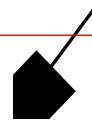


Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530



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SPECIAL EXCEPTION APPLICATION No. 4445

VARIANCE APPLICATION VSE-4445/01

ALTERNATIVE COMPLIANCE APPLICATION AC-02005

Application	General Data
Project Name: BP-Amoco (Allentown Road) Location: Northwest corner of Allentown Road and Temple Hill Road, known as 7101 Allentown Road Applicant: BP Products North America, Inc. 1 Pennsylvania Avenue, Suite 900 Towson, Maryland 21204-5027	Date Accepted: 10/25/01
	Planning Board Action Limit: N/A
	Tax Map & Grid: 106 E-2
	Plan Acreage: 0.854
	Zone: C-S-C
	Dwelling Units: N/A
	Square Footage: 2,880 sq. ft.
	Planning Area: 76B
	Council District: 08
	Municipality: None
	200-Scale Base Map: 209SE 4

Purpose of Application		Notice Dates	
SE-4445: Gas Station & Fast-Food Restaurant 27-317, 27-350 & 27-358 VSE-4445/01: 300-foot setback requirement from a school 27-230 AC-02005: Bufferyards Between Incompatible Uses Section 4.7 of the <i>Landscape Manual</i>		Adjoining Property Owners:	12-11-01 (CB-15-1998)
		Previous Parties of Record:	None (CB-13-1997)
		Sign(s) Posted on Site:	N/A
		Variance(s): Adjoining Property Owners:	12-11-01
Staff Recommendation		Staff Reviewer: Jimi Jones	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

March 20, 2002

TECHNICAL STAFF REPORT:

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

VIA: Arie Stouten, Zoning Supervisor

FROM: Jimi Jones, Planning Coordinator

SUBJECT: **Special Exception Application No. 4445**
Variance Application VSE-4445/01
Alternative Compliance Application AC-02005

REQUEST: **SE-4445: Gas Station and Fast-Food Restaurant**
VSE-4445/01: Waiver of 300-Foot Setback from a School
AC-02005: Bufferyards Between Incompatible Uses

RECOMMENDATION: **SE-4445: APPROVAL, with a condition**
VSE-4445/01: APPROVAL
AC-02005: APPROVAL, with a condition

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.

FINDINGS:

- A. Location and Field Inspection: The subject property is an irregularly shaped parcel on the northwest corner of the intersection of Allentown and Temple Hill Roads. It is developed with a one-story gas station and four gasoline pumps.
- B. History: The applicant has been operating a gas station on the subject property since the approval of SE-1495 in 1967. In 1987, the original full-service station (including automotive repair) was razed and the facility was completely rebuilt. The new self-service facility discontinued automotive repair uses and added covered pumps, a convenience store, and a car wash (Special Exception SE-3873). The property was placed in the C-S-C Zone during the 1984 Section Map Amendment for Subregion VII.
- C. Master Plan Recommendation: The 1981 Master Plan for Subregion VII recommends retail commercial use for the subject property.
- D. Request: The subject application requests approval of a Special Exception for a gas station in the C-S-C Zone and a fast-food restaurant. The applicant also requests a variance from the required 300-foot setback from a school and alternative compliance to address deficiencies in the required building setback and landscaped bufferyard.
- E. Neighborhood and Surrounding Uses: The neighborhood is defined by the following boundaries:

<u>North</u> -	Brinkley Road
<u>East</u> -	Temple Hill Road
<u>South</u> -	Allentown Road
<u>West</u> -	Bock Road

The neighborhood is dominated by single-family detached homes. Commercial and institutional uses (high school) are located in the commercial corridor along Allentown Road.

The property is surrounded by the following uses:

<u>North</u> -	Crossland High School in the R-R Zone and single-family detached homes further north in the R-R Zone.
<u>East</u> -	Across Temple Hill Road is the Woodbury Square Shopping Center and to the southeast across Allentown Road is the Padgett's Corner Shopping Center in the C-S-C Zone.
<u>South</u> -	Across Allentown Road is a McDonald's restaurant in the C-S-C Zone.
<u>West</u> -	A small strip commercial center in the C-S-C Zone.

- F. Specific Special Exception Requirements for a Drive-In or Fast-Food Restaurant [27-350(a)]:

- (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 subject property abuts Crossland High School, located to the north, which is zoned R-R. The proposed 2,880-square-foot building is six feet, three inches from the R-R Zoned property. However, in addition to the horizontal separation between the buildings, there is also a 20-foot-high slope which vertically separates the uses. Staff also points out that this requirement was clearly intended to provide additional screening and buffering for residential development. There are no plans for residential development on the Crossland High School site. The recommendations for alternative compliance includes conditions to provide adequate landscaping, buffering and screening for the adjacent school (see Part I of this report).

- (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 indicates that a bicycle rack will be provided as required.

