

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed **ROSP SE-1979/02** requesting addition of two canopies and **VSE 1979** requesting variances for a pump island less than 25 feet from street line; a driveway less than 20 feet from point of curvature, and a canopy less than 10 feet from the street line in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on October 30, 2003, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property is located at the northwest intersection of Woodyard Road (MD 223) and Old Alexandria Ferry Road. The property comprises .62 acre of land and is improved with a 1,428-square-foot one-story Mobile gas station with two pump islands (one along Woodyard Road and the other along Old Alexandria Ferry Road) each with two multipump dispensers (MPD). The existing building includes a snack shop and two service bays. The gas station currently provides automobile repair and related services. The property has approximately 219 feet of frontage on Woodyard Road and approximately 215 feet of frontage on Old Alexandria Ferry Road.

B. **Development Data:**

Indicator	Existing	Proposed
Zoning	C-S-C	C-S-C
Use	Gas Station	Gas station
Acreage	.62	.62
Gross Floor Area	1,428 SF	1,428 SF
Canopy	None	2 @ 24'x 30'

- C. **History:** Special Exception 1979 was approved in 1969 permitting a gas station use on the site. Revision of Site Plan SE-1979/01 was approved in 1991. The 1993 Sectional Map Amendment (SMA) for Subregion V retained the property in the C-S-C Zone.
- D. **Master Plan Recommendation:** The 1993 Master Plan for Subregion V recommends the subject property for commercial use. The 2002 General Plan indicates this property is located in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable.
- E. **Request:** The applicant proposes to install canopies over the existing two pump islands. The applicant is also requesting variances from setback standards for pump islands from a street, for a driveway entrance less than 20 feet from the point of road curvature, and for a canopy less than 10 feet from the ultimate right-of-way.

F. Neighborhood and Surrounding Uses: The subject property is surrounded by the following uses:

North: Across Old Alexandria Ferry Road, a liquor store in the C-S-C and I-4 Zones, a vacant property and an architect's office in the I-1 Zone

East: Across the intersection, a Texaco gas station and convenience store (northeast corner) in the C-S-C Zone

South: A flower shop (southeast corner of the intersection) in the C-S-C Zone and undeveloped property in the R-R Zone

West: Undeveloped property in the C-S-C Zone

G. Section 27-325(f)(1) (C) permits changes to an approved special exception site plan for a gas station for the following modifications:

The addition, relocation or modification of a fence, kiosk, island shelter, island canopy, storage area, trash enclosure, vending area, or lavatory facility.

The applicant proposes to install two canopies over the existing two pump islands. According to the applicant's site plan, each of the proposed canopies will have an area of 720 square feet and a height of 18 feet. One of the proposed canopies is set back only 4.8 feet from the ultimate right-of-way of Woodyard Road. A variance of 5.2 feet is required to comply with the 10-foot setback requirements of Section 27-462(b). Another variance is required from Section 27-358(5) for a driveway that begins less than 20 feet from the point of curvature requirement. The proposed addition of the canopy is needed to better protect customers from the elements.

H. Specific Special Exception Requirements: Section 27-358 sets forth the specific special exception requirements for a gas station in the C-S-C Zone.

(a) A gasoline station may be permitted, subject to the following requirements:

1. The subject property shall have at least 150 feet of frontage on and direct vehicular access to a street with a right-of-way of at least 70 feet.

The subject property has approximately 220.45 feet of frontage on Woodyard Road with a right-of-way width of 120 feet. The property also has approximately 211 feet of frontage on Old Alexandria Ferry Road with a right-of-way width of 80 feet.

2. **The subject property shall be located at least three hundred (300) feet from any lot on which a school, outdoor playground, library, or hospital is located.**

The property conforms to this requirement. The nearest school, Tanglewood Special Education Center, is located approximately 400 feet west of the subject property. The school was constructed in 1957 with subsequent addition and renovation in 1964 and 1983. A note shall be placed on the site plan indicating compliance with this requirement.

3. **The use shall not include the display and rental of cargo trailers, trucks, or similar uses, except as a special exception in accordance with the provisions of Section 27-417.**

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

The applicant's proposal does not include either of these two activities. Notes should be placed on the site plan indicating compliance with these requirements.

