

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed NCGS-20, Rosecroft Fuel Mart, requesting to add an additional 180 square feet of gross floor area for a food and beverage store and to eliminate an existing kiosk on-site, which is currently certified as a nonconforming gas station 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 19, 2012, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The triangular-shaped property is located in the area known as Phelps Corner, at the intersections of Oxon Hill Road, St. Barnabas Road and Brinkley Road, just south of the Capital beltway (I-95/495) in the Oxon Hill Area. The subject site is a 10,142 square-foot single parcel with an existing gasoline station improved with a 320 square-foot single-story building located at the northwest end of the property used for storage and restrooms. The subject gas station has an asphalt parking area, a small kiosk, and three pump islands, each with two gasoline dispensers under a metal canopy. The site has approximately 201.66 feet of frontage on Oxon Hill Road (north) and 135 feet on Saint Barnabas Road (south).

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone	C-S-C	C-S-C
Acreage	.232 acres	.232 acres
Use	Gas Station	Gas Station
Lot Coverage	9,995	9,995

C. **History:** The site has a long approval history including a number of variances and departures. The gas station has been in existence since 1957. The subject site was originally approved as a nonconforming use in the 1970s and was certified by Permit 199-70-U. Prior approvals include a variance for a waiver for the width of driveway entrances along Oxon Hill Road (5 feet) and Saint Barnabas Road (2 feet from the point of curvature), pump locations, building restriction lines, the six-foot-wide landscape strip between the right-of-way and the parking area and landscape requirements; Departure from Design Standards DDS-156 (PGCPB Resolution No. 83-84), for setback and landscape requirements (PGCPB Resolution No. 83-256); and Nonconforming Gas Station NCGS-6 (PGCPB Resolution No. 85-377), a site plan revision to add an additional pump and parking.

D. **Master Plan Recommendation:** The 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek South Potomac (Planning Area)* zoned the subject site Commercial Shopping Center (C-S-C) and recommends commercial development of the property.

E. **Request:** The applicant proposes to eliminate the existing kiosk and vending areas and expand the existing restroom and storage building by 180 square feet of gross floor area into a food and beverage store.

F. **Surrounding Uses:**

North— Oxon Hill Road (MD 414)

South— St. Barnabas Road

East— Brinkley Road

West— Property zoned C-S-C, improved with a gas station

G. **Specific Requirements:**

1. Pursuant to Section 27-242(b)(3)(A) of the Zoning Ordinance, the following modifications to a certified nonconforming gas station may be permitted by the Planning Board without a special exception (Section 27-384):
 - (i) **The enlargement or relocation of pump islands;**
 - (ii) **The addition of one (1) pump island;**
 - (iii) **The addition, relocation, or modification of a fence, kiosk, island shelter, island canopy, storage area, trash enclosure, vending area, or lavatory facility;**
 - (iv) **The addition, relocation, or modification of an accessory building used solely for the storage of automotive replacement parts or accessories. The accessory building shall be wholly enclosed. The building shall either be constructed of brick (or another building material similar in appearance to that of 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 screening shall be approved as part of the modification.**

Finding: The applicant proposes to eliminate the existing kiosk and vending areas and expand the existing restroom and storage building by adding 180 square feet to create a food and beverage store. This is being conducted in conformance to this standard.

2. Pursuant to Section 27-242(b)(3)(B), the modifications shall be in conformance with Section 27-358(a)(5),(6),(7), (8), and (10), Section 27-358(c), and any provisions of the zone in which the property is located.

Section 27-358(a)

- (5) **Access driveways shall be not less than 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 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 12 feet from the side or rear lot line of any adjoining lot.**

Finding: There is no indication in the record of a potential conflict with this requirement.

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

Finding: All access driveways are defined by curbing. There is no conflict with this requirement.

- (7) **A sidewalk at least five feet wide shall be provided in the area between the building line and the curb in those areas serving pedestrian traffic.**

Finding: Sidewalks five feet wide are provided along Oxon Hill Road. There is no conflict with this requirement.

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

Finding: The air pump is located in the right-of-way of St. Barnabas Road and should be relocated onto the subject property.

Section 27-358(c)

Upon the abandonment of 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 non-operation as a gas station for a period of 14 months after the retail services cease.

Finding: There is no indication in the record of a potential conflict with this requirement.

- H. **Parking and Loading:** One space for each 150 square feet of the first 3,000 square feet of gross floor area (GFA) devoted for retail sales and services, and one space per employee for the self-service gasoline station is required. The applicant has provided seven parking spaces to serve 396 square feet of retail space (2 required spaces) and the self-service gasoline station (1 required space). The site can accommodate the additional spaces without affecting internal circulation.
- I. **Landscape Manual:** Urban Design staff has reviewed this proposal for conformance to the *Prince George's County Landscape Manual* (Landscape Manual). The request is an increase in more than ten percent of the existing gross floor area and is therefore subject to Section 4.2, Requirements for Landscape Strips along Streets; Section 4.4, Screening Requirements; and Section 4.7, Buffering Incompatible Uses, of the Landscape Manual. Section 4.2, Requirements for Landscaped Strips along Streets, specifies that for all nonresidential uses in any zone and for all parking lots, a landscape strip shall be provided on the property abutting all public and private streets. The site has an approved departure from the landscape strip requirements (DDS-156), which remains valid. There is one condition that remains relevant to the subject approval, as follows:
2. **The existing grass strips in the Oxon Hill Road/ Brinkley Road/Saint Barnabas Road rights-of-way be landscaped in a manner approved by the Planning Board or designee.**

