

C O R R E C T E D R E S O L U T I O N

WHEREAS, the Prince George=s County Planning Board has reviewed Revision of Site Plan for Special Exception No., 737/[2]*3 requesting minor revisions to a gas station site plan, along with associated variances and alternative compliance to the requirements of the Landscape Manual 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 November 8, 2001, the Prince George's County Planning Board finds:

- A. Location and Field Inspection: The site is located in the northwest corner of Baltimore Avenue (US 1) and Montgomery Road in Beltsville. The site comprises approximately 14,950 square feet and is improved with a Shell gas station constructed in 1962. A one-story building houses two service bays, an office, and sales area. The site has approximately 110 feet of frontage on Baltimore Avenue and approximately 163 feet of frontage on Montgomery Road. It is accessed from both streets.
- B. History: The District Council approved a special exception for a gas station for this site in 1962 pursuant to SE-737. On July 9, 1987, per Appeal No. 8684, the Board of Appeals granted variances from Sections 27-358(a)(5) and (8) to permit access driveways along Montgomery Road to be 25 feet wide, driveways along US 1 to be 20 feet wide, and to permit a 9-foot pump island setback. In 1995, Shell Oil Company sought a revision to SE-737 (ROSP-SE- 737/[1]*2) to make minor changes to the site. This request was approved by the Planning Board on November 2, 1995.
- C. Master Plan Recommendation: The 1990 *Subregion I Master Plan* recommends retail-commercial use for the property.
- D. Request: Motiva wishes to further renovate this gas station by razing the existing two-bay service station building and erecting a 2,010-square-foot food mart (a use permitted by right in the C-S-C Zone). As a result of the older, developed nature of the site, numerous variances and departures are required.
- E. Surrounding Uses: The site is surrounded on all sides by strip-commercial uses in the C-S-C Zone.
- F. Minor Change Provisions:

*Denotes correction

[Brackets] denote deletion

Underlining denotes addition

1. Section 27-325(b) - Minor Changes to Special Exception Site Plans:

- (1) **Changes of site plans for property of less than five (5) acres may be permitted by the Planning Board, provided that either of the following two (2) situations exist:**

(A) **Situation No. 1**

- (i) **There is a proposed increase in gross floor area of a building (over that approved on the original site plan) which is not greater than ten percent (10%) of the gross floor area or covered land area or five hundred (500) square feet, whichever is less; or**
- (ii) **There is a proposed relocation (in any direction) of any improvement (approved on the original site plan) which is not greater than ten percent (10%) of the distance to the boundary line of the Special Exception property or twenty (20) feet, whichever is less.**

(B) **Situation No. 2**

- (i) **There is a proposed change in the design of a parking lot or loading area; or**
- (ii) **There is a proposed change in a landscaped plan.**

2. Section 27-325(f) - Changes of gas station site plans:

- (1) Changes of a site plan for an approved gas station may be permitted by the Planning Board for the following modifications:
- (A) The enlargement or relocation of pump islands;
 - (B) The addition of one (1) pump island;
 - (C) The addition, relocation, or modification of a fence, kiosk, island shelter,

island canopy, storage area, trash enclosure, vending area, or lavatory facility;

- (D) The addition, relocation, or modification of an accessory building used solely for the storage of automotive replacement parts or accessories. The accessory building shall be wholly enclosed. The building shall either be constructed of brick (or another building material similar in appearance to that of 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 approved as a part of the minor change.

- (E) Any situation described in (b) or (c)

Finding: Section 27-325([F]*1)(E) refers back to Section 27-325(b). Situation No. 2 applies in this case because the site comprises less than five acres and the applicant is proposing a change in the design of the parking layout, the addition of a loading space, and changes to the landscape plan. The proposed food mart is less than 3,000 square feet, a permitted use in the C-S-C Zone.

G. Specific Special Exception Requirements: Section 27-358 - Gas Station:

(a) **A gas station may be permitted, subject to the following:**

- (1) The subject property shall have at least one hundred and fifty (150) feet of frontage on and direct vehicular access to a street with a right-of-way width of at least seventy (70) feet;

Finding: The subject property has 163 feet of frontage on Montgomery Road, which has a 70-foot-wide ultimate right-of-way.

