



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

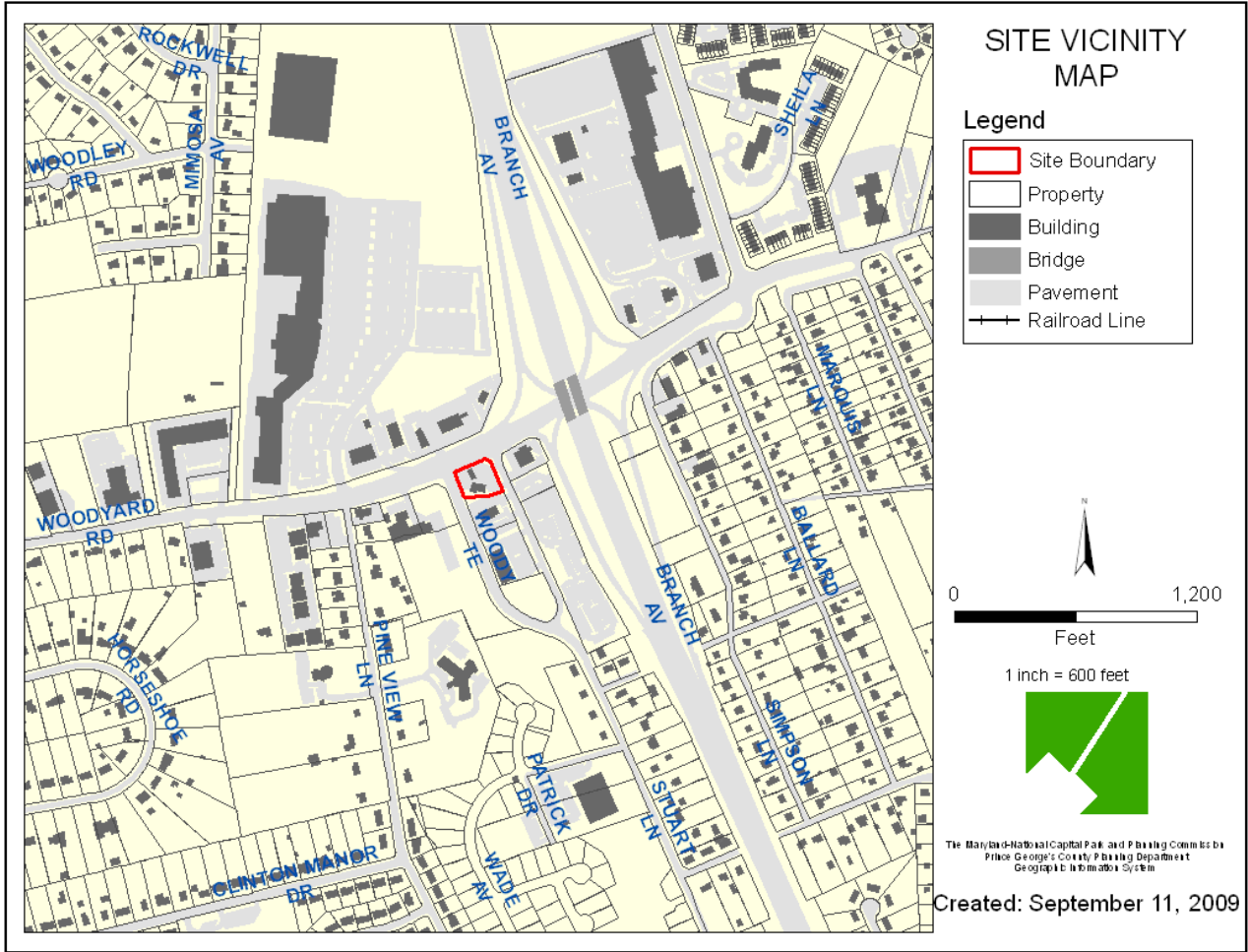
Special Exception Departure from Sign Design Standards

**SE-4654
 DSDS-663**

Application	General Data	
<p>Project Name: Dash-In Woodyard Road</p> <p>Location: Located along the south side of Woodyard Road (MD 223) at its intersection with Stuart Lane and Woody Terrace.</p> <p>Applicant/Address: Dash In Food Stores, Inc. c/o The Wills Group, Inc. P.O. Box 2810 La Plata, MD 20646</p> <p>Property Owner: SMO, Inc. 6355 Crain Highway La Plata, MD 20646</p>	Planning Board Hearing Date:	01/17/13
	Staff Report Date:	01/03/13
	Date Accepted:	09/23/09
	Planning Board Action Limit:	N/A
	Plan Acreage:	0.71
	Zone:	C-S-C
	Gross Floor Area:	2580 sq. ft.
	Lots:	1
	Parcels:	None
	Planning Area:	81A
	Tier:	Developing
	Council District:	09
	Election District:	09
	Municipality:	N/A
200-Scale Base Map:	212SE06	

Purpose of Application	Notice Dates	
<p>SE-4654: To raze and rebuild an auto filling station in the C-S-C Zone.</p> <p>DSDS-663: Departures from Sections 27-614(a)(1) and 27-614(a)(4).</p> <p>Variance from Section 27-358(a)(5).</p>	Informational Mailing	04/27/09
	Acceptance Mailing:	08/18/09
	Sign Posting Deadline:	12/18/12

Staff Recommendation		Staff Reviewer: John Ferrante Phone Number: 301-952-3665 E-mail: John.Ferrante@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		



January 3, 2013

TECHNICAL STAFF REPORT

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

VIA: Jimi Jones, Zoning Supervisor, Development Review Division

FROM: John Ferrante, Senior Planner, Zoning Section, Development Review Division

SUBJECT: **Special Exception Application No. SE-4654**
Departure from Sign Design Standards Application No. DSDS-663
Dash-In Woodyard Road

REQUEST: **SE-4654:** To raze and rebuild an auto filling station in the C-S-C Zone.