5. **Access driveways shall be not less than 30 feet wide unless a lesser width is allowed for a one-way driveway by the Maryland State Highway Administration or the County Department of Public Works and Transportation, whichever is applicable, and shall be constructed in compliance with the minimum standards required by the County Road Ordinance or Maryland State Highway Administration regulations, whichever is applicable. In the case of a corner lot, a driveway may begin at a point not less than 20 feet from the point of curvature (PC) of the curb return or the point of curvature of the edge of paving at an intersection without curb and gutter. A driveway may begin or end at a point not less than 12 feet from the side or rear lot line of any adjoining lot.**

The site plan shows four access driveways, two each on Woodyard Road (MD 223) and Old Alexandria Ferry Road. Both driveways on Woodyard Road are 30 feet wide, and the two driveways on Old Alexandria Ferry Road are 33 feet and 32 feet wide. The State Highway Administration (SHA) has offered the following comments:

The site plan shows two existing entrances along MD 223. The size and location of the entrance close to Alexandria Ferry Road is inconsistent with current State Highway Administration (SHA) guidelines. The 30-foot-wide driveway access at this location may present some operational and safety problems. Coordination with Engineering Access Permits

Division, SHA is necessary to determined access sufficiency at this

location.

The applicant requests a variance of 2.0 feet (from the 20-foot setback from the point of curvature requirement) for the southwestern driveway entrance on Woodyard Road that is located 18 feet from the side lot line.

6. Access driveways shall be defined by curbing.

The site plan indicates that all access driveways are defined by curbing.

7. A sidewalk at least five (5) feet wide shall be provided in the area between the building line and the curb in those areas serving pedestrian traffic.

Five-foot-wide sidewalks are provided along both Woodyard Road and Old Alexandria Ferry Road.

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

The site plan indicates that all gasoline pumps and service appliances are located more than 25 feet behind the existing street line. However, the pump island on the southern portion of the property is located only 14 feet from the ultimate right-of-way of Woodyard Road, and therefore a variance of 11 feet is required.

9. Repair service shall be completed within forty-eight (48) hours after the vehicle is left for service. Discarded parts resulting from any work shall be removed promptly from the premises. Automotive replacement parts and accessories shall be stored either inside the main structure or in an accessory building used solely for the storage. The accessory building shall be wholly enclosed. The building shall either be constructed of brick (or another building material similar in appearance to the main structure) and placed on a permanent foundation, or it shall be entirely surrounded with screening material. Screening shall consist of a wall, fence, or sight-tight landscaping material, which shall be at least as high as the accessory building. The type of screening shall be shown on the landscape plan.

The applicant indicated that all repair services offered on the property are completed within 48 hours after the vehicle is left for service. The applicant further indicated that discarded parts resulting from any work are removed promptly from the premises. Automotive replacement parts and accessories are stored inside the main structure.

The site plan does not provide for an accessory storage building, and there is no reference to the provision of accessory storage in the applicant's statement of

justification.

A note shall be placed on the site plan indicating compliance with this requirement.

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

The proposal does not include any change to the existing building. Additional materials submitted by the applicant prior to the Planning Board Hearing demonstrate, through a combination of photographs (building) and architectural drawings, that the proposed canopies are consistent with or complement the design, colors and decorative features of the existing building.

(b) In addition to what is required by Section 27-296(c), the site plan shall show the following:

- (1) The topography of the subject lot and abutting lots (for a depth of at least fifty (50) feet).**
- (2) The location and type of trash enclosures.**
- (3) The location of exterior vending machines or vending area.**

The topography requirement is complied with and depicted on the applicant's site plan accordingly. The site plan shows a 72-square-foot (9 feet x 8 feet) trash enclosure on the northwest corner of the property and a drawing showing details of a trash enclosure gate is provided. However, no reference is provided regarding the height of the trash enclosure. The height of the trash enclosure and its compliance with setback requirements must be provided on the site plan. The site plan does not show vending machines; however, a field inspection revealed that a box containing propane tanks and an ice machine on two locations next to the front of the building. The site plan needs to be revised to identify these locations as vending areas.

Moreover, a field inspection revealed that a vacuum cleaner, a small trash receptacle and a trash dumpster are located at the northwest side of the property, outside the special exception boundary line. This area is identified as a "septic field easement." All service appliances and other improvements used in conjunction with the gas station must be removed. Otherwise, approval of a new special exception application needs to be obtained to authorize an expansion of the current special exception boundaries.

(c) Upon the abandonment of a gas station, the Special Exception shall terminate and all structures exclusively used in the business (including underground storage tanks),

except buildings, shall be removed by the owner of the property. For the purpose of this Subsection, the term "abandonment" shall mean non-operation as a gas station for a period of fourteen (14) months after the retail services cease.

