



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 10-103

File No. SE-4675

## RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed SE-4675 requesting a Special Exception for a vehicle repair and vehicle parts or tire store with installation facilities in the C-S-C Zone 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 September 16, 2010, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is a rectangularly-shaped lot, approximately 0.46 acres in size. It comprises part of Lot 2 of the Gretta-East Riverdale Subdivision. It is located on the west side of Kenilworth Avenue (MD 201) approximately 1,670 feet north of East-West Highway (MD 410) and is developed with a one-story brick service station building with three bays, formerly a Shell gas station. The majority of the site is in the 100-year floodplain of the Northeast Branch of the Anacostia River. The gas pumps and underground tanks were removed when the gas station on the site was abandoned. The applicant currently is operating a tire sales and installation shop on the premises.

B. **Development Data Summary:**

|         | EXISTING                    | APPROVED                    |
|---------|-----------------------------|-----------------------------|
| Zone(s) | C-S-C                       | C-S-C                       |
| Use(s)  | Tire Sales and Installation | Tire Sales and Installation |
| Acreage | 0.46                        | 0.46                        |
| Lots    | 1                           | 1                           |

C. **History:** The property was retained in the C-S-C Zone in the May 1994 *Approved Master Plan and Sectional Map Amendment Planning Area 68*. The site had an approved Special Exception (SE-1080), for a gas station which was approved by the District Council in 1964 and was most recently revised twice in 1998. The gas station was abandoned and the pumps and tanks removed, at which time the special exception was terminated in accordance with Section 27-358(c) of the Zoning Ordinance. In 2006, a U&O permit was issued for the retail sales of tires and rims without installation, a permitted use in the C-S-C Zone.

D. **Master Plan Recommendation:** The 2002 *Approved Prince George's County General Plan* places this property in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit supporting, mixed-use pedestrian-oriented, medium-to high-density neighborhoods. This application is consistent with the 2002 General Plan Development Pattern policies for the Rural Tier.

This application conforms to the recommendations of the 1994 *Approved Master Plan and Sectional Map Amendment Planning Area 68*, which recommends a commercial land use for the subject property.

E. **Request:** The applicant is seeking approval of a special exception to allow the existing tire and rim sales business to retain added installation services and light vehicle repairs.

F. **Neighborhood and Surrounding Uses:** The neighborhood is defined by the following boundaries.

- **North**—River Road
- **East**—Kenilworth Avenue (MD 201)
- **South**—Quesada Road
- **West**—Northeast Branch

The neighborhood is generally commercial in nature with strip-commercial uses predominating. Residences are located across Kenilworth Avenue to the east and further to the south, along Quesada Road.

The site is surrounded by the following uses:

- **North**—A restaurant and church in the C-S-C and C-O Zones, respectively.
- **East**—Across Kenilworth Avenue are single-family residences in the R-55 Zone.
- **South**—Strip commercial uses including a bowling alley, bakery, post office and auto parts store, all in the C-S-C Zone.
- **West**—Undeveloped floodplain in the R-O-S Zone, part of the Anacostia River Park.

G. **Specific Special Exception Requirements for a Vehicle Repair and Vehicle Parts or Tire Store with Installation**

Section 27-417.01 of the Zoning Ordinance provides the following specific requirements for a vehicle parts and tire store with installation:

- (1) **All sales and installation operations shall be conducted within a wholly enclosed building, with no outdoor storage;**

The applicant provides that all sales and installation operations will be conducted within the existing building on the property. As noted earlier, the existing building was used as part of a

service station that previously occupied the property. The applicant is proposing to use the existing service bays for all installations.

- (2) **Installation activity on any motor vehicle shall be completed within forty-eight (48) hours or less. No vehicle may be stored on the property for longer than this period; and**

The applicant submits that the installation of tires will occur within 48 hours. Vehicles will not be stored on the property in excess of this period of time.

- (3) **The demolition or junking of motor vehicles is prohibited.**

The approved use will not include the demolition or junking of motor vehicles. The applicant will not be performing heavy repairs on the property and, therefore, wrecked or junked vehicles will not be present.

