

**Land Use Report
Special Exception Modification
15585 and 15595 Old Columbia Pike
Burtonsville, MD
September 22, 2023**

Dong Ya, LLC and Hong Cheng LLC (collectively, the “Petitioner”), respectfully submits this request to the Montgomery County Board of Appeals for a Major Modification to the existing Special Exception, to permit a modification to the existing automobile filling station (that includes a convenience store) located at 15585 and 15595 Old Columbia Pike in the southwest corner of the intersection of Maryland Route 198 (hereinafter referred to as “Old Columbia Pike”) and U.S. 29A (“Business 29”) in Burtonsville, Maryland (hereinafter the “Property”). The Petitioner is seeking to modernize the filling station use and add two fueling dispensers and increase the size of the convenience store (“C-Store) (the “Modifications”). As discussed below, the existing automobile filling station and C-store will continue to be compatible with the surrounding neighborhood. Additionally, the proposed use satisfies the applicable standards of the CRTF Zone and substantially conforms with the *2012 Approved and Adopted Burtonsville Crossroads Neighborhood Plan* (the “Master Plan”). Pursuant to Section 7.7.1.C.5 of the Montgomery County Zoning Ordinance, this Modification is being submitted for review under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014 (the “Prior Zoning Ordinance”).

I. Description of Property, Surrounding Area and Zoning

A. Property Location, Characteristics, and Existing Conditions

The Property is located at an extremely busy intersection in the southwest intersection of Business 29 and Old Columbia Pike and is less than 1,000 feet from newly constructed Columbia Pike through which approximately 110,000 vehicles pass on a daily basis. As a result, many vehicles rely on the conveniently located filling station and C-Store on the Property which do a robust business.

The Property is comprised of two individual parcels: 15585 Old Columbia Pike, known as Parcel C (N913), and 15595 Old Columbia Pike, known as Parcel D (N924) in the “Parcels C & D Burtonsville” Subdivision, as per the plat of subdivision recorded among the Land Records of Montgomery County, Maryland in Plat Book 111 at Plat 12953. The Property is generally bounded by Old Columbia Pike to the north, Business 29 to the east, a property with a McDonald’s restaurant to the west, and two residentially zoned parcels (R-200) to the south, Parcel P60, the Morigi Property and a 3.3 acre Parcel P47 owned by the Applicant, which provides a substantial tree buffer.

The two parcels that comprise the Property total approximately 146,936.59 square feet (or 3.37 acres) of net lot area. Including prior dedications, the Property has a gross tract area of approximately 150,788 square feet (or 3.4614 acres).

The Property currently is improved with a 7-Eleven C-Store and corresponding filling station with four fueling dispensers covered by a canopy and a separate retail building occupied by the Mattress Store. According to the Maryland State Department of Assessments and Taxation (“SDAT”) records, the existing Mattress Store building was constructed in 1981 and contains approximately 8,208 square feet of floor area. According to SDAT records, the existing C-Store was built in 1983 and has approximately 2,496 square feet of floor area. A significant portion of the southwest corner of the Property, approximately 0.38 acres is forested.

The Property has frontage along two public right-of-ways: Old Columbia Pike to the north and Business 29 to the east, with no access permitted from Business 29. Currently, vehicular access is made possible via two access points (with sufficient width for both ingress and egress) along the Old Columbia Pike frontage.

There is a shared use path along the Business 29 frontage for both pedestrians and cyclists.

B. Zoning and Permitted Uses

As shown on the Certified Zoning Map, submitted with this Statement, the Property is currently zoned Commercial/Residential Town Floating Zone (“CRTF”). An automobile filling station is permitted in the CRTF Zone under the current Zoning Ordinance by conditional use and under the Prior Zoning Ordinance by special exception pursuant to Section 59-C-15.11, subject to the requirements contained in Section 59-G-2.06. The Petitioner is seeking to continue the approved, Automobile Filling Station use with the C-store on the Property with the modifications herein requested.

