

March 30, 2005

MEMORANDUM

TO: The Prince George's County Planning Board
The Prince George's County Council

VIA: Jimi Jones, Acting Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Remand de Novo**
Revision of Site Plan (Minor Change) Special Exception No. 1546
Variance Application No. 1546
Departure from Sign Design Standards Application No. 560

Revision of Site Plan No. 1546 was filed in 1999 to permit the owner/operator of a gas station located at 7713 Allentown Road to validate the conversion of a three-bay service station to a retail gasoline and convenience mart operation. The original gas station had been approved in 1967 via Special Exception 1546. The applicant had also obtained authorization from the District Council to convert from a full service gasoline station to a retail gasoline sales operation. ROSP 1546 was filed together with the request for a variance and a departure from sign design standards to continue the existing locations and dimensions of the gasoline pumps, free standing sign, and sidewalk.

The Technical Staff recommended approval for the reasons enumerated in the attached staff report. The Planning Board approved the request on May 6, 1999. The District Council remanded the two cases to the Planning Board on October 19, 1999 for the following reasons:

With regard to ROSP 1546:

1. The record should be supplemented to reflect what permits the applicant sought and what permit he obtained after the District Council in 1996 approved conversion of the gas station from full service to gasoline only. The applicant should explain why he did not seek approval of a food and beverage store on the site at the time he converted to a gasoline-only operation.
2. The applicant must show what is unique about the subject property to justify the variances he requests. The record does not reflect that the property has any unusual topography, shape, or environmental conditions to justify variances, nor has the applicant shown hardship or practical difficulties, within the meaning of the Zoning Ordinance.

3. The applicant must demonstrate by evidence that he satisfies all the requirements to obtain variances. The present record reflects only a staff evaluation that the variances do not involve substantial changes from Zoning Ordinance standards and staff's observation that the improvements on-site are not being altered.
4. The applicant must show by evidence that the residential properties behind and adjacent to the subject property will be adequately screened and protected.

With regard to DSDS 560:

1. The applicant must show why he cannot convert the sign to bring it into compliance with Zoning Ordinance requirements.
2. More generally, the applicant must show by evidence that he meets each and every requirement in Section 27-239.01(b) applicable to departures from sign design standards for signs. The present record does not show that the site is unique or that the requested departure is the minimum necessary to alleviate unique circumstances on the subject property.

The applicant filed a supplemental statement of justification on June 1, 2004, to respond to the District Council's Order of Remand. The supplemental statement is attached.

Staff carried out a field inspection of the subject property on March 23, 2005. The subject site and neighborhood remain as it was described in the 1999 Technical Staff Report except that the restaurant and credit union south of Allentown Road appear to be closed.

DISCUSSION:

1. The applicant's statement indicates that the reason for the request to validate the prior conversion is that the applicant had obtained approval for the conversion and believed that a site plan revision was unnecessary due to the fact that the changes were to the interior of the building.
2. With regard to the uniqueness of the property, the applicant maintains that the burden of proof for a variance of dimensions (such as setbacks) is less onerous than a variance to the use restrictions. The subject gas station has existed at this location for over 30 years, a factor that relates directly to the requested variances. The pump islands are located from 22 to 24 feet behind the street line. A 25-foot setback is required. In all likelihood, the pumps were constructed 25 feet behind the street line, but the location of that street line has changed slightly over the intervening 30 years. The sidewalk is four feet in width and a five-foot wide sidewalk is required. However, the sidewalks on the adjoining property are also four feet wide, and the reconstruction of this sidewalk would cause an inconsistency that would be less harmonious than the situation that exists today. The age of this use and its relationship to the uses that surround it are the unique situation or condition that justifies the requested variances.
3. The relocation of the pump islands and the construction of a wider sidewalk will cause practical difficulties to the applicant. The only changes required to the exterior of the building by the proposed revision involve pavement striping and the addition of a fence for screening. The changes to the pump islands and sidewalk are far more burdensome than warranted by the revision.

As noted in the prior staff report, the requested variances will not impair the intent, purpose or integrity of the Subregion VII Master Plan. The master plan recommends service commercial land uses for the subject property, recognizing that the use predates the master plan.

