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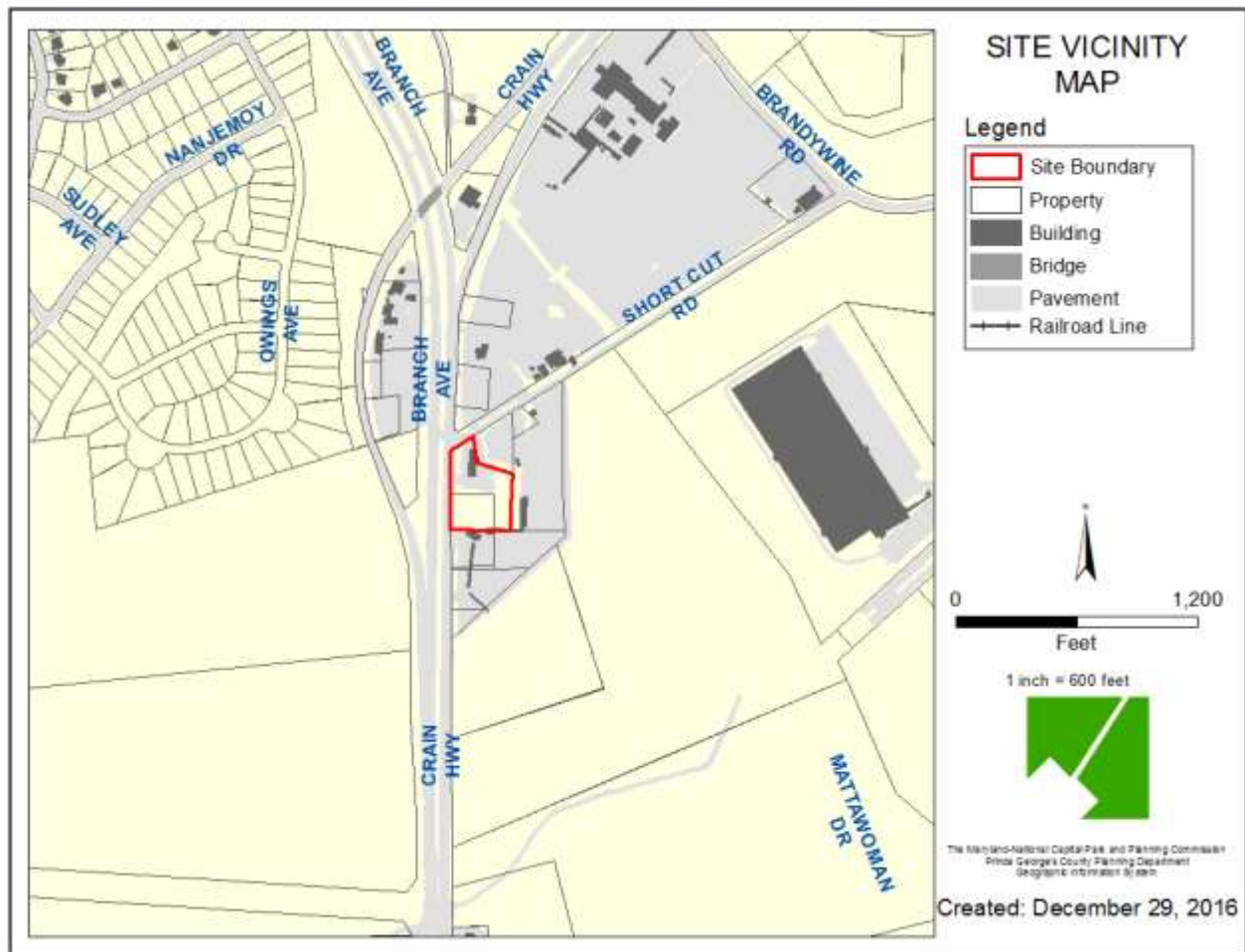
## Special Exception

## SE-4789

Application	General Data	
<b>Project Name:</b> Empire Petroleum Brandywine  <b>Location:</b> Southeast quadrant of the intersection of Shortcut Road and US 301 (Robert Crain Highway).  <b>Applicant/Address:</b> EPP-BESCHE Acquisition, LLC 8350 North Central Avenue, Suite M2185 Dallas, TX 75206	Planning Board Hearing Date:	10/26/17
	Staff Report Date:	10/13/17
	Date Accepted:	04/10/17
	Planning Board Action Limit:	N/A
	Plan Acreage:	2.57
	Zone:	I-1
	Dwelling Units:	N/A
	Gross Floor Area:	3,500 sq. ft.
	Planning Area:	85A
	Council District:	09
	Election District	11
	Municipality:	N/A
	200-Scale Base Map:	218SE07

Purpose of Application	Notice Dates	
A major revision of a special exception to enlarge the special exception boundary and to raze and rebuild a gas station with a food and beverage store and eating and drinking establishment with drive-through service in the I-1 Zone.	Informational Mailing:	04/19/17
	Acceptance Mailing:	05/18/17
	Sign Posting Deadline:	N/A

<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Ivy R. Thompson <b>Phone Number:</b> 301-952-4326 <b>E-mail:</b> Ivy.Thompson@ppd.mncppc.org	
<b>APPROVAL</b>	<b>APPROVAL WITH CONDITIONS</b>	<b>DISAPPROVAL</b>	<b>DISCUSSION</b>
	X		



THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

**TECHNICAL STAFF REPORT**

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

VIA: Whitney Chellis, Acting Division Chief, Development Review Division

FROM: Ivy R. Thompson, Senior Planner, Subdivision and Zoning Section  
Development Review Division

SUBJECT: **Special Exception Application No. SE-4789  
Empire Petroleum Brandywine**

REQUEST: **A major revision of a special exception to enlarge the special exception boundary  
and to raze and rebuild a gas station with a food and beverage store and eating and  
drinking establishment with drive-through service in the I-1 Zone.**

RECOMMENDATION: **Approval with Conditions**

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NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of October 26, 2017. If the Planning Board decides to hear the application, it will be placed on a future agenda.