C. Grandfathering

Section 7.7.1.C.5 of the current Zoning Ordinance allows an applicant to amend a previously approved Special Exception and expand it under the applicable development standards and procedures of the Zoning Ordinance in effect on October 29, 2014. The overall density on the Property will decrease from 10,800 square feet to 5,919 square feet, with the size of the C-store increasing from 2,500 square feet to 5,919 square feet and the number of fueling dispensers increasing from four to six. The Petitioner is submitting this Special Exception Modification under the standards and procedures of the Prior Zoning Ordinance, as set forth in Division 59-C-15, governing the commercial/residential zones.

III. Prior Approvals

A. Zoning and Entitlement History

On December 4, 2012, the County Council, sitting as the District Council for the Burtonsville planning area of the Maryland-Washington Regional District in Montgomery County,

rezoned the Property from the General Commercial zone (“C-2”) to the Commercial/Residential Neighborhood zone (“CRN”).¹

B. Local Map Amendment

Because the zoning change from C-2 to CRN effectively downzoned the Property and failed to take into account the Property’s location and existing uses, the Property owner filed a floating zone local map amendment in 2019 to rezone the Property to CRTF. The Montgomery County Council, sitting as the District Council, approved Local Map Amendment (“LMA”) H-134 on November 12, 2019 to rezone the Property from CRN-1.5 C-1.0 R-0.5 H-45’ to CRTF-1.5 C-1.0 R-0.5 H-45’.

The rezoning was approved subject to the following six Binding Elements:

1. **Limitation on Uses.** The following uses, otherwise permitted In the CRT zone, are prohibited:
 - a. Nursery (retail)
 - b. Ambulance, rescue squad (private)
 - c. Hospital
 - d. Funeral home
 - e. Hotel
 - f. Research and development
 - g. Structured parking
 - h. Conference center
 - I. Recreation and Entertainment facility major (over 1,000 person capacity)
 - J. Combination retail store (a department store with more than 85,000 sf)
 - k. Retail service establishment greater than 50,001 square feet
 - I. Light vehicle sales and rental (Indoor)
 - m. Light vehicle sales and rental (outdoor)
 - n. Car wash
 - o. Vehicle service repair (major).
 - p. Dry cleaning
 - q. Medical scientific manufacturing and production
 - r. Bus, rail terminal/ station
 - s. Taxi/ limo facility
 - t. Utility distribution line
 - u. Self-storage facility
 - v. Warehouse storage facility
2. **Buffer zone.** 50' buffer zone abutting R-200 property. (May include SWM facilities).
3. **Frontage Improvements.** Project frontage improvements shall include the following, 10' shared-use path and street trees.

¹ See Resolution No. 17-628, which implemented the zoning recommendations of the 2012 *Burtonsville Crossroads Master Plan*.

4. **Controlled Access.** Eastern access will prohibit left turns; i.e., motor vehicles can only make right turns into the Property and right turns to exit the Property.
5. **Future Access Road.** The Floating Zone Plan shall include a reservation for 40 foot wide future private access road on the west side of the Property. No development shall be permitted within the reservation area. Final location to be determined at Site Plan.
6. The required Public Open Space shall be provided on-site and meet the design requirements of zoning code Section 6.3.6.B.1. Final location to be determined at Site Plan.

C. Prior Special Exception Approvals

The Property has long-since been operated as an automobile filling station. The following provides a summary of the Special Exception approvals:

- March 23, 1967 (Case No. S-2173)

Approved for three-bay “standard Cities Service Station”, 14 parking spaces (2 for each bay, 1 for each of the 6 employees, and two extra), the two driveways from Maryland Route 198, two (2) pump islands, lighting and landscaping. No major repairs including body and fender repairs were permitted under the 1967 Approval and all storage was within the building with the exception of a small amount of necessary storage on the pump islands.