A landscape plan in conformance with the above condition was approved per Permit 2992-84-CGU in 1984. However, the subject application provides no information regarding the required landscaping. The required plantings in the right-of-way do not appear to have been provided. The applicant should provide a landscape plan that demonstrates conformance with the requirements of DDS-156. The existing dumpsters and enclosures are highly visible from the right-of-way. The additional gross floor area also subjects the site to Section 4.7, Buffering Incompatible Uses; however, there is no incompatibility issue as the adjacent property is also a gas station.

Tree Canopy Coverage Ordinance

The Tree Canopy Coverage Ordinance came into effect on September 1, 2010. Building and grading permits that propose 1,500 square feet or greater of gross floor area or disturbance are required to provide tree canopy plantings, except as provided in Section 25-127(b). The subject site is in the C-S-C Zone; therefore, ten percent tree canopy coverage is generally required. However, the subject revision indicates less than 1,000 square feet of disturbance and is therefore exempt from the requirements of the Tree Canopy Coverage Ordinance.

- J. **Zone Standards:** In general, a nonconforming building or structure may be enlarged with the approval of a special exception. However Section 27-242(b)(3)(A)(iii) of the Zoning Ordinance states that the addition, relocation, or modification of a gas station fence, kiosk, island shelter, island canopy, storage area, trash enclosure, vending area, or lavatory facility may be permitted by the Planning Board without a special exception. The subject application has been submitted in accordance with the above provision.

The modification is required to be in conformance with Section 27-358(a)(5), (6), (7), (8), and (10), Section 27-358(c), and any provisions of the zone in which the property is located. The site does not conform to a number of zoning requirements. The applicant's statement of justification cites approved variances to the existing driveway entrances, pump locations, building restriction lines, and sidewalks.

Section 27-358(a)(10) requires that the architectural character of proposed buildings demonstrate compatibility with existing and proposed surrounding development. Architectural details of the expanded kiosk/vending building have not been provided for review by the Urban Design Section, although architectural details including elevations of each façade, a schedule of exterior finishes, and a description of the architectural character of proposed buildings are required per Section 27-358(a)(10). The applicant should provide this for review and a determination of conformance.

- K. **Subdivision:** Pursuant to Section 24-111(c)(3) of the Subdivision Regulations, the application is exempt from the requirement of filing a preliminary plan of subdivision because, based on PGAtlas, the development proposed is in addition to a development in existence prior to January 1, 1990, and does not exceed five thousand square feet of gross floor area. Nonconforming Gas Station NCGS-20 is in substantial conformance with the record plat, if the above comments have been addressed and the deed showing the right-of-way conveyance is provided. There are no other subdivision issues at this time.
- L. **Special Projects:** The Special Projects Section, Countywide Planning Division, has reviewed the proposed nonconforming gas station application for public facility adequacy. The request for the revision of a certified nonconforming gas station to relocate a kiosk will have no impact on existing public facilities.
- M. **Historic Preservation:** Staff has found the proposed revisions to the certified nonconforming gas station will have no effect on identified historic sites, resources, or districts.
- N. **Environmental:** The site is exempt from the Woodland and Wildlife Habitat Conservation Ordinance because the property is less than 40,000 square feet in area woodlands and has no previous tree conservation (TCP) approvals.
- O. **The Department of Public Works and Transportation (DPW&T):** Stormwater concept approval is required prior to site plan approval.

- P. **Transportation:** The application proposes no intensification of the use; intensification would potentially involve additional fueling positions or a significantly larger area for food and beverage sales. With no intensification on the site, it is really not appropriate to revisit the variances granted in 1984. These variances allowed the site to be modified in 1984 by allowing the driveways to remain in their current configurations and by not requiring a sidewalk along St. Barnabas Road. While the Transportation Planning Section would oppose such a variance given current policies to improve walkability options within a center, as defined by the 2002 *Prince George's County Approved General Plan*, there does not appear to be enough of a nexus between the site changes and the need to provide a sidewalk to ask that the variance be given a fresh examination. Beyond noting the major features of the site, there are no transportation-related issues that should prevent this application from moving forward.

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 certification of the site plan, architectural details of the expanded kiosk/vending building must be provided for review. Architectural details must include elevations of each façade, a schedule of exterior finishes, and a description of the architectural character of proposed buildings in accordance with Section 27-358(a)(10) of the Zoning Ordinance.
2. The site must comport with the approved landscape plan prior to issuance of a use and occupancy permit on the property.
3. The air pump, located off the subject property into the right-of-way of St. Barnabas Road, must be relocated onto the subject property and set back in accordance with Section 27-358(a)(8) of the Zoning Ordinance, prior to issuance of a use and occupancy permit on the property.

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 Washington, seconded by Commissioner Squire, with Commissioners Washington, Squire, Bailey, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, April 19, 2012, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of May 2012.

Patricia Colihan Barney
Executive Director

By Jessica Jones
Planning Board Administrator

PCB:JJ:IT:arj