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

The proposed special exception uses (gas station and fast-food restaurant) will replace the same type uses which presently exist on the site (gas station, car wash, and convenience store) and have served the community for over 30 years. The proposed fast-food restaurant use will be an accessory use to the permitted food and beverage store. The facility is really nothing more than a service counter and three small tables located inside the food and beverage store.

- (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.**

In the statement of justification, the applicant provides that advertisement, outdoor display and lighting will meet all applicable requirements. The proposed use will be a 24-hour operation.

G. Specific Special Exception Requirements for a Gas Station [27-358 (a)]:

- (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;**

The subject site has frontage of approximately 175 linear feet along MD 337 (Allentown Road), 175 feet along Temple Hill Road and direct vehicular access to both roadways. Allentown Road is a four-lane state highway within a variable (minimum 80-foot) right-of-

way. Temple Hill Road is a four-lane county road within a variable (minimum 80-foot) right-of-way.

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

Crossland High School abuts the subject property to the north. The subject gas station was originally approved in 1967, which predates 1974 when the minimum 300-foot setback was adopted. When SE-3873 was approved (1987), a condition of approval to permit the station to be razed and rebuilt was included requiring that a variance from this requirement be obtained. The required variance application was never submitted. The applicant has now submitted the required variance request, which is discussed in Part L of this report.

- (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;**

The statement of justification indicates that the applicant does not propose the display and rental of cargo trailers, trucks or similar uses.

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

The statement of justification indicates that no motor vehicles, junked or operational, will be stored at this site.

- (5) **Access driveways shall be not less than thirty (30) feet wide, 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;**

The Permit Review Section, in a memo dated November 26, 2001, noted that it was unclear as to whether the driveway begins at a point not less than 20 feet from the point of curvature of the edge of paving. The applicant has revised the site plan to clearly indicate that the proposed driveway meets the above requirement.

- (6) **Access driveways shall be defined by curbing;**

Driveways are defined by curbing as required.

- (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;**

A five-foot-wide sidewalk is proposed in accordance with this requirement.

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

The applicant proposes to construct an eight-island, multipump dispenser gasoline facility and canopy at least 60 feet behind the street line. Other service appliances, including trash receptacles, vacuums, air/water tower, and underground storage tanks are also located at least 25 feet behind adjacent street lines.

- (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 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.**

No repair service will be performed on the subject site.

- (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.**

The existing topography is shown as required. According to the applicant, there will be no outside vending machines. The applicant also provides that all waste will be collected and stored inside the food and beverage store building; therefore, there is no trash enclosure. Staff recommends that two trash enclosures be provided, one at each end of the building in front of the parking area. These enclosures would be a convenience to patrons who, for example, may consume a beverage outdoors on a warm day or finish a candy bar after they exit the building.

- (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.**

The statement of justification indicates that the applicant will comply with this requirement.

(d) The District Council shall find that the proposed use:

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

The Research Section, in a memo dated February 21, 2002, reviewed the needs analysis submitted by the applicant and found that there continues to be a need for the subject gas station in the surrounding area.

(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.

The proposed gas station will replace the one that currently exists on the subject property. Since 1967, area residents have frequented a gas station on this site, and this application will allow the neighborhood to continue that tradition. The subject gas station was remodeled in 1987 under SE-3873. The District Council determined at that time that the use would not unduly restrict the availability of land, or upset the balance of land use in the area for other trades and commercial uses. Once again the gas station is being remodeled to keep up with current trends in this industry. Staff believes the findings made by Council in 1987 continue to be valid.

H. Parking Regulations: The parking schedule correctly indicates that a total of 22 parking spaces are required but provides 23 spaces. The schedule provides:

1 parking space for a gasoline sales employee based on a 1 space per employee requirement

16 parking spaces for the 2,280-square-foot food and beverage store based on 1 space per 150 square feet.

3 parking spaces for the fast-food restaurant based on 1 space per 3 seats (only 3 seats are proposed)

8 parking spaces for the fast-food restaurant based on 1 space per 50 square feet excluding seating and storage (400 square feet.)

Total=27 spaces minus 20 percent for joint use=22 spaces required.

The applicant is also providing one loading space as required.

I. Landscape Manual Requirements: The proposed development is subject to the requirements of Section 4.3 Parking Lot Requirements and Section 4.7 Buffering Incompatible Uses. The applicant is unable to meet the 30-foot building setback and 20-foot-wide landscaped bufferyard requirements and has filed for Alternative Compliance (AC-02005). The Alternative Compliance Committee reviewed the applicant's request for relief from Section 4.7 of the *Landscape Manual* and made the following findings:

Landscaping is provided in all areas in accordance with the requirements of the *Landscape Manual*, with the exception of a required 271-foot-long ■B• bufferyard (minimum 20 feet wide) along the northern property line. A 30-foot building setback is required. The proposed building is 6 feet, 3 inches from the northern property line and encroaches into the bufferyard.