- February 1, 1968, the first Special Exception amendment

Provided for a one-year extension to establish the automobile filling station use to allow for a connection to the Burtonsville sewer line.

- December 2, 1982 (Case No. S-847)

The Board of Appeals approved a major modification to the existing Special Exception. The modification permitted modernization of the existing “full service” automobile filling station allowing the operation as a “gas-n-go” with a retail convenience store. The modernization included a new canopy over the existing pump islands, an increase in the number of fueling dispensers to six, replacement of four old storage tanks with three new fiberglass tanks, a new identification sign and new landscaping. The modification also permitted the construction of a 2,560 square foot building to accommodate a 7-Eleven store and extended the hours of operation to be 24-hours per day, seven days a week.

- May 26, 1983, the Board of Appeals approved a minor modification to Special Exception S-847.

The minor modification was limited to a reconfiguration of the curb and landscape area on the east side of the Property adjoining the abutting property.

- September 20, 1994 minor modification

The Board approved the minor modification to allow for necessary mechanical changes to meet the Environmental Protection Agency Stage II Vapor Recovery requirements. The 1994 approval included no other modifications.

- March 29, 1995 (Case No. S-847-A)

The modification permitted the removal and replacement of the concrete islands and dispensers with multi-product dispensers (reducing the number of dispensers from six to four), installation of Stage II vapor recovery system, installation of new canopy lighting and pole lights, and replacement of fascia on the canopy.

IV. Request for Modification to Special Exception Approval

Petitioner respectfully seeks approval from the Board of Appeals to modify the existing Special Exception on the Property. As mentioned above, the Automobile Filling Station use will continue. The Petitioner is seeking the following modifications to accommodate a Wawa convenience store and gas station on the Property: 1) increasing the number of gasoline dispensers from four to six in total, thus reinstating the number of fuel dispensers approved by Special Exception Case No. S-847; 2) replacing the existing canopy and reconfiguring the site layout by moving the pumps and canopy further away from the street; and 3) razing the Mattress Store and razing the existing C-Store and replacing it with a 5,919 square foot store and providing a total of 50 parking spaces on the Property. In accordance with Binding Element No. 5 of the LMA, the Modification will include a 40 foot wide reserved land area for a potential private access roadway along the western side of the Property. This roadway will also provide access to the site located to the south of the Property (owned by an affiliate of Petitioner) that would otherwise be landlocked. Additional changes include designation of a 70+ foot wide forest conservation easement along the southern boundary of the Property; inclusion of a stormwater management via an underground piping system and four micro-bio “Environmental Site Design” stormwater management facilities; and the addition of two public use space areas, one located along the Old Columbia Pike frontage of the Property and the other to the west of the proposed future access drive.

Pursuant to discussions with the staff of Montgomery County Department of Transportation; Maryland-National Capital Park and Planning Commission (“M-NCPPC”); and State Highway Administration, the Petitioner proposes the following improvements along the frontage of the Property in connection with the Modification request:

- Old Columbia Pike – Construction of a 6-foot wide traffic buffer, 6-foot wide east-bound separated bike lane; a 6-foot wide landscape buffer and a 11-foot wide sidewalk.

- Business 29 – Replacement of the existing 8-foot wide bike path with a 6-foot wide landscape buffer and a 16-foot wide “Breezeway” (combined bike path and side path).

The site modifications are shown on the Special Exception plan submitted concurrently with this Statement. Assuming approval of the Special Exception Modification, the Petitioner will seek Preliminary Plan approval to consolidate the two parcels comprising the Property into a single record lot and at the same time will also seek Site Plan approval as required by the Floating Zone requirements.