You are encouraged to become a person of record in this application. The request must be made in writing and addressed to the Prince George's County Office of the Zoning Hearing Examiner, County Administration Building, Room 2184, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. 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 subject property consists of two legal parcels, Parcel 83 (1.72 acres) and Parcel 287 (0.849 acre), located in the southeast quadrant of the intersection of US 301 (Robert Crain Highway) and Shortcut Road. The 2.57-acre property is known as 14330 SE Crain Highway in Brandywine, is zoned Light Industrial (I-1), and has a polygon shape. Parcel 287 is vacant and Parcel 83 is improved with an existing gas station (Special Exception SE-3507) with a 1,564-square-foot single-story food and beverage store, seven fuel pump dispensers, one canopy, three underground storage tanks, one freestanding sign, and surface parking spaces. All of the existing structures are to be razed. The property has direct vehicular access to US 301 and Short Cut Road.

B. **Development Data Summary:**

	<b>EXISTING SE-3507</b>	<b>PROPOSED SE-4789</b>	<b>PROPOSED DSP-17013</b>
Zone(s)	I-1	I-1	I-1
Uses	Gas station, food and beverage store	Gas station, food and beverage store	An eating and drinking establishment with drive-through service
Acreage	1.72 (Parcel 83)	2.57 (Parcel 83 and 287)	2.57 (Parcel 83 and 287)
Square Footage/GFA	Gas station with a 1,520-square-foot food and beverage store (to be razed)	Gas Station with a 2,500-square-foot and beverage store, and a 1,000-square-foot eating and drinking establishment (3,500 square feet total)	A 1,000-square-foot eating and drinking establishment with drive-through service (within a 3,500-square-foot building)

The project will entail the complete removal of all existing structures on the property and the construction of a new 3,500-square-foot building that will include a 2,500-square-foot food and beverage store and gas station (Special Exception SE-4789), and a 1,000-square-foot eating and drinking establishment with drive-through service (Detailed Site Plan DSP-17013).

- C. **History:** A gas station has existed on Parcel 83 since at least 1977, and has been developed in the current configuration since the mid-1990s. Special Exception SE-3507 was approved by the Prince George's County District Council, with conditions, in 1984 permitting a gas station with a food and beverage store, subject to submission to and approval by the Zoning Hearing Examiner's Office of a revised site plan showing compliance with the Zoning Ordinance, or statements that variances or departures from design standards were approved. Departure from Design Standards DDS-207 was approved, waiving on-site landscape requirements (PGCPB Resolution No. 85-84). The site plan was revised in 1994 to modify and reduce the size of the food and beverage store to 1,564 square feet and the required landscape strip to 5 feet along US 301, and to place the required landscaping within the 70-foot right-of-way for Short Cut Road. Special Exception SE-3507 (PGCPB Resolution No. 94-316) was approved by the District Council, with no conditions, and Departure from Design Standard DDS-444 (PGCPB Resolution No.94-317) was approved by the Prince George's County Planning Board. None of the conditions from previous approvals need to be brought forward, as this application is for a major revision of the special exception.

- D. **Master Plan Recommendation:** This application is consistent with the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035) within the Established Communities policy area. Established communities are most appropriate for context-sensitive infill development. This property is surrounded to the north across Short Cut Road, to the east, and south with developed industrial uses, and is in context with the industrial land uses.

The 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* (Subregion 5 Master Plan and SMA) retained the Light Industrial (I-1) Zone on the subject property and recommends an employment land use at this location. This application is within the Brandywine Community designation in the master plan and is to be "focused on a transit station, with high density, mixed residential, commercial, and employment uses abutting existing and planned major commercial land uses to the south, and mixed residential uses to the north" (page vi). For planning and policy purposes, the master plan designated certain centers and corridors. The property is within the MD 5 (Branch Avenue)/US 301 Corridor, just north of, and outside, the Brandywine Community Center. The land use conforms with the employment land use recommendations of the master plan. The proposed use does not impair the integrity of the approved master plan and is consistent with the zoning placed on the property, in support of the master plan land use recommendations. The site is on the border of the Brandywine Community Center edge area and may include a segment of right-of-way sought to be preserved for the future Southern Maryland Rapid Transit (SMRT) right-of-way (as discussed further in Section M, Referrals of this technical staff report).

- E. **Request:** The applicant is proposing a major revision to the existing special exception (SE-3750) for a gas station with a food and beverage store and an eating and drinking establishment with drive-through service, a canopy; 10 multi-product fuel pump dispensers that provide a total of 20 fueling positions for cars; and 3 fuel pump dispensers providing 6 fueling stations for trucks. Both the gas station and the food and beverage store each require approval of a special exception in the I-1 Zone, subject to separate standards. An eating and drinking establishment is permitted by-right in the I-1 Zone. However, an eating and drinking establishment with drive-through service requires a detailed site plan (DSP), in accordance Part 3 Division 9 of the Prince George's County Code. Should Detailed Site Plan DSP-17013 (which is currently pending for an eating and drinking establishment with drive-through service) be denied, the eating and drinking establishment could remain on-site as a permitted use requested on this special exception. The special exception site plan reflects one 3,500-square-foot building, which will include 2,500 square feet for the food and beverage store. The counter area for the food and beverage store will also be occupied by the gas station cashier. Within the proposed 3,500-square-foot building, 1,000 square feet will be devoted to the drive-through service and patron seating for the eating and drinking establishment.
- F. **Neighborhood and Surrounding Uses:** The general neighborhood is bounded to the north by Brandywine Road, to the west by US 301 and MD 5, to the east by Matapeake Business Drive, and to the south by Timothy Branch Road. Empire Petroleum-Brandywine, 14330 Crain Highway, is bounded to the east and south by a vehicle salvage yard in the I-1 Zone, to the north is the public right-of-way of Short Cut Road with industrial uses in the I-1 Zone beyond, and to the west is the public right-of-way of US 301, with vacant land in the Rural Residential (R-R) Zone beyond. The uses immediately surrounding the proposed special exception are as follows:

**North—** Across Short Cut Road, Brandywine Auto Parts, I-1 Zone.

**East and South—** Undeveloped

**West—** US 301 (Robert Crain Highway).

- G. **Required Findings:** A gas station and a food and beverage store are permitted uses in the I-1 Zone, each subject to a special exception. An eating and drinking establishment with drive-through service is a permitted use in the I-1 Zone, subject to approval of a DSP. Detailed Site Plan DSP-17013 is awaiting a decision by the Planning Board.

Section 27-317 of the Zoning Ordinance provides the following required findings for approval of a special exception with code cited in **bold** followed by staff comment:

**(a) 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 Subtitle 27, as set forth generally in Section 27-102(a)(1) through (15) of the Zoning Ordinance, and specific to the I-1 Zone in Part 7, Division 2, Specific Industrial Zones, Section 27-469(a), are generally to protect the health, safety, and welfare of the public, promote compatible relationships between various land uses, guide orderly development, and ensure adequate public facilities and services. Specific to the I-1 Zone, the purposes relate to attracting a variety of labor-intensive light industrial uses, creating an attractive conventional light industrial environment, and supporting a light industrial character that is set apart of intense industrial zones and high-traffic commercial zones. As set forth in the applicant's statement of justification (SOJ) dated March 1, 2017 (pages 16–20, 21–22) and throughout this technical staff report, with the recommended conditions, staff finds that the proposed uses (gas station and food and beverage store) and the site plans as proposed, 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;**

Part 7, Division 1, General, and Division 2, Specific Industrial Zones, Section 27-469(b) through (e), sets forth the applicable requirements in the I-1 Zone:

**(b) Landscaping, screening and buffering—**The site plan as proposed conforms to the 2010 *Prince George's County Landscape Manual* (Landscape Manual) requirements, specifically Sections 4.2, 4.3, 4.4, and 4.9.

Subsections (b)(1) and (2) state that at least 10 percent of the net lot area shall be maintained as green area, and shall not include the landscape strip along the right-of-way.

As set forth in the applicant's SOJ, the site plan demonstrates a green area of 32.7 percent of the net lot area, well in excess of that required, which does not include the landscaping strip adjacent to the right-of-way.

Subsection (b)(3) relates specifically to a vehicle towing station, which is not proposed.

- (c) **Outdoor storage**—A use not proposed on this site.
- (d) **Uses**—The gas station and a food and beverage store are permitted by special exception, subject to Part 4, Division 3, Sections 27-358 and 27-355, respectively, as discussed further in the technical staff report.
- (e) **Regulations**—The site plan (special exception and detailed site plan dated August 18, 2017) drawn by Greenberg Farrow, has been reviewed for conformance to the regulations applicable in the I-1 Zone (Section 27-474 of the Zoning Ordinance), and is determined to be in general conformance.

As set forth in the applicant's SOJ dated March 1, 2017, and in the general notes on the site plan, the redevelopment of this site will conform to the regulations of the Zoning Ordinance.

With the recommended conditions, the proposal will be in conformance with all applicable requirements and regulations of the subtitle.

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

The proposed redevelopment of the property with commercial uses conforms to the land use designation in the Subregion 5 Master Plan and SMA. The master plan recommends an industrial land use for the subject property, and the proposed use conforms to the Plan Prince George's 2035 vision. Thus, it can be concluded that the proposed use will not substantially impair the integrity of any validly approved master plan or functional master plan, or in the absence of a master plan or functional master plan, the General Plan.

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

A gas station has been in continuous operation on this property since the 1990s. The proposal is designed to provide for the safe internal flow of pedestrians and vehicles on-site and for the safe ingress and egress of vehicles. None of the responses from any referring agencies received by staff indicate that the proposed continuation of the gas station and food and beverage store uses, subject to specific conditions, will adversely affect the health, safety, or welfare of residents or workers in the area.

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

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. It is the applicant's belief that the modernization of the site will be complementary to the vision noted in the Subregion 5 Master Plan and SMA. In addition, the Transportation Planning Section has indicated that the current proposal will not result in adverse impacts to the existing transportation network.

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

This site is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property is greater than 40,000 square feet in size, contains more than 10,000 square feet of existing woodland, and proposes more than 5,000 feet of woodland clearing. A Type 2 Tree Conservation Plan (TCP2-016-2017) was submitted with this special exception application.

The site has a woodland conservation threshold of 15 percent or 0.39 acre. According to the proposed worksheet, the cumulative woodland conservation requirement, based on the total clearing of 1.32 acres for this project, is 1.00 acre. The TCP2 proposes to meet this requirement with 1.00 acre of fee-in-lieu. The worksheet as submitted will require one technical revision. The worksheet indicates that the project is subject to the 1991 WCO; however, the site is actually within a priority funded area and subject to the 2010 WCO.

