

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed Special Exception Application No. 4597 requesting a gas station in order to provide underground gasoline storage tanks, parking and an access driveway to support an adjacent gas station, 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 July 12, 2007, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property, known as 6000 Sandy Spring Road, is located on the northeast corner of Bauer Lane and Sandy Spring Road (MD 198). ROSE SE 1673, which is the subject of the special exception revision, is comprised of Parcel A and part of Parcel B and contains a total of 0.94 acres. The site has 152 feet of frontage on Sandy Spring Road (along Parcel A) and a total of 213 feet of frontage on Bauer Lane (along Parcel A and Parcel B). Vehicular access is currently provided via two access driveways from Sandy Spring Road. The site is improved with a Shell Gas Station. The gas station includes four gasoline dispensers (with eight pumping stations), a three-bay service garage, a 150-square-foot food and beverage area and a 10x12 accessory building. The portion of Parcel B which is located directly north of Parcel A, and which is included in companion application SE-4597, contains 0.26 acres. No development is proposed that portion of Parcel B.

B. **Development Data Summary:**

|                    | <b>EXISTING</b>                                            | <b>PROPOSED</b>                                |
|--------------------|------------------------------------------------------------|------------------------------------------------|
| Zone(s)            | C-S-C                                                      | C-S-C                                          |
| Use(s)             | Parcel A: Gas Station<br>Parcel B: Vacant                  | Parcel A: Gas Station<br>Parcel B: Gas Station |
| Acreage            | ROSE SE 1673/0.94 acres<br>(Parcel A and Part of Parcel B) | SE 4597/1.02 acres<br>(Parcel B)               |
| Lots               | N/A                                                        | N/A                                            |
| Parcels            | 2                                                          | 2                                              |
| Square Footage/GFA | SE-1673/2,051                                              | SE-1673/2,051<br>SE-4597/ N/A                  |

C. **History:** The District Council approved a Special Exception for the existing gas station on January 16, 1968. Five revisions to the Special Exception have been approved to date.

1. On July 17, 1980 the Planning Board approved ROSP SE-1673/01 for the construction of a sales kiosk, additional parking and landscaping (PGCPB No. 80-50). A variance was approved in conjunction with the revision (VA-5722) to allow an access driveway less than 30 feet wide and a waiver from the requirement for a landscaped front yard setback strip of 10 feet along a public street line.
2. December 16, 1993 the Planning Board approved ROSP SE-1673/02 to remove the kiosk, add a gasoline dispenser and make minor site modifications (PGCPB No. 93-997).
3. On February 16, 1995 the Planning Board approved ROSP SE-1763/03, a minor revision to extend by 20 feet an existing six-foot high sight-tight fence along the west side of the subject property (PGCPB No. 95-48).
4. November 14, 1996 the Planning Board approved ROSP SE-1673/04 to allow the provision of an enclosure to an existing portico area, a new handicapped-accessible rest room and the remodeling of the sales/waiting room area. The applicant had also requested a variance to waive the five-foot wide sidewalk requirement along Sandy Spring Road and Bauer Lane. The variance request was denied and a condition was included requiring the installation of the sidewalk. It was never constructed.
5. A Limited Minor Change was approved by the Planning Director on June 3, 2005. The request was for the addition of an above ground heating oil tank behind the existing convenience store on Parcel A. In 1984 the Board of Appeals granted a variance (VA-12247) from Section 27-358 (a)(5) for 10 feet to allow an access driveway to begin 10 feet from the point of curvature and for six feet to allow a driveway to begin or end at a point six feet from the side yard of the adjoining lot.

D. **Master Plan Recommendation:** The approved and adopted 1990 master plan and sectional map amendment for Subregion I recommends the property for commercial retail land use and a Neighborhood Activity Center. The 2002 General Plan places the site in the Developing Tier. The General Plan 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: ROSP-1673/06:** Pursuant to Section 27-325(b) (Minor Changes, Planning Board) and (f) (Changes of gas station site plans) of the Zoning Ordinance, the applicant is requesting a revision to remove three existing underground gasoline storage tanks and four parking spaces. The applicant also seeks to validate an existing 10x12-foot frame shed and a metal soda container (trailer) behind the gas station. The proposal represents a cumulative increase of less than 15 percent in the gross floor area of a building, an increase of less than 15 percent in the land area covered by a structure other than a building, and includes the redesign of the parking area; therefore, it falls under the definition of a minor change.

