

C O R R E C T E D R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed SE-4575 requesting a special exception for a gas station 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 April 24, 2008, the Prince George's County Planning Board finds:

FINDINGS:

A. Location and Field Inspection: The subject property is located on the southeast quadrant of the intersection of Indian Head Highway (MD 210) and Old Fort Road, known as 12800 Old Fort Road. The site is developed with a one-story building previously used as an Exxon gas station. The existing building includes four service bays and an area for offices and storage space. There is an existing shed and trash enclosure on the property, which is separated from the remainder of the shopping center by a black wrought iron fence. Exxon vacated this site approximately four years ago. The pump islands, pumps and underground storage tanks were removed from the site at that time. Access to the property is proposed via a driveway connecting to Old Fort Road. No access to MD 210 is proposed.

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	C-S-C	C-S-C
Use(s)	Auto Repair	Gas Station, Convenience Store
Acreage	0.72	0.72
Lots	0	0
Parcels	1	1
Square Footage/GFA	2,424	2,424

C. History: The first gas station on this property was built in 1962. In 1987, SE-3720 was approved, which updated the gas station to a more modern design. Exxon continued in business on this site until approximately four years ago when they vacated the station, having built another station farther south on MD 210. Because the station was nonoperational for more than 14 months, the use is considered to be abandoned and a new special exception is required to reestablish a gas station on this property. The 2006 approved Henson Creek-South Potomac master plan and sectional map amendment retains the previously existing C-S-C Zone.

D. Master Plan and General Plan Recommendation: The 2006 approved Henson Creek-South Potomac master plan and sectional map amendment recommends the site for retail commercial development. The 2002 General Plan places the site in the Developing Tier. 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. The proposed use is consistent with these recommendations

E. Request: The applicant proposes to develop the subject special exception site with a new, full-service gas station and convenience store. The proposal consists of the reuse of the existing one-story, 2,424-square-foot building to contain three service bays and a 1,000-square-foot convenience store. The applicant proposes six multiple-product fuel dispensers (MPDs) with 12 fueling positions.

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 East —	Livingston Road
West —	Indian Head Highway (MD 210)
South —	Piscataway Creek

The property is surrounded by the following uses:

North —	Undeveloped land and townhouse-style offices across Old Fort Road in the C-O Zone
South and East —	The Potomac Village Shopping Center in the C-S-C Zone
West —	Indian Head Highway (MD 210)

G. Specific Special Exception Requirements: A convenience 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 249 feet of frontage on Old Fort Road, which has an ultimate right-of-way width of 100 feet. The site also has approximately 121 feet of frontage along Rhode Island Avenue.

(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 is not located within 300 feet of a lot with a school, outdoor playground, library or hospital. There was a charter school in the adjacent shopping center. The school is no longer in operation. The applicant has submitted

submitted a letter dated September 5, 2007, from the Prince George's County Board of Education stating the same.

- (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.**

A note on the site plan states that the proposed use will not include storage or junking of wrecked motor vehicles.

- (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. The access driveway from Old Fort Road is 40 feet in width.

- (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.**

There is no sidewalk currently on the site and the applicant is not proposing any sidewalks. A waiver of this requirement was granted by the Board of Appeals on January 12, 1987 (Appeal No. 8077).

- (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.**

A note on the site plan states that the repair service on the subject property will comply with the above requirements.

- (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 elevations depicting the exterior finishes and design of the building. The existing building has aluminum sheet panels and glass panels. The design, height and scale of the existing building are compatible with the surrounding retail buildings. Of particular concern regarding the adjacent shopping center is the six-foot, four inch black wrought iron fence which separates the two uses. It is a somewhat incongruous architectural element that does not mesh well with the other retail uses. Staff recommends that the applicant either provide additional justification for the fence at the time of the public hearing, or remove it (and replace it, if thought necessary) with a more attractive alternative. In addition, because the fence is more than six feet in height it must meet the setback for structures in the C-S-C Zone. Because the fence is on the property line, a Variance from Section 27-462 would be required if the fence were to remain.

