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Special Exception Application

Departure from Design Standards

SE-4549
DDS-564

Application	General Data
Project Name: BP Amoco Station (US 301) Location: East side of US 301 approximately 289 feet south of Croom Road, known as 7620-7624 Southeast Crain Highway. Applicant/Address: Eastern Petroleum Corporation 1915 Lincoln Drive Annapolis, Maryland 21401	Date Accepted: 2/8/06
	Planning Board Action Limit: N/A
	Plan Acreage: 2.98
	Zone: C-S-C
	Dwelling Units: N/A
	Square Footage: 5,524
	Planning Area: 82A
	Tier: Developing
	Council District: 09
	Municipality: N/A
	200-Scale Base Map: 210SE11

Purpose of Application	Notice Dates
Car Wash, Fast-Food Restaurant, Gas Station and Departure from Design Standards	Adjoining Property Owners Previous Parties of Record Registered Associations: 11/14/05 (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: 3/5/07

Staff Recommendation		Staff Reviewer: Cynthia Fenton	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X (DDS)	X (SE)		

March 19, 2007

TECHNICAL STAFF REPORT:

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

FROM: Cynthia Fenton, Planning Coordinator

VIA: Jimi Jones, Acting Zoning Supervisor

SUBJECT: **Special Exception Application No. 4549**
Departure from Design Standards No. 564

REQUEST: **Gas Station, Fast-food restaurant, Car Wash and Departure in the C-S-C Zone**

RECOMMENDATION: **SE- 4549, Gas Station, Fast-food restaurant**
and Car Wash in the C-S-C Zone:
APPROVAL with conditions

DDS-564: APPROVAL

NOTE:

The Planning Board has scheduled this application for a public hearing on the agenda date indicated above. The Planning Board also encourages all interested persons to request to become a person of record in this application. Requests to become a person of record should be made in writing and addresses to the Development Review Division at the address indicated above. Please call 301-952-3530 for additional information.

FINDINGS:

- A. Location and Field Inspection:** The subject property is located on the east side of US 301, also known as Crain Highway, north of its intersection with Osborne Road and south of Croom Road. The site is a large, rectangular-shaped area, improved with a gas station and food and beverage store. Access to the property is proposed via two driveways from Crain Highway at both ends of the site; a right-in only driveway and a right-in, right-out driveway. Two vacant structures on the site (a single-family dwelling and a plumbing and heating use) will be removed.

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	C-S-C	C-S-C
Use(s)	Gas Station, Food and Beverage Store	Gas Station, Car Wash, Fast-Food Restaurant
Acreage	2.98	2.98
Lots		
Parcels	3	3
Square Footage/GFA	1,011	5,524

- C. History:** The subject property was retained in the C-S-C Zone during the 1994 Sectional Map Amendment for the Subregion VI Study Area. The existing gas station is a certified non-conforming use (NCU 8596-86-U-01), approved in 1987. Because an expansion of the existing use is proposed, a special exception is required. The proposed special exception site is part of a larger subdivision comprising three parcels under common ownership; Parcels 47, 53, and 64. The special exception is located on Parcel 53, Parcel 64, and part of Parcel 47.

- D. Master Plan Recommendation:** The 1993 Subregion VI Study Area Master Plan Map recommends low-suburban residential land use for the Marlton area of Planning Area 82A. However, the master plan text (page 143) recognizes that many older commercial uses along major corridors are appropriate and, thus, recommends the following action for the subject property:

Retain ongoing commercial uses (and vacant sites where appropriate) in the existing commercial zones, where permanent commercial usage is suitable at a given location.

The General Plan places this property in the Developing Tier. The vision of the Developing Tier is to maintain a pattern of low- to –moderate density suburban residential communities, district commercial centers, and employment areas that are increasingly transit serviceable.

- E. Request:** The applicant proposes to raze the existing convenience store, vacant plumbing and heating supply building, and vacant single-family dwelling located behind the existing gas station and construct a new gas station, fast-food restaurant, and car wash. The proposal includes a one-story, 4,224-square-foot fast-food restaurant, eight multi-product fuel dispensers (MPDs) with 16 fueling positions covered by a canopy, and a 1,300-square-foot car wash. The applicant is also requesting a departure from design standards to allow a reduced setback from the adjoining residential zone.

