

Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530



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Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm

SPECIAL EXCEPTION APPLICATION NO. 4346

Application	General Data
Project Name Pride of America <i>Location</i> The east side of Livingston Road and west side of Indian Head Highway, 500± feet north of the intersection of those roads with Swan Creek Road East. Applicant Tommy & Debbie Daras 11800 Livingston Road Ft. Washington, MD 20744	Date Accepted 04/12/99
	Planning Board Action Limit N/A
	Tax Map & Grid 132/B2
	Plan Acreage 0.40
	Zone C-M
	Dwelling Units N/A
	Square Footage 1,980
	Planning Area 80
	Council District 09
	Municipality None
	200-Scale Base Map 215SE01

Purpose of Application		Notice Dates	
Food or Beverage Store in accordance with Section 27-355		Adjoining Property Owners (CB-15-1998)	04/14/99
		Previous Parties of Record (CB-13-1997)	None
		Sign(s) Posted on Site	N/A
		Variance(s): Adjoining Property Owners	N/A
Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

June 25, 2003

TECHNICAL STAFF REPORT:

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

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Special Exception Application No. 4346**

REQUEST: **Food or Beverage Store**

RECOMMENDATION: **APPROVAL with conditions**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. **Location and Field Inspection:** The subject property is a rectangularly shaped parcel located at the east side of Livingston Road and on the west side of Indian Head Highway, 500± feet north of the intersection of those roads with Swan Creek Road East. It is developed with a gas station.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	C-M	C-M
Use(s)	Gas Station	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 Zone by map adoption on November 20, 1957. Zoning Map Amendment No. A-4888 was approved by the District Council in August 1953, placing the site in the C-2 Zone. The site was placed in the C-M Zone by adoption of the Subregion VII Sectional Map Amendment in 1983. The District Council approved SE-3337 for an amusement arcade at this site in 1982, but revoked that approval in 1989.
- D. **Master Plan Recommendation:** The 1981 Approved Master Plan for Subregion VII recommends a service-commercial use for the property. The 2002 General Plan places the site within an Indian Head Highway Corridor Node in the Developing Tier. The vision for Corridor Nodes is mixed residential and nonresidential uses at moderate to high densities and intensifies, with a strong emphasis on transit-oriented development.
- E. **Request:** The applicant is proposing to add a food and beverage store to the existing gas station, which is a permitted use in the C-M Zone. The applicant is proposing to use 1,320 square feet of the existing gas station building for a food and beverage store with incidental food preparation.
- 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

West– The Old Forte Village Shopping Center in the C-S-C Zone and the Fort Washington Medical Center in the C-O Zone

The neighborhood is defined by the following boundaries:

North– Fort Washington Road

East– Indian Head Highway

South– Swan Creek Road East

West– Fort Washington Road

This is the same neighborhood as was accepted in SE-3337. 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 East.

G. Specific Special Exception Requirements:

Section 27-355 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;

The applicants note in their statement of justification that the proposed gas station/food and beverage store/sandwich shop would provide a one-stop shopping opportunity for the nearby residents and commuters along Livingston Road, Fort Washington Road, and Indian Head Highway. According to the applicant, the nearest such convenience center is located three-quarters of a mile to the north. To the south, there are no such stores until Charles County.

Although the applicant has not submitted a market analysis for this use, staff notes that the criterion merely requires a reasonable need for the use in the neighborhood. This test requires that the applicant demonstrate the proposed use is “reasonably convenient or expedient” as opposed to “public need.” The public need test is the more onerous test that is based on market areas and more extensive demographic and economic data. The subject property is located at the intersection of two well-traveled commuter roads, near several large residential subdivisions. It is reasonable to find that a food and beverage store at the subject location will be a convenient commercial use.

(2) The size and location of, and access to, the establishment shall be oriented toward meeting the needs of the neighborhood;

The proposed use is conveniently located where two collector roads (Livingston Road and Swan Creek Road) empty onto a major commuter expressway (Indian Head Highway). This location will provide easy access to convenience goods for the commuters from the nearby Tantallon and Fort Washington neighborhoods. At 1,320 square feet in size, the food and beverage store component of the use could not be considered other than a neighborhood convenience store.

(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;

The proposed food and beverage store is strategically located along a commercial corridor. The property is surrounded by commercially zoned and developed land, with the exception of the small parcel to the south, which is publicly owned. In addition, the property sits at the intersection of two collectors and an expressway that sees considerable commuter traffic. This site is positioned to serve that traffic and will not restrict the development of adjacent properties.

- (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;**

The subject property is in the C-M Zone. This requirement does not apply.

- (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.**

The sale of alcoholic beverages is not proposed.

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)(1)(2)(4)(5)(6)(7)(8)(9) and (10)**:

- (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 175 feet of frontage on and direct access to Livingston Road, which has a right-of-way width of 70 feet at this location.

- (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 applicant was granted a variance by the Board of Appeals (V-238-95) to allow the gas station less than 300 feet from the Fort Washington Medical Center, which is across Livingston Road to the west.

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

There will be no storage or junking of wrecked motor vehicles on the subject property. This development does not include vehicle repair.

