby intersections.

- (12) *To insure the social and economic stability of all parts of the County;***

As the Zoning Ordinance is the principal tool for the implementation of the planning process by enacting legal requirements which implement the planning goals that strive to maintain the social and economic stability of the County, conformance with the requirements and regulations of the

Zoning Ordinance will be prima facie evidence of the Application's harmony with this Purpose. Additionally, the subject Gas Station would promote the economic and social stability of the County by contributing to the tax base, and by providing a useful and convenient service to the surrounding community.

- (13) *To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;***

Because the subject Gas Station redevelopment is a redevelopment of an existing commercial use, approval of the subject Application will have no impact to the natural features in the County: It will not itself generate noise pollution, and the use will be in compliance with the County's Woodland Conservation policies by virtue of its exemption from the requirement for the approval of a Tree Conservation Plan. No steep slopes or scenic vistas will be affected. The proposed Gas Station will be provided with stormwater management measures and will thus better act against water pollution and protect the stream valleys than the existing development at the subject property. By conformance to these principles and regulations, the approval of this Application would be in harmony with this Purpose.

The final two Purposes,

- (14) *To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and***
(15) *To protect and conserve the agricultural industry and natural resources.*

are not directly applicable to the approval of this Gas Station. §27-317(a)(1)

(3) The instant Application is in harmony with the general Purposes of Commercial Zones, §27-446(a), as follows:

- (1) *To implement the general purposes of this Subtitle;***

The subject proposal will implement the general purposes of the Zoning Ordinance, *infra*.

- (2) *To provide sufficient space and a choice of appropriate locations for a variety of commercial uses to supply the needs of the residents and businesses of the County for commercial goods and services;***

The approval of this facility at this location will allow the Gas Station to provide a useful and convenient site for a needed service.

- (3) ***To encourage retail development to locate in concentrated groups of compatible commercial uses which have similar trading areas and frequency of use;***

Because the proposed Gas Station involves the replacement of another compatible service commercial use in a commercial area, it will fulfill this Purpose for Commercial Zones.

- (4) ***To protect adjacent property against fire, noise, glare, noxious matter, and other objectionable influences;***

The renewal of the existing Gas Station would implement this Purpose by its setbacks and buffering, and its compliance with the fire prevention provisions of the code.

- (5) ***To improve traffic efficiency by maintaining the design capacities of streets, and to lessen the congestion on streets, particularly in residential areas;***

The approval of the subject Application will improve traffic efficiency by the combination and relocation of vehicular entrances.

- (6) ***To promote the efficient and desirable use of land, in accordance with the purposes of the General Plan, Area Master Plans and this Subtitle;***

Because the subject Gas Station will meet the intent for the neighborhood-serving land use provided for in the Master Plan, it will fulfill this Purpose for Commercial Zones.

- (7) ***To increase the stability of commercial areas;***

The redevelopment of the subject property from one complementary service commercial use to another will maintain the existing character of the surrounding commercial area.

- (8) ***To protect the character of desirable development in each area;***

Because the subject Gas Station will: (1) be redeveloped and operated in accordance with the provisions specifically provided in the Ordinance to promote the safe and orderly layout and operation of Gas Stations, and (2) be compatible with the materials, scale and character of the architecture of the surrounding development, the approval of this Application will fulfill this Purpose.

The final two purposes,

- (9) ***To conserve the aggregate value of land and improvements in the County; and***
 (10) ***To enhance the economic base of the County.***

are fulfilled by allowing for the redevelopment of an existing commercial use that will enhance the tax base and provide additional employment for residents of the County. §27-317(a)(1)

(4) The instant Application is also in harmony with the specific Purposes of the C-S-C Zone, §27-454(a), as follows:

(A) *To provide locations for predominantly retail commercial shopping facilities;*

While the subject Application proposes the renewal of a service commercial use (with its by-right retail component), it is not in conflict with this Purpose. The redevelopment of the subject property to accommodate this Gas Station – which does not propose visually disruptive auto repair services – will maintain the character of commercial uses which are found around the neighboring intersection.

(B) *To provide locations for compatible institutional, recreational, and service uses;*

As described above, the subject use – when redeveloped in accordance with the provisions of the Ordinance that promote a safe and orderly operation – fulfills this Purpose by being a compatible service use.

(C) *To exclude uses incompatible with general retail shopping centers and institutions; and*

Because this use is compatible with general retail uses, it fulfills this Purpose.

