THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 10-04

File No. DSDS-659

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DSDS-659 Texaco Station MD-714 requesting a departure to reduce the required setback for a main building associated with a freestanding sign 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 January 7, 2010, the Prince George's County Planning Board finds:

A. **Location and Field Inspection**: The subject property is a rectangular-shaped parcel located on the east side of Livingston Road and on the west side of Indian Head Highway (MD 210), 500± feet north of the intersection of both roads with Swan Creek Road. It is developed with a gas station and food and beverage store.

B. **Development Data Summary**:

| | EXISTING | APPROVED |
|---|---|---|
| Zone(s) | C-M | C-M |
| Use(s) | Gas Station, Food & Beverage Store | 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 (Rural Residential) Zone by map adoption on November 20, 1957. Zoning Map Amendment A-4888 was approved by the District Council in August 1953, placing the site in the C-2 (General Commercial, Existing) Zone. The site was placed in the C-M (Miscellaneous Commercial) Zone by the 2006 *Adopted and Approved Master Plan for Subregion VII, Henson Creek (Planning Areas 76A and 76B) and South Potomac (Planning Area 80)*. The District Council approved Special Exception SE-3337 for an amusement arcade at this site in 1982, but revoked that approval in 1989. The District Council approved SE-4346 in June 2005, for a food and beverage store in the then existing gas station on the site.

D. **Master Plan and General Plan Recommendations**: The 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* recommends a right-of-way for a new freeway interchange on this site adjacent to an area recommended for a mix of commercial, institutional, and residential land uses. The existing gas station, which is associated with this application for a new sign, is classified in the C-M Zone and is an appropriate commercial use until the new interchange is programmed for construction.

The 2002 *Prince George's County Approved General Plan* placed the site in the Developing Tier. The 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. The existing commercial land use associated with the application is consistent with the Development Pattern policies for land use in local commercial areas. The application to erect a freestanding sign for an existing business is also consistent with the General Plan, Economic Development policy to "Retain and enhance the county's existing businesses" (p. 76).

E. **Request**: The applicant seeks approval of a freestanding sign where the main building associated with the sign is located less than 40 feet from the street line.

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 (SHA).

West—The Old Forte Village Shopping Center in the C-S-C (Commercial Shopping Center) Zone and the Fort Washington Medical Center in the C-O (Commercial Office) Zone.

The neighborhood is defined by the following boundaries:

North—Fort Washington Road
East—Indian Head Highway
South—Swan Creek Road
West— Fort Washington Road

This is the same neighborhood as was accepted in SE-4346. 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.

G. **Sign Requirements:**

1. Section 27-614(a)(1) of the Zoning Ordinance states that in all commercial and industrial zones, signs shall only be located on property where the main building associated with the sign is located at least 40 feet behind the front street line.

The existing main building is set back approximately 25 feet from Indian Head Highway and 10 feet from Livingston Road. The applicant is requesting a departure from sign design standards of 15 and 30 feet, respectively, to allow a freestanding sign on a property where the main building is set back less than 40 feet from the front street line.

2. Section 27-614(a)(4) states that in all commercial and industrial zones, signs need only be located ten feet behind the street line. Where the street line is situated behind the actual existing street right-of-way line, freestanding on-site signs may be temporarily located within the area between the street line and the existing street right-of-way line (the area of proposed future widening of an existing street), provided that:

**(A) The land area involved has not been, and is not in the process of being, acquired for street purposes;**

According to the referral from the Transportation Planning Section dated December 3, 2009, the subject property is within the right-of-way for the planned interchange at MD 210 and Swan Creek Road/Livingston Road as shown in the *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area.* The entire site is within the planned right-of-way, and the construction of the Livingston Road overpass would require the eventual demolition of the gas station. There does not appear to be any means of avoidance of the right-of-way impact. The underlying special exception was approved and the gas station was permitted for construction prior to the approval of the above-cited master plan.

The *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* states that the plan recommendation includes interchange designs that are consistent with the approved final environmental impact statement (FEIS) for MD 210. The availability of a selected alternative is an indication that the interchange configuration has had extensive environmental and public review, along with state and federal approval. It is not funded for design, right-of-way acquisition, or construction at this time, and there is no timetable for the start of these processes.

**(B) The sign is located at least ten (10) feet behind the existing street right-of-way line; and**

The proposed sign is set back 11 feet from the existing street line along Livingston Road and 11 feet from the existing SHA street line for Indian Head Highway.

**(C) A written agreement between the owner and the Department of Environmental Resources assures that the sign will be removed, at the owner's expense, at the time of acquisition of that area for street purposes.**

Prior to the issuance of a sign permit, this written agreement must be consummated.