There are three changes that need to be addressed on the TCP2 plan. Features that are only required to be shown on a natural resources inventory (NRI) should not be reflected on the TCP2; specifically, the forest stand labels and forest stand hatching are not required to be reflected on the TCP2. These elements visually detract from other required information on the plan and should be removed. Once the revisions have been made, have the qualified professional who prepared the TCP2 sign and date it, and update the revision box with a summary of the revisions made.

The proposed special exception is in conformance with the environmental provisions of Plan Prince George's 2035, the Subregion 5 Master Plan and SMA, and the 2017 *Countywide Green Infrastructure Plan* noted herein. The TCP2 will conform with the site plan, subject to the findings and conditions recommended.

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

There are no regulated environmental features on the subject property that would require preservation and/or restoration.



- (b) **In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted.**

The site is not located in a Chesapeake Bay Critical Area Overlay Zone.

A special exception use is considered compatible with uses permitted by-right within the zone, as long as specific special exception criteria are met. Unless unique adverse impacts are identified, the special exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, at the particular location proposed, would not have adverse impacts above and beyond those inherently associated with the special exception use, regardless of its location within the zone.

- H. **Specific Special Exception Requirements—Division 3 Additional Requirements for Special Exceptions:** Section 27-355, Food or beverage store, and Section 27-358, Gas station, of the Zoning Ordinance lists additional requirements for a special exception for a food or beverage store and a gas station.

**Section 27-355 Food or beverage store.**

- (a) **A food and beverage store may be permitted, subject to the following:**

- (1) **The applicant shall show a reasonable need for the use in the neighborhood;**

The food and beverage component of this site has been in successful operation for more than two decades and has consistently operated. This evidences that the food and beverage store is reasonably convenient to the public and that there is a need for the use in the neighborhood.

- (2) **The size and location of, and access to, the establishment shall be oriented toward meeting the needs of the neighborhood;**

The 3,500-square-foot building is an appropriate size for the site and conforms to the regulations applicable in the I-1 Zone. It is adequate in size to serve the convenience needs of the neighborhood.

- (3) **The proposed use shall not unduly restrict the availability of land, or upset the balance of land use, in the area for other allowed uses;**

The current use, while smaller in size, has operated on this subject property in conjunction with the gas station for more than 20 years. It is an area that is rapidly developing. The proposed expansion continues the uses on this property, while maintaining the existing balance of land uses in the area. The expanded uses will not interfere with the ability of other vacant land to be developed with other allowed uses.

- (4) **In the I-1 and I-2 Zones, the proposed use shall be located in an area which is (or will be) developed with a concentration of industrial or office uses;**

The proposed food and beverage expansion is surrounded by a concentration of light industrial uses, specifically, the vehicle salvage yard and the truck and equipment rental business to the north.

- (5) **The retail sale of alcoholic beverages from a food and beverage store approved in accordance with this Section is prohibited; except that the District Council may permit an existing use to be relocated from one C-M zoned lot to another within an urban renewal area established pursuant to the Federal Housing Act of 1949, where such use legally existed on the lot prior to its classification in the C-M Zone and is not inconsistent with the established urban renewal plan for the area in which it is located.**

The sale of alcoholic beverages is not proposed with this zoning application.

#### **Section 27-358 Gas Station**

Section 27-358, Gas station, of the Zoning Ordinance provides the specific special exception requirements for a gas station, as follows:

- (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 property has more than 400 feet of frontage on, and direct vehicular access to, US 301 (a planned freeway with a variable width right-of-way in excess of 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;**

No such facilities are located within 300 feet 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 does not propose to display and rent cargo trailers, trucks, or similar uses.

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

The applicant does not propose storage or “junking” of motor vehicles (whether capable of movement or not) and does not propose any vehicle servicing on the subject 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 accompanying site plan shows that access drives are 30 feet wide, are more than 20 feet from the point of curvature at the US 301/Short Cut Road intersection, and are located more than 12 feet from adjoining lots.

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

The site plan shows that all 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;**

Crain Highway is a planned freeway and Short Cut Road is an industrial road serving industrial uses. This is not an area serving pedestrian traffic. No sidewalks exist and none are proposed.

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

The proposed gas pumps are set back 43 feet from the US 301 street line and 77 feet from the Short Cut Road street line, as required by this section.

**(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.**

Repair services are not proposed.

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

Architectural elevations are provided for each façade showing a building of masonry and glass. This section of US 301 is characterized by industrial uses, including a concrete block building on the property immediately south. Masonry, veneer, and glass are compatible with this surrounding development and an improvement to the character of the façades in the 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; and**
- (3) The location of exterior vending machines or vending area.**

The accompanying site plan provides the topography of the subject property and abutting lots as required. There are no exterior vending machines or vending areas. A dumpster and its enclosure are noted on the site plan as required.

**(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.**

In the event of abandonment of the gas station, the applicant will comply with the requirements of this section.

**(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 public’s need for the gas station and food and beverage store is evident, as the station has existed for three decades and has continued to serve the public, now the owner seeks to renovate and upgrade the site. According to the applicant, on average, the station has sold 275,000 gallons of gasoline per month over the last two years. The station has served the needs of, and been reasonably convenient to, the surrounding community and traveling public by its long-standing history of operations. Because it has existed for so long, continued operation with the expansion of the food and beverage store, the addition of patron seating, and drive-through service, will not unduly restrict the availability of land for other trades. In fact, as discussed, other trades are well represented in the neighborhood.

The site is currently developed with an existing gas station. The proposal is to redevelop the gas station to add a food and beverage store, an eating and drinking establishment with a drive through service, and additional gasoline dispensers. There is no vehicle repair service

proposed. As required, the site plan shows the topography of the subject property, as well as the abutting properties. The location of the trash enclosure and all vending machines (ice, vacuum, etc.) are also shown.