DSDS-663: Departure from Section 27-614(a)(1) of the Zoning Ordinance to allow a freestanding sign on a property where the main building associated with the sign is not set back 40 feet from the front street line. Departure from Section 27-614(a)(4) to allow a freestanding sign on a property that is not set back ten feet behind the street line.

Variance from Section 27-358(a)(5).

RECOMMENDATION: **Approval with Conditions**

The Planning Board has scheduled this application for a public hearing on the agenda date of January 17, 2013. The Planning Board also encourages all interested persons to request to become a person of record for this application.

Requests to become a person of record should be made in writing and addressed to The Maryland-National Capital Park and Planning Commission, Development Review Division, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. Please call 301-952-3530 for additional information.

FINDINGS

- A. **Location and Field Inspection:** The site is located within Planning Area 81A within the Clinton community. The subject property has a street address of 8906 Woodyard Road, and is situated along the south side of Woodyard Road (MD 223) at its intersection with Stuart Lane and Woody Terrace. The area of the special exception consists of 0.71 acre in the Commercial Shopping Center (C-S-C) Zone.

The property is currently improved with a 2,079-square-foot automobile filling station with three service bays. Additional structures on the site include two concrete pump islands, four gasoline pump dispensers, one canopy, three underground storage tanks, one freestanding sign, and 20 surface parking spaces. The property is a corner lot that has direct vehicular access to Woodyard Road (MD 223), Stuart Lane, and Woody Terrace.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	C-S-C	C-S-C
Use(s)	Auto Filling Station with 3 Service Bays	Auto Filling Station with Food or Beverage Store
Acreage	0.71	0.71
Lots	1	1
Parcels	None	None
Square Footage/GFA	2,079	2,580
Variances	Yes	Yes

- C. **History:**

July 19, 1967—Special Exception No. 1576 was approved by the District Council for an automobile filling station in the C-1 Zone (Zoning Resolution No. 310-1967).

May 2, 1978—The property was placed in the C-S-C Zone via the District Council’s adoption of the Clinton-Tanglewood Sectional Map Amendment.

March 19, 1980—The Board of Zoning Appeals approved Appeal No. 5723 granting variances for the minimum driveway apron widths, the driveway locations being within the 20-foot point of curvature from an intersection, the sidewalk widths, the construction of gasoline pump islands within 25 feet of the front street line, construction within established building lines, and the waiver of the required landscaped strips along Woodyard Road (MD 223) and Stuart Lane.

Comment: Variances are valid for a two-year period unless used. Since the applicant did not develop the site in accordance with the approved site plan within the two-year time period, new variances were required to be approved.

July 17, 1980—A revised site plan was approved by the Planning Board for the construction of a 72-square-foot sales kiosk and the installation of a new canopy (PGCPB Resolution No. 80-53). However, the applicant never proceeded to modify the site in accordance with the approved site plan.

June 23, 1983—The Planning Board approved (with conditions) a revision of the site plan for the enlargement of pump islands, construction of a kiosk, and the installation of a canopy (PGCPB Resolution No. 83-130).

August 10, 1983—The Board of Zoning Appeals granted another list of similar variances for the property through their approval of Appeal No. 6882.

October 24, 1983—The District Council granted a permit for landscaping and structures within the right-of-way (Zoning Ordinance No. 76-1983).

December 9, 1993—The Planning Board approved a minor change to the approved site plan to permit retrofitting of the pump islands, the removal of the kiosk, and the construction of an 188-square-foot building addition that would enclose an existing sheltered area used for exterior vending machines, pay telephones, and access to the public restrooms (PGCPB Resolution No. 93-329).

June 20, 1996—The Planning Board approved a minor change to relocate the existing freestanding sign and to convert the existing parking space provided for the physically handicapped to a van-accessible space (PGCPB Resolution No. 96-214).

November 1, 2010—The Planning Director approved Alternative Compliance AC-10018 for the subject property from Sections 4.2 and 4.3(a) of the 1990 *Prince George's County Landscape Manual* (along Woody Terrace).

August 7, 2012—The Planning Director approved Alternative Compliance AC-10018-01 for the subject property from Section 4.6(c)(2), Buffering Development from Special Roadways, along Woodyard Road (MD 223); and from Section 4.7, Buffering Incompatible Uses, along the southwestern property line adjacent to an existing public utility structure/telecommunications tower, of the 2010 *Prince George's County Landscape Manual*.