- F. Neighborhood and Surrounding Uses:** The applicant, in the statement of justification, defines the neighborhood boundaries as the entire Marlton community. This community is defined by the 1993 Approved Subregion VI Study Area Master Plan as that area extending south from the US 301/Croom Road intersection to the two roads' connection to Duley Station Road. In general planning practice, a community is defined as a distinct area comprising several neighborhoods. A neighborhood is typically defined by major roads or other physical barriers including significant natural features such as streams. Although staff would agree that the subject site is within the Marlton community, the specific neighborhood is actually defined by the following boundaries:

North: Croom Road (MD 382)

South and East: Charles Branch

West: Crain Highway (US 301)

The property is surrounded by the following uses:

Northwest (Across Crain Highway): C-S-C-zoned property (Osborne Shopping Center)

Northeast: At the intersection of Crain Highway and Croom Road are batting cages, a miniature golf course and a residential use. The site is currently the subject of a pending rezoning (A-9974) from R-R to C-S-C for a Rite Aid.

South: R-R (undeveloped) and further south R-E-zoned properties with single-family detached residential uses.

The neighborhood can be generally characterized as low-density residential with a smattering of commercial uses oriented toward the Crain Highway and Croom Road intersection.

- G. Specific Special Exception Requirements for a Gas Station:** A gasoline station is permitted in the C-S-C Zone by a special exception. **Section 27-358** of the Zoning Ordinance sets forth the specific special exception requirements for a gas station:

- (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 property has approximately 481 feet of frontage along US 301, which has a right-of-way width of at least 70 feet at this location, and an ultimate right-of-way width of at least 300 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.**

The subject property meets this requirement. Staff notes that the nearest school is Frederick Douglass High School located on the north side of Croom Road, approximately 3,200 feet east of the subject property.

- (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 applicant's proposal does not include these activities. Both the applicant's statement of justification and the site plan indicate that there will be no display or rental of cargo trailers, trucks, or similar uses at this site.

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

The applicant does not propose the storage or junking of wrecked vehicles on the property.

- (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.**

The site plan shows that one 22-foot-wide one-way driveway and one 30-foot-wide driveway are proposed from Crain Highway. The applicant will have to obtain approval from SHA for a 22-foot-wide driveway from Crain Highway. Should SHA grant permission for the 22-foot driveway, the site plan notes must be revised to indicate that permission was granted by SHA for the 22-foot-wide driveway. Both driveways are proposed to be at least 20 feet from the point of curvature of the curb return.

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

The site plan indicates that both access driveways will 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.**

The site plan proposes a 5-foot-wide sidewalk along the front of the fast-food restaurant.

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

The site plan is in compliance with this requirement.

- (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.

The applicant states that no repair service is proposed for the site. The site plan does not provide for an accessory storage building, and there is no reference to the provision of accessory storage in the applicant's statement of justification.

- (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.**

The applicant submitted a letter, dated March 15, 2007, as a supplement to the statement of justification that provides a detailed description of the architecture and building materials. The applicant alleges that no real architectural standards have been set in the immediate neighborhood. The subject site is surrounded to the north by batting cages and a mini-golf course; to the east and south with undeveloped woodland; to the west with a shopping center. The shopping center is proposed to be razed and redeveloped. The letter indicates the proposed building materials for the fast-food restaurant and car wash will be consistent with the materials proposed for the new shopping center, including brick veneer, EIFS (a textured material resembling cast stone or concrete) along the roofline, and ground face CMU (textured concrete block) at grade level. The applicant has submitted elevations of the proposed façade of the buildings that show a staggered roofline and canvas awnings for the fast-food restaurant that will provide additional architectural interest and visual appeal. The awnings will further provide visual continuity with the redeveloped shopping center. Staff finds the applicant has adequately demonstrated architectural compatibility. Staff recommends the applicant provide building colors prior to ZHE approval to ensure their compatibility with the surrounding area.

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

The topographical information is shown on the site plan. The site plan details

indicate the dumpster will be enclosed by an 8 foot by 12 foot board-on-board wooden fence. The statement of justification states that the fence will be painted to match the architecture. There are no vending machines proposed with this application.

- (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 applicant agrees to comply with this requirement.

- (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.**

The applicant has submitted a need analysis dated September 1, 2006. Upon reviewing the proposal and the applicant’s need analysis, Dr. Joseph Valenza of the Research Section determined, in a memo dated December 18, 2006, that the applicant’s methodology was flawed and that the unmet demand was significantly overestimated:

The applicant has concluded that there is an unmet demand for 3.6 million gallons of gasoline in the market, which translates into a need for nearly 2.5 more gas stations. The applicant has overestimated the demand from transient traffic on US 301 by 26 million gallons. The applicant cites the high commuter utilization of US 301 but does not account for this heavy commuter utilization when calculating transient demand. Consequently, the applicant has overestimated the demand for gasoline by 3.6 million gallons. Staff estimates the existing stations can adequately satisfy the local as well as the transient demand for gasoline in the market area.