(D) *For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.*

This Purpose is not applicable to the subject Application. §27-317(a)(1)

(5) Special Exception commercial uses such as Gas Stations are presumed compatible with other commercial uses provided the established setbacks, lot coverage, landscaping, minimum acreage, traffic and parking improvements, and all other regulations are met. The proposed redevelopment of the subject property will bring the subject property into conformance with current requirements and development standards; no variances, waivers or departures are requested. §27-317(a)(2)

(6) The Gas Station with associated Food or Beverage Store will not impair the integrity of any Master Plan, Functional Plan, or the General Plan (Plan 2035). This Application is in the Established Communities area of Plan 2035, which is most appropriate for context-sensitive infill and low-to medium-density development. This Application is consistent with that vision.

The Subregion 4 Master Plan and Sectional Map Amendment retained the subject property in the C-S-C Zone and recommends mixed-use residential land use for the subject property. Although this site is part of the Walker Mill Business Park, the Master Plan points out that the Business Park

has not enjoyed the same level of success as others in more prominent locations, which have access to a regional transportation network. The Master Plan states, “Transforming the site away from industrial and integrating in new retail and residential uses is highly recommended” (MPp. 337). Staff finds that this Application for the removal of vacant structures for the addition of a Gas Station with associated Food or Beverage Store will not substantially impair the integrity of the Subregion 4 Master Plan and Sectional Map Amendment, as the proposed development is permitted in the C-S-C Zone, when meeting the Special Exception criteria.

The proposed Special Exception is in conformance with the environmental provisions of Plan 2035, the area Master Plan, and the Countywide Green Infrastructure Plan. §27-317(a)(3)

(7) The conformance of the subject Application with the principles laid out in the Purposes of the Zoning Ordinance, its compliance with the provisions of the Zoning Ordinance, its compliance with the provisions of other State and County regulations for environmental protection, and building construction represent a high level of protection against adverse effects to the public health, safety and welfare. The substantive improvements to the existing development, including the consolidation and relocation of vehicular entrances, the incorporation of modern stormwater management into the proposed development, and the elimination of a sewage holding tank and connection to public sewer will actively improve the health, safety and welfare of residents and workers in the area as compared to the development currently existing on the subject property. §27-317(a)(4)

(8) The long existence of a service commercial use at the subject property, together with the existence of a Gas Station (abandoned) on the adjacent property indicates that the character of the service commercial component of the development has been and will continue to be compatible with the surrounding commercial uses, and as such will not be detrimental to the use or development of adjacent properties or the general neighborhood. The Applicant has provided a market analysis which studies Gas Stations with associated Food or Beverage Stores within a one-mile radius. The analysis concludes there is a conservative demand in the area for a Gas Station. (Exhibit 24) §27-317(a)(5)

(9) The Site and Landscape Plans (Exhibit 28) are in conformance with the approved Standard Letter of Exemption (S-036-2017) from the Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance which expires on February 29, 2019. Because the subject property contains less than 10,000 square feet of woodland and has no previously approved Tree Conservation Plans, a Standard Exemption Letter was issued by the Environmental Planning Section. (Exhibit 4) No other environmental issues relate to the Applicants proposal. §27-317(a)(6)

(10) There are no regulated environmental features on the subject property that would require preservation and/or restoration. §27-317(a)(7)

Gas Station

- (11) Walker Mill Road has a rights-of-way width of at least seventy feet (variable, approximately 105' at its minimum across the subject property's frontage), and the site has direct vehicular access to it. The subject property has 205.45' of frontage on Walker Mill Road. (Exhibit 28(b), Note 14) §27-358(a)(1)
- (12) No lots containing schools, hospitals or outdoor playgrounds exist within 300' of the subject property. The nearest such facility appears to be the playground for the Day Care Center which was operated by St. Paul Baptist Church; though the building containing the facility is on a lot which is closer than 300' to the subject property (Parcel B), the outdoor playground is located on Parcel D, the corner of which is 325' from the corner of the subject property. Additionally, St. Paul Baptist Church no longer occupies that property and the Day Care Center does not exist. (Exhibit 28(b), Note 15 and Exhibit 40) §27-358(a)(2)
- (13) The display or rental of any vehicles is prohibited and is not proposed at the subject site. (Exhibit 28(b), Note 16) §27-358(a)(3)
- (14) The storage or junking of any vehicles is prohibited and is not proposed at the subject site. (Exhibit 28(b), Note 17) §27-358(a)(4)
- (15) The Special Exception Site Plan (Exhibit 28(b), Note 18) indicates that the proposed access driveway will be 35' wide at its narrowest point. The subject property is not a corner, lot; the edges of the driveways are 69' and 100' from the side lot lines of the two adjoining lots. §27-358(a)(5)
- (16) The Special Exception Site Plan (Exhibit 28(b), Note 19) indicates that the access driveways are to be defined by curbing. §27-358(a)(6)
- (17) The Special Exception Site Plan (Exhibit 28(b), Note 20) indicates an 8' wide sidewalk/shared use trail will be constructed along the site's frontage along Walker Mill Road. §27-358(a)(7)
- (18) The Special Exception Site Plan (Exhibit 28(b), Note 21) indicates that the edge of the canopy is 36.71' from the right-of-way line; the gas pumps are some distance farther. §27-358(a)(8)
- (19) These shall be no repair service. (Exhibit 28(b), Note 23) §27-358(a)(9)
- (20) The architectural details of the proposed structure will harmonize with (but be much nicer than) the character of the older adjoining Namco (inoperative) Gas Station and (operative) Convenience Store, the mini warehouses of the adjacent Walker Mill Business Park, the existing Citgo and BP Gas Stations and the Car Wash to the north. §27-358(a)(10)

