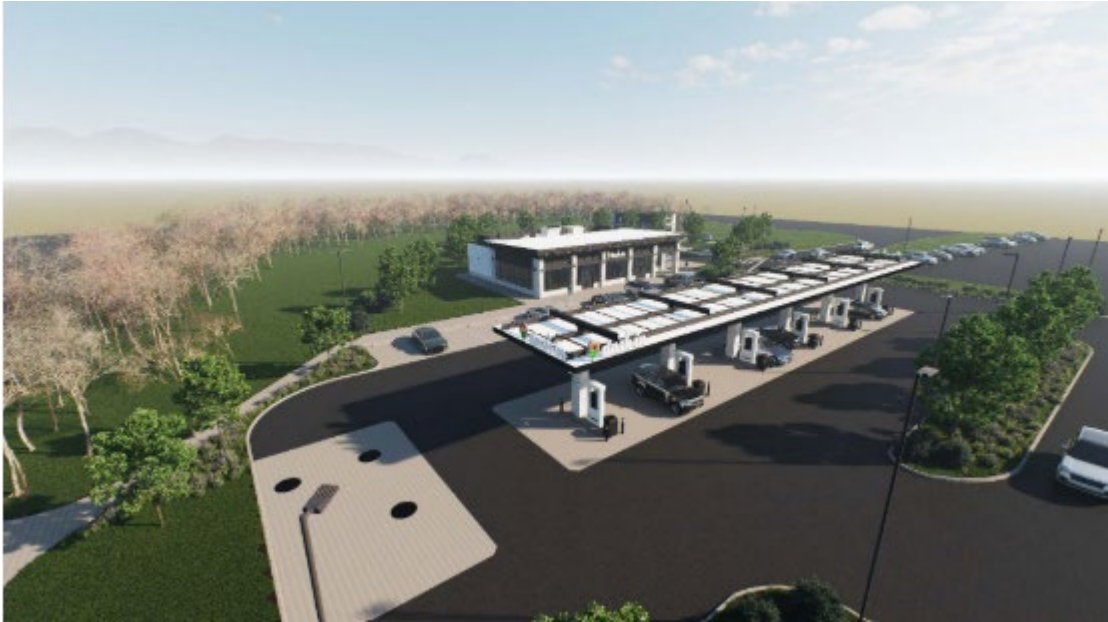


**15700 SHADY GROVE ROAD DASH-IN
CONDITIONAL USE NO. CU202604 AND
FINAL FOREST CONSERVATION PLAN NO. F20260360**



Description

Request for Conditional Use approval to construct a Filling Station and for approval of Forest Conservation Plan No. F20260360.

COMPLETED: 3/13/2026

PLANNING BOARD HEARING DATE: 3/26/2026

MCPB ITEM NO. 10

Planning Staff

MAB

Mark Beall, Planner IV, Upcounty, Mark.Beall@montgomeryplanning.org, (301)495-1330

NYJ

Nkosi Yearwood, Supervisor, Upcounty, Nkosi.Yearwood@montgomeryplanning.org, (301)495-1332

PB

Patrick Butler, Chief, Upcounty, Patrick.Butler@montgomeryplanning.org, (301)495-4561

LOCATION/ADDRESS

15700 Shady Grove Road

MASTER PLAN

2024 *Great Seneca Plan* (Master Plan)

ZONE

GR- 1.5, H- 45'

PROPERTY SIZE

1.995 Acres

APPLICANT

Dash In Food Stores, Inc.

ACCEPTANCE DATE

December 17, 2025

REVIEW BASIS

Chapters 59 & 22A

HEARING EXAMINER PUBLIC HEARING

April 16, 2026

Summary:

- Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner for a hearing scheduled for April 16, 2026.
- Staff recommends approval of the associated Forest Conservation Plan No. F20260360 with conditions.
- The Subject Site has an existing vacant Red Lobster restaurant. The Proposal would allow for a Filling Station with an associated convenience store and car wash.
- Staff has not received any public correspondence as of the date of this Staff Report.

TABLE OF CONTENTS

SECTION 1: EXECUTIVE SUMMARY.....	3
SECTION 1: RECOMMENDATIONS AND CONDITIONS	3
CONDITIONAL USE No. CU202604	3
FOREST CONSERVATION PLAN F20260360.....	5
SECTION 2: NEIGHBORHOOD & SITE DESCRIPTION	6
VICINITY/NEIGHBORHOOD	6
PROPERTY DESCRIPTION.....	8
SECTION 3: PROJECT DESCRIPTION	9
PREVIOUS APPROVALS	9
PROPOSAL	9
SECTION 4: COMMUNITY CORRESPONDENCE	12
SECTION 5: FINDINGS.....	13
CONDITIONAL USE No. CU202604	13
PRELIMINARY FOREST CONSERVATION PLAN No. F20260360.....	33
SECTION 6: CONCLUSION	36
ATTACHMENTS	36

SECTION 1: EXECUTIVE SUMMARY

The Applicant is proposing to construct a new Filling Station with an accessory car wash, and an associated convenience store/retail establishment. The Filling Station use requires Conditional Use approval per Chapter 59 of the County Code, the Zoning Ordinance, and may include an accessory car wash. The convenience store is considered Retail use and is permitted in the GR zone. The Property has a vacant restaurant that was approved previously under Site Plan No. 819760190, and the Applicant will need to withdraw that Site Plan after the Subject Application is approved.

SECTION 1: RECOMMENDATIONS AND CONDITIONS

CONDITIONAL USE NO. CU202604

Staff recommends approval of Conditional Use No. CU202604, for a Filling Station, subject to the following conditions:

1. The use is limited to Filling Station use, with accessory automatic car wash (one bay) and a convenience store.
2. Maximum of 6 multiple-product (fuel) dispensers (12 fueling positions).
3. Maximum of one single-bay automatic car wash.
4. Construct a convenience store as an accessory use to the Filling Station.
5. The Filling Station must dispense less than 3.6 million gallons of fuel per year.
5. The Applicant must request to vacate Site Plan No. 819760190 prior to building permit issuance for the Conditional Use.
6. Except for issuance of demolition permits and related activities, prior to issuance of any building permit or sediment control permit, whichever comes first, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, with the following provisions.
 - a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
 - b) The cost estimate must include, but is not limited to, all onsite landscaping, lighting, sidewalks, paths, picnic tables, benches, etc.
 - c) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
 - d) The bond or surety for each item shall be clearly described within the Surety and Maintenance Agreement, including all relevant conditions.
7. The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Montgomery County Department of Permitting Services (DPS) responsible for Conditional Use

Plan conformance and compliance. The pre-con must occur before any site development work commences and before any work covered by the surety and maintenance agreement. The Applicant, along with its representatives, must attend the pre-con with DPS Staff. A copy of the approved Conditional Use Plan, along with any subsequent amendments, is required to be on-site at all times during construction.