- F. **Neighborhood and Surrounding Uses:** The subject property is located in the southern section of the West Laurel community. The neighborhood is bounded by Mill Bond Road to the north and west; the Baltimore Gas and Electric (BGE) right-of-way to the east and Sandy Spring Road (MD 198) to the south. The property is surrounded by the following uses:

North: Single-family detached homes in the R-R Zone.

South: Across Sandy Spring Road is an undeveloped parcel in the E-I-A Zone. The WSSC Patuxent Water Filtration Plan in the E-I-A Zone is located farther to the southeast.

East: Power lines BGE and a WSSC Water Treatment Facility in the R-R Zone.

West: Across Bauer Lane are single-family detached homes in the R-R Zone.

- G. **Specific Special Exception Requirements for a Gas Station:** A gasoline station is permitted in the C-S-C Zone by a special exception. **Section 27-358** of the Zoning Ordinance sets forth the specific special exception requirements for a 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.**

Parcel A has approximately 152 feet of frontage along Sandy Spring Road (MD 198), which is a master plan arterial facility with an ultimate right-of-way width of 150 feet. The site also has a total of 213 feet of frontage along Bauer Lane which includes Parcel A and Parcel B. Parcel A has approximately 154 feet of frontage along Sandy Spring Road.

- (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 subject property meets this requirement. There is no school, outdoor playground, library or hospital located on any property within 300 feet of the subject site.

- (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.**

The applicant's proposal does not include these activities. Both the applicant's statement of justification and the site plan indicate that there will be no display or rental of cargo trailers, trucks, or similar uses at this site.

- (4) The storage or junking of wrecked motor vehicles (whether capable of**

**movement or not) is prohibited.**

The applicant does not propose the storage or junking of wrecked vehicles on the property.

- (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.**

There are two variances associated with the existing gas station use. Variance Appeal VA-5722, which the Board of Appeals granted in 1980, included a variance of five feet from the 30-foot- wide driveway requirement. Additionally, VA-5722 granted a variance of 10 feet from then Section 27-462(b), which required a front landscape setback of 10 feet along a public street line.

In 1984, Variance Appeal VA-12247 was granted for a variance of 10 feet from Section 27-358(a)(5), which requires all driveways on corner lots to begin at a point not less than 20 feet from the point of curvature of the curb return or the edge of paving at an intersection without curb and gutter. In addition, a variance was granted of six feet from the requirement that 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.

Proposed access to the site is from Sandy Spring Road only. No access from either Parcel A or Parcel B is proposed from Bauer Lane. The current site plan for ROSP SE-1673/06 shows one existing one-way right out access driveway which is 20 feet wide and one two-way access driveway 24.2 feet wide. (Staff notes that the applicant's Statement of Justification indicates, incorrectly, that two 25-foot-wide driveways currently exist.) The site plan for SE-4597 shows a proposed one-way right in driveway 20 feet wide accessing Parcel B and connecting to Parcel A, resulting in additional queuing area for gas station patrons. SHA found the driveway widths and radii for the two one-way access driveways to be appropriate. The 24.2 foot wide two-way driveway must be removed, however, as SHA has not approved an increase in the number of access points at this location. Staff further notes the point of curvature for the westernmost driveway on Parcel A is less than the 10 feet approved by the previous variance. SHA has indicated that the point of curvature, which is approximately three feet, is adequate for the existing conditions at that location, and for a right out only driveway. Staff therefore recommends that the driveway closest to the intersection of Bauer Lane be validated with its current design, since the existing conditions at that location do not present any adverse

impacts on the transportation system or the surrounding neighborhood. Staff further recommends the site plan be revised to indicate the two way driveway on Parcel A will be removed.

**(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.**

In a memorandum dated June 6, 2007, from the Transportation Planning Section, it was concluded that due to topographic constraints, proximity to I-95 merge ramps, the traffic speed and volume along MD 198, and the lack of pedestrian activity in the vicinity of the subject property, that the site's frontage along MD 198 was inappropriate for the construction of a sidewalk. The applicant, however, is currently required to provide a five-foot-wide sidewalk along the entire frontage of Parcel A, along MD 198 and Bauer Lane, as a condition of a previous revision to the site plan. The applicant must either obtain an amendment to the applicable revision or provide the sidewalk.