The proposed redevelopment is a continuation and expansion of an existing use. The need for this development was determined with Special Exception SE-3507 and again with each subsequent approved revision. The proposed redevelopment of this facility will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses.

- I. **Parking and Loading Regulations:** Based on the 3,500-square-foot gross floor area of the proposed food and beverage store, a total of 33 parking spaces and one loading space are required to serve the property. However, the applicant applied the 20 percent joint use reduction calculation for the multiple uses, including the eating and drinking establishment (DSP-17013), thus reducing the required parking spaces by seven. However, the parking schedule will need to be revised per Section 27-568(a) of the Zoning Ordinance, which requires an additional seat for an eating and drinking establishment (including drive-through service or carryout). Four parking spaces are required and not three, as shown in the notes. Therefore, 27 parking spaces and 1 required loading space are required and provided.
- J. **2010 Prince George's County Landscape Manual Requirements:** The application to modernize an existing gas station involves new construction and is subject to the requirements of the Landscape Manual. The application is in general conformance with Sections 4.2, 4.3, 4.4, 4.7, and 4.9 of the Landscape Manual.

#### **Section 4.2, Requirements for Landscape Strips Along Street**

The proposal is subject to Section 4.2, Requirements for Landscape Strips Along Streets, along its Short Cut Road and US 301 frontages. The current submitted plan provides the appropriate schedules showing the planting requirements of this section being met along both frontages. Corrections were made to the plan to reflect the 10-foot width required along the entire US 301 frontage.

#### **Section 4.3, Parking Lot Requirements**

The special exception plan proposes a new parking lot requiring interior planting in accordance with this section. The submitted plans indicate that all the requirements of this section are being met and provides the correct schedules.

#### **Section 4.4, Screening Requirements**

The submitted plan indicates a proposed loading space and trash area. The details for the dumpster enclosure and screening for the loading space are provided on the site plan. No mechanical equipment such as meters, freestanding air conditioners, heat pumps, or similar equipment is shown on the plans. The plans should be revised to show the location of such mechanical equipment, if proposed, and to show everything screened, in conformance with the requirements of this section.

#### **Section 4.7, Buffering Incompatible Uses**

The site is subject to the requirements of Section 4.7 of the Landscape Manual because it proposes a new building. However, the adjacent use, a vehicle salvage yard, is a compatible use as both are high-intensity uses. Therefore, no bufferyard is required.

#### **Section 4.9, Sustainable Landscaping Requirements**

The site is subject to the requirements of Section 4.9. A schedule is provided on the plan demonstrating conformance with these requirements.

#### **Tree Canopy Coverage Ordinance**

This application is subject to the Tree Canopy Coverage Ordinance because it proposes 5,000 square feet or greater of gross floor area or disturbance. In the I-1 Zone, the requirement is 10 percent minimum tree canopy coverage, which for the 2.57-acre site is 11,199 square feet. A tree canopy coverage schedule was not provided demonstrating conformance to this requirement. It also appears that the proposed tree plantings on-site will not meet the requirements and more would need to be added. Prior to certification, the plan should be revised to demonstrate conformance.

- K. **Zone Standards:** The applicant's proposal is in general compliance with the requirements of Section 27-469, I-1 Zone, of the Zoning Ordinance.
- L. **Signage:** The applicant is proposing building, canopy, and freestanding signage that are prototypical franchise-style for Fast-Fuel/Fast-Market franchises. The canopy signage will be the standard white background with a red band and blue and red "Fast-Fuel" lettering, while the canopy sides will be the blue, white, and red logos that are typical for Fast-Fuel. The existing freestanding sign will include a digital gasoline price sign. The signage is within the allowed square footage and height (freestanding sign).
- M. **Section 27-259, Permits within proposed rights-of-way:** The subject property is abutting the master plan freeway facility designated as F-9 in the Subregion 5 Master Plan and SMA, which recommends a minimum 300-foot right-of-way along US 301/MD 5 (Crain Highway/Branch Avenue), and is within a proposed transit line (Southern Maryland Rapid Transit) alignment along MD 5, which (as detailed in the 2009 *Approved Countywide Master Plan of Transportation*), would encumber most of the subject property. A condition is included in the Recommendation section of this report requiring the applicant to show the two rights-of-way.

Pursuant to Section 27-259 (Permits within proposed rights-of-way) of the Zoning Ordinance, "no building or sign permit (except as provided in Part 12 of this Subtitle) may generally be issued for any structure on land located within the right-of-way or acquisition lines of a proposed street, rapid transit route, or rapid transit facility, or proposed relocation or widening of an existing street, rapid transit route, or rapid transit facility, as shown on a Master Plan; however, the Council may authorize the issuance of the building or sign permit in accordance with this Section."

The approval for issuance of building and sign permits must be authorized by the District Council. The land owner is required to request, in writing, to the District Council to authorize issuance of the permits. That request was not submitted with this application.

Should the District Council authorize issuance of the permit, the exact location, ground area, height, extent, and character of the structure to be allowed is to be noted on the permit. The validity period of the request rests with the status of the connected site plans, in this case, DSP-17013 (and SE-4789). The authorization for issuance of a permit is automatically terminated if the application for the Special Exception (SE-4789) or Detailed Site Plan (DSP-17013) is denied. When approved with an associated site plan, the authorization is valid for two years. A permit must be obtained and construction implemented, pursuant to the permit, within two years of the final approval date or the authorization shall be terminated. A one-year

extension of the validity period may be granted by the Planning Director if the applicant is diligently proceeding towards issuance of a permit. A condition is included in the Recommendation section of this report requiring the applicant to provide a written request to the District Council prior to certificate of approval of this DSP. Prior to issuance of the building permit, the applicant should obtain the District Council's approval of the request.

