

May 31, 2000

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Special Exception Application No. 4368**

REQUEST: **Fast-Food Restaurant**

RECOMMENDATION: **APPROVAL, with conditions**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3280.

FINDINGS:

- A. Location and Field Inspection: East side of Crain Highway (US 301) approximately 300 feet south of its intersection with Ballpark Road
- B. History: The subject site was placed in the R-R Zone during the 1991 Bowie-Collington-Mitchellville Sectional Map Amendment. It was rezoned in 1994 as part of a 31-acre parcel rezoned from the R-R to C-M Zone (A-9897). This rezoning followed the opening of the nearby Baysox Ballpark and the construction of an access road through the 31-acre site.
- C. Master Plan Recommendation: The 1991 *Bowie-Collington-Mitchellville Master Plan* recommends a conditional employment area for the site and surrounding acreage. For details on the Master Plan recommendation, see Section L.3 of this report.
- D. Request: The applicant proposes to build and operate a 116 seat fast-food restaurant with a drive-thru window. The proposed restaurant will be housed in a one-story building, approximately 4,200 square feet in area. The site plan shows 51 parking spaces and a loading area.. Access to the site will be obtained from two entrances onto a common drive which provides access to Ballpark Road.
- E. Neighborhood and Surrounding Uses: The staff concurs with the applicant's neighborhood boundaries, which were also the boundaries of the neighborhood defined for A-9897 and SE-4277 (Mobil gas station). They are:

North - US 50

East - Patuxent River

South - Central Avenue

West - US 301

While the eastern portion of this neighborhood remains rural-residential in character, the western portion has seen significant development in the past five years. This includes multifamily residential development just south of US 50, the Prince George's Stadium, the Home Depot Store and the Mobil gas station.

The properties immediately surrounding the subject site are:

North - Mobil gas station, Home Depot in the C-M Zone

East - Prince George's Stadium

South - Rip's Restaurant, Motel, and other commercial development in the C-M Zone

West - Across US 301, the Bowie Gateway Shopping Center in the C-M Zone

F. Specific Special Exception Requirements: Sec. 27-350. Drive-in or fast-food restaurant.

(a) **A drive-in or fast-food restaurant may be permitted, subject to the following:**

- (1) **All proposed buildings, structures, and outdoor facilities (including vehicle parking) shall be located at least two hundred (200) feet from the nearest property line of any land in any Residential Zone, or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan. The District Council may reduce this setback requirement when it determines that the landscaping, screening, and buffering requirements in the Landscape Manual, or other conditions, will adequately protect abutting residential property;**

The proposed site plan indicates compliance with the setback requirement of 200 feet.

- (2) **A bicycle rack for at least six (6) bicycles shall be provided on the premises, unless the applicant demonstrates to the satisfaction of the District Council that the requirement is inappropriate because of the location or nature of the establishment;**

A bicycle rack for at least 6 bicycles is shown on the site plan near the northwest corner of the building.

- (3) **The use will not restrict the availability, or upset the balance, of land use in the neighborhood for other commercial uses;**

There are no other fast-food restaurants in the neighborhood east of US 301. Even when including the development on the west side of US 301, the amount of other commercial development and land available for development far outweighs the number of fast-food restaurants or land devoted to their use.

- (4) **Special consideration shall be given to advertisement, outdoor display, outdoor activity, lighting, hours of operation, and other aspects of the proposed operation to assure that the health, safety, and general welfare of the community will be protected.**

The subject site is completely surrounded by commercial development. The facility will operate Monday through Saturday from 6:00 AM to 1:00 AM. It will be closed on Sundays. The applicant's statement of justification and site plan details indicate that they will use directional lighting and signage in accordance with the requirements of the Zoning Ordinance.

- (b) **A special exception shall not be required for the conversion of a drive-in restaurant to a fast-food restaurant, or the conversion of a fast-food restaurant to a drive-in restaurant, provided that no enlargement or extension takes place. The addition of a window or other facility to provide for drive-in service shall not be construed to be an**

enlargement or extension. The conversion shall be permitted for a drive-in or fast-food restaurant which has become a certified nonconforming use or was established pursuant to a Special Exception, provided that any conditions of the Special Exception remain in effect.

