

Maryland-National Capital Park and Planning Commission  
Prince George's County Planning Department  
Development Review Division  
301-952-3530



Comment [COMMENT1]: WHEN INSERTING INFORMATION AT THE @ SIGN REMEMBER TO USE INDENT FOR SECOND LINE - NOT TAB. ALSO, IT WILL LOOK LIKE THE TEXT IS GOING WACKO, BUT DON'T WORRY - IT IS FINE.

## Special Exception Application 4431

| Application  | General Data                     |
|--|----------------------------------|
| Project Name:<br>Silver Hill Park BP Amoco<br><br>Location:<br>Northeast side of Branch Avenue at its intersection with Cedar Drive.<br><br>Applicant/Address:<br>BP Amoco Corporation<br>One West Pennsylvania Avenue<br>Towson, Maryland 21204 | Date Accepted: 8/15/01           |
|  | Planning Board Action Limit: N/A |
|  | ZHE Hearing Date: Not Scheduled  |
|  | Plan Acreage: 1.685± acres       |
|  | Zone: C-S-C                      |
|  | Dwelling Units: N/A              |
|  | Square Feet: 4,224 sq. ft.       |
|  | Planning Area: 76A               |
|  | Council District: 7              |
|  | Municipality: None               |
|  | 200-Scale Base Map: 205SE3       |

| Purpose of Application  | Notice Dates                                       |
|---|--|
| Fast-Food Restaurant - 27-350 & 27-317<br>Nonconforming buildings, structures, and uses; alteration,<br>e<br>n<br>l<br>a<br>r | Adjoining Property Owners: 8-20-01<br>(CB-15-1998) |
|   | Previous Parties of Record: N/A<br>(CB-13-1997)    |
|   | Sign(s) Posted on Site: N/A                        |

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Variance(s): Adjoining  
Property Owners N/A

| Staff Recommendation |                             |             | Staff Reviewer: Jimi Jones |
|----------------------|-----------------------------|-------------|----------------------------|
| APPROVAL             | APPROVAL WITH<br>CONDITIONS | DISAPPROVAL | DISCUSSION                 |
|                      | X                           |             |                            |

January 30, 2002

**TECHNICAL STAFF REPORT:**

TO: The Prince Georges County Planning Board  
The Prince Georges County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Jimi Jones, Planning Coordinator

SUBJECT: **Special Exception Application No. 4431**

REQUEST: **Fast-Food Restaurant and Alteration of a Certified Nonconforming Use**

RECOMMENDATION: **APPROVAL**, with conditions

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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 301-952-3530.

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## FINDINGS:

- A. Location and Field Inspection: The property is located between Branch Avenue (MD 5) and Old Silver Hill Road (MD 458), south of Colebrooke Drive. The property is triangularly shaped and comprises approximately 1.685 acres of land. A gas station and food and beverage store is currently under construction on the subject property. The property has approximately 226.75 feet of frontage on Branch Avenue and 32.5 feet of frontage on Old Silver Hill Road. The property is accessed via private easements from both roads.
- B. History: The Subregion VII SMA (1984) rezoned the property from the C-2 to the C-M Zone. The SMA for The Heights (2000) rezoned the property from the C-M to the C-S-C Zone. The property was previously developed with the Prince Georges Motel. Detailed Site Plan SP-00015 was approved in July 2000 for a gas station. A building permit (8414725-2000-CGU/01) was issued on November 8, 2000. Construction commenced immediately. The property was rezoned on November 21, 2000. With adoption of the SMA for The Heights, this gas station became a nonconforming use. This use was certified as a nonconforming use in June 2001 pursuant to NCU 11720.
- C. Master Plan Recommendation: The 2000 Heights and Vicinity Master Plan recommends commercial-retail development for the subject property.
- D. Request: The applicant is in the process of developing the subject site with a gasoline station and food and beverage store. The proposal involves construction of a one-story, 4,224-square-foot food or beverage store, six gasoline pumps, and a canopy. The applicant also proposes to provide 15 seats in the food or beverage store. The provision of seating establishes a fast-food restaurant use on the premises. A fast-food restaurant is permitted in the C-S-C Zone by special exception. Additionally, the provision of the fast-food component of the use alters the nature of the nonconforming use approved for the property. The alteration, enlargement, extension or reconstruction of a nonconforming use requires the approval of a special exception. Therefore, the applicant is requesting approval of special exception for a fast-food restaurant use and to permit the alteration of the nonconforming gas station.
- E. Neighborhood and Surrounding Uses: The subject property is bounded by single-family homes and automotive-related uses (south and east), a CVS (north), and Silver Hill Road (west). The neighborhood is generally defined by the following boundaries:
- |                |                           |
|----------------|---------------------------|
| <u>North</u> : | Suitland Road             |
| <u>East</u> :  | Suitland Road             |
| <u>South</u> : | Silver Hill Road (MD 458) |
| <u>West</u> :  | Branch Avenue (MD 5)      |
- F. Specific Special Exception Requirements: Pursuant to Section 27-350(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 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 proposal does not conform with this requirement. The proposed building is located 40.8 feet from the residentially zoned (R-55 Zone) property to its south. However, given the fact that the location of this building was previously approved under SP-00015 and the minor nature of the fast-food component of this operation, a waiver of 159.2 feet of this requirement will not impact the abutting residential property. In addition, the applicant, in accordance with the approved Detailed Site Plan SP-00015, is required to comply with the *Landscape Manual* requirements along its southern property line. Compliance with the *Landscape Manual* requirements will adequately buffer and screen this use from the adjoining residential property.