The applicant responded to staff’s memo in a letter dated January 8, 2007, citing that if the existing gas station were removed, a deficit would be created; therefore, the need for the gas station is justified. Staff concurs that should the gas station be removed, a deficit would exist. In fact, there is currently a deficit with the existing gas station, albeit a negligible one. For these reasons staff finds that the applicant has adequately demonstrated need for the proposed gas station.

- H. Specific Special Exception Requirements for a Fast-food restaurant:** A food and beverage store is permitted by right in the C-S-C Zone. However, the applicant is providing three tables with seating, which, by definition, makes the use a fast-food restaurant. A fast-food restaurant is permitted in the C-S-C Zone by a special exception. **Section 27-350** of the Zoning Ordinance sets forth the specific special exception requirements for a fast-food restaurant:

- (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 to this requirement. The adjoining residentially zoned (R-R) property to the east is located 65 feet from the food and beverage store/fast-food restaurant and approximately 29 feet from the rear drive aisle. The applicant asserts that because the proposal is not for a typical fast-food restaurant, but rather, a food and beverage store that provides limited seating, the fast-food component is minor to the application. The applicant further alleges that because the residentially zoned property surrounding the special exception site is undeveloped, there is sufficient justification for the District Council to allow a reduction in the 200-foot setback requirement.

Staff generally agrees with the applicant that the fast-food component of the special exception is a minor one, in that the use will, for all intents and purposes, function as a food and beverage store with three tables and seating provided as a convenience to patrons. The proposal does not include a drive-through. Staff also concurs with the applicant that the surrounding undeveloped, residentially zoned property provides a satisfactory buffer from the fast-food restaurant. A proposed stormwater management pond is located immediately south of the building on the adjacent R-R-zoned property (Parcel 47), which will also act as a buffer. Bufferyards on the subject property planted in conformance with *Landscape Manual* requirements will provide additional screening.

- (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 a bicycle rack is provided. The applicant has submitted details.

- (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 commercial uses. The applicant is proposing to replace and expand an existing business that has operated on the subject site for approximately 60 years with no apparent negative impact on the neighborhood. Staff finds the continued existence of the use in a new, modern building is not likely to adversely impact the potential for future commercial 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 there will be no outdoor display other than the signs permitted by the Zoning Ordinance. The height of the freestanding pylon sign is proposed to be 21 feet high; the Zoning Ordinance allows a maximum height of 25 feet. The location and area of the sign appear to be in compliance with county sign regulations and, therefore, should not pose a hazard to motorists by obstructing views or displaying excessive advertising. There will be limited outdoor activity as there is no outdoor seating proposed. The applicant has indicated the gas station and associated car wash will be open 24 hours a day. Because food, beverages and seating will be available, staff has some concerns regarding the potential for loitering, particularly in the late evening and early morning hours. Staff recommends that to reduce any potential negative impact to the surrounding residential zone, the evening hours of operation be limited to 11:00 pm. Outdoor lighting is proposed that will not cause light spillage onto abutting properties.

- I. **Requirements for a Car Wash:** A car wash is permitted in the C-S-C Zone by a special exception, **Section 27-461(b)(1)(B)(iii)** of the Zoning Ordinance. There are no specific special exception requirements for a car wash. Sufficient queuing space is provided in addition to a by-pass aisle, so cars will not be prevented from exiting the site if they are not waiting for a car wash. Staff finds the car wash meets the criteria of 27-317 as discussed below.
- J. **Parking Regulations:** The site plan correctly notes that a total of 41 parking spaces are required for the proposed convenience store, fast-food restaurant, gas station, and car wash. The applicant is providing two handicap spaces and one loading space.
- K. **Landscape Manual Requirements:** The proposed site plan is subject to Section 4.2.a (Commercial Landscape Strip); Section 4.3.c (Interior Parking); Section 4.4 (Screening) and Section 4.7 (Incompatible Uses) of the *Landscape Manual*. The site plan was amended subsequent to a memo from the Urban Design Section dated April 4, 2006. At that time staff recommended that alternative compliance (AC) be requested to reduce the required eastern bufferyard from 40 feet to 30 feet. Instead, the applicant has revised the site plan to provide the 40-foot bufferyard in accordance with Section 4.7. The applicant has provided a variety of evergreen, deciduous, and ornamental trees and shrubs. Staff recommends that 50 percent of the Leyland cypress and Eastern white pine be replaced with a native species such as American holly and/or red cedar to reduce the potential for disease.
- L. **Zone Standards:** The proposed use meets all bulk and height standards for the C-S-C Zone. The proposal does not meet all setback requirements as the fast-food restaurant structure is located within the required 200-foot setback from the property line. The District Council has the discretion to approve the proposed setback of 64.84 feet, based on a finding that adequate screening, buffering, etc., has been provided. In addition, the applicant specifically requests a departure from Section 27-579(b) that pertains to the location of an access drive to a required loading space.