- H. **Parking and Loading Requirements:** Section 27-568(a) of the Zoning Ordinance sets forth the parking requirements for all uses. It requires nine parking spaces for the subject use, three per service bay. The site plan shows ten spaces, with locations and dimensions consistent with previously approved plans. A van space for the physically handicapped must be shown dimensioned at 16 feet by 19 feet.

One required loading space has been properly reflected on the submitted plan. The loading space must be screened in accordance with Section 4.4 of the *Prince George's County Landscape Manual*, or Alternative Compliance obtained.

- I. **Prince George's County Landscape Manual Requirements:** The site is generally exempt from the *Prince George's County Landscape Manual* since no new building or outdoor parking areas are to be constructed. The new loading space must be screened in accordance with Section 4.4 of the *Prince George's County Landscape Manual*, or Alternative Compliance obtained.
- J. **Sign Regulations:** The existing freestanding sign along Kenilworth Avenue is shown to remain in its present location. As shown on the site plan, the sign is partially within the wide, unused right-of-way for Kenilworth Avenue. In 1998, the applicant sought, and was granted, a Departure from Sign Design Standards (DSDS-550) to allow this sign location.
- K. **Zone Standards:** The proposed use is in the C-S-C Zone. The site plan indicates all required setbacks are met, with the exception of the ten-foot setback for the canopy. The applicant obtained a Variance Request (VSE-1080/02) in 1998 from the setback requirement. No further variances or departures are required.
- L. **Further Planning Board Findings and Comments from Other Entities:**

The subject property is a recorded lot. No further subdivision activity is required because the applicant is not proposing any new gross floor area.

1. There appears to be a fence located at the rear of the building, all fencing off-site must be removed from the site plan.
2. A space for the physically handicapped must be provided at 16 feet by 19 feet in size.
3. A new loading space has been provided along the right-of-way (ROW). Section 4.4 of the *Prince George's County Landscape Manual* requires all loading spaces to be screened from the street.
4. This Planning Board review does not include the review of any signage.

The applicant is not proposing new signage. The existing freestanding sign is shown to be retained in the location approved by the Planning Board in Departure from Sign Design Standards DSDS-550.

**Town of Riverdale Park**—The subject property is located within the Town of Riverdale Park. The Town is in support of the application.

**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 purposes of the Zoning Ordinance, as provided in Section 27-102(a), seek generally to protect and promote the health, safety and welfare of county inhabitants, and promote compatible land use relationships. The approved use is consistent with the type of vehicle-related use that formerly occupied the property. As is the case with most abandoned gas stations, the site can no longer be used for the sale of petroleum products because of restrictive covenants in the deed. The approved use is a logical alternative for an adaptive reuse.

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

With the previously approved departure and variances, and the conditions of approval herein, the approved use is in conformance with all the applicable requirements and regulations 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 Master Plan, the General Plan.**

This application is subject to the recommendations of the 1994 *Approved Master Plan and Sectional Map Amendment Planning Area 68*, which recommends a commercial land use for the subject property. The property has historically been a vehicle-service-related use and now involves the retail sale of tires. This use will not, therefore, impair the retail commercial recommendation of the plan.

The *Central Kenilworth Avenue Revitalization Study* was a joint effort undertaken in 2008 by Community Planning staff of The Maryland-National Capital Park and Planning Commission (M-NCPPC), the Senior Class Design Studio of the University of Maryland Landscape Architecture Program, the Town of Riverdale Park, and the Neighborhood Design Center. The study weighed the constraints and opportunities for revitalizing a section of Kenilworth Avenue (MD 201), south of River Road and north of the Town of Edmonston. The subject property is within the study area.

The 2008 study makes specific recommendations for many of the properties along Kenilworth Avenue as well as general recommendations for the entire area. Much of the study focuses on the potential for revitalizing the shopping centers in the study area: Kenilfair (south of the subject property, beyond Rinaldi's Riverdale Bowl), the Riverdale Plaza area, and the Alamo Shopping Center (both of which are approximately one-half mile to the south, beyond East-West Highway). The study also identifies pedestrian safety and a lack of a consistent streetscape (including landscaping) as negative factors to be addressed. The study shows the subject property as being along a stretch of Kenilworth Avenue which experiences a low level of pedestrian activity.