- (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.**

The site plan provides for a bicycle rack for six (6) bicycles on the southwestern portion of the site adjacent to the proposed store/fast-food restaurant building.

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

The proposed use will not restrict the availability of land or upset the balance of land use in the area for other permitted uses. The location and operation of the proposed restaurant will provide services to patrons of the gas station, employees of the area, and travelers along Branch Avenue. The proposed fast-food restaurant use with its 15 seats is incidental to the gas station and food or beverage store, which are the primary uses.

- (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 applicant has indicated that signage will be limited to that shown on the site plan. The Community Planning Section, in a memo dated September 20, 2001, takes issue with the applicant's plan to erect a pole-mounted freestanding sign. Staff notes, however, that the Urban Design Section had considered the sign proposal during the Detailed Site Plan phase of the development process. The Urban Design Section staff's comments were incorporated in a resolution ( No. 00-139, attached )

approved by the Planning Board in July 2000. These comments point out that the proposed sign is above the quality of signage typically used by gas stations. The sign is monumental and includes features that provide consistency and continuity for the entire gas station development.

The applicant further provides that outdoor lighting to illuminate the property during the evening hours will be installed. The lighting will enhance the safe internal flow of cars and customers, but will not cause undue glare onto adjoining properties. The applicant has also indicated that most of the outdoor activities generated by the fast-food restaurant will be a result of the gas station use. The fast-food component on its own will generate a negligible amount of additional activities on-site.

Specific Special Exception Requirements ~~Nonconforming buildings, structures and uses; alteration, enlargement, extension, or reconstruction:~~ Pursuant to Section 27-384(a)(5), the alteration, enlargement, extension, or reconstruction of a nonconforming may be permitted subject to the following:

- (5) **Any new, or addition to, or alteration or relocation of an existing building or other improvement (which is either nonconforming or utilized in connection with a certified nonconforming use), shall conform to all building line, setback, yard, and height regulations of the zone in which the certified nonconforming use is located. The District Council may further restrict the location and bulk of the building or structure where the evidence so warrants. If the use is presently permitted by Special Exception in the zone, the new building, improvement, or addition shall conform to all the physical requirements of the specific Special Exception use.**

The buildings on the property, as approved under NCU 11720, are not being altered, enlarged, extended, or reconstructed as part of this application. The purpose of this application is to add the fast-food component to the use which was not anticipated at the time the gas station use was certified. Nevertheless, the buildings do conform to the building line, setback, yard, and height requirements of the C-S-C Zone and the gas station use does not, however, conform to the specific Special Exception requirements set forth in Section 27-358. Section 27-358(a)(1) requires that:

- (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;**

The special exception boundary line is drawn such that it bisects the 21 foot wide driveway that provides access to the property from northbound Branch Ave. The driveway must be completely on the special exception property to satisfy the requirement for direct vehicular access. The site plan should be revised such that the entire driveway is located on the subject property.

Section 27-384(b) also requires that:

**Applications for this Special Exception shall be accompanied by a copy of the Use and Occupancy Permit for the certified nonconforming use, as provided for in Section 27-241(b).**

The applicant must either submit a copy of the Use and Occupancy Permit for the subject use or a variance from this requirement shall be obtained.