N. **Referrals:** The following comments were received from the referring agencies for review of the special exception and the DSP applications:

1. **Transportation**—In a memorandum dated August 31, 2017, the Transportation Planning Section reviewed the special exception and DSP applications for health, safety, and welfare issues in the immediate area, as well as master plan consistency. The source for estimates of trip generation is *Trip Generation, 9<sup>th</sup> Edition* (Institute of Transportation Engineers). The table below provides information regarding site trip generation. The comparison of trip rates for the existing use, versus the proposed use under the special exception, are shown in the following table:

<b>TRIP GENERATION RESULTS SUMMARY, EMPIRE PETROLEUM, SE-4789/DSP-17013</b>						
	AM-in	AM-out	AM-total	PM-in	PM-out	PM-total
<b>Existing Use</b>						
14 fueling position gas station with food and beverage store	71	71	142	95	95	190
Less 80% pass-by in both peak hours (per judgment of staff, discussion below)	-57	-57	-114	-76	-76	-152
<b>Off-site trip generation for existing use</b>	<b>14</b>	<b>14</b>	<b>28</b>	<b>19</b>	<b>19</b>	<b>38</b>
<b>Proposed Use</b>						
23 fueling position gas station with food and beverage store	117	117	234	155	155	310
Less 80% pass-by in both peak hours (per judgment of staff, discussion below)	-94	-94	-188	-124	-124	-248
<b>Off-site trip generation for proposed use</b>	<b>23</b>	<b>23</b>	<b>46</b>	<b>31</b>	<b>31</b>	<b>62</b>
<b>NET NEW TRIPS Versus EXISTING</b>	<b>+9</b>	<b>+9</b>	<b>+18</b>	<b>+12</b>	<b>+12</b>	<b>+24</b>

The application is supported by a traffic study dated January 2017 provided by the applicant, and referred to the Maryland State Highway Administration (SHA), the Prince George's County Department of Public Works and Transportation (DPW&T), and the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE). No comments were offered. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by staff, consistent with the *Transportation Review Guidelines*.

The subject property is located within Transportation Service Area 2, as defined in the *Plan Prince George's 2035 Approved General Plan*. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level of Service D, with signalized intersections operating at a critical lane volume of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the *Guidelines*.

**Unsignalized intersections:** *The Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

In the traffic study, the applicant has shown that the site access points operate acceptably at unsignalized intersections, under existing and future traffic. However, many other traffic studies in the area have found that nearby adjacent intersections, such as US 301/US 381 to the north and US 301/MD 5/Timothy Branch Drive to the south, operate unacceptably. On March 28, 2017, the Prince George's County Council adopted Council Resolution CR-9-2017, which amends CR-60-1993. Specifically, this new resolution establishes a fee structure for payment to the Brandywine Road Club. Pursuant to CR-9-2017, the new fee for the subject application would be \$2.07 per square foot of nonresidential building construction, to be indexed by the appropriate cost indices, to be determined by DPIE. However, neither the special exception nor the DSP have transportation adequacy findings associated with them.

#### **Master Plan Highways**

The site is adjacent to US 301/MD 5, which is a master plan freeway facility and is designated as F-9 in the Subregion 5 Master Plan and SMA. The master plan recommends a 300-foot minimum right-of-way. PGAtlas shows a variable right-of-way along the frontage of the site. The description on the submitted site plan of US 301 being a 200-foot right-of-way is incorrect. At this location, the overall public right-of-way is roughly 370 feet in width. Per SHA mapping completed in 2006, any further widening of US 301/MD 5 along the frontage will involve converting the existing shoulder to a load-bearing fourth lane, and adding a shoulder. This can be fully accomplished within the current right-of-way. The master plan right-of-way abuts, and does not overlap, the subject site, based on the applicant's exhibit dated October 4, 2017, which has been verified by the Transportation Planning Section.

#### **Southern Maryland Rapid Transit**

The 2009 *Approved Countywide Master Plan of Transportation* shows a proposed transit line parallel and adjacent to MD 5. This line represents the Southern Maryland Rapid Transit (SMRT) Study being conducted by the Maryland Transit Administration (MTA) of the Maryland Department of Transportation. This study seeks to complete location and initial design for a proposed transit facility linking the Branch Avenue Metrorail Station with Charles County. Both bus rapid transit (BRT) and light rail transit (LRT) alternates are under study by MTA. The preferred alternative uses an alignment along the east side of US 301/MD 5 in this area, having a width of approximately 80 feet. The impact to the site would require a substantial part of the subject site. The site would likely be a total



taking to accommodate the transit line. For that reason, placement of structures outside of the planned right-of-way is not feasible.

In approving the expanded uses, the approving and review bodies should be made aware that existing structures within the SMRT right-of-way are being replaced with other structures within the same right-of-way. This must involve a petition for authorization to build within the planned right-of-way, in accordance with Section 27-259 of the Zoning Ordinance, as discussed. If granted, staff finds that the approval will not substantially impair the master plan.

Given that the site is designed to serve trucks, it is apparent from the plans that a WB-50 design vehicle can maneuver through this site to make fuel deliveries. Otherwise, access and circulation on the subject plan are acceptable as shown. Any changes to access will require approval of the responsible operating agency. The site is not affected by any master plan active transportation facilities. Overall, from the standpoint of transportation, it is determined that these applications are acceptable and meet the findings required for a special exception and a DSP, as described in the Zoning Ordinance. From the standpoint of non-motorized transportation, it is determined that this plan is acceptable as well.