This section does not apply.

G. Parking Regulations: The proposed site plan shows the required number of parking spaces for the site (51) and indicates a required loading space as well. It was pointed out by Elaine Bakka, of the Permit Review Section that the required 22-foot-wide access to the loading area is not provided on the site. (See memorandum dated December 30, 1999.) The plan shows a one-way circulation pattern for most of the site, using an aisle width of 18 feet in many areas. While this is in accordance with the requirements for the travel lanes in a parking area, a loading area requires a 22-foot wide aisle regardless of circulation patterns. (See Section 27-581 of the Zoning Ordinance.) If there is no satisfactory alternative site plan layout which will provide for a 22-foot wide access, the applicant will be required to obtain approval of a departure from design standards in accordance with Section 27-587 of the Zoning Ordinance.

H. Landscape Manual Requirements: The proposed landscape plan was reviewed by Urban Design Section staff and has been determined to meet the criteria of the *Landscape Manual*. It should be noted that a condition of approval of Preliminary Plat A-94074 was the approval of a limited Detailed Site Plan to address:

- a. Landscaping and buffering in relation to views from US 301.
- b. Internal driveway circulation, parking and truck access.

In its review of this special exception application, the City of Bowie has recommended the substitution of Maryland Native Plant Species for the proposed landscape materials. Staff concurs with this recommendation as long as the native plant species are in conformance with the recommendations of the *Landscape Manual*.

I. Zone Standards: The proposed site plan is in conformance with the requirements of the C-M Zone.

J. Sign Regulations: The proposed site plan identifies the location of a free standing sign in conformance with the required setbacks for such signs. The area of the sign is to be in accordance with the area regulations of the Zoning Ordinance. The site plan also indicates in Note 14 that ■No flags or banners shall be mounted, suspended or otherwise displayed from the building or permitted on the site, except a standard size American flag.● This note addresses a recommendation by the City of Bowie.

K. Other Issues: US 301 Upgrade Plans and Their Impact on the Proposed Plan

The State Highway Administration (SHA) has notified staff that the Project Planning Division has identified a right-of-way line for the most recent urban diamond interchange concept for US 301 and MD 197. (See memorandum from Kenneth McDonald, Chief, Engineering Access Permits, January

23, 2000.) The accompanying, marked-up plan indicates that this right-of-way line would necessitate the removal of seven parking spaces on the subject property. This concept, as well as previous concepts, have been designed to implement the 1991 Bowie-Collington-Mitchellville Master Plan recommendation for a grade separated interchange at US 301 and MD 197 as part of the recommended upgrading of US 301 to freeway status. The Zoning Ordinance defines a street or right-of-way line as:

Street Line: A line separating the "Street" from abutting property. For the purpose of this definition a "Street" is whichever of the following two groups of vehicular ways indicates the greatest right-of-way width:

- (A) A public or dedicated right-of-way at least thirty (30) feet in width; or a private road right-of-way or easement along which development is authorized pursuant to Subtitle 24; or**
- (B) A proposed "Street" right-of-way or widening shown on the applicable "General Plan" or "Master Plan," or "Functional Master Plan"; or in the current Capital Improvement Program or Maryland State Five (5) Year Highway Construction Program; or on a "Record Plat."**

The Master Plan recommends that US 301 be upgraded to a freeway and Table 8, ■Proposed Highway Network,• shows a recommendation of 6 to 8 lanes, with a variable right-of-way of up to 450 feet. The approved record plat (VJ 182 @ 81), which was recorded on March 4, 1998, shows a ■future right-of-way setback• consistent with the Master Plan recommendation. The current SHA Project Planning Division design is not shown on any of the above listed documents.

It is our understanding that the current SHA proposal for an urban diamond interchange is less land-intensive than the earlier proposals, and this proposal may ultimately be the one which is constructed. However, this is by no means certain, and until this specific design proposal is included in the State Construction Program, it cannot be considered in the determination of the actual right-of-way line for purposes of the Zoning Ordinance.