- D. **Master Plan Recommendation:** Many of the referrals that were generated for this case review the property for conformance with the 2009 Approved Subregion 5 Master Plan and Sectional Map Amendment.

On October 26, 2012, the Circuit Court released a memorandum and order that declares VOID the adoption of County Council Resolutions CR-61-2009 and CR-62-2009 of the District Council for Prince George's County, Maryland for failure to meet the affidavit requirement. As such, the 2009 Approved Subregion 5 Master Plan and Sectional Map Amendment are no longer valid.

The applicable master plan and zoning for the site thus reverts to the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B* (Subregion V Master Plan and SMA).

This application for redevelopment of an existing gas station conforms to the recommendations of the 1993 Subregion V Master Plan and SMA for a commercial land use.

The 2002 *Approved Prince George's County General Plan* locates the subject property at a corridor node in the Developing Tier. The vision for corridor nodes is a mix of residential and nonresidential land uses at moderate to high densities and intensities with a strong emphasis on transit-oriented development.

BACKGROUND

- E. **Request:** The applicant is proposing to raze and rebuild the existing gas station located at the corner of Woodyard Road (MD 223), Woody Terrace, and Stuart Lane in Clinton. The project will entail the complete removal of all existing structures on the property and the new construction of a 2,580-square-foot food or beverage store, a canopy, and six multi-product fuel pump dispensers that provide a total of 12 fueling positions. A gas station requires approval of a special exception application in the C-S-C Zone, while a food or beverage store is a permitted use.

The applicant has also requested a departure from sign design standards from Section 27-614(a)(1) of the Zoning Ordinance in order to allow a freestanding sign on a property where the main building associated with the freestanding sign is not set back 40 feet from the front street line. A freestanding sign currently exists on the site at the corner of MD 223 and Stuart Lane. However, the existing sign is located within the ultimate right-of-way of MD 223 and is proposed to be relocated outside the limits of the ultimate right-of-way. Although the proposed building is set back more than 40 feet from Woodyard Road (MD 223) and Woody Terrace, it is set back only 23.55 feet from Stuart Lane. Therefore, a departure of approximately 16.45 feet is requested from Stuart Lane along the east side of the building in order to allow a freestanding sign to remain on the site.

Section 27-614(a)(4) requires freestanding signs to be set back a minimum of ten feet behind the street line. The proposed freestanding sign appears to be set back approximately four feet from the limits of the ultimate right-of-way of MD 223. The applicant has not requested a departure from Section 27-614(a)(4) of the Zoning Ordinance as a part of the subject application; however, it appears that a departure of six feet is necessary.

A variance is requested from Section 27-358(a)(5) of the Zoning Ordinance which states the following:

- (a) **A gas station may be permitted, subject to the following:**
- (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 relocated driveway entrance on MD 223 and the relocated entrance on Stuart Lane are located at points that are less than 20 feet from the point of curvature of the curb return. The western (right-in only) driveway entrance along MD 223 is located ten feet from the point of curvature and a variance of ten feet is requested by the applicant.

The applicant has also requested a variance of 9.8 feet for the driveway entrance on Stuart Lane. The statement of justification submitted by the applicant states that the driveway entrance is 10.2 feet from the point of curvature and, therefore, a variance of 9.8 feet is requested. However, the site plan shows that the 10.2-foot dimension is the distance between the point of curvature from the intersection of MD 223 and the point of curvature of the northern side of the driveway entrance on Stuart Lane. As a result, it appears that the northern edge of the driveway entrance on Stuart Lane is properly set back 20 feet from the point of curvature from the intersection of MD 223 and would, therefore, meet the intent of Section 27-358(a)(5) of the Zoning Ordinance. Regardless, staff has included the applicant's variance request for the driveway location on Stuart Lane as a part of the subject special exception application.

Woodyard Road (MD 223) is a master plan arterial roadway with an ultimate right-of-way width of 120 feet. A portion of the drive aisle, a required storm drain structure, and three 16-foot-high light posts are proposed within the limits of the ultimate right-of-way. The site currently has two direct access points onto MD 223. The Maryland State Highway Administration (SHA) has requested that the existing driveway aisles along MD 223, which are currently 26 feet wide, be reduced to 24 feet wide and have new curb and gutter installed to create a right-in/right-out driveway configuration for safety purposes. Therefore, it appears that many of the improvements that are proposed within the ultimate right-of-way are being required by SHA and will be reviewed by their Access Management Division during the permit review process. In order to construct these items, the applicant will be requesting the District Council's permission to build within the ultimate right-of-way of MD 223.

It is unclear if the District Council's approval is needed to construct improvements that are being required by the operating agency with jurisdiction over the right-of-way. It is unclear to staff if the light posts proposed within the ultimate right-of-way are to serve the proposed use or if they are being required by SHA. The storm drain structure (which has a very small corner extending in the limits of the ultimate right-of-way) could possibly be relocated one foot to the east and would then be outside the limits of the ultimate right-of-way. Regardless, the applicant will be requesting permission to build within the ultimate right-of-way of MD 223 in accordance with Section 27-259 of the Zoning Ordinance.

- F. **Neighborhood and Surrounding Uses:** The immediate neighborhood can be characterized as commercial in nature containing a mixture of general retail/service uses, offices, and restaurants, beyond which are residential subdivisions primarily developed with detached and attached single-family dwellings.