8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 26, 2026, and incorporates them as conditions of the Conditional Use Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT, if the amendment does not conflict with any other conditions of the Conditional Use Plan approval.
9. Before the issuance of the first above-grade building permit or right-of-way permit (whichever comes first) for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
10. Before the issuance of the first above-grade building permit or right-of-way permit (whichever comes first), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a ten-foot (10 ft) wide sidepath along the Property frontage on Shady Grove Road.
11. Before the release of any above-ground building permit, the Applicant will record a ten-foot (10 ft) wide Public Improvement Easement (PIE) and Public Access Easement (PAE) along the Property frontage on Shady Grove Road by deed.
12. Before the release of any above-ground building permit, the following off-site improvements must be permitted and bonded (to ensure construction) pursuant to MCDOT and/or MDOT SHA requirements:
 - a. Installation of seven (7) off-site pedestrian lights attached to existing power poles along Shady Grove Road. The preliminary estimated cost, including utilities, MOT, engineering, and contingencies, is estimated at approximately \$99,750. These lights will be installed up to the Proportionality Guide Limit amount of \$124,695, and proof of expenses will be provided to MCDOT.
 - b. If, at the time the Applicant submits for permits to construct one of the required LATR Off-Site Improvements, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has changed and no longer requires or suggests the improvement, the Applicant can propose an alternative LATR Off-Site Improvement from the priority list of improvements provided in the subject Staff Report that is of similar value, and this alternative improvement, if reviewed and approved by Planning Staff.

FOREST CONSERVATION PLAN F20260360

Staff recommends approval of Final Forest Conservation Plan No. F20260360 (“FFCP”) for the construction of Shady Grove Dash-In pursuant to Condition Use No. CU202604 (the “development Application”). All site development elements shown on the latest electronic version of the Final Forest Conservation Plan No. F20260360, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions:

1. Before the start of any demolition, clearing, grading, or construction for this development Application, whichever comes first, the Applicant must:
 - a. Record an M-NCPPC-approved Certificate of Compliance in an M-NCPPC-approved off-site forest bank within the Rock Creek watershed to satisfy the afforestation requirement for a total of 3.33 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Rock Creek watershed. Credits may only be debited from forest mitigation banks that protect all or part of an existing forest to meet up to 50% of the afforestation requirement. If mitigation credits are not available at any bank, the Applicant may meet the afforestation requirement by making a fee-in-lieu payment to M-NCPPC.
 - b. Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all mitigation tree plantings, including Protected Tree mitigation plantings, credited toward meeting the requirements of the FCP.
 - c. Submit a cost estimate for the Protected Tree mitigation plantings. This cost estimate must be reviewed and approved by the M-NCPPC Planning Department Inspection Staff prior to the submission of financial surety to determine the amount of the financial surety.
 - d. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the mitigation trees and maintenance credited toward meeting the requirements of the FCP.
2. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling 9 caliper inches, as shown on the approved FCP. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

3. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff, per Section 22A.00.01.10 of the Code of Montgomery County Regulations (“COMCOR”), Forest Conservation Regulations.
4. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
5. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

SECTION 2: NEIGHBORHOOD & SITE DESCRIPTION

VICINITY/NEIGHBORHOOD

The Subject Property is located at 15700 Shady Grove Road, Gaithersburg. It is located within the 2024 *Great Seneca Plan* (Master Plan) area.

To determine the compatibility of the proposed use with the surrounding area, it is necessary to delineate the “surrounding neighborhood,” which is the area that will be most directly impacted by the proposed use. Once delineated, Staff must assess the character of the neighborhood and determine whether the impacts of the proposed conditional use will adversely affect that character.

Staff defines the surrounding neighborhood as the abutting, confronting, and adjoining properties (Figure 1). The properties to the immediate north are zoned Industrial Moderate (IM) and are improved with a filling station and a bowling alley. The property to the west is within the City of Gaithersburg and is an automobile sales use. The properties to the east are within the City of Rockville and consist of retail and multi-family residential uses. The area to the south of the Property is the Maryland State Highway Administration (MDSHA) right-of-way for I-270 and the associated on-ramp (Figure 1).



Figure 1: Vicinity Map with Staff-defined neighborhood

Staff identified two (2) existing, approved special exceptions within the defined neighborhood, both on the same property located at 15730 Shady Grove Road:

- No. CBA2436 at 15730 Shady Grove Road for Filling Station Use
- No. S864 at 15730 Shady Grove Road for Truck Rental and Storage

PROPERTY DESCRIPTION

The Property is located at 15700 Shady Grove Road at the northwest intersection of Shady Grove Road and I-270 (Figure 2). The Property is a recorded parcel identified as Parcel 7-C on Plat No. 11309, recorded on August 20, 1976. The Property is zoned GR-1.5, H-45' and consists of 1.995 acres (86,902 square feet) with an existing vacant Red Lobster restaurant and associated parking lot. Currently, the Property is accessed via a shared driveway from Shady Grove Road. The access easement for the shared driveway was recorded on Plat # 11309 on August 20, 1976. The Property slopes slightly from front to back.

The Property does not contain any streams or stream buffers, wetlands or wetland buffers, 100-year floodplains, hydraulically-adjacent steep slopes, or known occurrences of Rare, Threatened, and Endangered species. The Site drains to the Muddy Branch watershed. Upper Muddy Branch is a State Use Class I,P stream. The Site is not within a Special Protection Area.



Figure 2 – Subject Property

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

The Property has a vacant restaurant that was previously approved under Site Plan No. 819760190, and the Applicant will need to withdraw that Site Plan.

PROPOSAL

The Applicant proposes to demolish the existing Red Lobster restaurant and construct a new Filling Station, convenience store, and car wash with an associated parking lot. The Filling Station will contain six (6) multiple-product (fuel) dispensers (12 fueling positions) and two (2) EV charging stations. The Applicant will construct a canopy over the fuel dispensers. The car wash will be a single-bay, automatic car wash at the rear of the Property, as an accessory use to the Filling Station (Figure 3). The proposed convenience store is a permitted Retail/Service Establishment under 5,000 square feet (approximately 4,800 square feet). The associated parking lot will consist of 35 parking spaces including two (2) spaces for the EV charging stations and three (3) spaces for the car wash vacuums. The queuing area for the car wash accommodates six (6) vehicles. The Applicant is providing an outdoor seating area with picnic benches behind the convenience store for customers. The site frontage will be upgraded with a sidepath and new striped crosswalk, which will connect to the internal sidewalks that provide safe pedestrian access as shown in Figure 6.



Figure 3 – Conditional Use Plan

BUILDING DESIGN

The proposed convenience store is centrally located on the site to serve as the organizing element for circulation and customer activity. The convenience store will feature large storefront glazing, an enhanced architectural facade with painted masonry, dark metal accents, and coordinated canopy elements (Figure 4).

The car wash is strategically located at the western edge of the Property to internalize stacking and queuing and to ensure that vehicles do not back up into drive aisles or shared access points (Figure 5).