Section 27-579(b) Location: “No portion of an exterior loading space, and no vehicular entrances to any loading space (including driveways and doorways), shall be located within fifty (50) feet of any Residential Zone.”

The access drive is approximately 29 feet from the eastern property line and R-R-zoned property. The applicant has requested a departure from design standards for the reduced setback.

M. Sign Regulations: The site plan indicates one free-standing sign located at the southern entrance to the site. Details were provided. The sign conforms with height and location requirements. It appears that the sign is able to meet area requirements; however, the panel information will have to be provided prior to ZHE review to make a final determination.

N. Departure from Design Standards No. 564

Section 27-587: This section authorizes the Planning Board to grant departures from parking and loading design standards, under procedures and requirements in Part 3, Division 5, of the Zoning Ordinance.

Section 27-239.01(b)(8)(A) of the Zoning Ordinance provides that in order for the Planning Board to grant a departure from [parking and loading] design standards, it shall make the following findings:

1. The purposes of this Subtitle will be equally well or better served by the applicant's proposal.

The purposes of the Parking Regulations will be equally served by the applicant's proposal. The purposes of parking and loading design standards are contained in Section 27-550. The purposes pertain to the following:

- Providing sufficient loading areas to serve the loading needs of all persons associated with the building and uses.
- Relieving traffic congestion on streets by reducing the use of streets for loading.
- Protecting the residential character of residential areas.
- Providing loading facilities that are convenient and increase the amenities in the Regional District.

Staff finds that these purposes are served by the application in that one loading space is provided as required. This space will remove such use from public streets while remaining conveniently located for the applicant's use. In addition, the location of the proposed loading space will not detract from the residential character of the adjacent property as the loading space and access driveway are directly adjacent to a proposed stormwater management facility. In addition, the applicant is providing landscape plantings in accordance with *Landscape Manual* requirements (planting 159 trees and shrubs to the existing 603 existing trees along the property line, which will maintain compatibility with adjacent residential land uses.

2. The departure is the minimum necessary, given the specific circumstances of the request.

The departure is the minimum necessary given the specific circumstances of the request. The applicant believes the 24-foot-wide access driveway is the minimum necessary to safely accommodate the internal mix of pedestrian and vehicular traffic. Staff finds that the proposed 24-foot-wide access driveway leading to the loading space and car wash is not inconsistent with the goal of minimizing the extent of the departure required. Provision of a minimum 22-foot-wide access drive would only reduce the amount of departure required by one foot on each side of the

driveway. Because 22 feet is a minimum requirement, an additional two feet in width to service a parking area, loading space, and car wash is not unreasonable.

3. The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949.

The departure is necessary in order to alleviate circumstances that are unique to the site and prevalent in areas of the county developed prior to November 29, 1949. Staff concurs with the applicant that the narrowness of the subject site renders development of the site in literal compliance with the requirements difficult if not impossible. The applicant states: "The applicants, in their desire to provide a safe and open feel to the front of the site, had no choice but to put the bypass lane, which leads to the loading space and the car wash, behind the C-store. This also allows for the staking (*sic*) of cars for the car wash behind the facility, which enables the parking and fueling area to remain clear for pedestrian and vehicular traffic." To meet the minimum residential zone setback requirement, the entire proposal would have to be shifted over 22 feet closer toward Crain Highway, which for safety reasons, as well as practical and aesthetic reasons, is not feasible. Staff finds that this condition is specific to this site though it is prevalent in the immediate area where development predated zoning.

4. The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood.

The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood. The applicant contends that the proposed design will result in a more effective buffer as well as improve the aesthetic appeal along this portion of the US 301 corridor. The undeveloped residentially zoned property to the south and east will be utilized for woodland conservation and landscaping and buffering has been provided as required. Staff finds that the redevelopment of the property with a new structure with extensive landscaping should enhance the visual, functional and environmental quality of the site and surrounding neighborhood. Thus, staff finds that the request conforms to the purposes of required parking design standards contained in Section 27-550.