V. Proposed Operations

The Automobile Filling Station will continue to operate 24 hours a day, seven days a week in essentially the same manner as the existing 7-Eleven gas station and convenience store. Additional operational aspects of the Modification include the following:

- Maximum number of employees at one time: 12 during morning and lunch peak hours; as few as 3 during overnight shift.
- Fuel deliveries: on average 1 to 2 per day; delivery takes approximately 30 minutes; station offers three types of fuel (diesel, high-test and regular).
- C-Store deliveries: provisioning and dairy deliveries, each every other day typically coordinated to occur on alternative days; fresh channel delivery every day; specific brand truck deliveries (e.g. sodas, potato chips) occur from trucks that park in standard parking spaces, daily.
- Trash removal: twice per week.
- Landscaping/upkeep of Property: landscape contract with once a week maintenance; grass areas will be watered with sprinklers; litter pick-up and trash cans emptied once every shift.

VI. Master Plan Conformance

The Property is subject to the objectives and recommendations outlined in the *2012 Approved and Adopted Burtonsville Crossroads Neighborhood Plan* (the “Master Plan”). In connection with the approval of the LMA, the Planning Board, Hearing Examiner and County Council determined that the use of the Property with an automobile filling station with six dispensers and corresponding retail development on the Property was consistent with the Master Plan.

A. Main Street MD 198 and the Public Green

The Master Plan divides the Burtonsville Planning Area into three distinct neighborhoods: 1) Main Street MD 198 and the Public Green; 2) Village Center Business 29; and 3) the Rural Edge. The Property is located within Main Street MD 198 and the Public Green neighborhood (hereinafter the “Neighborhood”), which is envisioned as a “pedestrian-oriented place” that

supports a variety of retail uses. (Master Plan, pg. 34-35). Notably, the Special Exception Modification will further this vision with improved streetscapes along both Old Columbia Pike and Business 29 and demolition of the Mattress Store. Oriented at the southwest corner of the Old Columbia Pike/Business 29 intersection, the Property is highly visible and accessible to motorists. In addition, a substantial tree buffer to the south/southwest creates a significant barrier between the Property and the residential neighborhood along Tolson Place, located approximately 625 feet east of the Property.

As determined in connection with the LMA, the Property is similar to the properties located along the north side of Old Columbia Pike. Like the Burtonsville Town Shopping Center (“Shopping Center”), the property that confronts the Property to the north across Old Columbia Pike, the Property is intersection-oriented with high visibility.² As the Master Plan recognizes, the CRT zone provides “the opportunity to expand the range of land uses.” Recommendations in the Master Plan are framed around the following four themes: 1) economy; 2) connectivity; 3) design; and 4) environment.

- **Economy**

Serve local and regional markets.

The Modification upgrades an essential community service by providing a larger C-store with a greater variety of products and a more significant food offering than the current use. The Modifications will ensure that the use also continues to serve the regional market as does the existing Special Exception use. The Property is located at an extremely busy intersection and is less than 1,000 feet from Columbia Pike through which approximately 110,000 vehicles pass on a daily basis. The improved use will help attract Burtonsville residents and visitors into the Main Street, given that the Property is highly visible from Business 29. The Special Exception Modification will help support a major intersection that is anchored by a strong mix of uses.

- **Connectivity**

Improve street character
Provide bikeways

The Modifications include significant frontage improvements that will enhance the bike and pedestrian routes. A 6-foot wide traffic buffer, a separated 6-foot wide east-bound bike path and a 11-foot wide pedestrian side path will be provided along the Old Columbia Pike frontage of the Property. Along the Business 29 frontage, the existing 8-foot wide bike path will be replaced with a new 6-foot wide landscape buffer and a 16-foot wide bike path/side path which is part of the “Breezeway” that will ultimately extend from Silver Spring to Howard County.

² The Burtonsville Town Square Shopping Center (“Shopping Center”) is located within a different Master Plan neighborhood, the Village Center Business 29 Neighborhood. However, the Applicant draws upon this property for comparison given its intersection-orientation and CRT zoning.

