

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed Special Exception Application No. 4477 requesting a special exception for a 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 November 4, 2004, the Prince George's County Planning Board finds:

- A. Location and Field Inspection:** The subject property is located on the southeast side of Baltimore Avenue (US 1), extending through to Rhode Island Avenue, opposite Holland Drive. The site is a large, rectangular-shaped combination of four lots. The site is developed with a restaurant (Danny's), an appliance repair shop, and several vacant commercial structures oriented toward US 1. A single-family residence oriented toward Rhode Island Avenue is found in the southeast corner of the site. Access to the property is proposed via driveways connecting to both US 1 and Rhode Island Avenue.

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	C-S-C	C-S-C
Use(s)	Appliance Repair, Vacant Commercial Structures, Single-Family Residence, Restaurant	Gas Station, Convenience Store, Restaurant
Acreage	2.75	2.75
Lots	4	4
Parcels	0	0
Square Footage/GFA	7,917	9,325
Dwelling Units:		
Single-Family	1	0

- C. History:** The 1990 Sectional Map Amendment for Subregion I retained the subject property in the C-S-C Zone.
- D. Master Plan and General Plan Recommendation:** The 1990 Master Plan for Subregion I recommends the site for retail commercial development. The 2002 General Plan places the site in the Developing Tier on a designated Corridor, US 1. The vision for the Development Pattern in the Developing Tier is to maintain low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable. In addition, the plan recommends that Corridors in this tier be developed with a mix of residential and nonresidential uses that are community-oriented in scope. The development should occur at designated nodes and be planned as transit-oriented development. Development nodes have not yet been determined for

this portion of the US 1 corridor. The proposed use is consistent with these recommendations

- E. Request:** The applicant proposes to develop the subject special exception site with a new gas station and a convenience store. The proposal consists of a one-story, 5,295-square-foot food and beverage store (Wawa) and eight multiple-product fuel dispensers (MPDs) with 16 fueling positions. In addition, an existing restaurant (Danny's) would be retained.

F. Neighborhood and Surrounding Uses:

The property is surrounded by strip-commercial uses oriented to US 1 in the C-S-C Zone.

The neighborhood is defined by the following boundaries:

North And West—	US 1 (Baltimore Avenue)
East—	Rhode Island Avenue
South—	Sunnyside Avenue

A mixture of office and retail-commercial development characterizes the neighborhood.

- G. Specific Special Exception Requirements:** A food or beverage store is permitted by right in the C-S-C Zone. A gasoline station is permitted in the C-S-C Zone by a special exception. **Section 27-358** sets forth the specific special exception requirements:

(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.**

The subject property has approximately 241 feet of frontage on US 1, which has an ultimate right-of-way width of 100 feet. The site also has approximately 121 feet of frontage along Rhode Island Avenue. The site plan shows access points to each of these two roads.

- (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 such use, the National Agricultural Research Center Library, is located 2,000 feet to the southwest.

- (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.**
- (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.**

The proposal meets all of the zoning requirements with regard to access driveways, including the requirements for a 20-foot setback from the point of curvature and the 12-foot setback from the side or rear lot line of any adjoining lot.

- (6) Access driveways shall be defined by curbing.**

The site plan indicates that all access driveways will 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.**

The site plan proposes a sidewalk along both US 1 and Rhode Island Avenue. The walk along Rhode Island Avenue is shown as an eight-foot-wide Class II hiker/biker trail in accordance with the recommendation of the master plan.

- (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 at least 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.

The applicant stated that no repair service is proposed for the site. 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.

- (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 has provided a description of the architectural character of the proposed building to demonstrate compatibility with the existing/surrounding development. The applicant has also provided elevations and renderings of the proposed convenience store and gas station. The proposed stucco/tile/wood trim building with a metal roof would be compatible with the mix of commercial uses surrounding 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.**
- (3) The location of exterior vending machines or vending area.**

The topographical information is shown on the site plan. Note 10 of the site plan states that all waste associated with the site will be collected and disposed of inside the convenience store, thus no dumpster or external trash enclosure will be required. There are no vending machines proposed.