The Commission has considered requiring a sidewalk and landscape improvements along the street frontage in keeping with the recommendations of the study. There is some nominal landscaping along Kenilworth Avenue, consistent with that in place for the many years it was used as a gas station. Technically, since the original use as a gas station preceded the requirement for a landscape strip along the streetline, any landscaping within this area is considered voluntary plantings. The site is exempt from the requirements of the *Prince George's County Landscape Manual* since no new building or parking area is proposed.

There are three constraints which would make the recommendation for additional landscaping and a sidewalk difficult to implement, two of which are:

1. The area where the sidewalk would be placed is within the master plan right-of-way for Kenilworth Avenue. The applicant would need to receive permission from the District Council to place improvements in that area.
2. That same area is encumbered by a slope easement held by the State Highway Administration (SHA). It precludes the property owner from making changes to the land area under the easement to ensure the structural integrity of the roadway.

3. All but a small portion of the site is within the 100-year floodplain of the Northeast Branch. Changes to the floodplain and the inclusion of additional impervious surface are discouraged.

Although the Planning Board recognizes a need for sidewalks along Kenilworth Avenue, it is not imposing a condition to that effect as part of this approval.

Given the constraints, and in recognition of the study finding that the site is in an area of low pedestrian activity, the inclusion of additional landscaping or a sidewalk along Kenilworth Avenue was not recommended. However, at the Planning Board hearing, the applicant expressed a willingness to place additional landscaping in planters on the site in locations acceptable to the State Highway Administration (SHA) and Department of Public Works and Transportation (DPW&T).

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

The approved use will not adversely affect the health, safety or welfare of residents or workers in the area. The Transportation Planning Section, in a memorandum dated May 21, 2010, found no significant transportation impacts that would result from the approval of this application. This adaptive reuse of an abandoned gas station probably has fewer impacts associated with it than did the original use which existed on the site for more than 40 years.

A special exception use, not unlike a comprehensive rezoning, is accorded a strong presumption of validity. A special exception use is considered compatible with uses permitted by right within the zone as long as specific criteria are met. Unless unique adverse impacts are identified, the special exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, **at the particular location proposed, would have adverse impacts above and beyond those inherently associated with the special exception use, regardless of its location within the zone.** Although there are clearly negative effects associated with the proposed facility, they are integral to the use and will not result in greater or more unique adverse effects at the proposed location than if the use were located at another site with the same zoning. Therefore, with the imposed conditions, it can be reasonably concluded that the approved 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 approved use will not be detrimental to the use or development of adjacent properties or the general neighborhood. Essentially, this application proposes the substitution of one automobile-related use for another. Nothing in the record for this case suggests that this use would 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.**

The subject site has less than 10,000 square feet of existing woodland and a gross tract area of less than 40,000 square feet and therefore is exempt from the Wood land Conservation Ordinance. An exemption letter has been issued and remains valid until October 29, 2011.

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 conditions:

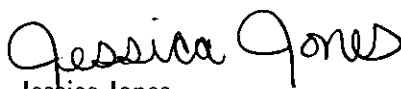
1. All off-site fencing shall be removed from the site plan.
2. The van parking space for the handicapped shall be shown to be 16 feet by 19 feet in size.
3. The loading space shown on the site plan shall be screened in accordance with Section 4.4 of the *Prince George's County Landscape Manual* or Alternative Compliance obtained.
4. The applicant shall provide landscape planters on the subject property outside of the easement area unless prohibited by the State Highway Administration and/or the Department of Public Works & Transportation.

\* \* \* \* \*

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, September 16, 2010, in Upper Marlboro, Maryland.

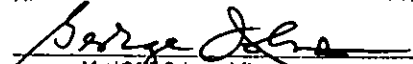
Adopted by the Prince George's County Planning Board this 7<sup>th</sup> day of October 2010.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Acting Planning Board Administrator

PCB:JJ:TL:arj

APPROVED AS TO LEGAL SUFFICIENCY.

  
M-NCP&C Legal Department

Date 10/4/10