Figure 4: Convenience store- Front elevation



Figure 5: Car wash- Side elevation

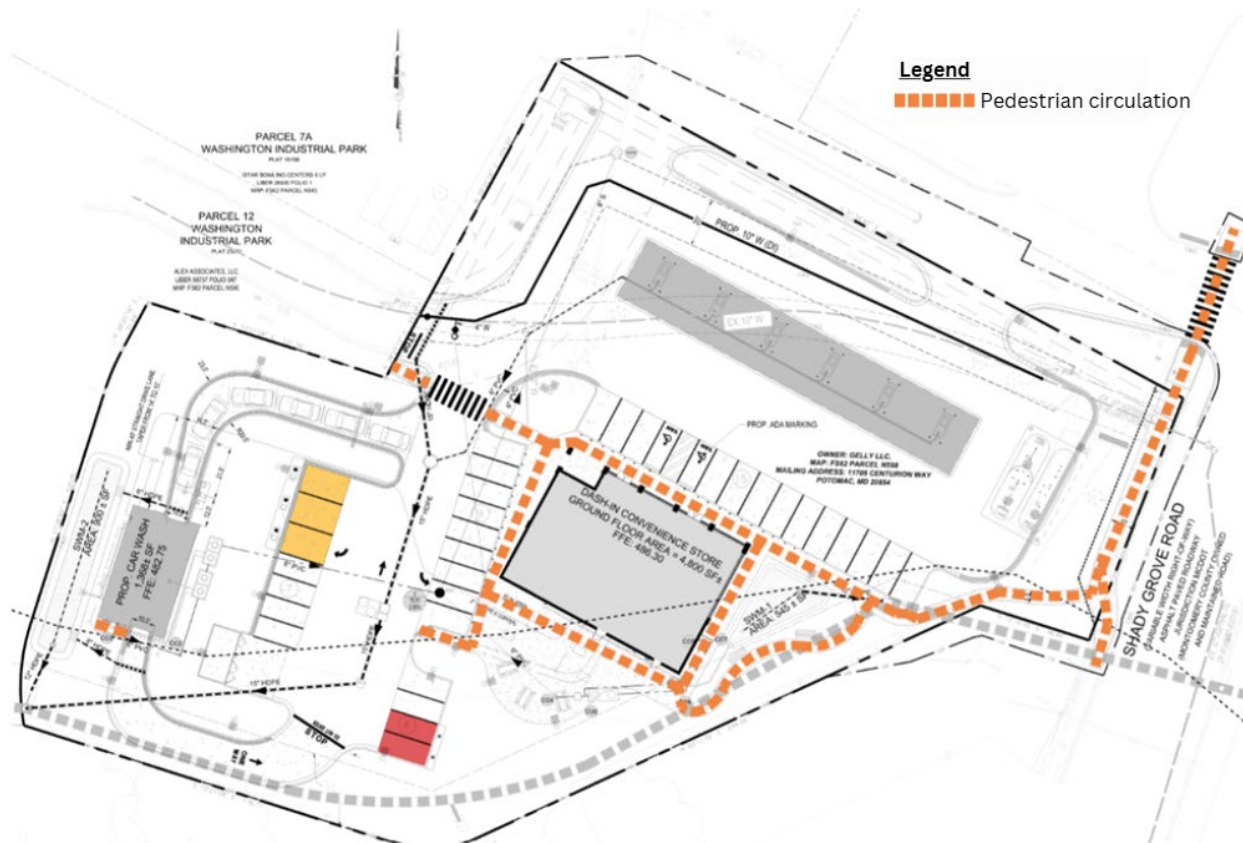


Figure 6 – Pedestrian Circulation

ENVIRONMENT

The Subject Property is in the Muddy Branch watershed, a use Class I,P watershed. The site contains one protected tree, no forest, streams, wetlands, or their associated buffers. The Applicant proposes to redevelop the Property into a filling station with car wash and convenience store. The Applicant has submitted Forest Conservation Plan No. F20260360. The proposal meets Chapter 22A (Forest Conservation Law), the Environmental Guidelines, and requires the planting of mitigation trees. The Application also provides updated stormwater management and 50% shade cover of the surface parking lot.

CORRESPONDENCE

All noticing requirements have been met. As of the date of this Staff Report, Staff has not received any letters or emails correspondence from the community.

SECTION 5: FINDINGS

CONDITIONAL USE NO. CU202604

- 1. Per Section 59-3.5.13.C.2, a Filling Station may be allowed as a Conditional Use in the GR zone if permitted by the Hearing Examiner under Section 59-7.3.1, Conditional use and the following specific use standards:**

A Filling Station is defined as a facility to dispense motor vehicle fuels or otherwise provide energy to a consumer's vehicle by any technology, and may include an accessory car wash limited to two bays.

a. Access to the site from a street with a residential classification is prohibited if:

- i. it is the only access to the Filling Station, or**
- ii. it is the primary entrance to a Filling Station with more than 1 entrance.**

The Property does not have frontage or access on any street with a residential classification. The proposed development will utilize the existing shared access points, and access is provided solely via Shady Grove Road. The primary and secondary entrances are located on this commercial roadway, and no residential streets are used to access the site. Accordingly, the proposed development fully satisfies this standard.

b. Site lighting is a maximum of 0.1 footcandles at the lot line when the subject lot abuts a Residential zone. Site lighting is a maximum of 0.5 footcandles at the lot line when the subject lot abuts all other zones.

The Property does not abut any Residential zones. Adjacent properties include an automobile sales, a Carvana facility to the west in the City of Gaithersburg, a bowling alley and gas station to the north in the Industrial Moderate (IM) zone, and the I-270 right-of-way to the south. The photometrics plan submitted with this Conditional Use demonstrates that site lighting does not exceed 0.5 footcandles at any lot line, consistent with this requirement. Lighting will be fully shielded and downcast to avoid glare or spillover impacts to adjacent properties.

c. Any Filling Station designed to dispense a minimum of 3.6 million gallons per year must locate all fuel dispensers at least 500 feet from the lot line of any land with a dwelling unit; public or private school; park; playground; day care center; any outdoor use categorized as a Civic and Institutional use or a Recreation and Entertainment use; or any wetland, stream, river, flood plain, or environmentally sensitive area and must locate all underground storage tanks at least 500 feet from any wetland, stream, river, flood plain, or environmentally sensitive area.

As this proposed Filling Station will dispense less than 3.6 million gallons of fuel per year, therefore, this provision does not apply.

d. If a dwelling unit; public or private school; park; playground; day care center; any outdoor use categorized as a Civic and Institutional use or a Recreation and Entertainment use; or any wetland, stream, river, flood plain, or environmentally sensitive area is constructed or established within 500 feet of a fuel dispenser or an underground storage tank at a Filling Station that dispenses a minimum of 3.6 million gallons per year after the Filling Station's conditional use approval, the Filling Station is not a nonconforming use under Section [7.7.2](#) but must maintain the 500-foot setback that existed at the time of the conditional use approval.

This proposed Filling Station will dispense less than 3.6 million gallons of fuel per year; therefore, this section does not apply.

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

No product displays, parked vehicles, or other obstructions will impede visibility at intersections or driveway entrances. Clear sightlines are maintained through strategic landscape placement, signage setbacks, and open view corridors at both driveways. The project design fully satisfies this visibility and safety requirement.

f. When such use occupies a corner lot, the driveways must be located a minimum of 20 feet from the intersection of the rights-of-way and must not exceed 30 feet in width.

The Property does not occupy a corner lot, as it has frontage on only one public street (Shady Grove Road). Therefore, this requirement is not applicable.

g. Each gasoline pump or other service appliance must be located on the lot a minimum of 10 feet behind the setback line; and all service, storage, or similar activities in connection with the use must be conducted entirely within the building, except for car-share space.

All fuel dispensers are more than 10 feet behind the front, side and rear setback lines, ensuring compliance with the zoning standard. The fuel dispensers are 65 feet from the front lot line, 45 feet from the right lot line and 75 feet from the rear lot line. All service, storage, and retail functions—including back-of-house operations—are entirely enclosed within the proposed Dash In building. Consistent with this requirement, there are no outdoor service activities. There is no minimum front setback requirement in the GR zone for this use.

h. There must be a minimum of 20 feet between driveways on each street, and each driveway must be perpendicular to the curb or street line. The Hearing Examiner may waive

the perpendicular driveway requirement if the Department of Transportation deems the alternative safe.