Staff would describe the general neighborhood as being bounded to the north by Pea Hill Branch, to the west by Brandywine Road (MD 381), to the south by Surratts Road, and to the east by Branch Avenue (MD 5).

North— The Woodyard Road (MD 223) right-of-way, and beyond the Clinton Plaza Shopping Center in the C-S-C Zone.

West— The Woody Terrace right-of-way, and beyond the Clinton Gardens Shopping Center in the C-S-C Zone.

South— A fast-food restaurant (McDonald's) and a public utility structure (cell tower) in the C-S-C Zone.

East— The Stuart Lane right-of-way, and beyond a restaurant in the C-S-C Zone and the access ramp to the southbound lanes of MD 5.

G. **Specific Special Exception Requirements:** Section 27-358(a) of the Zoning Ordinance provides the specific special exception requirements for a gas station as follows:

- (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;**
 - (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;**
 - (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;**
 - (4) **The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited;**
 - (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;**
 - (6) **Access driveways shall 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;**
 - (8) **Gasoline pumps and other service appliances shall be located at least twenty-five (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.

- (10) Details on architectural elements such as elevation depictions of each façade, schedule of exterior finishes, and description of architectural character of proposed buildings shall demonstrate compatibility with existing and proposed surrounding development.**
- (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; and**
 - (3) The location of exterior vending machines or vending area.**
- (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.**
- (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.**

Comment: The applicant’s proposal complies with the above criteria with the exception of Section 27-358(a)(5) where a variance is requested for the distance of the driveway locations along MD 223 and Stuart Lane from the point of curvature. Although the width of the access driveways along MD 223 are less than 30 feet wide, they are being reduced at the request of SHA to create a right-in/right-out driveway configuration for safety purposes.

Section 27-358(a)(7) states that 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. Although a six-foot-wide concrete sidewalk is proposed along MD 223, the width of the new sidewalk that is being proposed along Stuart Lane is not provided on the site plan. There is also an existing sidewalk along Woody Terrance that is not dimensioned on the site plan. The applicant’s statement of justification incorrectly states that a four-foot-wide sidewalk is provided in order to meet the minimum five-foot-wide sidewalk requirement.

In a memorandum dated November 10, 2009, the Transportation Planning Section (M-NCPPC) recommended that concrete sidewalks be provided along Stuart Land and Woody Terrace that are a minimum of five feet in width. In a memorandum dated September 19, 2012, SHA stated that the four-foot-wide sidewalk shown on the northeast corner of Woodyard Road and Stuart Lane

should be at least five feet wide per ADA (Americans with Disabilities) guidelines. As a result, staff has added a condition that requires the width of all sidewalks to be labeled on the plan and any sidewalk that has a width less than five feet wide be widened to meet the minimum width requirement contained in Section 27-358(a)(7) of the Zoning Ordinance.

In a memorandum dated November 20, 2012, the Urban Design Section (M-NCPPC) stated that the proposed convenience store building is of a prototypical, franchise-style for Dash-In. Some improvements to the building design have been provided on revised elevations in accordance with the previous comments. However, the Urban Design Section still has concerns regarding the rear elevation of the building which basically shows a blank wall. Minor improvements such as brick soldier course accent have been added as the result of prior comments. However, the accent on the rear elevation is visually insignificant. Additional visually significant architectural elements, such as a canopy, that matches the red color tone of the entire building should be located on the top of the insert brick panels to improve the visual interest of the rear elevation. A similar canopy should also be used on the top of the windows on the right and left elevations of the proposed convenience store. Appropriate conditions have been recommended to require staff approval of the architectural elevations prior to certification of the special exception site plan.

- H. **Parking Regulations:** Based on the gross floor area of the proposed food or beverage store (2,580 square feet), a total of 18 parking spaces and one loading space are required to serve the property. The applicant proposes to provide 18 parking spaces, and one loading space will be provided that is 12 feet wide by 33 feet in length.

The 18 parking spaces will consist of nine standard-size parking spaces (9.5 by 19 feet), two parallel spaces (8 by 22 feet), six compact spaces (8 by 19 feet), and one van-accessible space for the physically handicapped (16 by 19 feet). The number of each type of parking space proposed should be clearly labeled in the parking schedule.

- I. **Prince George's County Landscape Manual Requirements:** The application to modernize an existing gas station involves new construction and is subject to the requirements of the 2012 *Prince George's County Landscape Manual* (Landscape Manual).

On November 1, 2010, the Planning Director approved Alternative Compliance AC-10018 for the subject property from Sections 4.2 and 4.3(a) of the 1990 *Prince George's County Landscape Manual* (along Woody Terrace).

On December 13, 2010, the 2010 *Prince George's County Landscape Manual* became effective and the site was subject to Section 4.6(c)(2), Buffering Development from Special Roadways, along Woodyard Road (MD 223), which is categorized as a historic roadway. In addition, the impact designation of the use on the abutting property (a public utility structure) was altered through the adoption of the new Landscape Manual and the site is now subject to Section 4.7 along the property line abutting the public utility structure. Further, the applicant submitted revised plans that shifted the proposed building further to the southwest and into a required landscape bufferyard that was shown on the prior approved alternative compliance plan. As a result, approval of a revised alternative compliance application was required.