The applicant's statement notes that an existing stand of trees is located directly behind the existing building on the subject property. Due to the fact that these trees are deciduous, the applicant has agreed to place a six-foot-high sight tight fence along that portion of the property that adjoins single-family detached dwellings.

DDS 560

1. The applicant notes that he never indicated that he is unable to comply with the location criteria for the freestanding sign. He does intend to reposition (reverse) the face of the sign so that it is farther back from Allentown Road. The sign is currently located four feet from the ultimate right-of-way line. A ten-foot setback is required. The base of the sign is located eight feet from the right-of-way. When the face of the sign is repositioned, the required departure will be only two feet, rather than the six feet currently required.
2. The applicant's statement of justification goes on to address the specific findings of Section 27-239.01 for the departure from design standards. These findings are also addressed in the technical staff report and the previous Planning Board resolution for DDS-560. With regard to requesting the minimum departure necessary, the applicant notes that the sign will be reversed on the pole and thereby will reduce the size of the departure to the minimum required without moving the base of the sign.
3. The other findings are similar to those previously listed in the technical staff report and the Planning Board resolution.

Conclusion

The applicant's statement of justification addresses the issues of the remand. Staff recommends that these applications be approved, subject to the previous conditions of approval found in the Planning Board resolutions for ROSP-1546 (VSE-1546) and DSDS-560:

1. The parking space for the handicapped shall be relocated to the east side of the building where a space for compact cars is currently located. A standard space shall replace the current location of the space for the handicapped, and the total number of spaces shall be reduced to 15.
2. The wooded areas behind the building shall be shown on the site plan.
3. The setback for the canopy from the proposed right-of-way line shall be shown.
4. A board-on-board fence, six feet in height, and approximately 81 feet in length, shall be shown along the rear property line adjoining residential development.

April 28, 1999

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Revision of Site Plan (Minor Change) Special Exception No. 1546**
Variance Application No. 1546
Departure from Sign Design Standards Application No. 560

REQUEST: Conversion of a three-bay service station to a gas station with a convenience mart; a variance for the setback of gasoline pumps from Allentown Road; and a departure from the ten-foot setback requirement from Allentown Road for a freestanding sign.

RECOMMENDATION: **APPROVAL, subject to conditions.**

NOTE:

The Planning Board has scheduled this application for a public hearing on the agenda date indicated above. The Planning Board also encourages all interested persons to request to become a person of record in this application. Requests to become a person of record should be made in writing and addressed to the Development Review Division at the address indicated above. Please call 301-952-3280 for additional information.

SKETCH MAP

APPLICATION DATA:

- A. Premise Address: 7713 Allentown Road
- B. Municipality: None
- C. Area: .79 acre
- D. Zone: C-S-C Zone
- E. Zoning Map: 210 SE 4L

- F. History: A special exception for an automobile filling station was approved in 1967 for the property which was then in the C-2 Zone. In 1984 the property was rezoned C-S-C through comprehensive rezoning.
- G. Subdivision: None
- H. Master Plan Recommendation: The Master Plan for Subregion VII recommends service commercial uses for the subject property.
- I. Council District: 8
- J. Applicant: Koo Yuen, Owner
- K. Correspondent: Daniel F. Lynch

FINDINGS:

- A. Location and Field Inspection: The subject site is located on the north side of Allentown Road, approximately 302 feet east of its intersection with Lumar Drive. The site is improved with a gas station including a 2,142 square foot building housing a convenience store and associated pump islands.
- B. Request: The applicant seeks permission to validate the conversion of a three-bay service building to a convenience mart. (Approval was granted by the District Council for a conversion to a gas-only operation, and permits were obtained based on internal renovations.) The applicant also requests approval of a variance for a four-foot wide sidewalk along Allentown Road as opposed to the required five-foot wide sidewalk, and for a variance to permit gasoline pumps to be located less than 25 feet from the street right-of-way. Finally, a departure is requested to permit the continued location of a sign located less than ten feet behind the proposed right-of-way for Allentown Road.
- C. Neighborhood and Surrounding Uses: The property is located within the Camp Springs Community located within the Capital Beltway, Tinkers Creek and Wills Lane, Henson Creek and Allentown Road.