- (5) **Access driveways shall not be 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 two driveway openings along Livingston Road meet these criteria.

(6) Access driveways shall be defined by curbing;

The site plan indicates that 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;

A five-foot-wide sidewalk is provided as required.

(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 the existing gasoline pumps are 26 feet behind the ultimate right-of-way for Livingston Road.

(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.

Vehicle repair service is not proposed.

(10) Details on architectural elements such as elevation depictions of each façade, schedule of exterior finishes and descriptions of architectural character of proposed buildings shall demonstrate compatibility with the existing and proposed surrounding development.

The applicant must submit elevations of the existing gas station building and note changes (if any) to be made due to the inclusion of the food and beverage store.

- H. **Parking Regulations:** The proposed uses for the site ordinarily require 11 parking spaces; 11 are provided. However, the site plan shows six of the 11 spaces as compact spaces. This exceeds the number permitted by the Ordinance (one-third, or three spaces). The site plan and parking schedule should be revised to take into account the 20 percent reduction for shared usage (Section 27-572), resulting in a requirement of nine spaces. The five compact spaces along the southern boundary can then be reconfigured into four standard spaces, for a total of ten spaces.

I. **Landscape Manual Requirements:** The applicant is proposing significant plantings in the ten-foot-wide landscaped strips along both Livingston Road and Indian Head Highway. However, the landscape plan does not show the landscaping along the southern property line approved in 1996 when the use was established pursuant to Permit No. 5073-96-CGU. The plan should be revised to show this landscaping.

J. **Zone Standards:** The proposed use meets the height and bulk requirements for the C-M Zone.

K. **Sign Regulations:** The applicant does not propose a freestanding sign.

L. **Other Issues:**

1. As discussed previously, the gas station component of this use is permitted in the C-M Zone subject to approval of a Detailed Site Plan and the relevant criteria of Section 27-358. The requirement for a Detailed Site Plan was enacted in 1999, three years after the gas station was established on the subject property pursuant to Permit No. 5073-96-CGU. Because this special exception application is for a food and beverage store, and since there are no changes proposed to the building other than the addition of the new use, no Detailed Site Plan is being required. However, the applicant should be aware that at such time as substantial changes are made to the gas station site plan, a Detailed Site Plan would be required.
2. The referral from the Transportation Planning Section dated June 25, 2003, notes that this site could potentially be impacted by the future improvements to Indian Head Highway when it is upgraded to a freeway. One of the alternatives being studied by the State Highway Administration in their Draft Environmental Impact Statement would require the entire subject property. While this does not impact the proposal under consideration, it is offered for informational purposes.
3. The following site plan deficiencies have been noted:
 - a. The site plan contains contradictory notes regarding the need for a variance from the 300-foot setback requirement of Section 27-358(2). The note stating that a variance is required should be removed, since the applicant has previously been granted that variance, as is noted elsewhere on the plan.
 - b. The site plan should be revised to show a schematic of the sight-tight fence to be used to screen the dumpster.
 - c. The site plan should be revised to reflect a food and beverage store rather than a deli/sandwich counter, which is an incidental use permitted as part of a food and beverage store.

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.**

With the recommended conditions, the proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The purposes of the Zoning Ordinance listed in Section 27-102(a) are to promote the health, safety and welfare of county residents by providing for the orderly growth and development of the county and promoting the most beneficial relationship between the uses of land and buildings. The proposed use provides a service that is beneficial and convenient to the surrounding residents and commuters along the adjacent roads. This use is the only use of its kind in the immediate vicinity.

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

With the conditions recommended, the proposed use will be 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.

The proposed use will not substantially impair the integrity of the 1981 Approved Master Plan for Subregion VII, which recommends a service-commercial use for the site. The 2002 General Plan places the subject property in a Corridor Node in the Developing Tier.

(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. Commercially zoned land surrounds the subject property to the north, west and south. To the east is Indian Head Highway, a major commuter expressway. The only undeveloped piece of adjoining land (to the south) is publicly owned by the State Highway Administration.

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

The site is not subject to the provisions of the Woodland Conservation Ordinance because the subject property has less than 10,000 square feet of existing woodlands and there is no previously approved Tree Conservation Plan.

CONCLUSION:

The applicants have met their burden of proof in this instance. Staff recommends APPROVAL of Special Exception Application No. 4346, subject to the site plan being revised to show the following:

1. The site plan and parking schedule shall be revised to take into account the 20 percent reduction for shared usage (Section 27-572), resulting in a requirement of nine spaces. The five compact spaces along the southern boundary shall be reconfigured into four standard spaces, for a total of ten spaces.
2. The note stating that a variance is required shall be removed, since the applicant has previously been granted that variance, as is noted elsewhere on the plan.

3. The site plan shall be revised to show a schematic of the sight-tight fence to be used to screen the dumpster.
4. The site plan shall be revised to reflect a food and beverage store use rather than a deli/sandwich counter, which is an incidental use permitted as part of a food and beverage store.
5. The landscaping along the southern property line as was approved in Permit No. 5073-96-CGU shall be shown.
6. The applicant shall submit elevations showing the architectural details of the existing building.