



May 15, 2024

Kathleen Byrne, Director

Montgomery County Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, MD 20850

Re: Cheng Property/Burtonsville Wawa
Burtonsville, MD 20866
Conditional Use No. CU202415 (Previously SE No. S-847-B)

Dear Director Byrne:

Planning staff received a Major Modification to a Special Exception, No. S-847-B, from the Hearings Examiner and Board of Appeals. Planning staff then: conducted the technical review of the application; produced a staff report; presented the staff report and recommended conditions of approval to the Planning Board; the Planning Board recommended approval of the Major Modification, with Conditions, and transmitted their recommendation to the Hearings Examiner. Upon receipt of the written materials, Hearings Examiner Robeson Hannan expressed concern that the proposed Major Modification did not qualify as a Major Modification to the existing Special Exception, and instead, would need to be withdrawn and resubmitted as a new Conditional Use under the 2014 Zoning Ordinance.

Please accept this memo as confirmation the previous Planning Board analysis and recommendation for approval of the Special Exception Major Modification for the Cheng Property (Burtonsville Wawa) is still valid for the recently submitted Conditional Use for the same property, as the use standards for an Automobile Filling Station, except for requiring a needs analysis, are the same in both the 2004 Zoning Ordinance and the current 2014 Zoning Ordinance. Please see the attached Redlined Staff Report that includes the code references to the 2014 Zoning Ordinance.

Hearings Examiner Robeson Hannan had also directed the applicant to address the requirement for a needs analysis with the new application. Section 59.7.3.1.E.5 requires the Hearing Examiner finds from a preponderance of evidence of record that a need exists for the proposed gas station use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood. neighborhood, considering the present availability of identical or similar uses to that neighborhood. The existing gas station on the Property has conducted a healthy business for more than fifty years. While the current gas station has only four pumps, in the past it operated with six pumps. The Applicant nonetheless conducted their own due diligence regarding the need for the six-pump gas station and commissioned IMST Corp. to prepare a market report (the "Report") for the

Property to assess demand/need. The Report is submitted as part of the Application and is based on a trade area encompassing a 1.5-mile radius from the Property. The Report assesses the traffic volumes and consumer activity within the trade area, taking into account eight competing gas stations with convenience stores. The Report finds that there is a need for a gas station with six pumps on the Property as proposed by the Applicant.

Please accept this memo as confirmation the previously reviewed Special Exception Major Modification (S847-B) is still valid for the new Conditional Use application (CU202415) for Cheng Property (Burtonsville Wawa), and that the Planning Board's recommendation of approval with conditions is still valid under the 2014 Zoning Ordinance. Feel free to reach out to me if you have any questions or concerns.

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