

**BEFORE THE OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY, MARYLAND**

Stella Werner Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

IN THE MATTER OF:	)	
DASH IN FOOD STORES, INC.	)	
	)	
Petitioner	)	
	)	
Kevin Foster	)	
Bhoopendra Prakash	)	Conditional Use Application
Edward Steere	)	
Tony Williams	)	
William Zeid	)	
	)	
For the Petitioner	)	
	)	
Stacy P. Silber, Esquire	)	
Vincent G. Biase, Esquire	)	
	)	
Attorneys for the Petitioner	)	

PETITIONER'S STATEMENT OF THE CASE

On behalf of Dash In Food Stores, Inc. (collectively, the "Petitioner"), we submit this Statement of the Case (the "Statement") in connection with the request for approval of a Conditional Use (the "Application") to permit a filling station with a convenience store and car wash for the Property located at 15700 Shady Grove Road, Gaithersburg, MD (the "Property"). The Property is currently improved with a vacant restaurant and associated surface parking that was approved pursuant to Site Plan No. 819760190. The Petitioner incorporates by reference its Land Use Report, submitted contemporaneously with this Statement.

I. STATEMENT OF GROUNDS UPON WHICH THE CASE IS BASED

The Property, as defined in the Land Use Report, is located along a commercial corridor on the west side of Shady Grove Road, approximately 0.25 miles north of the I-270 interchange onto Shady Grove Road. The Property is presently improved with a vacant Red Lobster restaurant

building constructed in the early 1990s, which comprises approximately 7,473 square feet of floor area, according to the Maryland State Department of Assessments and Taxation (“SDAT”) records. The remainder of the site consists of surface parking, driveway access aisles, and landscaped areas.

Shady Grove Road is a major arterial that carries significant regional traffic between Gaithersburg, Rockville, and the I-270 Technology Corridor. As a result, the corridor experiences heavy daily vehicle volumes and serves as a critical node for commuter and commercial traffic. The strategic location of the Property, as the last site before the I-270 interchange, makes it an ideal candidate for redevelopment into a hybrid fueling station with EV charging and a high-quality convenience store with car wash.

The Property is classified in the GR-1.5, H-45 zone. Per Sec. 6.4.1.B of the Zoning Ordinance, the GR zone provides development opportunities adjacent to the County's most auto-dominated corridors and those areas with few alternative mobility options, with limited mixed-use and residential uses. The GR zone allows flexibility in building, circulation, and parking lot layout.” Within the GR Zone, convenience stores are permitted by right, car washes are allowed as limited uses, and fuel filling stations are subject to Conditional Use approval pursuant to Section 3.5.9 of the Montgomery County Zoning Ordinance. The proposed redevelopment complies with all applicable GR Zone development standards and is the type of use conceived for the GR zone, and the surrounding auto-dominated corridor of Shady Grove Road.

The Petitioner is seeking Conditional Use approval to redevelop the Property with a modern Dash In hybrid fueling facility consisting of a 4,800 square foot convenience store, a fueling station featuring a fueling canopy with six multiple-product dispensers (MPDs), and an accessory single-bay automatic car wash. The existing vacant restaurant building, associated pavement, and aging site infrastructure will be removed in their entirety and replaced with a contemporary commercial service use that aligns with the corridor’s planned redevelopment toward higher-quality, auto-oriented commercial reinvestment.

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, enhanced architectural façade with painted masonry, dark metal accents, and coordinated canopy elements. The fueling canopy is positioned along the eastern portion of the site, closest to Shady Grove Road, allowing vehicles to enter and exit efficiently without conflicting with parking or car wash circulation. The car wash is strategically placed at the western edge of the Property to internalize stacking and queueing and to ensure that vehicles do not back up into drive aisles or onto shared access points.

As part of the redevelopment, the Applicant will introduce EV charging stations, landscaped bioretention areas, upgraded pedestrian pathways, and modern stormwater management facilities that significantly improve environmental performance compared to the

existing condition. The Project also improves internal circulation, organizes parking fields into efficient areas, and provides clearly marked pedestrian crossings connecting the parking areas, fueling dispensers, and store entrance. In addition, pedestrian connections are provided to the improved sidewalk that Petitioner will be constructing along Shady Grove Road, and a pedestrian stub to the Property's north/western property boundary, for future connections for its commercial neighbors.

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

The Application is in substantial conformance with the Master Plan. The Property is located within the Washingtonian Light Industrial Park focus area of the *2024 Great Seneca Plan* (the "Master Plan"), which calls for reinvestment in legacy commercial sites to improve sustainability, design quality, and multimodal access while maintaining light-industrial, automotive, and service-oriented uses. Redeveloping this long-vacant restaurant site with a hybrid fueling station that integrates traditional fuel, EV charging, and a convenience store with a modern car wash directly implements and advances Master Plan's vision for this focus area.