Section 4.7 (Buffering Incompatible Uses) ■B• Bufferyard along west property line

REQUIRED:

Length of bufferyard	271 feet
Landscaped yard	20 feet
Building setback	30 feet
Plant units required	218
Plant units required w/fence	109

PROVIDED:

Length of bufferyard	271 feet
Landscaped yard	20-10 feet wide (average)
Building setback	6 ft. 3 in. (corner of building)
Six-foot fence	Yes
Plant units	414

JUSTIFICATION OF RECOMMENDATION:

To make up for the reduced building setback and smaller bufferyard, the applicant is proposing to double the number of plant units and provide a board-on-board fence. The committee finds that:

1. A row of mature evergreens exists along the property line shared with Crossland High School.
2. The site is approximately 25 feet higher than the school site.
3. The proposed building is angled to the property line so that only a corner of the building encroaches into the bufferyard and building setback.
4. The applicant has increased the plant materials by 200 percent in the bufferyard.
5. On average, the bufferyard is greater than 20 feet wide.
6. Due to the location of eight parking spaces at the corner of Allentown Road and Temple Hill Road, the landscape strip requirements of Section 4.3 apply.

The proposal is equal to or better than normal compliance with the requirements of the *Landscape Manual*.

RECOMMENDATION:

The Planning Director recommends approval, subject to the landscape plan being revised to provide a compliance schedule for Section 4.3 Parking Lot Requirements for the parking area at the Allentown Road/Temple Hill Road intersection..

J. Zone Standards: The proposed site plan meets the height and bulk requirements for the C-S-C Zone.

K. Sign Regulations: A freestanding sign is proposed at a location 10 feet behind the street line, as required. The applicant must obtain a sign permit for all signs associated with the proposed uses. The sign must also meet the height and area requirements of the sign regulations.

L. Variance Request:

Pursuant to Section 27-358(a)(2), a property developed with a gas station is required to have a minimum setback of 300 feet from any lot upon which a school, playground, library or hospital is located. The subject site abuts Crossland High School to the north. The applicant requests a waiver of this requirement. Section 27-230 provides that:

(a) **A variance may only be granted when:**

(1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

The specific parcel of land has exceptional topographic conditions that warrant a variance. Staff notes that the subject property is at a higher elevation than the adjacent school. The site plan shows that this site sits approximately 25 feet above the school property. In addition, the subject property will be screened along the north property line by a board-on-board fence and a row of mature trees.

(2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. The gas station was originally approved in 1967 which predates 1974, when the Ordinance requiring a minimum 300-foot setback was adopted. The approval of Special Exception SE-3873 in 1987 allowing the station to be razed and rebuilt, included a condition of approval requiring that a variance from the 300-foot setback be obtained. No application was ever submitted for the required variance until this time. Strict application of the setback requirement would eliminate the subject use, thus causing undue financial hardship on the owner and would close a business that has served the community for over 30 years.

(3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The variance will not substantially impair the intent, purpose, or integrity of the *General Plan* or Master Plan. The Master Plan recommends retail development for the property. Subject uses are consistent with the recommendation of the Master Plan.

M. 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 gas station and fast-food restaurant uses and site plan are in harmony with the purposes of the Zoning Ordinance. The 15 purposes of the Zoning Ordinance, which are provided in Section 27-102, can be summed up by the first purpose: ■To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County.■ The neighborhood has shown its support for a gas station at this location for over 30 years. The proposed three-seat, fast-food restaurant is a minor addition to the subject property. By redeveloping and upgrading this existing commercial site in accordance with all applicable codes and ordinances, the proposed development will provide a more modern facility with the types of services that are demanded by today's motorists.

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

With the recommended conditions of approval, the recommended variance, and the recommended alternative compliance, the proposed requests are in conformance with all the applicable requirements.

(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.

The proposed use will not substantially impair the integrity of the 1981 Master Plan for Subregion VII. The proposed use provides retail commercial 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 uses will not adversely affect the health, safety or welfare of residents or workers in the area. Approval of the proposed gas station and fast-food restaurant will allow the applicant to upgrade the subject property to keep pace with current trends in the industry. Nothing in the record suggests that the proposed uses will have an adverse impact on 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.

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The subject property lies within a substantially developed commercial area and the proposed uses are generally consistent with the previous uses on the property.

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

The subject property has less than 10,000 square feet of existing woodland and is, therefore, exempt from the Woodland Conservation Ordinance.

CONCLUSION:

The applicant has submitted site and landscaping plans that demonstrate compliance with the applicable requirements of the Zoning Ordinance. Staff therefore recommends:

- APPROVAL of SE-4445, subject to a condition that the site plan include two trash enclosures to be located in front of the proposed building, between the entrance and the adjacent parking spaces.
- APPROVAL of VSE-4445/01.
- APPROVAL of AC-02005, subject to the landscape plan being revised to provide a compliance schedule for Section 4.3 Parking Lot Requirements for the parking area at the Allentown Road/Temple Hill Road intersection.