The Project proposes two (2) vehicular access points along a private commercial driveway that connect to westbound Shady Grove Road in a right-in/right-out only configuration. Shady Grove Road is median-divided at this location. A shared full-movement connection with the adjacent Carvana parcel to the west, and an exit-only connection to the private driveway located more than 20 feet away. Both are perpendicular to the private driveway and will meet applicable design guidelines. The minimum separation and orientation requirements are therefore satisfied.

i. Vehicle parking that overhangs the public right-of-way is prohibited.

All vehicle parking areas are designed to retain vehicles entirely within the Property boundaries, with appropriate wheel stops or curbs to prevent overhang into the public right-of-way. No parking will encroach on public space.

j. If the Filling Station facility includes a car wash, it must:

i. provide vehicle stacking space equivalent to 5 times the vehicle capacity of the automatic car wash and 3 times the vehicle capacity of the manual car wash bays; and

ii. demonstrate that the vehicles using the car wash will not queue off-site.

The Applicant will provide six (6) queuing spaces for the automatic single-bay car wash.

k. The Hearing Examiner must find there is adequate parking for all accessory uses.

The Code requires a minimum of 19 and a maximum of 33 spaces for the convenience store and Filling Station. The site provides 32 parking spaces, including ADA-accessible spaces. There are 32 parking spaces, including two (2) EV charging spaces plus three (3) vacuum spaces for the car wash. Per Section 59.6.2.4, no bicycle parking is required for car washes and filling stations, or for retail/service establishments with less than 10,000 square feet of Gross Floor Area (GFA).

2. Per Section 59.7.3.1.E., to approve a conditional use application, the Hearing Examiner must find that the proposed development:

a) satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.

The Property has a vacant restaurant that was previously approved under Site Plan No.

819760190, and the Applicant will need to withdraw the prior Site Plan approval. The Property is a recorded lot. There are no previous conditions on a Preliminary Plan that need to be changed or amended.

b) satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;

i. Use Standards

A Filling Station is allowed as a conditional use in the GR-1.5, H-45' Zone. Section 59-3.5.13.C provides the required specific use standards which are satisfied as discussed above.

ii. Development Standards

Table 1: Development and Parking Standards (GR-1.5, H-45') Standard Method

Development Standards Section 59-4.6.3.C	Permitted/ Required	Proposed
Open Space	10%	12% (10,428 sq. ft.)
Minimum Lot Area	n/a	1.995 acres (86,902 sq. ft.)
Minimum Lot Width at Front Building Line	n/a	240 ft.
Minimum Lot Width at Front Lot Line	n/a	106 ft.
Maximum Density	1.5 FAR (130,443 SF)	0.09 FAR (6,168 SF)
Maximum Lot Coverage	n/a	n/a
Minimum Front Setback	0 ft.	Store- 136 ft. Gas Canopy- 73 ft.
Minimum Side Setback	0 ft.	Store- 25 ft. Gas Canopy- 45 ft. Car Wash- 35 ft.
Minimum Rear Setback	0 ft.	Store- 176 ft. Gas Canopy- 239 ft. Car Wash- 8 ft.
Maximum Height	45 ft.	25 ft. max.
Accessory Structure Setbacks		
Parking Setbacks		

Development Standards Section 59-4.6.3.C	Permitted/ Required	Proposed
Vehicle Parking Requirement (Section 59.6.2.4.B)	Store- 6 spaces/1,000 SF= 29 spaces Car Wash- 2.5 spaces/ 1,000 SF= 4 spaces	32 spaces
Queuing Spaces (Section 59.6.2.7.A)	5 queuing spaces for the car wash	6 queuing spaces

iii. **General Requirements of Article 59-6**

(1) Access- 59-6.1

Access to the Property will utilize an existing shared driveway entrance on Shady Grove Road. The driveway is wide enough to accept turning movements of fuel delivery trucks into the site from Shady Grove Road.

(2) Parking, Queuing, and Loading-59-6.2

The Applicant proposes to provide a total of 32 parking spaces (35 parking spaces when including 3 vacuum spaces), including two electric vehicle (EV) charging spaces and two handicapped parking spaces. In addition to these 32 spaces, the Applicant is also proposing three designated spaces for vacuum stations. Parking calculations per Section 59-6.2 are provided in Table 2 below. The proposed car wash is a single-bay automatic car wash. The required queuing for an automatic car is five times the capacity of the car wash. The proposed car wash would require five (5) queuing spaces, whereas the Applicant proposes six (6) queuing spaces.

Table 2: Parking Requirements

Use	Quantity	Parking Requirement (min)	Parking Requirement (max)	Min Parking Required	Max Parking Allowed	Total Min Parking Required	Total Max Parking Allowed	Parking Provided
Car Wash Filling Station	1,368 SF	1 space per 1,000 SF of GFA	2.5 space per 1,000 SF of GFA	2 spaces	4 spaces	19 spaces	33 spaces	32 spaces
Retail/Service Establishment	4,800 SF	3.5 space per 1,000 SF of GFA	6 space per 1,000 SF of GFA	17 spaces	29 spaces			

The Applicant is proposing to provide parking between the minimum and maximum required, thus, parking is adequate for the proposed site. Per Section 59-6.2.8, there is no loading requirement for retail spaces under 15,000 square feet of GFA.

(3) Open Space and Recreation-59-6.3

The Applicant is providing 12% Amenity Open Space,-which exceeds the 10% required with the proposed Filling Station use. The 10,428 square foot open area will include shaded seating areas and picnic tables for customers on the south side of the convenience store building. Amenity Open Space varies between 28 feet wide to 8- feet wide and must have a minimum width of 15 feet and provide space for pedestrian circulation, landscaping, seating or recreation.

(4) Landscaping and Outdoor Lighting- 59-6.4

None of the provisions of Section 59.6.4.4 apply to commercial uses except Section 59-6.4.4.E., which does not apply because none of the abutting properties are improved with a detached house building type. The Applicant submitted a lighting plan with lighting specifications for the conditional use. The proposed lighting is consistent with other commercial uses in the vicinity.

(5) Screening-59-6.5

Screening is required only if the Property abuts another property in the Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or residential use. As the Property does not abut any properties within those zones, this section does not apply.

(6) Outdoor Display and Storage- 59-6.6

The Applicant is not proposing any outdoor storage or displays.

(7) Signage-59-6.7

The Applicant is proposing to use the existing pylon sign for the Dash In Filling Station and convenience store. The Applicant will be required to meet the signage requirements in Chapter 59 and obtain a sign permit from the Department of Permitting Services.

c) *substantially conforms with the recommendations of the applicable master plan;*

The Property is located within the Washingtonian Light Industrial Park focus area of the 2024 *Great Seneca Plan*, which provides targeted recommendations to guide

reinvestment, urban design, sustainability, and transportation improvements in this transitional corridor. The Plan envisions the Washingtonian Industrial Park as a vital commercial node that will continue to serve light industrial, service, and automotive uses, but with enhanced environmental performance, greater design quality, and stronger pedestrian and multimodal access.