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

The site plan is in compliance with this requirement. The location of the existing gasoline pumps are not proposed to be modified. They are approximately 30 feet from Sandy Spring Road, the nearest right-of way.

**(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 Statement of Justification and site plan notes indicate compliance with these requirements. However, a field visit revealed that used tires were piled behind the gas station and within a four foot high metal enclosure. The site plan identifies the metal enclosure as a fence. The structure is unattractive and in poor repair. Staff recommends that the metal enclosure and all the tires stored within the enclosure and piled next to it be removed. The applicant has verbally indicated that a metal

enclosure at the back of the gas station, which is identified on the site plan as a trailer will be removed. The site plan should be revised to show that the structure, in which sodas are stored, will be removed. Staff notes the square footage of the structure was not provided, nor was it included in the calculated Gross Floor Area of the gas station.

- (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 applicant is not proposing any additions to existing buildings or any new structures; therefore, architectural elevations were not submitted or required.

- (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.**

Topographical information is shown on the site plans. The ROSP site plan indicates the location of the dumpster; however, the SE site plan does not show the dumpster on the adjacent property. No dimensions for the dumpster or details for the dumpster enclosure are provided. The site plans should be consistent regarding the information shown. In addition, staff recommends the site plan be revised to include details for the dumpster enclosure. The Statement of Justification indicated that no exterior vending machines were provided; however, a field visit revealed that there are several exterior vending machines located adjacent to the gas station on Parcel A. The site plans should be revised to indicate the location of the vending area on the subject property.

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

The applicant agrees to comply 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; and**
- (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 applicant has not submitted a needs study because no additional square footage (other than the validation of the shed and trailer) or pump dispensers are being proposed. The Planning Board does not find that the proposal will unduly restrict the availability of land or the balance of land use in the area for other commercial uses.

- H. **Parking Regulations:** The site plan correctly notes that a total of eight parking spaces are required for the gas station and food and beverage store. The applicant has provided eight spaces on Parcel A and four additional spaces on Parcel B. The existing gas station is 1,931 square feet. With the proposed validation of the 10x12 shed, the total gross floor area increases to 2,051 square feet (which does not include the square footage of trailer). A loading space is required to be provided for every 2,000 square feet of gross floor area. Staff recommends the site plan be revised to show a loading space in compliance with the provisions set forth in Part 11 of Subtitle 27.
- I. **Landscape Manual Requirements:** The proposed revision to the special exception is subject to Section 4.7 of the *Landscape Manual* (Buffering Incompatible Uses), because the cumulative increase in gross floor area, which includes the validation of the 10x12 shed, has exceeded 10 percent since the enactment of the *Landscape Manual* in 1990. The site plan demonstrates conformance with Section 4.7 by indicating existing woodland to be preserved on that portion of Parcel B which is included in the special exception area (north of Parcel A). The site is also subject to Section 4.4 of the *Landscape Manual* regarding the screening of the dumpster. The Urban Design Section recommends, in a memo dated June 8, 2007, that the dumpster must be screened from the public right-of-way on its east and south sides by either a sight-tight fence or landscaping.
- J. **Zone Standards:** The original special exception was approved for a gas station. Subsequent revisions to the site plan included adding and removing a 72-square-foot sales kiosk, adding a new gasoline dispenser, modifying the pump islands, enclosing the portico area, providing handicapped access and restroom facilities, and installing an above-ground heating oil tank. The proposed use meets all bulk and height standards for the C-S-C Zone. The proposal also meets all setback requirements. The applicant is currently not proposing an expansion or intensification of the original use; therefore, the subject application is considered a minor revision to the approved special exception.
- K. **Sign Regulations:** The site plan indicates one freestanding sign located at the southwest corner of Parcel A. The sign location is in conformance with Zoning Ordinance regulations. Another sign is shown on the site plan as within the required 10 foot setback and perpendicular to the street. This sign must either be removed or relocated in conformance with Zoning Ordinance requirements. No signage is proposed on Parcel B.