(21) The topography of the subject lot and fifty feet into the abutting streets and lots has been shown on the Site Plan, Exhibit 28. §27-358(b)(1)

(22) The location and details for the construction of a trash enclosure have been shown on the Site Plan, Exhibit 28. §27-358(b)(2)

(23) No exterior vending machines or a vending area are proposed; sales will be inside the proposed Food or Beverage Store. §27-358(b)(3)

(24) Upon the abandonment of the Gas Station, the Special Exception shall terminate, and all structures exclusively used in the business (including underground storage tanks), except buildings, shall be removed by the owner of the property. (Exhibit 28(b), Note 24) §27-358(c)

(25) The approval of Special Exception 4815 for a Gas Station with Food or Beverage Store is in accordance with the District Council's legislative intent that the "necessary to the public in the surrounding area" provision in §27-358(d)(1) is tantamount to a finding that a proposed Gas Station and Food or Beverage Store is "convenient, useful, appropriate, suitable, proper, or conducive" to providing fuel to the motoring public. Thus, the Zoning Ordinance requires a standard less strict than that expressed in Brandywine Enterprises, Inc. v. County Council, 117 Md. App. 525, 700 A2d 1216 (1997) and more stringent than that expressed in Baltimore County Licenses Beverage Assoc., Inc. V. Kwon, 135 Md. App. 178, 761, A2d 1027 (2000). The existence of two operating Gas Stations (and a third inoperative station) in the vicinity of the subject property is evidence that the use would be convenient, useful, appropriate, suitable and proper. Its location in a commercial area in the immediate vicinity of the intersection of two arterial roadways (Walker Mill Road and Addison Road) is suitable and appropriate, as it is convenient and useful to the substantial traffic (Addison Road, 2016 ADT: 18,979 vehicles per day; Walker Mill Road, 2016 ADT: 35,101 vehicles per day) which passes the site. §27-358(d)(1)

(26) A Gas Station with associated Food or Beverage Store may be permitted within the C-S-C Zone by Special Exception, if the Applicant can show that the Gas Station component is necessary to the public within the surrounding area. The Applicant submitted a market analysis (dated July 9, 2018) prepared by the Director of Acquisitions at Hunt Real Estate Services, Inc. The purpose of the study was to provide a determination on whether there is a reasonable need for the use of a Gas Station with associated Food and Beverage Store within the neighborhood. There are three existing Convenience Gas Store operations within a one-mile radius, which the Applicant used to comprise the primary market area surrounding the proposed Gas Station with associated Food and Beverage store; Namco (6622 Walker Mill Road), BP (6701 Walker Mill Road), and Citgo (6700 Walker Mill Road). One of the Gas Stations with associated Food and Beverage Store, Namco, has a pending Maryland Department of the Environment (MDE) case showing the tanks are temporarily out of use. The Applicant utilized five different methods to show that the Applicant's proposed Gas Station will provide goods and services that are not available at other stations. These methods are outlined below.

Method 1

Identify the primary market area demand for residents and workers as a gallon per year figure by identifying the number of households within the market area, the number of vehicles per household, and the gallon demand per year.

Method 2

Identify the primary market area demand for workers within the market area who either drove alone or carpoled.

Method 3

Identify the primary market area demand for households based on one fill-up per vehicle per week.