The proposed filling station supports these goals and is fully consistent with the vision for this focus area. The proposed development replaces a long-vacant Red Lobster restaurant—a functionally obsolete structure. There is currently very little green space and no existing Stormwater Management (SWM) facility on site. The existing site condition provides approximately 16% green cover. As part of the overall redevelopment, the Project increases the green cover from 16% to 36%, a 125% increase. Additionally, the Project proposes a decrease in total imperviousness, with existing impervious surface area reducing from approximately 1.59 acres to approximately 1.35 acres.

The Project will improve the Property with a new, modern filling station that combines traditional fuel, EV charging, a convenience store, and an automatic car wash. This type of hybrid infrastructure responds directly to the Master Plan’s emphasis on upgrading legacy commercial sites and accommodating evolving transportation needs. The project introduces a new use that is more efficient, sustainable, and better aligned with the County’s policy goals, representing a significant reinvestment in a corridor the Plan identifies as a priority for transformation.

The Project also advances the Plan’s urban design and streetscape objectives for the Washingtonian Light Industrial Park. The Plan encourages improvements to the public realm and calls for redevelopment that supports a more attractive, cohesive, and pedestrian-friendly environment. The Project responds to this directive by incorporating high-quality architectural finishes, an organized site layout with defined pedestrian connections, and a coordinated streetscape along Shady Grove Road.

The Master Plan sets natural environment goals for green infrastructure, low-impact development, and climate responsiveness. The proposed redevelopment includes a variety of features that support these goals. Specifically, since submitting a Concept Plan for review by Technical Staff, the Applicant has reworked plans to include a smaller car wash footprint. The result is that the development is now providing 36% green cover, thereby meeting and exceeding the Master Plan’s 35% green cover recommendation. The redevelopment also includes on-site bioretention and 50% parking lot tree canopy—which exceeds the 25% Code parking lot tree canopy requirement and meets the 50% Master Plan recommended parking lot tree canopy

coverage. In addition to satisfying these Master Plan goals, the Applicant has proposed additional meaningful mitigation measures, such as native landscaping, energy-efficient buildings, hydrocarbon-reducing storm drainage infrastructure, and minimal heat-absorbing parking surfaces. The addition of EV charging stations further aligns the Project with the County's broader strategy to transition toward clean transportation infrastructure.

d) *is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

Overall, the proposed redevelopment transforms an underutilized, vacant commercial parcel into an active commercial service node that introduces new amenities, enhances on-site environmental conditions, and delivers a contemporary fueling and convenience destination along a major transportation corridor.

e) *will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

The Property is not near a Residential Detached zone, such as R-60 and R-90. This Application will only be the second property with a Conditional Use/Special Exception in the development's vicinity. In addition, the conditional use substantially conforms to the Master Plan's recommendations, as discussed above.

f) *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. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

- i. *if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or***
- ii. *if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, and***

A Preliminary Plan of Subdivision is not required; therefore, findings are required to show that there are adequate public services and facilities to serve the proposed use as described below.

(1) Transportation

Master-Planned Roadways and Bikeway

The 2018 *Bicycle Master Plan* calls for a sidepath on Shady Grove Road. The Applicant will construct a ten-foot-wide (10 ft) sidepath along the Site 's frontage, which will then tie back into the existing sidewalk. The Master Plan of Highways and Transitways classifies Shady Grove Road as a Town Center Boulevard with 140 feet of right-of-way (ROW). There is currently 130 feet of ROW and a thirteen foot (13 ft) easement on the south side of Shady Grove Road; MCDOT and Planning staff concluded that the installation of the sidepath could be placed in a PIE and PAE since the future pedestrian improvements to Shady Grove Road along this site's frontage will occur in the ROW that is already dedicated.

Pedestrian Facilities

The ten-foot (10 ft) sidepath that the Applicant will construct will accommodate bicycles and pedestrians. The Applicant will also add a striped crosswalk across the existing shared driveway at the intersection with Shady Grove Road and the curb radii at this intersection will be reduced. The east side radius will be reduced from 20 feet existing to 15 feet proposed, and the west side radius will be reduced from 25 feet existing to 15 feet proposed. The reduced curb radii will shorten the crossing distance and slow turning vehicles, thereby increasing pedestrian safety. The sidepath will connect to the existing sidewalk along Shady Grove Road, as well as to a sidewalk leading into the site for internal pedestrian circulation. This will provide adequate and safe pedestrian access to the site.

Transit Service

There are no transit stops along the site frontage.

Parking and Drop-Off/Pick-Up

As discussed earlier in the findings, the provided parking is between the minimum and maximum required and is thus adequate for the site.

Local Area Transportation Review

As a proposed development of a Filling Station, with accessory car wash, and convenience market, the Project is estimated to generate 65 total peak-hour vehicle trips in the morning and 65 in the evening. After accounting for peak hour vehicle trips currently associated with the existing high-turnover sit-down restaurant on the Site, (63 morning peak hour vehicle trips and 34 evening peak hour vehicle trips), the Project is estimated to generate two net new morning peak hour vehicle trips and 31 net new evening peak hour vehicle trips. As a result of the estimated transportation impact, the Project submitted a Transportation Impact Study with the Conditional Use to satisfy the Local Area Transportation Review (LATR).

Table 3: Trip Generation for the Proposed Use

Use	Quantity	AM Peak Hour Motor Vehicle Trips after Adjustments	AM Peak Hour Motor Vehicle Trips after Adjustments	Daily Motor Vehicle Trips after Adjustments
Existing	High-Turnover (Sit Down) Restaurant 7,473 Sq.Ft. (LUC 932)	63	34	552
Proposed	Convenience Market (4,800 Sq.Ft) with Gas Pumps – VFP 9-15 (LUC 945) and Automated Car Wash (1 tunnel) Accessory to LUC 945*	65	65	715
	Net Change	2	31	163

*A special study was conducted for the trip generation of the car wash, as detailed in the LATR study

Travel Mode Adequacy Test

The 2024-2028 *Growth and Infrastructure Policy* requires comprehensive review of the transportation network, including evaluation of adequacy for motor vehicles and non-motor vehicles (walking, biking, transit). Comprehensive transportation adequacy analysis is required for any project estimated to generate 30 or more net new peak-hour vehicle trips.

Motor Vehicle System Analysis

With 31 net new vehicle trips estimated during the PM peak period, the Applicant was required to study one tier of intersections to assess motor vehicle adequacy. Following scoping coordination with Planning Staff, MCDOT, and SHA, the Applicant evaluated a total of five intersections, including the site entrance:

1. Shady Grove Rd and Choke Cherry Rd
2. Shady Grove Rd and Site Driveway
3. Shady Grove Rd and I-270 NB Ramps
4. Shady Grove Rd and I-270 SB Ramps
5. Shady Grove Rd and Corporate Blvd

For intersections within Orange Transportation Policy Areas, the Highway Capacity Manual (HCM) delay-based level of service standard applies; the specific standard for the Derwood policy area is an overall intersection delay at or below 59 seconds per vehicle. A map of the intersections studied is shown in Figure 7.