On August 7, 2012, the Planning Director approved Alternative Compliance AC-10018-01 for the subject property from Section 4.6(c)(2), Buffering Development from Special Roadways, along Woodyard Road (MD 223); and from Section 4.7, Buffering Incompatible Uses, (along the southwestern property line adjacent to an existing public utility structure/telecommunications tower) of the 2010 *Prince George's County Landscape Manual*.

Tree Canopy Coverage

This application is subject to the Tree Canopy Coverage Ordinance as it proposes disturbance of 1,500 square feet or greater. The special exception area of 0.71 acres is zoned C-S-C and is required to provide ten percent, or 3,093 square feet, of tree canopy coverage. A tree canopy coverage worksheet has been provided on the landscape plan specifying that the requirement is being met through proposed on-site tree planting for a total of 3,800 square feet.

- J. **Zone Standards:** The applicant's proposal is in compliance with the requirements of the Commercial Shopping Center (C-S-C) Zone.
- K. **Required Findings for Variance Request:** Section 27-230(a) of the Zoning Ordinance states that a variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:
- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**
 - (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; and**
 - (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Comment: The applicant is requesting a variance from Section 27-358(a)(5) of the Zoning Ordinance which states the following:

- (a) **A gas station may be permitted, subject to the following:**
 - (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 applicant's statement of justification incorrectly states that the location of the eastern driveway entrance along Woodyard Road (MD 223) does not comply with setback requirements from the point of curvature. However, it is the western driveway entrance along MD 223 that is located less than 20 feet from the point of curvature of the curb return. The distance between the point of curvature and the eastern driveway entrance along MD 223 is not labeled on the site plan and should be. However, it does appear to comply with the 20-foot minimum setback requirement from the point of curvature. The western (right-in only) driveway entrance

along MD 223 is located only ten feet from the point of curvature and a variance of ten feet is requested by the applicant.

The applicant has also requested a variance of 9.8 feet for the location of the driveway entrance on Stuart Lane. The statement of justification submitted by the applicant states that the driveway entrance is 10.2 feet from the point of curvature and, therefore, a variance of 9.8 feet is requested. However, the site plan shows that the 10.2-foot dimension is the distance between the point of curvature from the intersection of MD 223 and the point of curvature of the northern side of the driveway entrance on Stuart Lane. As a result, it appears that the northern edge of the driveway entrance on Stuart Lane is properly set back 20 feet from the point of curvature from the intersection of MD 223 and would, therefore, meet the intent of Section 27-358(a)(5) of the Zoning Ordinance. Regardless, staff has included the applicant's variance request for the driveway location on Stuart Lane as a part of the subject special exception application.

On March 19, 1980, the Board of Zoning Appeals approved Appeal No. 5723 granting variances for the minimum driveway apron widths, the driveway locations being within the 20-foot point of curvature from an intersection, the sidewalk widths, the construction of gasoline pump islands within 25 feet of the front street line, construction within established building lines, and the waiver of the required landscaped strips along MD 223 and Stuart Lane.

On August 10, 1983, the Board of Zoning Appeals granted another list of similar variances for the property through their approval of Appeal No. 6882.

During the review of the subject application, the applicant's attorney argued that the prior approved variances should still be valid for the purposes of the special exception application. However, the ultimate right-of-way width of MD 223 has increased since the time the variances were granted, and the driveway configuration along MD 223 is also proposed to be revised with the subject application. In an email dated July 7, 2010, the Legal Department (M-NCPPC) stated that the variance approvals expressly relied on the underlying facts as they existed at the time, and would not apply now that the master plan has increased the right-of-way width along MD 223.

The location of the western driveway entrance that is proposed along MD 223 will be set back a greater distance from the point of curvature than what currently exists. The existing western driveway entrance currently has no setback from the point of curvature and it has existed in that configuration for approximately 45 years. A ten-foot setback is now being proposed. In order to construct the right-in/right-out, one-way driveway entrances that are being required by the State Highway Administration (SHA), the approval of a variance for at least one of the driveway entrances along MD 223 is necessary.

The driveway entrance on Stuart Lane is essentially located in the same place as it has since its initial construction in 1967. Although variances have been approved in the past by the Board of Zoning Appeals for the driveway locations, they are being slightly relocated with the proposed redevelopment of the site, and the approval of new variances is required. No dimensions are provided between the existing driveway entrance and the point of curvature on the existing conditions site plan that was submitted by the applicant. However, the location of the proposed driveway entrance on Stuart Lane does appear to be slightly farther away from the point of curvature than its existing location. As previously stated above, it appears that the northern edge of the driveway entrance on Stuart Lane is properly set back 20 feet from the point of curvature from the intersection of MD 223 and would, therefore, meet the intent of Section 27-358(a)(5) of the Zoning Ordinance.

By definition, the site is considered a through lot because it is a corner lot fronting on three or more streets. Therefore, the need to provide driveway entrances along all three public rights-of-way and meet the requirement that each one be set back a minimum of 20 feet from the point of curvature creates an extraordinary situation and conditions not generally applicable to other properties. As a result, staff supports the requested variances, as requiring the applicant to comply with the strict application of this Subtitle would prevent them from constructing the right-in/right-out driveway entrances that are being required by SHA for safety purposes along MD 223.