Method 4

Utilizing Maryland State Highway Administration (SHA) volume traffic data, identify the primary market area demand for traffic counts within the area.

Method 5

Identify the primary market area demand based on gallons per month, based on average daily trips of workers and transient commuters.

Upon reviewing the proposal and the Applicant's market analysis, Staff finds that the Applicant has identified a market area in close proximity to the site (one-mile radius), the other Gas Stations therein, and demonstrated that there is an excess demand based on the gallons pumped by the existing gas stations. Further, the Research Section, in a memorandum dated August 8, 2018 (Kowaluk to Cannady II), concluded that the convenience of consumers combining their shopping trips at the Food and Beverage Store with a Gas Station indicates the proposed Gas Station will be expedient or reasonably convenient and useful to the public. The proposed Gas Station will thus provide reasonable and necessary accommodations to the surrounding community.

(27) Finally, Section 27-358(d)(2) requires that, "the District Council shall find that the proposed use... Will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses."

Because the proposed use is a redevelopment of a service commercial use which has been existing at the subject property since 1954, because it is in the midst of a group of complementary service commercial uses around the subject property, including two other Gas Stations and a Car Wash, because the subject property will be redeveloped to a high standard of site planning and architectural detail, because it is modest in scale, and because it does not propose vehicle repair or

vehicle storage and the attendant visual disruption caused by these activities, it will not upset the balance of land use, or restrict the availability of land for other trades and commercial uses.

Parking and Loading

(28) In accordance with the Parking and Loading Standards contained in Part 11 of the Zoning Ordinance, 19 parking spaces, including 1 handicap parking space, are required, given the 20 percent joint use reduction allowed pursuant to Section 27-572 of the Zoning Ordinance. The Site Plan (Exhibit 28) shows 19 parking spaces being provided, including 1 handicap parking space, satisfying the parking regulations of the Zoning Ordinance. The Site Plan also correctly shows one loading space required and provided.

Landscape Manual

(29) **Section 4.2, Landscape Strips Along Streets** – The instant Application project is subject to Section 4.2 for its Walker Mill Road frontage. The Site and Landscape Plan (Exhibit 28) provides the appropriate schedules showing that the planting requirements of this Section are being met.

Section 4.3, Parking Lot Requirements – The Site and Landscape Plan (Exhibit 28) proposes a new parking lot, requiring interior planting in accordance with this section. The Plan indicates that all of the requirements of this Section are being met with the correct schedules.

Section 4.4, Screening Requirements -Section 4.4 requires screening of loading, maintenance merchandise storage, trash collection facilities, and mechanical requirement. In the subject Application loading and trash collection facilities are included and meet the screening requirement of Section 4.4. (Exhibit 28)

Section 4.7, Buffering Incompatible Uses – The site is subject to the requirements of Section 4.7, as the Application proposes a new building and there are uses deemed incompatible by the Landscape Manual on adjacent properties. The appropriate schedule has been provided, demonstrating conformance with these requirements. (Exhibit 28)

Section 4.9, Sustainable Landscaping Requirements – The site is subject to the requirements of Section 4.9, and a schedule is provided on the Site Plan demonstrating conformance to these requirements. (Exhibit 28)

Tree Canopy Coverage

(30) The instant Application is subject to the requirements of the Prince George's County Tree Canopy Coverage Ordinance, as it involves a disturbance in excess of 5,000 square feet of land area. As the subject property is located in the C-S-C Zone, 10 percent of the square footage is required to

be covered in tree canopy. As the site measures 43,273 square feet, 4,327 square feet should be covered in tree canopy. The required Tree Canopy Coverage schedule is provided on the Landscape Plan, demonstrating conformance with this requirement. (Exhibit 28(d))

Sign Regulations

(31) The instant Application includes the review of one building-mounted sign, one automated teller machine (ATM) hanging sign (interior), six vinyl window signs, three canopy signs, one Americans with Disabilities Act (ADA) parking sign, four aluminum composite metal strips associated with the Convenience Store and Gas Station, and one freestanding monument sign on the subject site. The proposed signage meets the area, height, and setback requirements of the applicable sign regulations of the Zoning Ordinance.

DISPOSITION

Special Exception 4815 is APPROVED, subject to the following Condition.

1. Prior to certification of the Special Exception, the Site Plan shall be revised, as follows:
 - a. Provide adequate elevation drawings/photographs of the planter box and associated screening.

The Approved Site and Landscape Plans are Exhibit 28(a)-(h)