- **Design**

*Improve the design of pedestrian infrastructure.
Improve building character*

The Modifications will greatly improve the pedestrian infrastructure along the Old Columbia Pike frontage of the Property, as well as along Business 29. Whereas currently there is no sidewalk along the frontage of the Property, the Modifications will provide a 6-foot wide separated bike path, an 11-foot wide sidepath and associated landscaping. The existing bike path along the eastern frontage of the building parallel to the Business 29 entrance ramp will be widened. In addition, the obtrusive Mattress Store building, with excessive signage, will be demolished and a new more appropriately scaled single building will be located in the center of the Property. The Modification represents a significant aesthetic improvement over the existing conditions.

- **Environment**

Infill or redevelopment will meet the most current environmental site design requirements

The Modifications will impose stormwater management controls on the Property where currently there are no such on-site environmental protections. Approximately 26,000 square feet of the Property will be subject to a forest conservation easement thus ensuring the preservation of this treed area, where again, currently no tree protections on the Property exist. The automobile filling station itself will represent an upgrade with current state of the art equipment including double walled underground storage tanks, double walled piping, flex piping, tank monitoring and containment sump monitoring. In addition, the redevelopment of the Property will result in an upgraded streetscape, including street trees along Old Columbia Pike and Business 29.

VII. Zoning Ordinance Requirements

As described herein below, the Special Exception will satisfy the applicable standards of the Prior Zoning Ordinance for the Automobile Filling Stations use in the CRT Zone, including the Special Exception standards set forth in Section 59-G-2.06, the general requirements set forth in 59-C-15.6 and the development standards set forth in Section 59-C-15.7.

A. Compliance with Standards in Section 59-G-2.06.

The Special Exception complies with the Special Exception standards for an Automobile filling stations contained in Section 59-G-2.06 of the Prior Zoning Ordinance, as follows:

(a) *In addition to findings required in division 59-G-1, an automobile filling station may be permitted if the Board of Appeals finds that:*

(1) the use will not constitute a nuisance because of noise, fumes, odors, or physical activity in the location proposed;

The Automobile Filling Station use has been in existence for more than fifty years without any complaints from the surrounding neighborhood since at least 1997 when Petitioner acquired the Property. Since at least 1982 the C-store and Automobile Filling Station have operated 24/7. The use is located in a commercial area at a busy intersection more than 450 feet away from the closest home (one single family home) and more than 625 feet from the closest cluster of homes. The overall retail square footage on the Property will decrease by 4,758 square feet (45 percent) and the Special Exception Modification will add only two fueling dispensers for a total of six, which was the maximum number of fueling dispensers on the Property previously.

(2) the use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground, or hospital, or other public use or place of public assembly; and

Approval of the Special Exception Modification will not change the existing traffic patterns of the Property; the two entrances into the Property, with the eastern entrance operating as a right-in, right-out only are proposed to continue. However, because the Modification includes the installation of a traffic signal at the intersection of Old Columbia Pike and the western driveway, the existing traffic patterns will improve significantly. Turning movements in and out of the Property at the western entrance will be controlled by the signal and the signal will create gaps in traffic to improve ingress and egress at the eastern driveway.

(3) the use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density, and number of similar uses.

The use is an existing use. The Modifications will in no way adversely affect or retard the development of the general neighborhood. The County Council approved the LMA to allow the continued use and expansion of the Automobile Filling Station on the Property.

(b) In addition, the following requirements must be satisfied:

(1) After August 13, 2012, the area identified by a special exception application for a new automobile filling station designed to dispense more than 3.6 million gallons per year must be located at least 300 feet from the lot line of any public or private school or any park, playground, day care center, or any outdoor use categorized as cultural, entertainment and recreation use.

The Modification will add only two fueling dispensers to the Property allowing the Automobile Filling Station to provide a total of six dispensers – a comparable number to most present day filling stations. The Modification is not designed to dispense 3.6 million gallons of gas annual and there is no expectation that it will approach this figure. Petitioner nonetheless notes that there is no public or private school or any park, playground, day care center, or any outdoor use categorized as cultural, entertainment and recreation use located within 300 feet of the lot line of the Property.