- (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 and trash enclosures are shown on the site plan. 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 a need analysis. Upon reviewing the proposal and the applicant's need analysis, Dr. Joseph Valenza of the Research Section (M-NCPPC), in his memorandum dated August 2, 2007, concludes that although the staff's estimate of unmet demand is lower than the applicant's, there is support for an additional gas station in the market 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 14 parking spaces required for the gas station and convenience store proposed for the site. Fourteen parking spaces are being provided.

I. Landscape Manual Requirements:

Section 27.328.02(a) (Landscaping, Screening and Buffering) of the Zoning Ordinance exempts proposals that do not involve the construction, enlargement or extension of a building from compliance with the landscaping, buffering and screening requirements of the *Landscape Manual*.

Because the applicant is proposing to use the existing building, the proposal is exempt from the requirements of the *Landscape Manual*.

- J. Zone Standards:** The proposed use meets the height and bulk requirements for the C-S-C Zone, with the exception of the setback for the fence, as previously noted.
- K. Sign Regulations:** The applicant proposes one freestanding sign along Old Fort Road, 25 feet in height and 154.46 square feet in area. It includes the Texaco logo, food mart and service center panels as well as the required price sign panels.

Section 27-614 (c) (3) (B), (Area of a freestanding sign) of the Zoning Ordinance permits a freestanding sign for a stand-alone gas station to have one square foot of area for every four feet of frontage, plus an additional 50 square feet for gasoline prices. With 249 feet of frontage on Old Fort Road, the maximum area of a freestanding sign would be 112.25 square feet ($249/4 + 50$). The sign proposed for the site is shown to be 156.46 square feet in area. This sign must be reduced in area to meet the maximum allowable square footage of 112.25 square feet. The sign meets the 10-foot setback and 25-foot height requirements.

The applicant has proposed two wall signs on the north and south sides of the canopy reading “Texaco” to identify the proposed gas station. The Texaco circle and star logo is proposed on the north, south and east sides of the canopy. The “Texaco” sign will be 14 feet 11 inches in length and 2 feet 6 inches in height. The lettering will be in red and internally illuminated. The circle star logo will be 2 feet 9 inches in diameter. It will be red and white and internally illuminated. The overall area of the Texaco sign and the logo sign on the north and south sides of the canopy is 53 square feet and the overall area of the circle star logo on the east side is 7.5 square feet.

Section 27-613 (a), (Location of signs attached to a building or canopy) of the Zoning Ordinance states that signs may be attached to a canopy that is located at least ten feet behind a street line.

The canopy on which the signs are proposed will be set back more than 25 feet from the street line.

Section 27-613 (b), (Height of signs attached to a building or canopy) of the Zoning Ordinance states that in all commercial and industrial zones, no sign shall extend more than 12 feet above the roof line or parapet wall of the building on which the sign is attached.

The proposed signs will not extend above the roof line of the canopy.

Section 27-613 (c) (3), (Area of signs attached to a building or canopy) of the Zoning Ordinance stated that in all commercial and industrial zones, if all the permissible area is to be used on any building that is not located within an integrated shopping center, the area of all the signs on a building shall not be more than two square feet for one linear foot of width along the front of the building measured along the wall containing the principal entrance of each individual place of business to a maximum of 400 square feet.

The proposed canopy for the gas dispensers is 88 feet long along Old Fort Road frontage. The maximum allowable sign area for all the signs is:

$$88 \times 2 = 176 \text{ square feet.}$$

The total area of all the signs proposed by the applicant is 60.5 square feet.

The proposed sign area is less than the maximum allowable sign area for all the signs. The proposed signs meet the requirements of the Zoning Ordinance.