Regarding the driveway entrance location on Stuart Lane, the Department of Public Works and Transportation (DPW&T) stated in a memorandum dated April 3, 2012 that they have no objection to the variance request from Section 27-358(a)(5) of the Zoning Ordinance. In a memorandum dated December 27, 2012, the Transportation Planning Section stated that it is recognized that the site is small and challenging, and that the applicant would incur a hardship with the strict imposition of the standards. Furthermore, they found that, in this case, a variance from this provision of Subtitle 27 would not impair the master plan.

The 1993 Subregion V Master Plan and SMA recommended a commercial land use for the subject property and retained the site within the C-S-C Zone.

A gas station has been in continuous operation on this property since July 19, 1967 when Special Exception No. 1576 was approved by the District Council, and the continuation of this use will not impair the intent, purpose, or integrity of the General Plan or master plan.

- L. **Signage:** The applicant is proposing building, canopy, and freestanding signage that is prototypical franchise-style for Dash-In and Shell. The building signs and window stickers will be the red and green Dash-In logos, while the canopy sides and canopy signage will be the red and yellow logos that are typical for Shell. The freestanding sign will be a combination of both, and will include four types of gasoline price signs and four seasonal sign panels.

The signage is within the allowed square footage and height (freestanding sign). However, the canopy will be set back less than 30 feet from the street line and, therefore, the total area of all signs on the canopy cannot exceed one square foot for each lineal foot of canopy width, in accordance with Section 27-613(c)(3)(F) of the Zoning Ordinance. As a result, Sheet SGN-2 of the submitted plans needs to be revised to demonstrate that the total area of all signs on the canopy shall not exceed one square foot for each lineal foot of canopy width.

Although the square footage of the freestanding sign is within the allowed limits, Sheet SGN-3 of the submitted plans needs to be revised to demonstrate that the total permitted sign area for the freestanding sign is 172.16 square feet, not 200 square feet.

In a memorandum dated November 20, 2012, the Urban Design Section stated that, given the prominent location of the freestanding sign, a brick base should be provided to achieve consistency in terms of building materials and quality with the proposed building. The Urban Design Section also recommended that a brick wall be used to provide sight-tight screening for both the trash receptacle and any mechanical equipment. Staff has added appropriate conditions to address these concerns.

- M. **Required findings for Departures from Design Standards:** The applicant has requested a departure from Section 27-614(a)(1) of the Zoning Ordinance because the main building

associated with the freestanding sign is not set back at least 40 feet from the front street line. Although not requested by the applicant, it appears that a departure from Section 27-614(a)(4) is also required because the freestanding sign is not proposed to be set back a minimum of ten feet from the ultimate right-of-way of Woodyard Road (MD 223).

Section 27-614(a)(1) states the following:

(a) Location.

- (1) In all Commercial and Industrial Zones (except the I-3 and U-L-I Zones), signs shall only be located on property where the main building associated with the sign is located at least forty (40) feet behind the front street line. This shall not apply to integrated shopping centers, other commercial centers with three (3) or more businesses served by common and immediate off-street parking and loading facilities, industrial centers, or office building complexes.**

Section 27-614(a)(4) states the following:

- (4) Notwithstanding any other provisions of this Subtitle addressing setbacks and yards, in all Commercial and Industrial Zones (except the I-3 Zone), signs need only be located ten (10) 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;**
 - (B) The sign is located at least ten (10) feet behind the existing street right-of-way line; and**
 - (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.**

Section 27-239.01(b)(7) of the Zoning Ordinance contains the required findings that the Planning Board must make in order to approve a departure request:

Section 27-239.01. Departures from Design Standards.

(7) Required findings.

- (A) 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;**

Comment: On June 20, 1996, the Planning Board approved a minor change to relocate the existing freestanding sign and to convert the existing parking space provided for the physically handicapped to a van-accessible space (PGCPB Resolution No. 96-214). The applicant is now proposing to relocate the sign outside the limits of the ultimate right-of-way of MD 223. However, the sign is only proposed to be set back approximately four feet from the limits of the ultimate right-of-way of MD 223, and a departure of six feet is necessary from Section 27-614(a)(4) of the Zoning Ordinance.

Although Section 27-614(a)(4) allows freestanding signs to be temporarily located within the area between the street line and the existing street right-of-way line subject to certain criteria and without the need for approval of a departure request, once a sign is located outside the limits of the existing street right-of-way line it is fully subject to the ten-foot setback requirement contained in Section 27-614(a)(1).

A freestanding sign has existed on the site for many years and currently, the freestanding sign is wholly located within the limits of the ultimate right-of-way and is set back only a few feet from the property line and the existing paving of MD 223. The proposed new location of the freestanding sign is set back much further on the site than what currently exists and will be located outside the limits of the ultimate right-of-way.