(2) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the use must be screened by a solid wall or a substantial, solid fence, not less than 5 feet in height, together with a 3-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. Location, maintenance, vehicle sight distance provisions, and advertising pertaining to screening must satisfy Article 59-E. Screening must not be required on street frontage.

The southern boundary of the Property abuts R-200 zoned property (owned by the Petitioner) that is currently vacant and there will be 70-foot wide forest conservation easement area along the Property line that serves as an adequate natural terrain feature to buffer the two disparately zoned properties.

(3) Product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections or to station driveways are prohibited.

There will be no such obstructions at the intersections or driveways. As depicted on the Special Exception Plan, a freestanding sign will be located along Old Columbia Pike in essentially the same general location as the existing sign. Along Business 29, a freestanding sign will be located further to the north of the existing freestanding sign.

(4) Lighting must not reflect or cause glare into any residential zone. Lighting levels along the side and rear lot lines adjacent to a residential zone must not exceed 0.1 footcandle.

The Property borders residentially zoned property only along its southern Property line and the 70-foot wide forested buffer will ensure that the light levels at the Property line will not exceed 0.1 footcandle.

(5) When such use occupies a corner lot, the ingress or egress driveways must be located at least 20 feet from the intersection of the front and side street lines of the lot as defined in Section 59-A-2.1, and such driveways must not exceed 30 feet in width.

The eastern ingress/egress driveway is located 200 feet from the intersection of Old Columbia Pike and the ramp to Business 29. The eastern ingress and egress driveways are both 15 feet in width.

(6) Each gasoline pump or other service appliance must be located on the lot at least 10 feet behind the building line; and all service, storage, or similar activities in connection with the use must be conducted entirely within the building. There must be at least 20 feet between driveways on each street, and each driveway must be perpendicular to the curb or street line.

There is no relevant building line setback requirement in the CRT Zone. The gasoline pumps are set back 50 feet from the Property line and the Automobile Filling Station does not include any activities other than the dispensing of fuel. There is 100 feet between the Property’s western and eastern driveways and both driveways are perpendicular to the street line.

(7) Light automobile repair work may be done at an automobile filling station, but major repairs, spray paint operation or body and fender repair are prohibited uses.

No light automobile repair work will occur on the Property.

(8) Vehicles must be parked completely off of the public right-of-way.

There are no parking spaces located near the public right-of-way and thus the Modifications will adhere to this condition.

(9) In a C-1 zone, an automobile, light truck, and light trailer rental, as defined in Section 59-G-2.07, and in a C-2 zone, an automobile, truck and trailer rental lot, as defined in Section 59-G-2.09, may be permitted as a part of the special exception if the requirements of this section are satisfied. In addition, a car wash with up to 2 bays may be allowed as an accessory use as part of the special exception.

Not applicable.

(10) In a Rural Village Overlay Zone the following additional standards apply for new development:

- (A) Car wash is prohibited.*
- (B) Pump canopies must not exceed 35 feet in height.*
- (C) Any structure approved for the use must not exceed the scale and bulk of existing commercial structures in the village.*

Not applicable.