O. 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.**
- (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 Map Plan, the General Plan.**

The proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The 15 purposes of the Zoning Ordinance, as provided in Section 27-102(a), seek generally to protect and promote the health, safety and welfare of the present and future inhabitants of the county. The proposed uses will replace outdated structures and

generally provide convenient services to current and future county residents. The proposed development will help to modernize the existing use. The statement of justification states that the proposal complies with the recommendation contained in the 1993 approved Master Plan for the Subregion VI Study Area., in that the plan calls for commercial land uses on the subject property. Community Planning, in a memo dated March 17, 2006, indicated that the proposal was not in conformance with the master plan recommendation for land uses at this location. The master plan map shows low-suburban land uses; however, the master plan text (pg. 143) specifically recommends retaining existing commercial uses in commercial zones, where appropriate, within the US 301 and Croom Road corridors. The proposed development is located within the ultimate rights-of-way of two master plan facilities, A-61 and F-10. The applicant will be required to obtain a permit from SHA allowing construction with a planned right-of-way. Neither of these improvements is in a current CTP. Therefore, staff finds the proposed uses will not substantially impair the integrity of the 1993 Master Plan for Subregion VI. The applicant is not proposing a new use on the subject property; rather, the existing uses are being updated and expanded.

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

Staff finds the new gas station and fast-food restaurant represent an improvement to the neighborhood and community. The new building and pumping stations will be set back a considerable distance from where the existing building is located—the existing pumps directly abut the Crain Highway right-of-way. The existing building, which is outdated and unattractive, will be replaced with a brand-new facility. A vacant, somewhat dilapidated commercial use on the property will be removed. Although there are no specific requirements for a car wash, adequate queuing space and hours of operation are generally concerns of the impacted neighborhood. Staff finds sufficient queuing space has been provided for the car wash. There is queuing space for approximately seven cars without impeding access to the primary parking area. Access to three of the 41 parking spaces proposed could be impacted if there is a queue of more than two cars. The number of access points has been reduced from three rather indistinct points to two clearly defined access points. Transportation staff, in a memo dated April 14, 2006, did not find that the proposed development would negatively impact the surrounding transportation network in the near-term. Staff finds that the proposal 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.

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The applicant is updating an existing use. The uses are in an appropriate location, adjacent to a major arterial and at the junction of similar service commercial uses. The development will be an improvement to the existing use in that it will provide safer and more efficient access, a more attractive site and an updated, modern building.

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

The Environmental Planning Section reviewed TCP II/161/06 as submitted by the applicant and requested that revisions be made. On January 22, 2007, a revised TCP II

was submitted. Environmental Planning staff indicated, in a memo dated January 22, 2007, that the TCP was in compliance with all technical requirements and recommended the TCP be approved. Staff notes, however, that the site plan shows the proposed retaining wall, with a maximum height of 9.2feet, encroaching into the 25-foot floodplain buffer. Because the retaining wall is over 32 inches high and is, therefore, considered a structure, it must conform to the setback requirement. If the applicant is unable to comply with this requirement they must obtain a waiver from DER.

CONCLUSION:

The applicant proposes to raze the existing building and construct a 4,224-square-foot gas station with convenience store/fast-food restaurant and 1, 200-square-foot car wash in the C-S-C Zone. All three uses (the gas station, fast-food restaurant and car wash) require a special exception. The subject property lies within a relatively outdated commercial area adjacent to a residential area. The existing commercial building is outdated and unattractive. The proposed development will contribute to the revitalization underway in the area. With the conditions of approval set forth below, staff finds this development will continue to serve the needs of this area. Staff, therefore, recommends APPROVAL of SE 4549 this subject to the following conditions:

1. The applicant shall either revise the location of the retaining wall so it does not encroach within the required 25-foot floodplain buffer or obtain a waiver from DER.
2. The landscape plan shall be revised to replace 50 percent of the proposed Leyland cypress and Eastern white pine with native species such as American Holly and red cedar.
3. The evening hours of operation of the gas station, fast-food restaurant, and car wash shall be limited to 11:00 p.m. The notes shall be reused to indicate the evening hours of operation shall be limited to 11:00pm.
4. All information to be displayed on the pylon sign panels shall be provided prior to ZHE review to verify compliance with sign regulations.
5. Building colors shall be provided prior to ZHE approval to determine architectural compatibility with the surrounding neighborhood.

Staff further recommends APPROVAL of DDS-564.