There is no indication in the record of a potential conflict with this requirement.

(d) When approving a Special Exception for a gas station, the District Council shall find that the proposed use:

- (1) Is necessary to the public in the surrounding area.**
- (2) Will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses.**

The subject gas station has served the public at this location for over 30 years. The fact that the subject gas station provided service for the area for such an extended period of time without interruption is evidence that there is a need for the proposed use.

The proposed addition of canopies will modernize and upgrade the existing gas station and will improve its level of service to the public. Notwithstanding the existence of the Texaco gas station located nearby, the area surrounding the subject property consists of various other commercial and industrial uses and some undeveloped commercially zoned properties. Therefore, the proposed use will not unduly restrict the availability of land or upset the balance of land use in the area for other trades and commercial uses.

I Parking Regulations: Section 27-568 of the Zoning Ordinance requires three parking spaces for each bay.

A total of six parking spaces are required and seven spaces, including one van-accessible handicap space, are provided.

J. Loading Requirements: Section 27-582 of the Zoning Ordinance requires one loading space for retail sales and service (per store) comprising over 2,000 square feet of gross floor area (GFA).

No loading space is required for the subject 1,426-square-foot building.

K. Landscape Manual Requirements: There is an existing landscape plan that was approved in 1991, at the last revision of the special exception plan for the property. Although General Note No. 11 of the site plan indicates that landscaping will be installed based on the previously approved special exception, the approved landscape plan was not provided with the application. Prior to the Planning Board hearing, the applicant had provided a copy of the approved landscape plan to demonstrate compliance. Landscaping on the property must be maintained in accordance to the approved site plan.

Moreover, the proposed trash enclosure is relocated to an area south of the location shown on the previously approved plan. The approved landscape plan needs to be revised to accommodate the new location of the dumpster and the relocation of plant materials in that area.

- L. Sign Regulations:** The applicant proposes to retain the existing freestanding and building signs. The applicant has provided a separate sign schedule with an inventory of all existing signs (authorized and unauthorized) with their respective type, area and height. All the authorized signs meet the sign regulations requirements. However, all unauthorized signs (identified on the sign schedule as S2, S3, S5, S6, and S7) must be removed from the property since they are in violation of the sign regulations.
- M. Accident Potential Zone:** The subject property is located south of Andrews Air Force Base and is subject to adverse impact from military aircraft operations. The Community Planning Division has offered the following comments:

The subject property is located roughly one and a half miles from the end of the runway under the flight path for military aircraft at Andrew Air Force Base. The AICUZ study referenced in the master plan text has been updated to reflect changing operations at Andrews Air Force Base. The current AICUZ study is dated 1998 and identifies the subject property as in Accident Potential Zone I (APZ I) at the boundary of APZ II and the 70-75 Ldn noise contour (the same as in 1989).

This application is only for improvements to an existing land use, i.e., the addition of a canopy over the existing gasoline pump islands. As such, the actual use of land in this area is not at issue. Regardless, according to tables (pp. 4-9 to 4-13) in the 1998 AICUZ report, “Retail trade-automotive, marine craft, aircraft and accessories establishments” are considered as generally compatible land uses in APZ I, APZ II and within the 70-75 Ldn noise contour that characterize this site. The study also recommends measures to achieve noise level reductions be incorporated into the design and construction of structures (p. 4-11 and 4-12). Whether the proposed pump island canopy will reduce noise levels on this area or not is unknown, but it is unlikely that these improvements will make the situation any worse.

N. Variance Requests:

The proposed site plan requires the following variances (VSE-1979/02):

- Section 27-358(a)(5):** To reduce the requirement that **a driveway may begin at a point not less than 20 feet from the point of curvature (PC) of the curb return or the point of curvature of the edge of paving at an intersection without curb and gutter.** A variance of 2 feet is needed.

2. **Section 27-358(a)(8):** To reduce the requirement that **gasoline pumps and other service appliances shall be located at least twenty-five (25) feet behind the street line.** A variance of 11 feet is needed.
3. **Section 27-462(b):** To reduce the requirement that **a structure be set back at least 10 feet from a street.** The proposed canopy is located 4.8 feet from the ultimate right-of-way of Annapolis Road. A variance of 5.2 feet is needed.