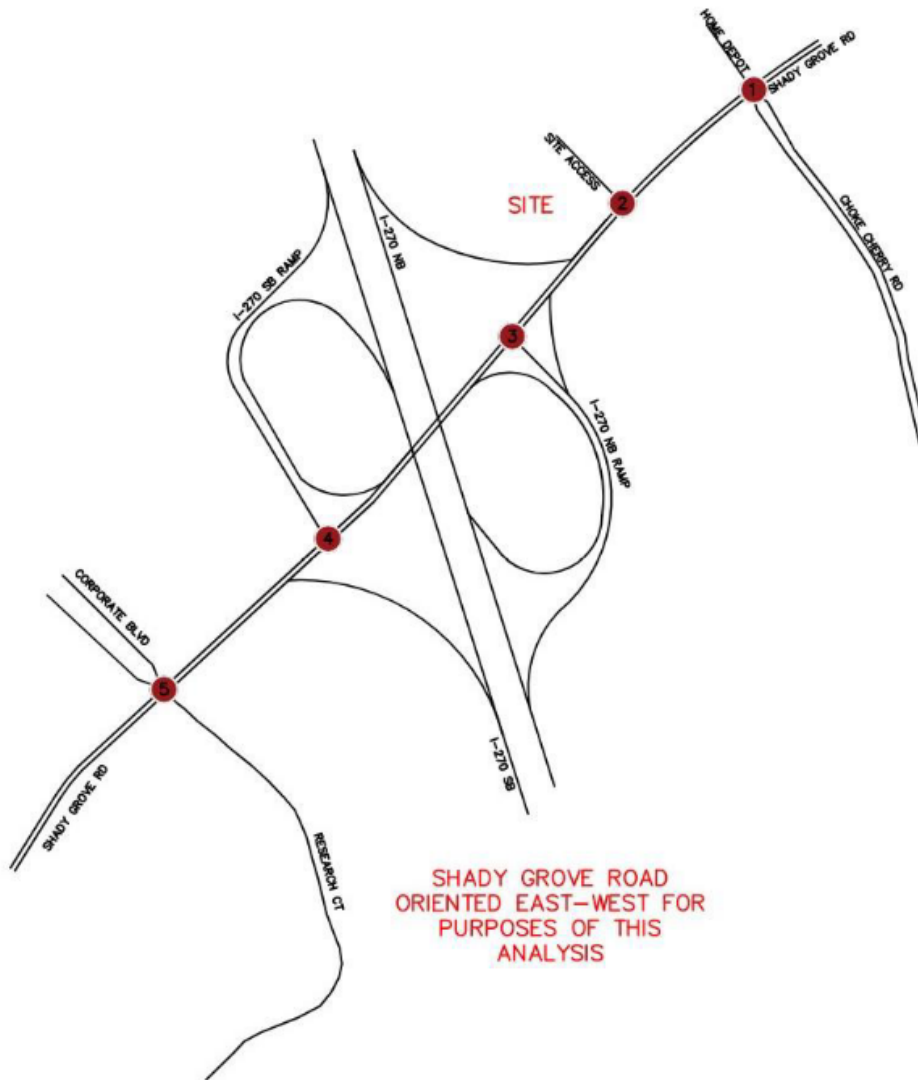


Figure 7: Intersection Analysis Map

Table 3: Intersection Capacity Highway Capacity Manual Methodology

Intersection	Delay Standard	AM Existing Conditions	PM Existing Conditions	AM Background Conditions	PM Background Conditions	AM Future Conditions	PM Future Conditions
Shady Grove Rd / Choke Cherry Rd	59 sec/vehicle delay	31.4	50.8	32.3	62.3	33.2	74.8
Shady Grove Rd / Site Driveway	59 sec/vehicle delay	0.2	0.2	0.1	0.2	0.5	0.5
Shady Grove Rd / I-270 NB Ramp	59 sec/vehicle delay	15.6	5.9	15	5.7	15.1	5.7
Shady Grove Rd / I-270 SB Ramp	59 sec/vehicle delay	28.9	14.4	28.5	13.9	28.6	13.8
Shady Grove Rd / Corporate Blvd	59 sec/vehicle delay	20.5	19.9	21.5	21.4	21.6	21.6

Source: Transportation Impact Study by Kimley Horn submitted dated November 2025, revised February 2026, as modified by staff.

In compliance with the 2025 *LATR Guidelines*, the Applicant studied three scenarios: existing, background, and total future. The existing scenario reflects analysis based on recent traffic counts collected at the intersections. The background condition added the traffic volumes estimated to be generated by four approved but unbuilt developments in the vicinity of the site including, Shady Grove Innovation District, Park Plaza (Phase 1), 16200 Frederick Road King Buick Redevelopment, and Redland Tech Center. The total future scenario layers the traffic volumes estimated to be generated by the Subject Application on top of the background and existing scenarios. Based on this analysis, it was determined that all but one study intersection is projected to operate below the congestion standard thresholds. The Shady Grove Road and Choke Cherry Road intersection was the intersection found to operate above the HCM threshold in the PM background and future conditions; however, with updated network offset, the intersection is returned to adequate conditions. This demonstrates that there is adequate capacity available at the intersection and no physical improvements are required. Updating the PM network offset is outside of the Applicant’s control and it is recommended that MCDOT updates the signal timings.

Non-motor Vehicle Analysis

Adequacy Standards

- **Bus Transit Adequacy** is defined as providing ADA-accessible bus shelters and amenities at bus stops located within 500 feet of the Property. Mitigations for identified deficiencies are determined in coordination with MCDOT and Planning Staff. This study found that both bus stops within the study area have shelters with Real Time Information displays.
- **Pedestrian Level of Comfort Adequacy** was evaluated within 250 feet of the Property. Adequacy is defined as providing a Pedestrian Level of Comfort (PLOC) greater than 2 (Somewhat Comfortable). The study found many sections to be considered undesirable, but the Applicant will improve pedestrian access across the site frontage by installing a ten-foot (10 ft) wide sidepath.
- **ADA Compliance Adequacy** was evaluated within 125 feet of the Property. Adequacy is defined as meeting the current Americans with Disabilities Act (ADA) standards. One ADA ramp within the study area was found to be deficient and will be replaced by the Applicant as a part of the required frontage improvements.
- **Illuminance Adequacy** is defined as meeting the MCDOT streetlight and illuminance standards. The Applicant must perform photometric evaluations within 250 feet of the Property and identify deficiencies. Mitigations for identified deficiencies are determined in coordination with MCDOT and Planning Staff. The study found four power poles with lights that illuminate the roadway, but do not light the pedestrian facilities and five power poles that do not have any installed lighting.
- **Bicycle System Adequacy** was evaluated by analyzing bikeways within 400 feet of the Property. Adequacy is defined as providing a Level of Traffic Stress 2 (LTS-2) or lower. The study found biking conditions inadequate along Shady Grove Road, but a section along the site frontage will be improved with the installation of the ten-foot (10 ft) wide sidepath.

Under Chapter 4 of the 2025 *Local Area Transportation Review Guidelines* (LATR Proportionality Guide), the maximum cost of mitigation improvements the Applicant is required to construct or fund for this project is not to exceed \$124,695 (see calculation below).

$$\text{LATR Proportionality Guide Amount} = (\text{Net New Daily Motor Vehicle Trips}) \times (\text{LATR Proportionality Guide Rate})$$

$$\$124,695 = (163 \text{ trips}) \times (\$765)$$

For the Subject Conditional Use and accompanying convenience retail, the cost of construction and/or mitigation payments for mitigation projects is not to exceed

\$124,695. After evaluating the adequacy of each required transportation mode, the Applicant identified a comprehensive list of off-site deficiencies, and the mitigation improvements needed to address them. The table below identifies projects that could feasibly be constructed, as well as those that could not be feasibly constructed (due to unattainable right-of-way or would require changes to traffic operations outside the applicant’s control) and are addressed through mitigation payments. The list of deficiencies and mitigations is included in Table 4, and a map of the off-site lighting improvements is provided in Figure 7 below.