The Project significantly upgrades overall sustainability beyond existing conditions, increasing green cover from approximately 16% to approximately 36%, reducing imperviousness, installing improved on-site stormwater management, and providing approximately 53% parking lot tree canopy. These environmental improvements, along with native landscaping, stormwater conveyance features, and EV charging infrastructure, advance the Master Plan's sustainability and natural environment goals.

The Project also enhances site design and streetscape character in a manner consistent with the Master Plan's urban design direction for this focus area. The proposed site design organizes circulation, defines pedestrian connections, and introduces contemporary architectural treatments that activate and improve the streetscape along Shady Grove Road. The proposed use is compatible with the surrounding context, including adjacent commercial and auto-oriented uses such as Carvana, Home Depot, and Bowlero. As such, the proposed Conditional Use is in substantial conformance with the Master Plan.

Petitioner's traffic consultant, Kimley-Horn has prepared a Local Area Transportation Review ("LATR") report and traffic signal study that is included with the Application. The LATR report indicates that the proposed Conditional Use will have no adverse impacts on the surrounding roadway network. The LATR study indicates that all of the study intersections will operate well within the M-NCPPC standards for traffic adequacy. Further, the Petitioner has proposed off-site pedestrian lighting improvements as part of the LATR process that would satisfy the LATR mitigation requirements for the non-motor vehicle portion of the LATR which evaluates pedestrian, bicycle, transit and vision zero aspects of the study area.

As noted in detail in the Land Use Report, adequate public facilities and services will continue to be available to serve the automobile filling station and associated on the Property. The roadway network surrounding the Property and the proposed vehicular and pedestrian improvements are safe, adequate and efficient. The Property will be served by existing water and sewer mains. Electric, gas and telecommunications services will also continue to be available to adequately serve the Property. Other public facilities and services – including police stations and firehouses – are currently available in the vicinity of the Project. In addition, as described in detail in the Polestar Analysis Market Report, a Need exists for the proposed filling station.

The evidence to be presented will demonstrate that the Conditional Use satisfies (1) the specific standards set forth in Section 59.3.5.13.C of the Zoning Ordinance for automobile filling stations; (2) the specific standards set forth in Section 59.3.5.13.B of the Zoning Ordinance for car washes; (3) the development standards of the GR Zone pursuant to Section 59.6.3; and (3) the general Conditional Use standards set forth in 59.7.3.1.E. In addition, the Petitioner will demonstrate that there will be adequate public facilities and services to serve the Project and that the Conditional Use substantially conforms with the recommendations of the Master Plan.

II. REPORTS INTENDED TO BE INTRODUCED AT THE HEARING

1. Land Use Report;
2. Statement of Operations (contained within the Land Use Report);
3. LATR Report prepared by Kimley-Horn; and
4. Polestar Analysis Market Report (“Needs Analysis”).

III. SUMMARY OF EXPERT TESTIMONY

At the present time, the Applicant intends to call the following expert witnesses to testify in support of the rezoning application:

1. Kevin Foster, Certified Land Planner and Registered Landscape Architect with Gutschick, Little & Weber, P.A., will testify as to among other things, the existing conditions and physical characteristics of the Property; the zoning history of the Property; and the Project’s compliance with the intent, applicable development standards, and all requirements of the Zoning Ordinance. He also will provide testimony regarding the proposed development’s substantial conformance with the Master Plan and compatibility with the surrounding neighborhood and compliance with applicable forestry and environmental requirements.
2. Bhoopendra Prakash, Civil Engineer with The Plan Source, will testify to the existing and proposed site improvements; the proposed Conditional Use plan set; the Project’s compliance with the stormwater management; and adequacy of public facilities.

3. William Zeid, traffic engineer with Kimley-Horn, will testify as to traffic and transportation planning issues (including trip generation and site access), in accordance with the LATR report prepared for the Application and proposed frontage improvements.
4. Edward Steere, economist with Polestar Analytics, will testify as to the current market area and conditions, as well as the need for the proposed use.

The resumes of the above-identified expert witnesses are attached. The Applicant reserves the right to call additional expert witnesses if it deems necessary.

IV. OTHER POTENTIAL WITNESSES WHO MAY TESTIFY

In addition to the above expert witnesses, the Petitioner's representative, Tony Williams, will testify about the proposed redevelopment and operational aspects of the proposed use.

V. ESTIMATED TIME REQUIRED FOR PRESENTATION

The Petitioner anticipates that, excluding questions, the presentation of its case-in-chief for the proposed Conditional Use will take approximately four (4) hours.

This submission is intended to satisfy the requirement of the Rules of Procedure for Petitions for Conditional Use cases. If it is subsequently determined that new or supplemental information is necessary, the Petitioner will make a supplemental submission in a timely fashion.

Respectfully submitted,



Stacy P. Silber



Vincent G. Biase