

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed ROSP-SE-4346/01 Texaco Station MD-714 requesting the addition of a freestanding sign 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 January 7, 2010, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is a rectangular-shaped parcel located on the east side of Livingston Road and on the west side of Indian Head Highway (MD 210), 500± feet north of the intersection of both roads with Swan Creek Road. It is developed with a gas station and food and beverage store.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-M	C-M
Use(s)	Gas Station, Food & Beverage Store	Gas Station, Food & Beverage Store
Acreage	0.41±	0.41±
Square Footage/GFA	1,980	1,980

C. **History:** The subject property was placed in the R-R (Rural Residential) Zone by map adoption on November 20, 1957. Zoning Map Amendment A-4888 was approved by the District Council in August 1953, placing the site in the C-2 (General Commercial, Existing) Zone. The site was placed in the C-M (Miscellaneous Commercial) Zone by the 2006 *Adopted and Approved Master Plan for Subregion VII, Henson Creek (Planning Areas 76A and 76B) and South Potomac (Planning Area 80)*. The District Council approved Special Exception SE-3337 for an amusement arcade at this site in 1982, but revoked that approval in 1989. The District Council approved SE-4346 in June 2005, for a food and beverage store in the then existing gas station on the site.

D. **Master Plan and General Plan Recommendations:** The 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* recommends a right-of-way for a new freeway interchange on this site adjacent to an area recommended for a mix of commercial, institutional, and residential land uses. The existing gas station, which is associated with this application for a new sign, is classified in the C-M Zone and is an appropriate commercial use until the new interchange is programmed for construction.

The 2002 *Prince George's County Approved General Plan* placed the site 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 existing commercial land use associated with the application is consistent with the Development Pattern policies for land use in local commercial areas. The application to erect a freestanding sign for an existing business is also consistent with the General Plan, Economic Development policy to “Retain and enhance the county’s existing businesses” (p. 76).

- E. **Request:** The applicant seeks approval of a minor revision of the approved site plan to add a freestanding sign.

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

North—A tire sales and installation store in the C-M Zone.

East—Indian Head Highway, a multilane, limited access, divided highway.

South—Undeveloped land in the C-M Zone owned by the State Highway Administration (SHA).

West—The Old Forte Village Shopping Center in the C-S-C (Commercial Shopping Center) Zone and the Fort Washington Medical Center in the C-O (Commercial Office) Zone.

The neighborhood is defined by the following boundaries:

North—Fort Washington Road

East—Indian Head Highway

South—Swan Creek Road

West—Fort Washington Road

This is the same neighborhood as was accepted in SE-4346. It contains two large residential subdivisions (Tantallon Square and Warburton Oaks), along with a substantial amount of undeveloped, wooded land. Commercial uses are found at the intersections of Fort Washington and Livingston Roads, as well as the intersections of Livingston Road, Indian Head Highway, and Swan Creek Road.

- G. **Minor Change Provisions:** Section 27-325(b) of the Zoning Ordinance, which governs minor revisions to special exception site plans, provides that:

- (1) **The Planning Board is authorized to approve the following minor changes:**

(A) **An increase of no more than fifteen percent (15%) in the gross floor area of a building;**

(B) **An increase of no more than fifteen percent (15%) in the land area covered by a structure other than a building;**

(C) The redesign of parking or loading areas; or

(D) The redesign of a landscape plan.

The proposed revision, which only includes the relocation of a freestanding sign, does not increase the gross floor area of the site. There are no proposed changes to the design of the parking areas or the landscape plan.

In addition, Section 27-325(a)(4) provides that:

The revised site plan shall comply with all applicable requirements of this Subtitle, and with any conditions, relating to the use, imposed in the approval of the Special Exception or of any applicable Zoning Map Amendment, subdivision plat, or variance.

The revised site plan is in compliance with all applicable requirements of the Subtitle, with the exception of the requested departure which is discussed below. The District Council approved SE-4346 in 2005 with two minor conditions, neither of which are impacted by this application.

H. Sign Requirements:

1. Section 27-614(a)(1) of the Zoning Ordinance states that in all commercial and industrial zones, signs shall only be located on property where the main building associated with the sign is located at least 40 feet behind the front street line.

The existing main building is set back approximately 25 feet from Indian Head Highway and 10 feet from Livingston Road. The applicant is requesting a departure from sign design standards of 15 and 30 feet, respectively, to allow a freestanding sign on a property where the main building is set back less than 40 feet from the front street line.

2. Section 27-614(a)(4) states that in all commercial and industrial zones, signs need only be located ten feet behind the street line. Where the street line is situated behind the actual existing street right-of-way line, freestanding on-site signs may be temporarily located within the area between the street line and the existing street right-of-way line (the area of proposed future widening of an existing street), provided that:

(A) The land area involved has not been, and is not in the process of being, acquired for street purposes;

According to the referral from the Transportation Planning Section dated December 3, 2009, the subject property is within the right-of-way for the planned interchange at MD 210 and Swan Creek Road/Livingston Road as shown in the *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*. The entire site is within the planned right-of-way, and the construction of the Livingston Road

overpass would require the eventual demolition of the gas station. There does not appear to be any means of avoidance of the right-of-way impact. The underlying special exception was approved and the gas station was permitted for construction prior to the approval of the above-cited master plan.

The Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area states that the plan recommendation includes interchange designs that are consistent with the approved final environmental impact statement (FEIS) for MD 210. The availability of a selected alternative is an indication that the interchange configuration has had extensive environmental and public review, along with state and federal approval. It is not funded for design, right-of-way acquisition, or construction at this time, and there is no timetable for the start of these processes.

(B) The sign is located at least ten (10) feet behind the existing street right-of-way line; and

The proposed sign is set back 11 feet from the existing street line along Livingston Road and 11 feet from the existing SHA street line for Indian Head Highway.

(C) A written agreement between the owner and the Department of Environmental Resources assures that the sign will be removed, at the owner's expense, at the time of acquisition of that area for street purposes.

Prior to the issuance of a sign permit, this written agreement must be consummated.

- I. **Parking Regulations:** The applicant has provided ten parking spaces for the food and beverage store/gas station use, including one van-accessible handicap space, which exceeds the nine total spaces required by the Zoning Ordinance.
- J. **Landscape Manual Requirements:** Compliance with the *Prince George's County Landscape Manual* is generally required when there is either a proposed increase in gross floor area of a building or a change of use. The proposed freestanding sign does not result in an increase in gross floor area. The proposed revision is, therefore, exempt from the Landscape Manual. The original plan approval preceded landscaping requirements. Although not shown on the site plan, a site visit revealed a row of plantings along a portion of the north property line. The site plan should be revised to indicate the existing shrubs.
- K. **Zone Standards:** No additional variances or waivers are required for this application.
- L. **Specific Special Exception Requirements for a Food and Beverage Store:** Section 27-355 of the Zoning Ordinance provides the following specific requirements for food and beverage stores:
 - (a) **A food or beverage store may be permitted, subject to the following:**

- (1) The applicant shall show a reasonable need for the use in the neighborhood;**
- (2) The size and location of, and access to, the establishment shall be oriented toward meeting the needs of the neighborhood;**
- (3) The proposed use shall not unduly restrict the availability of land, or upset the balance of land use, in the area for other allowed uses;**
- (4) In the I-1 and I-2 Zones, the proposed use shall be located in an area which is (or will be) developed with a concentration of industrial or office uses;**
- (5) The retail sale of alcoholic beverages from a food or beverage store approved in accordance with this Section is prohibited; except that the District Council may permit an existing use to be relocated from one C-M zoned lot to another within an urban renewal area established pursuant to the Federal Housing Act of 1949, where such use legally existed on the lot prior to its classification in the C-M Zone and is not inconsistent with the established urban renewal plan for the area in which it is located.**

Technically, the existing gas station is not part of this special exception review as it is a permitted use in the C-M Zone, subject to approval of a Detailed Site Plan. However, in order to be a permitted use, the gas station must meet some of the criteria for gas stations as found in Section 27-358:

- (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;**
 - (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;**
 - (4) The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited;**
 - (5) Access driveways shall be not less than thirty (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 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;

- (6) Access driveways shall be 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;
- (8) Gasoline pumps and other service appliances shall be located at least twenty-five (25) feet behind the street line;
- (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.
- (10) Details on architectural elements such as elevation depictions of each façade, schedule of exterior finishes and description of architectural character of proposed buildings shall demonstrate compatibility with existing and proposed surrounding development.

The addition of the freestanding sign is the only proposed change to the approved site plan and represents an exceptionally minor revision to the approved special exception. The use and site plan continue to be compliant with the above regulations for food and beverage stores and gas stations.

- M. **Referral Agencies and Departments:** None of the referral responses noted any objection to the departure request or the revision to the site plan.
- N. **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 purpose of this Subtitle;**

The proposed use and site plan are in harmony with the purposes of this Subtitle. The general 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 various types of land uses. The gas station and food and beverage store is an existing use that is compatible with the commercial uses that predominate the immediate neighborhood. The proposed sign will provide necessary identification without being excessive or overwhelming. A staff visit to the site revealed that the food and beverage store/gas station is generally well-maintained without the trash and other detritus observed at other sites.

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

With the exception of the requested departure from setback requirements, the proposed use is in conformance with all applicable requirements and regulations of the Subtitle applicable to modifying an existing food and beverage store special exception.

(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 Master Plan, the General Plan;

The food and beverage store use is in conformance with the recommendations of the 2006 Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment, as an interim use until the land is needed for a future interchange. The use is also in harmony with the policies of the Developed Tier in that the addition of new signage will support an existing commercial use on the site.

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

The proposed sign will not adversely affect the health, safety, or welfare of residents or workers in the area. To the contrary, it will provide necessary identification from the street so that motorists can safely and efficiently patronize the establishment. As noted previously, the sign will not be excessive or overwhelming and will be erected in an appropriate location within the required setback.

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

The proposed sign will not adversely impact adjacent properties or the general neighborhood. The proposed sign represents a balance between the need to provide adequate identification for the food and beverage store and gas station and the responsibility to control the location and size of signs in a manner that is compatible with adjacent land uses along the Indian Head Highway corridor.

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

The site is exempt from Woodland Conservation and Tree Preservation Ordinance requirements because the property contains less than 10,000 square feet of woodland, and it does not have a previously approved 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 the above-noted application.

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 Clark, seconded by Commissioner Squire, with Commissioners Clark, Squire, Vaughns and Parker voting in favor of the motion, and with Commissioner Cavitt absent at its regular meeting held on Thursday, January 7, 2010, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of February 2010.

Patricia Colihan Barney
Acting Executive Director

By Frances J. Guertin
Planning Board Administrator

PCB:FJG:TL:gdr