2. **Urban Design**—In a memorandum dated May 12, 2017, the Urban Design Section reviewed the special exception for conformance to the Zoning Ordinance. According to Section 27-473, Uses Permitted in the Industrial Zones, an eating and drinking establishment with drive-through service is permitted in the I-1 Zone, subject to Footnote 54, which requires a DSP. A gas station and a food and beverage store use each are permitted subject to a special exception, as has been filed.
3. **Permit Review Section**—In memorandums dated April 17, 2017 and June 27, 2017 (Hampton to Thompson), the Permit Review Section reviewed the special exception and DSP applications for conformance with the Zoning Ordinance, noting several site plan revisions that were addressed by the applicant or are addressed as conditions of approval.
4. **Community Planning Division**—In a memorandum dated June 8, 2017 (Irminger to Thompson), the Community Planning staff reviewed the special exception for consistency with the approved master plan. The subject property is located in Planning Area 85A, known as Brandywine. The subject property is not located in a Military Installation Overlay Zone. As previously stated, MTA conducted the SMRT Study along the MD 5/US 301 corridor. The purpose of this study was to designate a preferred alignment for either a BRT or LRT system in the MD 5 corridor to link the Branch Avenue Metro Station to Charles County (see Subregion 5 Master Plan, page 112). MTA's 2010 preferred alternative alignment traverses the subject property (see the Southern Maryland Transit Corridor Preservation Study, Conceptual Plan and Profile Drawings, drawing No. SM-24). An ongoing planning strategy for this area is to continue to work with MTA to preserve a right-of-way for transit service in the MD 5/US 301 corridor (see Subregion 5 Master Plan, page 53).
5. **Environmental Planning Section**—In a memorandum dated June 8, 2017 (Juba to Thompson), the Environmental Planning Section reviewed the special exception, detailed site plan, and Type 2 Tree Conservation (TCP2-016-2017) for conformance. An approved and signed Natural Resources Inventory, NRI-236-2015, was issued on December 28, 2015 for this site. No other previous environmental reviews have occurred on this site. The project is subject to the environmental regulations of Subtitle 27 of the

County Code that came into effect on September 1, 2010 because this is a new special exception request. This project is also subject to the 2010 WCO.

There are 1.32 acres of woodlands currently on-site. A review of the available information identified that no regulated environmental features such as streams, wetlands, areas of steep slopes, 100-year floodplain, or associated buffers are found on the property. This site does not contain primary management area and is outside of the Chesapeake Bay Critical Area. The site straddles two watersheds. The eastern half of the site is within the Mattawoman Creek watershed, while the western half of the site drains into the Piscataway Creek watershed, which is a stronghold watershed; the entire site drains into the Potomac River basin. The predominant soil found to occur on-site, according to the USDA NRCS Web Soil Survey, is Beltsville-Urban Land complex, 0 to 5 percent slope. According to available information, neither Marlboro clay nor Christiana complexes are known to occur on-site. According to the Sensitive Species Project Review Area map prepared by the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of this property. This site is not identified as containing forest interior dwelling species (FIDS) or FIDS buffer. This site does not share frontage with any historic or scenic roadways. According to the approved 2017 *Approved Prince George's County Resource Conservation Plan: A Countywide Functional Master Plan* pursuant to County Council Resolution CR-11-2017, the *Countywide Green Infrastructure Plan* (Green Infrastructure Plan), the site is not mapped within the network.

#### **Approved Subregion 5 Master Plan and Sectional Map Amendment (2013)**

The master plan for this area is the 2013 Subregion 5 Master Plan and SMA. The area of the special exception application falls within the Brandywine Community Center core and edges portion of this plan. In the master plan and SMA, the Environment section contains goals, policies and strategies. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

#### **Policies:**

- **Implement the master plan's desired development pattern while protecting sensitive environmental features and meeting the full intent of environmental policies and regulations.**

The area of proposed development is located within an area designated as mixed-use in the master plan. This area is not within a priority area for protection according to the Green Infrastructure Plan and contains no regulated or sensitive environmental features.

- **Ensure that new development incorporates open space, environmentally sensitive design, and mitigation activities.**

This special exception application is for the redevelopment of an existing site. No regulated environmental features exist on-site. The site is subject to County and state environmental regulations that encourage environmentally-sensitive design and mitigation activities.

- **Encourage the restoration and enhancement of water quality in degraded areas and the preservation of water quality in areas not degraded.**

The site has a valid approved Stormwater Management Concept Letter (2852-2016-00) that expires on March 18, 2019. The approved concept plan shows the construction of two submerged gravel wetlands on-site that will improve run-off quality and volume control during storm events. The concept letter also approved the use of fee-in-lieu for providing on-site quality control measures, and requires use of an oil and grit separator, or approved equivalent, prior to discharging into a primary water quality device. A pollution prevention plan is also required. This project will meet water quality requirements from both storm and non-storm events entering wetlands and waterways in accordance with an approved final stormwater management plan, to be approved by the Site/Road Plan Review Division of DPIE.

- **Minimize impervious surfaces in the Developing Tier portion of the watershed through use of conservation subdivisions and environmentally sensitive design and, especially in the higher density Brandywine Community Center, incorporate best stormwater design practices to increase infiltration and reduce run-off volumes.**

As previously stated, the site has an approved Stormwater Management Concept Letter (2852-2016-00). Water quality will continue to be addressed through the approval of the final stormwater management plan.

- **Reduce air pollution through transportation demand management (TDM) projects and programs.**

The Transportation Planning Section will review the application further for appropriate strategies, as part of the review.

- **Encourage the use of green building techniques that reduce resource and energy consumption.**

The use of green building techniques and energy conservation techniques should be used, as appropriate.