B. Compliance with General Requirements of Section 59-C-15.6 and Development Standards of -Section 59-C-15.7

General Requirements		
	Allowed/Required	Proposed

Bicycle Parking (59-C-15.62)	2 publically accessible 2 private, secure	4 spaces
Parking (59-C-15.63)	Maximum – none Minimum – 4 per 1,000 s.f.	50 spaces
Parking Location (59-C-15.633)	Behind main front wall and side wall Note: waiver available per 59-C-15.636	Waiver sought, see discussion below
Landscape and Lighting (59-C-15.635)		
a. Adjacent to ROW	Minimum 6’ wide soil panel Minimum 3’ hedge or fence One deciduous tree every 30’ or per applicable streetscape standard	Provided
b. Adjacent to Residential Zone	10’ wide soil panel Minimum 6’ high hedge or fence One deciduous tree every 30’	Provided
c. Adjacent to Other	4’ wide soil panel One deciduous tree every 30’	Provided
d. Internal Pervious Area	No less than 10 percent of parking facility area composed of individual areas at least 100 s.f. each	Provided
e. Tree Canopy Coverage	No less than 30 percent of parking facility (at 15 year growth)	Provided
f. Lighting	No more than .5 foot candles at property line	Provided
Development Standards		
	Allowed/Required	Proposed
Commercial Density (59-C-15.71)	As Mapped 1.0 FAR (147,232 s.f.)	0.04 FAR 5,919 s.f.
Height	45’	45’
Setbacks to Residential (59-C-15.72)	25’ (or setback of adjacent zone) (R-200 30’ rear setback)	50’
Public Use Space (59-C-15.73)	10 percent NTA	Provided

C. Waiver of Parking Provision

Pursuant to Section 59-C-15.636 the Director, Planning Board, or Board of Appeals may waive any requirement of 59-C-15.63 not necessary to accomplish the objectives of the CR Zones and the Parking Facilities plan objectives of Section 59-E-4.2.

Petitioner seeks a waiver of Section 59-C-15.633 in order to permit 28 percent of the total parking spaces to be located in front of the front building line. Section 59-C-15.633 precludes parking between the street and the main front wall of a building, absent approval of a waiver. In addition, strict compliance with Section 59-C-15.633 would preclude all of the parking spaces located east of the eastern building wall (27 spaces), given that this Section also precludes parking between the street and a side wall of a building on a corner lot.

The Property current enjoys parking between the front of the building and the street and Petitioner seeks the waiver in order to continue to allow parking in this location. The use of the Property is auto centric – it is an Automobile Filling Station and even without the C-Store, there will be cars located close to the front Property line filling up at the fuel dispensers. The proposed layout of the Property is consistent with almost every gas station everywhere; to require the Petitioner to locate parking behind the front and side building lines would place the Petitioner at a significant economic disadvantage in comparison to all other comparable automobile fueling stations and C-Store operations, including the current Property. Moreover, with respect to the corner lot requirement, the Property is technically considered a corner lot given that its eastern boundary fronts on the Business 29 ramp. However, access is denied along the eastern boundary and there is a significant grade of approximately 13 vertical feet between Business 29 and the Property. Precluding parking behind the front wall and side wall of the C-Store serves no purpose and is contrary to the fundamental operation of the use.

VIII. Special Exception Findings

Pursuant to Section G-1.21, a Special Exception may be granted when the Board of Approvals or Hearing Examiner finds from a preponderance of the evidence of record that the proposed use conforms to the following guidelines:

a. The proposed use is a permissible special exception in the zone.

Pursuant to Section 59-C-15.5 of the Prior Zoning Ordinance, an Automobile Filling Station is permitted as a Special Exception use in CRT zone. The use is also permitted pursuant to the current Zoning Ordinance pursuant to Conditional Use approval.

b. The proposed use complies with the standards and requirements set forth for the use in Division 59-G-2.

As discussed in Section VII of this Statement, the Automobile Filling Station use will continue to comply with the requirements set forth in Section 59-G-2.06 and the development standards of the CRT zone.

- c. The proposed use will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location.*

As discussed in Section VI above, the proposed Automobile Filling Station use is in conformance with the Master Plan. The existing Automobile Filling Station serves an important function at this very busy intersection. The County Council approved the LMA with the knowledge that the rezoning would accommodate the expansion of the Automobile Filling Station.