Although the proposed building meets the required building setback from Woodyard Road (MD 223) and Woody Terrace, it is set back only 23.55 feet from Stuart Lane, and a departure of approximately 16.45 feet is needed in order to allow a freestanding sign to remain on the site. The building will be located over 130 feet from MD 223 and the applicant believes that any building-mounted signage would not adequately identify this site for the traveling public. The freestanding sign is also necessary to adequately display the prices of each type of gasoline sold on the premises.

In a memorandum dated December 27, 2012, the Transportation Planning Section stated that, given the sign's location just outside of the master plan right-of-way for MD 223, the Transportation Planning Section offers no objection to the departure. In a memorandum dated April 3, 2012, DPW&T also stated that they have no objection to the applicant's requested departure.

With the freestanding sign being necessary to display the fuel prices, being set back farther on the property than what was previously approved by the Planning Board, and with the proposed building meeting the required 40-foot building setback along two of the three public streets that abut the site, staff believes that 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.

Comment: A departure of approximately 16.45 feet is required from Stuart Lane along the east side of the building. The proposed building is set back less than one-foot from the southwestern property line and it cannot be shifted any further to the west in order to meet the required 40-foot building setback.

The limits of the MD 223 ultimate right-of-way extend approximately 18 feet onto the property at the western property line and 14 feet at the eastern property line. The applicant is relocating the sign outside the limits of the ultimate right-of-way even though the dedication of the ultimate right-of-way is not required with a special exception application. The sign will be set back approximately four feet from the limits of the ultimate right-of-way of MD 223. The structure cannot be shifted further to the northeast because it would not meet the ten-foot setback requirement from Stuart Lane, and it cannot be shifted farther back from MD 223 without impacting a required storm drain structure. As a result, staff finds that the departures are 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;

Comment: By definition, the site is considered a through lot because it is a corner lot fronting on three or more streets. Therefore, the need to meet the required 40-foot building setback along three streets creates an extraordinary situation and conditions not generally applicable to other properties. As a result, staff finds that the departure is necessary in order to alleviate circumstances which are unique to the site.

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

Comment: A gas station has been in continuous operation on this property since approximately 1967, and a freestanding sign has existed at the corner of MD 223 and Stuart Lane for many years. There are no residential uses that are located within the immediate area of the site that would be negatively impacted by the departure request. The relocation of the sign outside the limits of the ultimate right-of-way of MD 223 will be beneficial should the right-of-way be dedicated in the future and MD 223 widened to the ultimate width envisioned by the master plan. The re-facing of the sign, the redevelopment of the site with modern structures, and the removal of the service bays, will improve the visual quality of the site. As a result, staff finds that the proposed departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

N. **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;

Comment: The use has met the requirements of the Zoning Ordinance since its initial approval by the District Council in 1967. However, the redevelopment of this older site will bring the subject property into conformance with current landscaping requirements, current stormwater management requirements, current building and fire protection requirements, and the American with Disabilities Act (ADA), and will provide much needed safety improvements along Woodyard Road (MD 223) for both vehicles and pedestrians. On January 15, 2009, a stormwater management concept plan was approved by DPW&T. However, that approval expired on January 15, 2012 and will need to be renewed by DPW&T, and the layout of the plan revised to be consistent with the latest special exception site plan prior to issuance of a building permit. The redevelopment of the property with commercial uses is consistent with the master plan land use recommendations. With the recommended conditions, the proposed use and site plan are 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;

Comment: The applicant has obtained approval of an alternative compliance application for the proposed landscaping, and the proposed redevelopment of the site meets the standard zoning requirements of the C-S-C Zone. With the requested departure, variance request, and the recommended conditions of approval, the proposed use will be in substantial conformance with all of the applicable requirements and regulations of this Subtitle.

(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;

Comment: The 1993 Subregion V Master Plan and SMA recommends a commercial land use for the subject property, and the proposed use conforms to the General Plan's vision for the Developing Tier for a nonresidential land use. Therefore, 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.

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

Comment: A gas station has been in continuous operation on this property since the District Council's approval of Special Exception No. 1576 in 1967, and it has had no adverse effects on the health, safety, or welfare of residents or workers in the area. As part of the redevelopment of the site, the applicant will be installing new full-cutoff optic outdoor lighting consisting of six 16-foot-high lamp posts, four outdoor building lights, and 18 new canopy lights that will provide patrons with a bright safe atmosphere while not causing glare onto adjacent properties.

In consideration of the findings required for a special exception, the Transportation Planning Section reviewed the site for health, safety, and welfare issues within the immediate area of the property, as well as, for master plan consistency. The applicant proposes the replacement of eight fueling positions with twelve fueling positions on a site which is to contain a gas station and convenience store. However, the Transportation Planning Section found that the site is a subdivided lot, and the replacement of the service station does not raise any off-site transportation adequacy issues. Further, the Transportation Planning Section found that the applications and the variance request would pose no issue regarding the required special exception finding or other needed findings.

Regarding the frontage improvements along Woodyard Road (MD 223), the Transportation Planning Section stated that this type of sidewalk is necessary in this part of Clinton. It is needed to support pedestrian access to existing transit services and to support access to a future transit line and station along Branch Avenue (MD 5), as recommended in the 2009 *Approved Countywide Master Plan of Transportation*.