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

Finding: The site is not within 300 feet of any of these uses.

- (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;

Finding: The site plan does not show these uses.

- (4) The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited;
- (5)

Finding: The applicant does not propose auto repair, storage or junking at this site.

- (6) Access driveways shall be not less than thirty (30) feet wide, 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 twenty (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 twelve (12) feet from the side or rear lot line of any adjoining lot;

Finding: On July 9, 1987, per Appeal No. 8684, the Board of Appeals granted variances from this section to allow narrower driveways along Montgomery Road and US 1.

(6) Access driveways shall be defined by curbing;

Finding: Curbing is shown.

- (1) 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;

Finding: Five-foot-wide sidewalks exist along both road frontages.

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

Finding: On July 9, 1987, per Appeal No. 8684, the Board of Appeals granted a variance from this section to permit a nine-foot pump island setback.

Because of a discrepancy in the location of the ultimate right-of-way line, the applicant now seeks an additional one-foot variance to this requirement, as discussed in Section J of this report.

- (3) 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.

Finding: The applicant does not propose auto repair on the site.

(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; and
- (3) The location of exterior vending machines or vending area.

Finding: The site plan shows this information.

- (a) 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 nonoperation as a gas station for a period of fourteen (14) months after the retail services cease.

Finding: The applicant is aware of this provision.

(d) The District Council shall find that the proposed use:

- (1) Is necessary to the public in the surrounding area; and

- (1) Will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses.

Finding: There has been a gas station on this site for more than 35 years. In that time, the use has provided a necessary, convenient service to the surrounding neighborhood. The continuation of this long-existing use, along with the addition of a food mart, will not restrict the availability of land or upset the balance of commercial land use in the area.

H. Parking and Loading Regulations:

1. Number of Required Parking Spaces - Departure from Parking and Loading Standards Application No. 272: A total of 12 parking spaces are required and 10 are provided. The applicant is seeking a departure of 2 spaces.
2. Loading Space Requirements - Departure from Design Standards Application No.524: This use requires one loading space. Because the applicant is proposing a loading space measuring 20 feet by 10 feet, a departure from Section 27-578(a) is necessary.

- I. Landscape Manual Requirements: The proposed layout and site plan comply with the requirements of the *Landscape Manual* with the exception of Section 4.2 (Commercial & Industrial Landscape Strip Requirements), for which alternative compliance has been requested and recommended for approval (AC-01042).

- J. Zone Standards - Variance in Conjunction with a Revision to Special Exception Site Plan Application No. 737/[2]*3: The applicant seeks variances to permit an 8.3-foot pump island setback and a 0-foot and 3.6-foot canopy setback.

(a) **Section 27-230(a) provides that a variance may only be granted when the Planning Board finds:**

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 exceptional or undue hardship upon, the owner of the property; and**
- 3. The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Finding: The Board of Appeals in 1987 granted a variance from Section 27-358(a)(8) to permit a 9-foot pump island to street setback in lieu of the required 25 feet. The applicant is now seeking an additional variance of 1 foot to allow a setback of 8.3 feet from the pump island to Baltimore Avenue. The applicant is also seeking a variance from Section 27-462 to permit a setback of 0 feet from the pump island canopy to Baltimore Avenue and a setback of 3.6 feet from the pump island canopy to Montgomery Road. The revised site plan approved in 1996 (ROSP SE 737/[1]*2) shows that the pump island to street setback was met when taking into account the 1987 variance granted by the Board of Appeals. That approved site plan also shows the canopies to be set back the requisite 10 feet from the street line.

Although the current proposed renovations do not alter the location of either the pump islands or the canopies, there is a discrepancy between the proposed site plan and the 1996 approved site plan with respect to the location of the ultimate rights-of-way for Baltimore Avenue and Montgomery Road. This discrepancy, and not any proposed physical alterations, has generated the need for the requested variances and created an extraordinary situation or condition justifying the granting of the variances. Compliance with the strict application of the Zoning Ordinance will result in unusual practical difficulties and undue hardship upon the property owner by requiring the removal of the existing pump island and canopies which have been approved at this specific location for a number of years. Finally, the granting of the requested variances will not substantially impair the intent, purpose, or integrity of the Master Plan which recommends commercial use for the property.