Section 27-230 requires the Planning Board to make the following findings in order to grant variances:

1. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**
2. **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or undue hardship upon, the owner of the property.**
3. **The variance will not substantially impair the intent, purpose or integrity of the General Plan or Master Plan.**

The applicant indicated that when the Planning Board approved the last revision of the approved special exception site plan, it noted the fact that the gas station does not conform to the most recent requirements of the Ordinance. Furthermore, there have been a number of changes to the Ordinance since the establishment of the use in 1969. The Board also noted that there is a need for a variance from the provision of **Section 27-358(a)(5)** regarding the location of the driveway entrance on Woodyard Road, near the intersection. However, the resolution did not make the need for the variance a condition of approval and the applicant did not obtain a variance.

With respect to the issue of setback for one of the pump islands, the last revised plan was approved in 1991, before the adoption of the 1993 Master Plan for Sub Region V, which effectively expanded the ultimate right-of-way for Woodyard Road (A-53). Therefore, the variance could not have been sought in the 1991 revision. The Master Plan's designation of Woodyard Road as an arterial road with a 120-foot right-of-way (at this location) put much of the property's frontage on Woodyard Road within the ultimate right-of-way. The substandard size of the property (approximately .62 acre) coupled with the widening of the two adjoining roads makes it difficult for the existing improvements to conform to current zoning requirements, thereby creating an extraordinary condition.

The proposed addition of the canopies is a measure that is being taken to modernize the facility and improve the level of service at the gas station. The existing driveways and the pump islands are part of improvements on the property that preceded current development standards. The strict application of this Subtitle will result in undue hardship upon the applicants. Due to the small size of this site,

very few, if any, improvements could ever be made without variances or other relief from current requirements.

The requested variances are needed, for the most part, to validate conditions that existed on the property for over 30 years. Furthermore, these variances will not impair the intent, purpose or integrity of the approved Master Plan for Subregion V, which recommends commercial use for the site.

O. Required Findings: Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purposes of this Subtitle.

The fundamental purposes of the Zoning Ordinance, as found in **Section 27-102**, are to protect the health, safety and welfare of the public and promote compatible relationships between the various types of land uses. With existing inconsistencies corrected and with the recommended conditions, the proposed revision will be in harmony with the purposes and intent of the Zoning Ordinance.

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.

With the recommended conditions and the approval of VSE-1979, the proposed site plan will conform to all requirements of the Zoning Ordinance.

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

The approved 1993 Subregion V Master Plan designates the subject site for retail-commercial use in the C-S-C Zone. A gas station is permitted as a special exception in the C-S-C Zone. The subject gas station has been at this location for over 30 years. With the recommended conditions and amendments to the site plan, the proposed use will not impair the integrity of the Master Plan, nor will it be inconsistent with the plan's guidelines.

This application is located in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable. The proposed site plan is not inconsistent with the vision of the Developing Tier.

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

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

The continued use of the site as a gas station and the proposed modifications will not adversely impact the health, safety and welfare of residents and workers in the area, nor would it be detrimental to the use or development of adjacent properties or the general neighborhood. With the recommended conditions, the proposed modifications would not substantially change the scope and intensity of the activities and services currently provided by the gas station; and, therefore, it would not generate a notable increase in the area's traffic and noise levels.

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

A Tree Conservation Plan is not required because the property is less than 40,000 square feet in area and does not have a previously approved Tree Conservation Plan (per Letter of Exemption from Environmental Planning Section issued on April 18, 2003).

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED ROSP SE-1979/02 and further APPROVED VSE 1979 subject to the following conditions:

1. Prior to plan certification, the site and landscape plans shall be revised to include the following:
 - a. The height of the trash enclosure shall be indicated in conformance with screening and setback requirements.
 - b. A note shall be added indicating compliance with the requirements of Section 27-358(a), (2), (3), (4) and (9).
 - c. The vending areas shall be delineated.
 - d. The driveways shall be reconfigured in accordance with SHA requirements.
 - e. All unauthorized advertising signs shall be removed.
2. Prior to plan certification:
 - a. The applicant shall provide documentation of SHA approval for the driveways illustrated on the site and landscape plans.

- b. The applicant shall provide photographic documentation to demonstrate that all service appliances and other improvements used in conjunction with the gas station have been removed from outside of the special exception boundaries.
- c. The applicant shall provide photographic documentation that all unauthorized advertising signs have been removed from the property.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the Circuit Court for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Harley, seconded by Commissioner Vaughns, with Commissioners Harley, Vaughns, Squire, Eley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, October 30, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of December 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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