L. Referral Comments:

1. The Permit Review Section (memorandum dated July 19, 2006) recommends verifying compliance with the previous approvals and the Zoning Ordinance requirements. The section has also requested verification of the property's frontage on Old Fort Road and has stated that compliance with the *Landscape Manual* may be required based on the ultimate right-of-way information. Staff does not agree that compliance with the *Landscape Manual* is required along the northwest property line when the proposal is exempt from the requirements of the *Landscape Manual*. Conditions of approval have been added to verify information and for minor changes to the site plan.
2. The Subdivision Section (memorandum dated August 3, 2006) states that the site is a recorded lot (Part of Lot A, Fort Washington Forest, Plat Book 25@11). The application is exempt from further subdivision because the proposal includes less than 5,000 square feet of gross floor area.
3. The Historic Preservation and Public Facilities Planning Section (memorandum dated August 16, 2006) states that the subject proposal has no effects on historic resources.
4. The Historic Preservation and Public Facilities Planning Section (memorandum dated July 10, 2006) states that the existing fire and rescue facilities and police services are adequate.
5. The Environmental Planning Section (memorandum dated July 13, 2006) states that the proposal is exempt from the requirements of the Woodland Conservation and Tree Preservation Ordinance because the property is less than 40,000 square feet in area and there is less than 10,000 square feet of existing woodland. The section has issued a letter of exemption dated June 30, 2006.
6. The Community Planning Division (memorandum dated August 7, 2006) states that the property is located in an area identified in the 2002 General Plan as the Developing Tier. The vision of the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas. The application is in conformance with the commercial land use policies of the 2006 approved Henson Creek-South Potomac master plan and sectional map amendment. The master plan and SMA retained the subject property in the C-S-C Zone.
7. The Transportation Planning Section (memorandum dated November 8, 2006) states that the proposed gas station will generate an additional 22 AM and 23 PM peak-hour vehicle trips. Counts taken in 2002 showed total future traffic to be LOS E in both peak hours. The Henson Creek-South Potomac master plan includes a recommendation for MD 210 as a

as a planned freeway facility, F-11. The right-of-way for MD 210 should be identified on the special exception site plan. The site plan is acceptable from the standpoint of access and circulation. The section has concluded that the proposal would not adversely affect the health, safety, or welfare of residents in the area. However, the future upgrades to MD 210 must be considered in the review of this application. Because some of the existing structures appear to be within the right-of-way, the applicant must request permission from the District Council to approve a permit within proposed rights-of-way in accordance with Section 27-259.

8. The Transportation Planning/Trails Section (memorandum dated August 2, 2006) states that the master plan designated Old Fort Road South as a master plan bikeway. The section has recommended contribution for a sign regarding the bikeway during the issuance of building permits.
9. The State Highway Administration (SHA) (memorandum dated March 10, 2007) states that the proposed improvements are located within the additional right-of-way needed for the MD 210 corridor upgrades. SHA recommends that no permanent structures be built in the right-of-way area. A condition of approval has been added to require the right-of-way to be delineated on the plan and that no new structures shall be erected within that area.
10. The Department of Environmental Resources (memorandum dated July 28, 2006) has no objections to the reopening of the gas station.
11. The Prince George's County Fire/EMS Department (memorandum dated August 10, 2006) states that the proposal creates minimal impact to the Fire/EMS Department in the area of fire protection.
12. The Research Section (memorandum dated August 2, 2007) has concluded that although the staff's estimate of unmet demand is lower than the applicant's, there is support for an additional gas station in the market area.
13. The Urban Design Review Section (memorandum dated August 25, 2006) has no comments.

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 fundamental purposes of the Zoning Ordinance, as found in Section 27-102, are to protect the health, safety and welfare of the public and promote compatible relationships between the various types of land. There are no major issues associated with this application that would conflict with the general purposes of this subtitle. The proposed gas station satisfies the public need because it is well located to capture consumer demand. The proposed gas station will complement the other retail uses in the area. With the

the proposed conditions, the proposed use and site plan will be in harmony with the purposes of this subtitle.

(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. Conditions of approval are recommended to address minor discrepancies.

(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 property is located in an area identified in the 2002 General Plan as the Developing Tier. The vision of the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas. The application is in conformance with the commercial land use policies of the 2006 *Approved Master Plan and Proposed Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*. The Community Planning Division has stated that the proposal is in conformance with the General Plan and master plan (memorandum dated August 7, 2006). With the proposed conditions, the proposed use will not substantially impair the integrity of the master plan.

(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 a 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 MD 210 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.

The Environmental Planning Section (M-NCPPC) memorandum dated July 13, 2006, has stated that the proposal is exempt from the requirements of the Woodland Conservation and Tree Preservation Ordinance because the property is less than 40,000 square feet in area and there is less than 10,000 square feet of existing woodland. The section has issued a letter of exemption dated June 30, 2006.