3. Section 27-589 contains the following purposes for regulating signs:

**(1) To promote the health, safety, and welfare of the present and future inhabitants of the Regional District;**

**(2) To encourage and protect the appropriate use of land, buildings, and structures;**

**(3) To regulate unsightly and detrimental signs which could depreciate the value of property and discourage quality development in the Regional District;**

**(4) To regulate signs that are a hazard to safe motor vehicle operation;**

**(5) To eliminate structurally unsafe signs that endanger a building, structure, or the public;**

**(6) To prevent the proliferation of signs that could detract from the scenic qualities of the landscape or the attractiveness of development; and**

**(7) To control the location and size of signs, so as to provide for adequate identification and advertisement in a manner that is compatible with land uses in the Regional District.**

The proposed sign is not excessive in size; it will be located so as not to interfere with adequate sight lines or otherwise pose a hazard to motorists. The sign will provide for adequate identification and advertisement, and will be compatible with the commercial use of the property and with the overall streetscape along Livingston Road.

4. **Departure from Sign Design Standards**: Section 27-239.01(b)(7)(A) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:

**(i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;**

In general, the purposes of the sign ordinance are to regulate unsightly and hazardous signs, to provide adequate identification and advertisement, to promote the general welfare of the residents of the county, and to foster the appropriate use of land, buildings, and structures. Although the building setback from the front street line is less than the required setback, the proposed sign is in an appropriate location and will not appear overwhelming from the street. The Zoning Ordinance requires a ten-foot setback from the right-of-way for freestanding signs. The proposed sign will be set back 11 feet from the existing rights-of-way along Livingston Road and MD 210.

The location, size, and design of the proposed sign is adequate to provide identification and advertisement for the gas station and therefore, the purposes of this Subtitle will be equally well or better served by the applicant's proposal.

**(ii) The departure is the minimum necessary, given the specific circumstances of the request;**

The applicant is requesting a departure from the main building setback requirement for a freestanding sign. The structure requiring the departure is existing; relocating the structure to conform to current regulations is not feasible or practicable. The departure is the minimum necessary, given the specific circumstances of the request.

**(iii) 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;**

The subject property is a fairly narrow lot in an area surrounded on three sides by street rights-of-way, greatly reducing the developable area. The proposed departure is necessary to provide the signage required for an existing gas station and the food and beverage store.

**(iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.**

Gas stations are required to have pricing signage (Section 27-594 of the Zoning Ordinance). A freestanding sign is necessary to further provide adequate identification and advertisement for the use.

There are existing commercial uses along Livingston Road and MD 210, most of which have freestanding signs. The proposed sign will be compatible with the existing freestanding signs, and the overall design of the sign will be compatible with the commercial use of the property. The sign will not attract undue attention, will provide for adequate identification and advertisement, and will be compatible with the overall streetscape. In addition, the sign will help identify the entrance to the gas station ensuring the safety of motorists entering and exiting the site. The setback for the sign further ensures that the sign will not appear overwhelming from the street. For the reasons stated above, the departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

H. **Parking Regulations:** The applicant has provided ten parking spaces for the food and beverage store/gas station use, including one van-accessible handicap space, which exceeds the nine total spaces required by the Zoning Ordinance.

I. **Landscape Manual Requirements:** Compliance with the *Prince George's County Landscape Manual* is generally required when there is either a proposed increase in gross floor area of a

building or a change of use. The proposed freestanding sign does not result in an increase in gross floor area. The proposed revision is, therefore, exempt from the Landscape Manual. The original plan approval preceded landscaping requirements. Although not shown on the site plan, a site visit revealed a row of plantings along a portion of the north property line. The site plan should be revised to indicate the existing shrubs.

J. **Zone Standards:** No additional variances or waivers are required for this application.

K. **Referral Agencies and Departments:** None of the referral responses noted any objection to the departure request or the revision to the site plan.

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 APPROVED the above-noted application, subject to the following conditions:

1. Prior to issuance of a sign permit, a written agreement between the owner and the Department of Environmental Resources be provided which assures that the sign will be removed at the owner's expense at the time of acquisition of that area for street purposes.

2. The "Lotto" panel shall be removed from the sign.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

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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 Clark, seconded by Commissioner Squire, with Commissioners Clark, Squire, Vaughns and Parker voting in favor of the motion, and with Commissioner Cavitt absent at its regular meeting held on Thursday, January 7, 2010, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of February 2010.

Patricia Colihan Barney
Acting Executive Director

Frances J. Guertin

By Frances J. Guertin
Planning Board Administrator

PCB:FJG:TL:gdr

**APPROVED AS TO LEGAL SUFFICIENCY**

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**M-NCPPC Legal Department**

**Date** 1-12-10