- (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 submitted two need analyses. Upon reviewing the proposal and the applicant's need analyses, Dr. Joseph Valenza and Mr. Ted Kowaluk of the Research Section (M-NCPPC) offered their opinions that the applicant had failed to show an actual deficit of gas stations existed in the surrounding area.

At the hearing, the applicant argued that the test for whether or not a gas station is necessary to the public in the surrounding area should not be based on actual deficit, but should rather be based on a lesser standard of "expedient or reasonably convenient and useful to the public."

The Planning Board agrees that a finding of actual deficit is too onerous a burden for a gas station application, however, the applicant must show more than that the station would be convenient or useful. To that end, the applicant produced additional exhibits the Planning Board found to overcome that burden. The Board found that the applicant's proposal for a 24-hour station with competitive pricing would result in a convenient, useful and conducive opportunity for the public in the surrounding area. All of these factors, taken together, are more than adequate to show that this proposal would be necessary to the public in the surrounding area.

The subject property is located along a long-existing commercial corridor. There is no indication that approval of the proposed gas station would upset the balance of land use in the area, nor would the use unduly restrict the availability of land in the area for other commercial uses.

H. Parking Regulations:

The site plan correctly shows 75 parking spaces required for the gas station, convenience store and restaurant uses proposed for the site. 116 parking spaces are being provided.

I. Landscape Manual Requirements:

The proposed development is subject to Sections 4.3 (Parking Requirements) and 4.7 (Buffering Incompatible Uses). The site plan demonstrates compliance with the *Landscape Manual*.

- J. Zone Standards:** The proposed use meets the height and bulk requirements for the C-S-C Zone. No variances are required.
- K. Sign Regulations:** Two freestanding ID/price signs are shown on the plan, one along US 1 and one along Rhode Island Avenue. Both are shown to be 20 feet in height and 47 square feet in area. Both meet the ten-foot setback from the right-of-way.
- L. Subdivision:** The subject property is made up of four lots (Lots 1, 4, 7 and 8 of Salute's Subdivision). Lots 1 and 4 were created as two of the six original lots in Salute's Subdivision in 1961 and are recorded at Plat Book 42, Plat 25. Lots 7 and 8 were created through the resubdivision of lots 2, 3, 5 and 6 in 1984 and are recorded at Plat Book NLP 121, Plat 22. The applicant should file a consolidation plat prior to razing any of the structures on Lots 1, 4 and 8 to vest the existing square footage of development. Otherwise, the applicant would be subject to a new preliminary plan since they are proposing more than 5,000 square feet of GFA.

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.**

The proposed use and site plan are generally in harmony with the purposes of the Zoning Ordinance. The purposes of the Zoning Ordinance seek to protect and promote the health, safety, morals, comfort, convenience and welfare of inhabitants of the county. The applicant's proposal, consistent with the recommendations of the master plan and General Plan, would not result in an inharmonious land use. Apparently, however, it is a use that is not necessary to the surrounding area.

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

The proposed use is generally in conformance with all the applicable requirements and regulations of the Zoning Ordinance. However, the applicant has failed to show that the proposed use is necessary to the public in the surrounding area.

- (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 proposed use will not substantially impair the integrity of the 1990 Master Plan for Subregion I, which recommends the site for retail commercial development. To the contrary,

the proposed development would further that recommendation, replacing several vacant structures and a marginal commercial use.

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

The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area. It would inject a new use into what is otherwise a rather nondescript commercial strip, in accordance with the recommendation of the master plan.

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

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. This area along US 1 has long been developed with commercial uses such as that being proposed by the applicant.

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

A Type I tree conservation plan was not submitted as part of this application. The applicant, in its statement of justification, suggests that the site may be exempt from woodland conservation requirements. Based on our visit to the site, staff is inclined to concur. However, the applicant must obtain an exemption letter from the Environmental Planning Section before this application could be approved.

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.

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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 Squire, with Commissioners Harley, Squire, Eley, and Hewlett voting in favor of the motion and with Commissioner Vaughns opposed to the motion, at its regular meeting held on Thursday, November 4, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of December 2004.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:TL:rmk

(Revised 8/9/01)