The site is surrounded by the following uses:

North - Undeveloped property in the C-S-C Zone and single-family homes

East - Undeveloped property in the C-S-C Zone and a church in the R-S Zone

South - Across Allentown Road, undeveloped property in the C-A Zone, a restaurant and credit union in the C-S-C Zone and a church in the R-R Zone

West - A nonconforming office supply/business machine repair service in a former single-family home in the R-R Zone

- D. Minor Change Provisions: Section 27-322 provides that a change in a special exception use requires the approval of a revision of site plan if the new use affects the improvements shown on the site plan. The replacement of the service bays with a convenience store requires the addition of parking spaces, a loading space and the enclosure of an existing trash dumpster. Section 27-325(b) (1)(B) permits a minor change for properties of less than five acres if the proposed change is in the design of the parking lot or loading area. The parking area is not being enlarged.

Section 27-325(f) permits minor revisions to gas stations including the alteration or enlargement of a pump island. The pump islands have been redesigned, which change must be approved as part of this revision.

- E. Specific Special Exception Requirements: **Sec. 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.

The subject site has about 224 feet of frontage along Allentown Road which has a right-of-way of 80 feet.

- (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.

There are no schools, playgrounds, libraries, or hospitals located within 300 feet of the subject property.

- (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 use does not include the display or rental or cargo trailers, trucks or similar uses.

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

There is no longer a repair service at the station, and the applicant is aware of the prohibition of this storage.

- (5) 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.

The access driveway entrances are provided in accordance with these regulations.

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

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;

The existing sidewalk measures four feet in width, requiring the approval of a variance of one foot.

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

The gasoline pump islands are shown as 22 to 24 feet from the proposed right-of-way line, depending on the pump island. A maximum variance of three feet is required to bring the site plan into compliance with this requirement.

- (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.

No repair service will be provided 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.**
- (3) The location of exterior vending machines or vending area.

The topography has been provided and the location and type of trash location has been shown. There are no vending machines proposed for the site.

- (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 shall comply with the above requirement if the station is abandoned.

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

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

The gas station has been in existence on this site since 1967. The duration of the use attests to the need for the use to the public in the surrounding area.

- (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 proposed revision will not affect the balance of land use insofar as the gas station is concerned since the requested revision is for the addition of a convenience store, not a gas station.

- F. Parking Regulations: The proposed site plan provides for the required parking for the new use in accordance with the requirements of Part 11. Fifteen spaces are required and 16 are provided, including a van accessible space for the handicapped. The proposed spaces do not require an increase in paved surface over the previously approved site plans.
- G. Landscape Manual Requirements: Because no increase in square footage is proposed, the proposal is exempt from the requirements of the *Landscape Manual*.
- H. Zone Standards: The site plan meets or exceeds the standards of the C-S-C Zone. Two variances are required, however, from specific special exception requirements for a gas station.

Sec. 27-230. Criteria for granting appeals involving variances.

- (a) **A variance may only be granted when the Board of Appeals finds that:**

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**

Staff concurs with the applicant that widening the sidewalk from four to five feet, when adjoining sidewalks are also four feet in width, would create an inconsistency that would be

neither visually nor functionally better than the existing situation. This falls within the extraordinary situation which the variance provisions were intended to address. Similarly, the location of the pump islands has remained essentially the same. The reconfiguration to the dogbone shaped pump island is consistent with industry standards today. Retrofitting an older gas station to today's industry standards creates the type of situation which the variance provisions are intended to address.

- (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.**

The strict adherence to these provisions would require considerable expense to the owner of the property which is exceptional in light of the minimal benefits which would accrue from the slight sidewalk widening or pump location change.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The requested variances are extremely minor in nature, and will have little, if any, impact on the visual appearance of the gas station or circulation patterns, both vehicular and pedestrian. They will have no effect on the recommendations of the Master Plan.

- I. Sign Regulations: Section 27-614 of the Zoning Ordinance requires that a freestanding sign be located a minimum of ten feet behind the proposed street line. The proposed street line for Allentown Road currently reflects a right-of-way of 80 feet. The existing sign, once the face of the sign is reoriented will be located about eight feet behind the proposed street line and about 14 feet behind the existing street line. A departure of two feet is required.