In a memorandum dated November 20, 2012, the Urban Design Section recommended approval of the special exception and departure applications, but they did not support the applicant's requested variance from Section 27-358(a)(5) of the Zoning Ordinance. Further, the Urban Design Section recommended that both driveway entrances along MD 223 be closed.

In this case, SHA would have jurisdiction over any access point onto MD 223, which is a state roadway, and DPW&T would have jurisdiction over any access points onto Stuart Lane and Woody Terrace, which are both county-maintained roadways. In a memorandum dated April 3, 2012, DPW&T stated that they have no objection to the variance request from Section 27-358(a)(5) of the Zoning Ordinance.

The applicant has been in negotiations with SHA since the application was accepted on September 23, 2009, and the closure of the driveway entrances along MD 223 has been discussed in great detail. SHA had concerns that both of the existing driveway entrances along MD 223 could and currently do accommodate two-way traffic because of the wider width of each entrance. As a result, they have requested that each one of the existing driveway entrances be reduced in width to accommodate only one-way traffic, and new curb and gutter installed to create a right-in/right-out driveway configuration. In an email dated May 7, 2012, SHA stated the following concerning the driveway entrances along MD 223:

“The Access Management Division is satisfied with the site plan showing improvements along MD 223. A permit issued by this office is required for improvements within the requested right-of-way dedication area.”

At this time, the location of the driveway entrances along MD 223 have been deemed acceptable by SHA, and the driveway entrances along Woody Terrace and Stuart Lane have been deemed acceptable by DPW&T. Once constructed, the right-in/right-out driveway entrances along MD 223 will result in safer access points than what currently exists along MD 223. For these reasons, staff finds that the proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area.

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

Comment: In approving the original special exception application in 1967, the District Council found that the use would not be detrimental to the use or development of adjacent properties or the general neighborhood. On July 17, 1980, June 23, 1983, December 9, 1993, and June 20, 1996, the Planning Board heard and approved minor revisions for the property, each time finding that the use would not be detrimental to the use or development of adjacent properties or the general neighborhood. Staff believes that these findings continue to be valid.

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

Comment: In memorandums dated October 6, 2009 and October 25, 2010, the Environmental Planning Section (M-NCPPC) stated that the site is exempt from the Woodland and Wildlife Habitat Conservation Ordinance and that no other environmental issues relate to the applicant's proposal. Because the site is less than 40,000 square feet in size and has no previous approved tree conservation plans, a standard exemption letter from the Woodland Conservation Ordinance was issued by the Environmental Planning Section on March 27, 2012.

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

Comment: There are no regulated environmental features on the subject property that would require preservation and/or restoration.

CONCLUSION

APPROVAL of Special Exception Application No. SE-4654 and Departure from Sign Design Standards Application No. DSDS-663, including the requested Variances from Section 27-358(a)(5) of the Zoning Ordinance, subject to the following conditions:

1. Prior to certification of the special exception site plan, the following revisions shall be made:
 - a. The width of the driveway entrances on Stuart Lane and Woody Terrace shall be dimensioned.
 - b. The width of all sidewalks shall be dimensioned in order to demonstrate compliance with Section 27-358(a)(7) of the Zoning Ordinance. Any existing sidewalk that is less than five feet wide shall be labeled as "To be widened to 5 feet in width."
 - c. General Note 19(7) on Page 3 of 6 shall be updated accordingly to provide the correct width of all of the sidewalks on the property.
 - d. Revise General Note 19(5) on Page 3 of 6 to provide the correct width of the driveway entrances along Woodyard Road (MD 223) and further indicate that the width of the one-way driveway entrances have been approved by the State Highway Administration (SHA).
 - e. The provided number of each type of parking space shall be listed in the parking schedule.
 - f. Label the distance between the point of curvature and the eastern driveway entrance along Woodyard Road (MD 223).
 - g. Revise Sheet SGN-2 to demonstrate that the total area of all signs on the canopy shall not exceed one square foot for each lineal foot of canopy width.
 - h. Revise Sheet SGN-3 to demonstrate that the total permitted sign area for the freestanding sign is 172.16 square feet, not 200 square feet.

2. The following revisions shall made to the architectural elevations and the site plans as required, and be reviewed and approved by the Urban Design Section (M-NCPPC) prior to certification of the special exception site plan:
 - a. Provide a brick base for the proposed freestanding sign. The brick to be applied at the sign base shall be the same brick as on the proposed building.
 - b. Provide a brick wall to provide sight-tight screening for both the trash receptacle and any mechanical equipment.
 - c. Provide red-colored fabric canopies on top of each insert brick panel on the rear elevation of the proposed convenience store and on the top of the windows on both the right and left elevations.
3. If deemed necessary by the District Council, prior to the approval of a building permit, the applicant shall submit written evidence to the Permit Review Section (M-NCPPC) which demonstrates that any proposed structures that are located within the ultimate right-of-way of Woodyard Road (MD 223) have been validated through the District Council's approval of a structure within the right-of-way in accordance with Section 27-259 of the Zoning Ordinance.
4. Prior to issuance of a building permit, Stormwater Management Concept Plan 41637-2008-00 shall be renewed by the Department of Public Works and Transportation (DPW&T) and revised to be consistent with the layout shown on the special exception site plan.