- G. Parking Regulations: **Section 27-568 of the Zoning Ordinance requires a total of 40 parking spaces for the proposed three uses.** The parking schedule on the site plan incorrectly notes that three parking spaces are required for the proposed fast-food restaurant based on one parking space per three seats. The correct standard is one parking space per three seats plus one parking space per 50 square feet of gross floor area. The proposed 202-square-foot, fast-food restaurant area with 15 seats would, therefore, require three parking spaces for the seats plus four spaces for the floor area. A total of seven parking spaces are required for the fast-food restaurant. The total amount of parking required for the three uses is, therefore, 40 spaces, not 36 as shown on the parking schedule. The applicant should revise the parking schedule to provide the correct parking calculations. Staff also notes that the applicant is providing 64 parking spaces on the property and one loading space is proposed as required in Section 27-582.
- The Permit Review Section, in a memo dated September 7, 2001 also submits that:
- The parking schedule should include the required parking for the CVS along with the overall parking spaces provided since the property is joined together for access purposes. This is also required to determine that the proposed fast-food restaurant, gas station, and food and beverage store have adequate parking and will not be using the required parking for CVS.●
- H. Landscape Manual Requirements: The Urban Design Section, in a memo dated September 12, 2001, provides the following comments:
- A Detailed Site Plan SP-00015 was approved for the proposed gas station and food and beverage store. The subject Special Exception is for adding a fast-food restaurant within the food and beverage store. The proposed landscape plan is identical to the landscape plan for SP-00015. The proposal was subject to the requirements of Sections 4.2 (Commercial and Industrial Landscaped Strip Requirements), Section 4.4 (Screening Requirements) and Section 4.7 (Buffering Incompatible Uses) of the *Landscape Manual* during the Detailed Site Plan stage. The proposal complies with the requirements of these sections. The bufferyard required along the northern property line has been provided on the adjacent Parcel C as approved by AC-95050.●
- I. Zone Standards: The site plan indicates the presence of an eight-foot, chain-link fence along portions of the property lines. This fence does not meet the required ten-foot setback from Old Silver Hill Road. Either this fence must be removed, relocated to meet the required setback, lowered in height to six feet, or a variance will be required.
- J. Sign Regulations: As discussed in Part F of this report, sign issues were addressed at Detailed Site

Plan. Consideration was given to Master Plan recommendations and Zoning Ordinance requirements. No deficiencies were noted during this review.

K. 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 proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The purposes of the Zoning Ordinance, as found in Section 27-102, are generally to protect the health, safety, morals, comfort, convenience and welfare of the public. With additional conditions to address minor deficiencies on the site plan, the proposed uses will provide commercial development to meet the needs of county residents, therefore promoting the above-mentioned purposes. The development of the subject property can project a positive image which is compatible with development guidelines for the immediate neighborhood.
- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**  
  
The proposed conditions of approval ensure that the use is in conformance with all the applicable requirements and regulations. During our review of this application, certain minor deficiencies were found regarding the parking schedule and the setback for an existing fence. The site plan can be revised to address the issue regarding the parking schedule; however, a variance may be required for the fence.
- (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 proposed use will not substantially impair the integrity of the 2000 Heights and Vicinity Master Plan. The proposal provides commercial development as recommended by the plan.
- (4) **The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**  
  
The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area. The Transportation Planning Section, in a memo dated October 3, 2001, found no significant transportation impacts that would result from the approval of this application.
- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**  
  
The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The proposed development is an opportunity to bring



redevelopment to an older commercial area. This use would be an improvement to the character of this area.

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

A Tree Conservation Plan is not required because the property is less than 40,000 square feet in area, and it does not have a previously approved Tree Conservation Plan (per Letter of Exemption from Environmental Planning Section issued on August 2, 2001).

**CONCLUSION:**

Based on the preceding analysis and findings, staff recommends that SE-4431 be APPROVED, subject to the condition that the site and landscape plans shall be revised prior to the issuance of permits to include the following:

1. The parking schedule should include the required parking for the CVS located on the adjacent parcel.
2. The parking schedule shall be revised to include one parking space for every 50 square feet of gross floor area of the fast-food restaurant.
3. The proposed gas station building shall be labeled to include the fast-food and food and beverage uses.
4. The existing eight-foot-high, chain-link fence shall either be relocated to provide the required setback, removed, or a variance shall be required. If the fence is to be removed, a note indicating that the existing eight-foot-high, chain-link fence is to be removed shall be added to the plan.
5. The applicant shall either submit a copy of the Use and Occupancy permit for the gas station or a variance from Section 27-384(b) is required.
6. The site plan shall be revised such that the entire driveway is located on the subject property.