It is recommended that the applicant work with the State Highway Administration to achieve the best possible solution to this problem. It should be noted, in this context, that a departure from parking and loading spaces may provide a remedy. However, the proposed plan shows only the minimum required number of spaces. It further appears that a departure from design standards will be required for the lack of aisle width for access to a loading space. This applicant has relatively little business experience in this county, and it may be difficult to determine parking usage at this location for some time. These concerns suggest that the solution may lie elsewhere or, in any event, cannot be resolved immediately.

L. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.**

The purposes of the Zoning Ordinance are listed in Section 27-102 and can be summed up in the first purpose which reads, ■To protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the County.● The proposed use is in harmony with the purposes of the subtitle in that it will provide for a restaurant which provides quick and convenient meals at a location near residential, employment and shopping areas.

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

With the exception of the width of the access driveway to the loading area, the proposed use and the revised site plan (dated 3/22/00) conform to all applicable requirements. The access to the loading space must be addressed through a site plan revision or a departure from design standards.

(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 Map Plan, the General Plan.

The 1991 Master Plan for Bowie-Collington-Mitchellville placed this property in a conditional employment area. The development of the Prince Georges Stadium, the subsequent rezoning to the C-M Zone and development of the Home Depot store have altered the parameters within which the subject site now exists. The proposed fast-foot restaurant could, in some circumstances, be considered an ancillary use to an employment setting. There is no doubt that employees in the surrounding area are likely to use the facility, although they would most likely come from outside the immediate surroundings. The approval of this use, does not impair the integrity of the approved plans for the area. It could be viewed as complementary to an employment area, though in fact, the employment area concept has, itself, undergone a significant change.

The Master Plan lists a number of guidelines for the development of this site and surrounding properties:

1. The overall land use recommendation for the US 301 frontage is for a commitment to a limited employment area. The master plan implements this by showing a symbol designating a ■Conditional Employment Area● between the US 301/MD 197 interchange and US 50.
2. Noise attenuation measures shall be provided for properties with frontage along the major highways and the transit (PT-1) right-of-way. Provision of at least 100-foot setbacks from US 301 and at least a 300-foot depth along US 50 for noise mitigation and visual enhancement shall be provided. The provision of a well-landscaped and functional berm system along these highways and future transit alignment should be a part of the noise attenuation measures.
3. A service road is recommended contiguous to the US 50 right-of-way, extending south from Governor Bridge Road to the proposed interchange of MD 197 and US 301. All frontage properties should have access to this facility.

4. Any development or redevelopment within the employment area should be subject to site plan and sign review to ensure an attractive and functional overall development character for the properties comprising this gateway area.
5. Development proposals shall incorporate maximum retention of trees and forest stands and minimization of environmental disturbance, especially for Green Branch tributaries.
6. Upon acquisition of the land area for the MD 197/US 301 interchange, any commercial zoning/uses displaced should be considered for relocation to the north within the employment area.

The Crain Highway Corridor Chapter recommends the following guidelines that pertain to the development of this property:

1. Site plan review should be applicable to all development in the median and along highway flanks, with special attention to be given to:
 - a. Buffering outside of the right-of-way to ensure compatibility with adjacent uses, and effective screening from the highway, including use of such measures as dense landscaping, berms, and appropriate fencing. Supplemental landscaping within the right-of-way, as determined appropriate by the State Highway Administration, is further encouraged.
 - b. The appearance and function of parking areas, by means of internal landscaping and circulation; and
 - c. Architecture and design to ensure that open storage is not visible from adjacent properties or the highway, and that suitable construction materials are utilized.

As previously noted, these guidelines were intended to promote an attractive employment area. Although that concept has not come to fruition, many of these guidelines remain relevant. The proposed plan meets these guidelines as follows: The site will be served by an eventual service road. It is the subject of a detailed site plan which will address landscaping and design issues. There is no open storage proposed for the site and the trash area will be enclosed, so that it will not be visible from the highway. The proposed plan contains a note that will restrict signage to that permitted by the Zoning Ordinance and will further prohibit any flags or banners, with the exception of a standard size American flag. The proposed building is not set back the suggested 100 feet from the US 301 right-of-way, nor is it screened by dense landscaping or berms from the highway. However, this is a commercial use, not the employment use envisioned by the plan, and the relationship of this use to the highway is different as a result. Furthermore, as previously noted, the landscape plan does conform to the requirements of the Landscape Manual