- **Ensure that excessive noise-producing uses are not located near uses that are particularly sensitive to noise intrusion**

Environmental requirements for noise impacts will be addressed by the Subdivision and Zoning Section as part of the review of this use in the I-1 Zone.

#### **Conformance with the Countywide Green Infrastructure Plan**

The Countywide Green Infrastructure Plan indicates that none of the property is within or near the designated network.

#### **Conformance Finding for 2010 Approved Water Resources Functional Master Plan**

The 2010 *Approved Water Resources Functional Master Plan* contains policies and strategies related to the sustainability, protection, and preservation of drinking water, stormwater, and wastewater systems within the County, on a countywide level. These policies are not intended to be implemented on individual properties or projects and instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various countywide and area master plans,

County ordinances for stormwater management, floodplain and woodland conservation, and programs implemented by DPIE, the Prince George's County Department of Health, the Prince George's Soil Conservation District, the Maryland-National Park and Planning Commission, and the Washington Suburban Sanitary Commission are also deemed to be consistent with this master plan.

#### **Natural Resource Inventory/Environmental Features**

A signed Natural Resources Inventory (NRI-236-2015), which included a detailed forest stand delineation, was submitted with the application. This NRI expires on December 28, 2020. This site contains 1.32 acres of existing woodlands. No specimen, champion, or historic trees are known to occur on-site.

#### **Soils**

The predominant soil found to occur on-site, according to the USDA NRCS Web Soil Survey, is Beltsville-Urban Land complex, 0 to 5 percent slope. According to available information, neither Marlboro clay nor Christiana complexes are known to occur on-site.

This information is provided for the applicant's benefit. No further action is needed as it relates to this special exception review. A soils report may be required by DPIE during the permit process review.

#### **Stormwater Management**

As previously stated, a Stormwater Management Concept Letter (2582-2016-00) and plan was approved by DPIE. No additional information is required with regard to stormwater management with this application.

4. **Subdivision and Zoning Section**—The subject property is comprised of two legal parcels created by deed prior to 1982, and has never been the subject of a preliminary plan of subdivision or record plat. Although the deeds reference Parcels One and Two (Liber 36979 folio 39), the State Department of Assessments and Taxation and the tax maps show the property as Parcels 83 and 287. Staff has determined that the site is exempt from the requirement of filing a preliminary plan pursuant to Section 24-107(c)(7)(B) of the Subdivision Regulations. The development of more than 5,000 square feet of gross floor area on the subject site will require approval of a preliminary plan.
5. **Special Projects**—In memorandums dated April 13, 2017 and June 27, 2017, Special Project staff has determined the following for nonresidential development:

**Police Facilities:** The proposed development is within the service area of Police District V, Clinton. There is 267,660 square feet of space in all the facilities used by the Prince George's County Police Department, and the July 1, 2016 (U.S. Census Bureau) County population estimate is 908,049. Using 141 square feet per 1,000 residents, it calculates to 128,034 square feet of space for police. The current amount of space, 267,660 square feet, is within the guideline.

**Fire and Rescue Service:** The proposed development was reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(C) and (E) of the Subdivision Regulations. Section 24-122.01(e)(1)(E) states that "A statement by the Fire Chief that the response time for the first due station near the property proposed for subdivision is a maximum of

seven (7) minutes travel time. The Fire Chief shall submit monthly reports chronicling actual response times for calls for service during the preceding month.” The proposed project is served by Brandywine Fire/EMS Company 840, a first due response station (a maximum of seven minutes travel time), is located at 13809 Brandywine Road. “In the Fire/EMS Department’s Statement of Adequate Apparatus, as of June 15, 2016, the Department states they have developed an apparatus replacement program to meet all the service delivery needs of the County.”

**Capital Improvement Program (CIP):** There are no CIP projects for public facilities proposed in the vicinity of the subject site. The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the “Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities.”

**School Facilities:** The subdivision has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-23-2001 and CR-38-2002), and concluded that the subdivision is exempt from a review for schools because it is a nonresidential use.

**Water and Sewerage Findings:** Section 24-122.01(b)(1) states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.” The 2008 *Water and Sewer Plan* placed this property in water and sewer Category 4, Community System Adequate for Development.

## RECOMMENDATION

A special exception use is considered compatible with uses permitted by-right within the zone, as long as specific special exception criteria are met. Unless unique adverse impacts are identified, the special exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, at this particular location proposed, would not have adverse impacts above and beyond those inherently associated with the special exception use, regardless of its location within the zone.

Based on the applicant’s statement of justification dated March 1, 2017, the analysis contained in the technical staff report and associated referrals, and materials in the record, the applicant has demonstrated conformance to the required special exception findings as set forth in Section 27-317 (in general); Section 27-355, Food and beverage; and Section 27-358, Gas station, in this instance. Therefore, staff recommends adoption of the findings of this technical staff report for Special Exception Application No. SE-4789, subject to the following conditions of approval:

1. Prior to certification of the special exception, the special exception site plan shall be revised as follows:
  - a. Provide green area calculations;
  - b. Show the rights-of-way;
  - c. Provide bearings and distances;

- d. Correct General Note 15 to correctly calculate the parking requirement for the eating and drinking establishment with drive-through service.
  - e. Add a note that the applicant shall provide full-optic cut-off lighting.
  - f. Provide evidence of a written request to the District Council to authorize issuance of the permit within the proposed rights-of ways.
- 2. Prior to certification of the special exception, Detailed Site Plan DSP-17013 and Type 2 Tree Conservation Plan TCP2-016-2017 shall be approved and certified, and the plan revisions shall be reflected on the special exception.
  - 3. Prior to issuance of the building permit, the applicant shall obtain District Council authorization for issuance of the permit within the proposed rights-of ways.