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. Prior to the Zoning Hearing Examiner's hearing, the applicant shall provide additional justification for the retention of the black wrought iron fence. If the existing fence cannot be shown to be compatible with the surrounding shopping center, it shall be removed or replaced with a more attractive alternative. If it is to remain, the applicant shall obtain a variance from the setback requirements of Section 27-462.
2. The site plan shall be revised to show the location of the proposed future ramp from MD 210 to Old Fort Road in conformance with the 2006 South Potomac-Henson Creek master plan and the mapping from the MD 210 Corridor transportation study by the State Highway Administration. No new structures shall be erected in this area. If any existing structures fall within the right-of-way, the applicant shall seek permission from the District Council for a permit within the right-of-way in accordance with Section 27-259 of the Zoning Ordinance.
3. The proposed freestanding sign shall be reduced in area to meet the maximum allowable square footage of 112.25 square feet.
- *4. All four (4) sides of the building located ~~[on]~~ at 12800 Old Fort Road, Fort Washington, MD, (the "Station Property" the building thereupon hereafter referred to as [the "Station Building"]) shall be covered with EIFS to match the EIFS (in both color and texture and consistent with the rendering submitted into the record) used on the contiguous Potomac Village Shopping Center [Property] (the "Shopping Center Property", the buildings thereupon hereafter referred to as the "Shopping Center Building").

*Denotes correction

[Brackets] denotes deletion

Underlining denotes addition

5. The Station Building shall include the added cornice and metal coping cap of the same materials and colors used on the Shopping Center Building.
6. The Station Building shall include an awning in the same colors and fabric as the awnings on the Shopping Center Building.
7. That part of the Station Building above the convenience market and/or office shall be adorned with lighting fixtures identical to the green goosenecks located on the Shopping Center Building.
8. The signage on the Station Building shall be individually mounted, non-lit, plastic formed letters identical to the signage on the Shopping Center Building. If a nationally branded company ("National Company") operates within a convenience store located at the Station Property (e.g.,

Dunkin Donuts, Subway, etc.), then, to the extent such National Company requires that its standard signage be displayed on the front of the Station Building, the owner of the Station Property shall be permitted to install such standard signage, provided, however, that the size of such signage is in scale with the signage on the Shopping Center Building.

9. The site lighting at the Station Property shall match, as nearly as possible, the light poles and fixtures (i.e., by appearance, color, type and manufacturer) located at the Shopping Center Property, except the poles at the Station Property may be lower in height than those on the Shopping Center Property and contain fewer than three (3) fixtures per pole.
10. The owner of the Station Property shall use best efforts, subject to the requirements of its agreement with Texaco, to wrap the poles of any free-standing signage to match the materials and colors of the poles on the free-standing sign at the Shopping Center Property.
11. The dumpster enclosure at the Station Property shall be made of brick and the color shall match the Station Building as modified in accordance with the foregoing conditions.
12. The existing fence surrounding the Station Property shall be removed by the earlier of (i) one (1) year from the date of final approval of the SE-4575 or (ii) that date a gasoline station and/or auto repair shop opens for business at the Station Property.
13. All rooftop equipment on the Station Building shall be screened from the view of persons standing anywhere on the Shopping Center Property.
14. The existing storage shed at the Station Property must be removed by the earlier of (i) one (1) year from the date of final approval of the SE-4575 or (ii) that date a gasoline station and/or auto repair shop opens for business at the Station Property. Notwithstanding the foregoing, the shed may be replaced with a shed of the same size or smaller, provided such replacement shed (the "Replacement Shed") matches, in materials and color, the Station Building as modified in accordance with the foregoing conditions.
15. No more than eight (8) vehicles at one time may be parked overnight at the Station Property.
16. No vehicle may be parked in, on or at the Station Property for more than seventy-two (72) consecutive hours.
17. There will be no lottery operation on the property.

* * * * *

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 Squire, seconded by Commissioner Vaughns, with Commissioners Squire, Vaughns, Clark and Parker voting in favor of the motion, and with Commissioner Cavitt recusing at its regular meeting held on Thursday, April 24, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of May and corrected on June 26, 2008.

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Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator

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