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

The proposed use at this location will not adversely affect the public health, safety or welfare. With the recommended conditions, it meets all requirements of the Zoning Ordinance as well as the conditions of approval of preliminary plan 4-97016. The memorandum from Glen Burton of the M-NCPPC Transportation Planning Section, notes that the proposal does not exceed the maximum allowable commercial development permitted for the site:

This property is part of preliminary plat 4-97016 , also known as 3809 Subdivision. Based on PGCPB resolution # 94-298 (A), that preliminary plat was approved with several conditions, including the following:

- 6. The maximum commercial development allowed for this site shall not exceed an amount of square feet of gross floor area that would generate 9,089 vehicle trips per day (not including the approved special exception for a banquet hall and the relocation of existing uses described in Finding 12.i.).
- 7. Prior to the issuance of each commercial building permit (not including any of the existing uses as "Rips" that may be relocated to the subject property as described in Finding 12.i.), the applicant, his heirs, successors and/or assigns, shall pay a fee-in-lieu of construction for US 301 and MD 197 to the M-NCPPC based on the following formula:

■
$$\$210 \times (\text{Daily Trips Generated per Building}) \times \frac{(\text{FHWA Construction Index for 4 quarters preceding permit application})}{(1994 \text{ FHWA Construction Index})}$$

■The site plan submitted with the subject application indicated a fast-food restaurant with a drive-thru window. The plan shows a gross floor area of approximately 4,211 square feet. Based on information provided in the Institution of Transportation Engineers' (ITE) *Trip Generation Manual, 6th edition*, a fast food restaurant with a drive-thru window (834) will generate 496.12 trips per 1,000 feet of gross floor area. Consequently, the proposed facility will generate $4.211 \times 496.12 = 2,089$ daily trips. Typically, some "trips" to and from fast food restaurants would normally be already on the road and therefore would not be considered as new trips. The *Manual* indicates that 45% of the A.M. trips and 47% of the P.M. trips are already on the road and are considered pass-by trips. Assuming an average pass-by rate of 46% being already on the road, then the actual new trips being created would be $2,089 \times 54\% = 1,128$ daily trips. Previous approvals on the 3809 Subdivision which included a Home Depot store and a gas station, combined with the proposed fast food restaurant will collectively generate approximately 8,244 daily trips. Condition number 6, pursuant to PGCPB resolution # 94-298 (A) regarding a trip cap has therefore been fulfilled. . . .

■A fee-in-lieu of public facilities is required toward the construction of the MD 197/US 301 interchange per condition #7 of the preliminary plan.●

Comment: The applicant requested and staff agreed that the actual number of trips and resulting fee can be determined at the time of building permit. There are no other issues which would affect the public health, safety or welfare with regard to this proposal.

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

The proposed commercial use is compatible with the surrounding development and will not be detrimental to the use or development of adjacent properties for that reason.

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

A note on the plan indicates it is in compliance with TCPII/161/91 which will be submitted in conjunction with all permit applications. This is confirmed by M-NCPPC Environmental Planning Section staff. This TCP provides for off-site reforestation and was approved at the time of subdivision.

CONCLUSION:

In light of the above considerations, staff recommends APPROVAL of this application, subject to the following conditions:

1. The site plan shall be revised to show the required 22-foot wide access to the loading space, or a departure from design standards shall be obtained in accordance with Section 27-587 of the Zoning Ordinance.
2. The landscape plan shall show the substitution of Maryland Native Plant Species for the proposed landscape materials as long as the native plants are in conformance with the recommended species list and other requirements of the *Landscape Manual*.
3. Prior to the issuance of any building permits, the applicant, his heirs, successors and/or assigns, shall pay \$210 x # of daily trips generated by this facility x (FHWA Construction Index for 4 quarters preceding permit application) (1994 FHWA Construction Index) to the Department of Public Works and Transportation, in-lieu of construction improvements to the US 301/MD 197 intersection. The number of daily trips is to be determined by M-NCPPC Transportation Planning Section staff at the time of building permit.