**L. 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 proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The 15 purposes of the Zoning Ordinance, as provided in Section 27-102(a), seek generally to protect and promote the health, safety and welfare of the present and future inhabitants of the County. The proposal will provide improved vehicular access to the site and remove a potentially hazardous queuing situation from a high volume, high speed arterial.

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

With the proposed conditions of approval, the proposed use will be in conformance with all the applicable requirements of the Subtitle, as the applicant has not demonstrated compliance with all previously approved site plan revisions for the subject property. In 1994, the applicant requested a variance in conjunction with ROSP-1673/04. The variance request was denied by the Planning Board on the basis that the site was identified as a Neighborhood Activity Center and that the absence of a sidewalk in a location encouraging pedestrian activity constituted a potential safety hazard and a significant impairment to achieving the Master Plan's recommendation. Resolution (PGCPB No.96-344) also included the finding that "there are no significant physical impairments on the site to warrant granting the variance." Condition 1(c) of the resolution required that a five foot wide sidewalk be provided along the frontage of Sandy Spring Road and Bauer Lane. The sidewalk was never constructed.

The applicant is currently requesting an amendment to ROSP SE-1673/04 that would delete the sidewalk condition. Staff conducted a field inspection of the property and found that based on the staff field inspection and the information in the Transportation Planning Section referral (as discussed above), the Planning Board finds there is sufficient justification to delete the sidewalk condition and support the applicant's amendment.

**(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 applicant is not proposing a change in the approved use on the site. The proposed use conforms to the land use recommendations in the 1990 Master Plan for Subregion I. Commercial activities and services are encouraged to locate in neighborhood activity centers as needed. The Planning Board finds the proposed use will not substantially impair the integrity of the 1990 Master Plan for Subregion I.

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

The Planning Board finds the proposed use will help improve the function of the existing transportation network and provide a safer means of providing a useful service to the area. As a result, the Board finds that with the attached conditions, the proposed use will not adversely affect the health, safety and welfare of residents and 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 proposed revision of site plan is for an existing gas station. The use will not be detrimental to the use or development of adjacent properties or the general neighborhood. No increase in building area or the number of pump dispensers are proposed. The use is in an appropriate location, adjacent to a major arterial with adequate access.

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

The Environmental Planning Section previously reviewed TCP II/245/91-01, as submitted by the applicant, for the proposed installation of the underground storage tanks and a temporary stock pile to be located on the southeastern portion of Parcel B. The TCP was approved on October 20, 2005. The Environmental Planning staff found the current revisions to the existing site plan minor in nature and within the established limits of disturbance of the TCP II that was previously approved. The Planning Board finds that the proposed site plan is in conformance with an approved TCP.

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 recommends to the District Council for Prince George's County, Maryland that the above-noted application be APPROVED , subject to the following condition:

The site plan shall be revised as follows:

- a. The dumpster location shall be shown on all appropriate plans and dimensions shall be provided.
- b. The dumpster shall be screened from the public right-of-way on its east and south sides by either a sight-tight fence or landscaping along the east side and a screen type gate at the front of the dumpster. Screening and landscape planting details shall be shown on the Landscape Plan.
- c. The dimensions of the frame shed and the metal soda container (trailer) shall be indicated on site plans.
- d. The metal enclosure (fence) at the rear of the building shall be deleted from the site plans and removed from the subject property. Discarded auto parts shall be promptly removed from the premises.

- e. The site plan shall indicate that the two-way access driveway will be removed.
- f. The site plan shall indicate the location of the vending area.
- g. The identification sign on the southern property line of Parcel A and perpendicular to Sandy Spring Road shall either be removed or relocated in conformance with Zoning Ordinance requirements.
- h. The site plans shall be revised to show a loading space is provided in compliance with the provisions set forth in Part 11 of Subtitle 27.
- i. The applicant shall either provide a five foot wide sidewalk along the frontage of Parcel A along Sandy Spring Road and Bauer Lane in compliance with ROSP SE-1673/04 or obtain approval from the District Council to have the requirement deleted.

\* \* \* \* \*

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 Vaughns, seconded by Commissioner Clark, with Commissioners Vaughns, Clark, Cavitt, Squire and Parker voting in favor of the motion at its regular meeting held on Thursday, July 12, 2007 in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of September 2007.

R. Bruce Crawford  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

RBC:FJG:JJ:CRF:bjs