- d. The proposed use will be in harmony with the general character of the neighborhood, considering population density, design, scale, and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.*

The Property is located within the commercial enclave of Burtonsville and is surrounded to its north, east and west by other commercial uses. The overall square footage on the Property will be reduced by 4,785 square feet and the general aesthetic of the Property will be greatly improved with the new structure and the removal of the two existing retail establishments. In addition, the improved streetscaping and landscaping will benefit the surrounding area. The current use and general operations of the Property will continue. The overall surrounding area will benefit from the installation of the traffic signal proposed as part of the Special Exception Modification.

- e. The proposed use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Special Exception Modification will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; it is simply a continuation of the existing use. Because the Modification will upgrade the Property in the various ways already identified, to the extent there is any impact on the economic value of the surrounding properties and general neighborhood, it will be positive, not negative.

- f. The proposed use will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Automobile Filling Station will not cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the Property. The existing automobile filling station has operated for more than 50 years, without objection, for at least as long as the Petitioner has owned the Property (since 1997). The Modifications are intended to accommodate the continuation of this use in an improved manner. As such, the Modifications herein requested will have no adverse impacts on the surrounding community.

- g. The proposed use will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area.*

The Petitioner is seeking to modify an existing Special Exception on the Property and therefore the requested Modification will not result in a greater number of Special Exceptions in the area. Moreover, the Property is located in a commercial area.

- h. The proposed use will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The proposed Modification to the existing Special Exception will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area of the Property. Because the Modifications will improve the Property with stormwater management, public space, a forest conservation area, and an improved streetscape, it will provide an overall benefit to the “residents, visitors or workers” in the area.

- i. The proposed use will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

Following approval of this Modification, the Property will continue to be served by adequate public facilities. The Petitioner is submitting a Local Area Transportation Review (“LATR”) traffic impact analysis prepared by Lenhart Traffic Consulting, Inc., the Petitioner’s transportation consultant, which addresses the project’s projected transportation impacts. Pursuant to the 2021-2024 Growth and Infrastructure Policy (GIP), the adequacy of transportation facilities is based upon an analysis of vehicular, transit, pedestrian and bike conditions. In brief, the LATR has determined the following:

- The original Automobile Filling Station use generates 130 AM peak hour vehicular trips, consisting of 53 primary trips and 77 pass-by trips and 150 PM peak hour vehicular trips, consisting of 68 primary trips and 82 pass-by trips.
- The Modification will generate 375 AM peak hour vehicular trips, consisting of 87 primary trips and 288 pass-by trips and 320 PM peak hour vehicular trips, consisting of 78 primary trips and 242 pass-by trips. The Modification results in a net increase of 34 primary vehicular trips during the AM peak hour and 10 primary trips during the PM peak hour.
- The pedestrian, bicycle and transit systems surrounding the Property will operate within the M-NCPPC standards.

There is no residential component to the proposed Project and, therefore, schools will not be impacted.

Other public facilities and services – including police stations, firehouses and health care facilities – will continue to be more than adequate to support and service the existing/proposed Automobile Filling Station use. The nearest police district station serving the Property is located at 1002 Milestone Road in Colesville, Maryland. The nearest firehouse is the Burtonsville Volunteer Fire Department located at 13900 Old Columbia Road in Burtonsville, Maryland.

The Property will continue to be served by existing water and sewer. Electric, gas and telecommunications services will also continue to be available.

IX. Environmental

A Natural Resources Inventory “NRI” (420190900) was approved in 2019 in connection with the LMA and M-NCPPC Staff has determined that the NRI remains valid and does not require updating. In connection with the LMA, the Planning Board approved a Preliminary Forest Conservation Plan and the Final Forest Conservation Plan is submitted as part of the Special Exception Modification.

The Property is not in a Special Protection Area, so no separate water quality monitoring plan is required.

X. Conclusion

As explained above, the Project meets or exceeds all of the criteria and standards for an Automobile Filling Station in the CRT Zone, as set forth in the Prior Zoning Ordinance. For the foregoing reasons, the Petitioner respectfully requests approval of this Major Modification of the Special Exception, to permit the continued operation of the long-standing Automobile Filling Station use on the Property.