- K. Sign Regulations - Departure from Sign Design Standards Application No. 581: The applicant is proposing to replace the existing freestanding sign with a comparably sized sign to be located in the same general area as the existing freestanding sign. The new sign will be located partially within the ultimate right-of-way for Baltimore Avenue. Pursuant to Section 27-614(a)(4), the applicant has obtained permission from the State Highway Administration to locate the sign in the ultimate right-of-way area and the applicant has agreed to remove the sign at its own expense upon the SHA=s taking of this property for roadway improvements. The applicant has filed a separate application (DSDS-581) seeking a departure from Section 27-614(a)(1) to allow a

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freestanding sign where the main building associated with the sign is set back less than the required 40 feet from the front street line. That application also requests a departure from Section 27-613(a)(1) to allow signs on the pump island canopies which are set back less than the requisite 10 feet from the street.

L. Other Issues - Required Site Plan Changes: The following changes should be made to the site plan:

1. The site plan measures setbacks for the building from Montgomery Road. In reality, Baltimore Road is considered the front of the property. General Note 16 should be revised accordingly.
2. General Note 9 states a maximum floor area ratio for the C-S-C Zone of 4.0. This is in error and should be removed.
3. If approved, notes should be added documenting the associated departures, variances and alternative compliance approvals.

M. 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.**
- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**
- (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.**
- (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.**
- (6) The proposed site plan is in conformance with an approved Tree Conservation Plan.**

Finding: The District Council, in its February 1962 special exception review of the

existing gas station (SE 737), and the Planning Board, in its November 1995 review of the revision to special exception site plan (ROSP SE 737/[1]*2), found the use and site plan satisfied all of the provisions of Section 27-317. The proposed revisions, namely, a redesign of the parking layout, the addition of a trash enclosure and loading space, an enhancement in the landscaping, the razing of the service station building and erection of a food mart (which is permitted by right), do not increase the intensity of the use. It is therefore reasonable to conclude that the proposed use will continue to be in harmony with the purposes of the Zoning Ordinance and that all of the criteria set forth in Section 27-317 are satisfied.

If the requested variances and departures are granted, the proposed use will be deemed in conformance with all the applicable requirements and regulations of the Zoning Ordinance. The use and the proposed renovations will not impair the integrity of the *Subregion I Master Plan* which recommends retail-commercial development for this site. The gas station use has existed at this site for nearly 40 years without causing any apparent adverse impact on the health, safety or welfare of residents or workers in the area. The proposed renovations will enhance the operation of the gas station and make the use more visually attractive. The proposed changes will not be detrimental to the use or development of adjacent properties which are currently improved with retail and service-commercial uses. Finally, the site is exempt from the requirement to file a tree conservation plan.

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-737/[2]*3 and VSE-737A and further APPROVED AC-01042, subject to the following conditions:

ROSP-737/[2]*3:

APPROVAL,
subject to the
site plan being
revised prior to
the issuance of
permits to
show:

1. The site plan measures setbacks for the building from Montgomery Road. In reality, Baltimore Road is considered

the front of the property. General Note 16 should be revised accordingly.

2. General Note 9 states a maximum floor area ratio for the C-S-C Zone of 4.0. This is in error and should be removed.
3. If approved, notes should be added documenting the associated departures, variances and alternative compliance approvals.

AC-01042: APPROVAL, subject to the condition that prior to issuance of building permits, the applicant shall obtain permission from the Department of Public Works and Transportation and the State Highway Administration for landscaping in the Montgomery Road and Baltimore Avenue (US 1) rights-of-way.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council 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 Lowe, seconded by Commissioner Scott, with Commissioners Lowe, Scott, Eley and Brown voting in favor of the motion, and with Chairman Hewlett at its regular meeting held on Thursday, November 8, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 29th day of November 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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