Table 4: 15700 Shady Grove Rd Dash In LATR Deficiencies and Mitigations

ID	Project Location	Project Description	Project Cost	Implementation
1	Shady Grove Rd north side, west of Site Frontage	Current: PLOC rating – 4, between 0’-2’ of pathway buffer width, 8’ wide sidewalk Mitigation: Install a new 10’ sidepath with an 8’ buffer	N/A - per LATR guidelines, non-motor vehicle adequacy mitigations are excluded for controlled major highways and freeways and their ramps	N/A
2	Shady Grove Rd north side, east of Site Frontage	Current: PLOC rating – 4, between 0’-2’ of pathway buffer width, 8’ wide sidewalk Mitigation: Install new a 10’ sidepath with an 8’ buffer	\$222,539.30 + ROW Acquisition (for 2 and 3 combined)	Excluded due to the Proportionality Guide Limit
3	Home Depot Driveway Crossing at Shady Grove Rd	Current: Unmarked Crosswalk with No Median Mitigation: Install Striped Crosswalk	\$222,539.30 + ROW Acquisition (for 2 and 3 combined)	Excluded due to the Proportionality Guide Limit
4	North and South Sides of Shady Grove Rd, 250’ west and east of site frontage	Current: Illuminance, inadequate lighting values for multiple categories at multiple locations Mitigation: Install pedestrian lighting	\$99,750 is the preliminary estimate	Improvements will be installed up to the proportionality guide limit of \$124,695
5	Shady Grove Rd north side, west of Site Frontage	Current: no bike facilities Mitigation: Install a new 10’ sidepath with an 8’ buffer	N/A - per LATR guidelines, non-motor vehicle adequacy mitigations are excluded for	N/A

			controlled major highways and freeways and their ramps	
6	Shady Grove Rd north side, east of Site Frontage	Current: no bike facilities Mitigation: Install new 10' sidepath with 8' buffer	\$222,539.30 + ROW Acquisition	Excluded due to the Proportionality Guide Limit
Total Proposed Off-Site Improvements (Preliminary Estimate)				\$99,750
				Proportionality Guide \$124,695



Figure 8 – Map of Off-site Lighting Mitigation

As conditioned, all off-site mitigation projects must be permitted, bonded for construction, and all mitigation payments must be paid before the issuance of the first above-grade building permit. Montgomery County Planning, MCDOT, and MDOT SHA staff reviewed the TIS and approved the mitigation project list. Therefore, the Applicant has satisfied the requirements of the LATR, and the public transportation facilities are adequate for the Site.

(2) Schools

The proposed uses are a Filling Station and convenience store and they do not have an effect on the schools.

Other Public Facilities

The Property is located within water and sewer categories W-1 and S-1 and is serviced by existing water and sewer. Water and sewer needs are expected to be met by the Washington Suburban Sanitary Commission (“WSSC”) through connection to the existing water and sewer lines. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy in effect at the time that the Application was submitted. The Applicant has obtained an approved Stormwater Management Concept Plan from the Department of Permitting Services (DPS) Water Resources Section. The Applicant has also received an approved Fire Department Access Plan from DPS.

g) will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;***
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or***
- iii. the health, safety, or welfare of neighboring residents, residents, visitors, or employees.***

This finding requires consideration of the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood. Section 59-1.4.2 of the Zoning Ordinance defines inherent adverse effects as “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.” Inherent adverse effects alone are not a sufficient basis for denial of a conditional use.

Non-inherent adverse effects are defined as “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the adverse effect causes “undue” harm to the surrounding neighborhood. When analyzing whether impacts are inherent or non-

inherent, Staff examines the size, scale, scope, light, noise, traffic, and environmental effects of the proposed use.

Staff identified the following physical and operational characteristics necessarily associated with (i.e., inherent to) a Filling Station, with accessory car wash:

- vehicle trips
- lighting
- vehicles fueling and fumes
- parking for a convenience store
- queuing for carwash

The Property is utilizing an existing shared entrance and rather than creating a new access point from Shady Grove Road. According to the submitted lighting plan, the proposed lighting will provide a minimal amount of light spilling beyond the property lines. Some areas are below 1.0 footcandle, while other areas abutting other commercial uses are slightly above that. The proposed Filling Station fuel pumps will be over 250 feet from the closest dwelling unit across Shady Grove Road. The parking spaces for the convenience store and car wash combined have a baseline minimum of 19 parking spaces and a maximum of 33 parking spaces. Parking is spread throughout the site to better serve both the convenience store and the car wash and its associated vacuums. The car wash is required to have a minimum of five queuing spaces, and the Applicant will provide six queuing spaces. These characteristics will not cause any adverse effects on the surrounding area.

Staff did not identify any non-inherent characteristics of the proposed use as the Property is within the GR zone.

Therefore, the proposed use will not cause undue harm to the neighborhood as a result of non-inherent adverse effects alone or the combination of inherent and non-inherent adverse effects.

- 3. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.**

As the Property is located in the GR zone, this section does not apply.

- 4. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and is not sufficient to require conditional use approval.**

The proposed Filling Station, along with the associated convenience store and car wash meets the requirements of the Zoning Ordinance and the development standards for the GR zone. The proposed use is compatible with the surrounding commercial properties.

- 5. *In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.***

The proposed use is a Filling Station, not an agricultural conditional use, and therefore, this section does not apply.

- 6. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:***

- a) *Filling Station;***
- b) *Light Vehicle Sales and Rental (Outdoor);***
- c) *Swimming Pool (Community); and***
- d) *the following Recreation and Entertainment Facility use: swimming pool, commercial.***

Polestar Analysis prepared a Needs Analysis, dated October 12, 2025, on behalf of the Applicant. The analysis (Attachment D) shows there is an unmet demand (“need”) of approximately 23 million gallons of gasoline per year, for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood.

Immediate Trade Area Supply – The 10 other gas stations identified within the trade area are not directly competitive with the Dash In, due to the size and locations of the stores and service bays. Those stations serve the residents of the trade area, as well as commuters passing through the area to employment and other destinations in Rockville and Gaithersburg. Only one gas station has a modern design with the greatest consumer demand, but its location is difficult to access, thereby limiting its potential. The closest stations are an old-format, “legacy” service station with an office/snack shop, and a traditional-scale 7-11 that is under renovation but well-placed in the King Farm community. Five of the stations are in close proximity to each other along Frederick Road (MD-355) and serve commuters and a market predominantly east of this trade area.

Current Performance – The Needs Assessment estimates that the total existing competitive supply pumps approximately 18 million gallons of gasoline per year. The

report notes that local consumer demand for gasoline within the trade area is shaped by other factors, including the arterial road network, commuters and travelers along the I-270 corridor and the availability of convenience services in a well-lit modern environment. According to Polestar, performance data and traffic generation models suggest that a modern convenience store will generate more customer traffic than the traditional and smaller gas stations.