- (A) **Section 27-239.01(b)(9) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:**

1. **The purposes of this Subtitle will be equally well or better served by the applicant's proposal.**

The intent of the purposes of the Zoning Ordinance is to protect the health, safety and welfare of the public as well as to promote harmonious development. The need for the departure was created by the relocation of the proposed right-of-way. However, the applicant proposes to improve the current situation by reorienting the face of the sign away from the street, thereby moving the sign back about four feet. The resulting actual departure of two feet represents a rather small difference from the required setback. This departure will therefore have no discernible affect upon the purposes of the Zoning Ordinance.

2. **The departure is the minimum necessary, given the specific circumstances of the request.**

As noted, the applicant is relocating the face of the sign without relocating the base. Given the rather minor nature of the proposed changes to the site, this departure is the minimum necessary.

- 3. The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949.**

This area was not developed prior to 1949, however the gas station is unique in that it and the sign have been at this location for thirty years, and the site has been impacted by the increase in right-of-way proposed for Allentown Road.

- 4. The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood.**

Given the nature of the departure, and the fact that the sign will be farther from the street than its previous location, the departure will have no discernible effect on the functional or environmental quality or integrity of the site or on the surrounding neighborhood.

J. 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 can be summed up as protecting the public health, safety and welfare and encouraging harmonious land use relationships. Special exception uses are assumed to be harmonious with the zones in which they are permitted, absent a finding of adverse impacts specific to the proposed location. The gas station has existed at this location for many years, along with automobile repair service. The conversion of this service use to a retail use will likely result in a more beneficial relationship to the surrounding residential uses.

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

With the recommended conditions and appropriate approvals, the proposed use will conform with all applicable regulations.

- (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 1981 Master Plan for Subregion VII recommends service commercial uses for the site, recognizing the then existing gas and service station. The plan also recognizes other existing commercial uses in the vicinity as constituting a small neighborhood center for local retail and

service commercial uses. The C-S-C Zone was also recommended, in order to maintain special exception controls for other potential service commercial uses.

The proposed validation of the conversion from a service commercial to a service and retail commercial use does not significantly alter the recommendations of the plan for this small neighborhood center.

The Equestrian Addendum to the Adopted and Approved Countywide Trails Plan recommends that Allentown Road be designated as a Class III bikeway with appropriate signage. (See comments from Fred Shaffer (3/8/99). Provisions for the appropriate signage are a condition of approval.

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

The physical changes to the site are minimal, thus creating no changes in vehicular or pedestrian circulation patterns. From the standpoint of traffic generation, the changes will have little impact. In fact from the standpoint of the PM rush hour the change in use will decrease slightly the expected trip generation. (See attached memorandum from Allan Yu, 3/12/99.)

The change from service commercial to retail commercial will not adversely affect the health, safety or welfare of residents in the area. The property adjoins a nonconforming office supply use as well as vacant C-S-C zoned land. Existing trees to the rear of the site buffer the site somewhat from residences to the rear.

A minor revision is recommended to improve internal circulation. The space for the handicapped should be relocated to the proposed compact parking space. This will improve its visibility upon entering the site and be convenient for access to the store. The compact car space can be eliminated and one of the standard spaces can be relocated to the proposed space for the handicapped. The site will have the required number of spaces (15) without locating a compact space in an area close to the building. (See comments from Craig Rovelstad (3/12/99).

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

As noted above, the changes requested are generally minor in nature and have the effect of modernizing the station. The site is buffered from residential uses to the north by trees. The site plan should be amended to reflect the location of these wooded areas.

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

The site is exempt from the Prince George's County Woodland Conservation and Tree Preservation Ordinance because it contains less than 1,000 square feet of woodland.

CONCLUSION:

The requested revision is minor in nature, but will validate a modernization of an older gas station. It has no significant effect on the relationship between the site and the surrounding neighborhood or on the integrity of the master plan. The requested variances and departure are virtually unnoticeable in their effect on the appearance of the site or the way it functions. A few site plan revisions are recommended in order to improve internal circulation and better reflect the existing situation:

1. The parking space for the handicapped shall be relocated to the east side of the building where a space for compact cars is currently located. A standard space shall replace the current location of the space for the handicapped and the total number of spaces shall be reduced to 15.
2. The wooded areas behind the building shall be shown on the plan.
3. The setback for the canopy from the proposed right-of-way line shall be shown.
4. A note shall be added to the site plan to reflect that the applicant shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of signage indicating that Allentown Road is a Class III bikeway prior to the issuance of a use and occupancy permit.