Unmet Demand – Based on the performance indicators above of the two modern stations and the five other legacy service stations, Polestar estimates that there is unmet demand of approximately 23.4 million gallons per annum in this trade area. The impact on the existing Shell station next door is tempered by unmet demand, as well as other factors that drive sales, including location, brand, loyalty programs, accessibility, visibility, etc.

The Applicant finds that there is an estimated residential demand for at least 41.4 million gallons of gasoline within the defined Shady Grove Dash In trade area, as determined by standard market research methodologies of residential demand. It is important to note that the availability of gas stations in the immediate community is presently limited to 10 stations: two-thirds of which have service bays, are more than 40 years old, and only one of which has a similar scale convenience store, albeit on a site with difficult access. Half of these stations are located on Frederick Road (MD-355), which is the eastern edge of the trade area – not conveniently accessible to residents of the west side of I-270. Polestar notes that the older and smaller stations may not capture consistent demand levels, as industry indicators suggest that a substantial volume of trade would be handled by the more modern facilities that offer larger convenience spaces and services that are attractive to a broader consumer base. Those older and smaller stations are also not conveniently located to serve the large medical community of Shady Grove, which is associated with the Adventist Health Care Shady Grove Medical Center and nearby university outposts.

Additionally, the Applicant notes that the proposed fueling station is “reasonably convenient and useful to the public” because it meets the demand of Dash In shoppers for fuel service as demonstrated by:

Dash In Patrons – Dash In is located in an area underserved by full-service convenience stores with fresh food, therefore capturing more of the market than the average gasoline station nearby competition.

Expedient or Reasonably Convenient – The location along a primary route with an interchange at the interstate highway and proximal to a large retail and office community provides a convenient option for both the local workforce, residents and visitors.

7. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:

- a) Funeral Home; Undertaker;**
- b) Hotel, Motel;**
- c) Shooting Range (Outdoor);**
- d) Drive-Thru**
- e) Landfill, Incinerator, or Transfer Station; and**
- f) a Public Use Helipad, Heliport or a Public Use Helistop.**

The proposed use is a Filling Station, and, therefore, this section does not apply.

FOREST CONSERVATION PLAN NO. F20260360

The Application meets the requirements of Chapter 22A, the Montgomery County Forest Conservation Law (“FCL”), and the Montgomery County Planning Department’s *Guidelines for Environmental Management of Development in Montgomery County* (“Environmental Guidelines”). As required by Chapter 22A, an FCP was submitted with the Application.

The total net tract area for forest conservation purposes is 2.18 acres, which includes the Subject Property of 2.0 acres, and off-site work of 0.18 acres for utility connection and access improvements. The Subject Property is zoned GR 1.5 H 45 and is classified as Commercial Industrial Areas as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Subject Property contains 0.00 acres of forest and has an afforestation requirement of 0.33 acres as calculated in the Forest Conservation Worksheets. The Applicant proposes to meet this requirement by purchasing mitigation credits within a forest bank or by fee-in-lieu.

VARIANCE REQUEST

Section 22A-12(b)(3) of the Forest Conservation Law identifies trees, shrubs, and plants (Protected Trees) as a priority for retention and protection. Additionally, all areas of forest in floodplains or stream valley buffers, except if the activity occurring within the floodplain or stream buffer is permitted under the Environmental Guidelines, is a priority for retention and protection. Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree’s critical root zone (“CRZ”), requires a variance under Section 22A-21 (“Variance”). Otherwise, such resources as defined under Section 22A-12(b)(3) must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to four (4) Protected Trees as identified in Table 5. The Variance request is for the removal of one (1) and impact to three (3) Protected Trees for the grading and construction of the car wash, associated parking, stormwater management, and connection to existing infrastructure. Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made for a Variance to be granted. Staff has made the following determinations in the review of the Variance request and the proposed Forest Conservation Plan.

Table 5: Impacted/Removed Protected Trees

Tree ID	Common Name	Scientific Name	DBH inches	% CRZ Impact	Status
1	Pin Oak	<i>Quercus palustris</i>	30 in.	45%	Remove Tree
4	Silver Maple	<i>Acer saccharinum</i>	39 in.	1%	Retain tree
6	Pin Oak	<i>Quercus palustris</i>	32 in.	14%	Retain tree
7	Tulip Tree	<i>Liriodendron tulipifera</i>	30 in.	10%	Retain tree

Unwarranted Hardship

In accordance with Section 22A-21(a), the Applicant requested a Variance, and Staff agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property for a Filling Station with accessory car wash and convenience store without the Variance. Development is constrained by existing site conditions, including the size and shape of the Subject Property, and the locations of existing trees on the Subject Property. The ability to design the development around the existing features, while incorporating additional requirements, including stormwater management and connections to existing storm drains, has limited the ability to avoid impacts to Protected Trees. Tree 1 is requested to be removed due to its location within the active construction zone of the proposed development. Trees 4, 6, and 7 will be impacted by the proposed limits of disturbance for the construction of the walking path. Staff has reviewed this Application and, based on the existing conditions on the Subject Property, finds that there is an unwarranted hardship.

Tree Variance Findings

1. Will not confer on the Applicant a special privilege that would be denied to other applicants.

Granting the Variance to remove Tree 1 will not confer a special privilege on the Applicant, as the impacts are due to the necessary development requirements of the site. Trees 4, 6, and 7 will be impacted due to necessary grading to construct a parking area and a stormwater management system. Staff has determined that the impacts to Trees 4, 6, and 7 have been minimized and cannot be avoided. Therefore, the granting of this Variance is not a special privilege denied to other applicants.

2. Is not based on conditions or circumstances which are the result of the actions by the Applicant.

The requested Variance is not based on conditions or circumstances resulting from actions by the Applicant. The requested Variance is based on existing site conditions and the requirements to meet development standards.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming on a neighboring property.

The requested Variance is a result of the existing conditions and the required improvements, and not as a result of land or building use on a neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

The Variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being impacted are not located within a stream buffer, wetland, or a special protection area. Additional trees will be planted on the Subject Property as part of the forest conservation requirements.

Mitigation for Trees Subject to the Variance Provision

Section 22A-21(e) of the FCL states that an applicant is required to provide mitigation tree plantings for the removal of Protected Trees whether those trees are within or outside of a forest area. There is one (1) tree proposed for removal in this Variance request, resulting in a total of 30 inches of DBH

being removed. The FCP includes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every 4 inches removed using trees that are a minimum of 3 caliper in size. This results in a total mitigation of 7.5 inches with an installation of three (3) 3-inch caliper trees.

Although these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost by the removal of these trees. These mitigation trees must be overstory trees native to the Piedmont Region of Maryland and must be installed on the Subject Property outside of any rights-of-way.

SECTION 6: CONCLUSION

The proposed Conditional Use complies with the findings required for approval of a Filling Station, with accessory car wash, subject to the recommended conditions of approval. The proposed use is consistent with the goals and recommendations of the 2024 *Great Seneca Plan (Master Plan)*, will not alter the character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommend approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner and approval of the associated Forest Conservation Plan.

ATTACHMENTS

- Attachment A: Forest Conservation Plan
- Attachment B: Conditional Use Plans
- Attachment C: Agency Letters and Approvals
- Attachment D: Subdivision Plat
- Attachment E: Needs Analysis