

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed DSDS-663, Dash-In Woodyard Road requesting departures from Sections 27-614(a)(1) and 27-614(a)(4) in accordance with Subtitle 27 of the Prince George’s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on January 17, 2013, the Prince George's County Planning Board finds:

- 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 site 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	APPROVED
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.

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. A companion special exception application, SE-4654, has been submitted by the applicant.

The applicant is requesting 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.

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 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.

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 added to require staff approval of the architectural elevations prior to certification of the site plan.

F. Surrounding Uses:

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. **Zone Standards:** The applicant's proposal is in compliance with the requirements of the Commercial Shopping Center (C-S-C) Zone.

H. **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. Appropriate conditions to address these concerns have been provided.

I. **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;

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, 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.

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. 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, 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;

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, 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.

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, the proposed departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

- J. **At the Public Hearing**—The subject departure application and companion special exception application, SE-4654, were heard by the Planning Board on the same day. For the purposes of clarity, both applications relate to the same site plan.

At the public hearing for this application on January 17, 2013, the applicant's attorney requested that Condition 2(c), which requires that red colored fabric canopies be provided on the 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, be deleted.

The Planning Board was not in agreement with the applicant that the condition should be deleted. However, the Planning Board requested that the language in Condition 2(c) be revised so that it is acceptable to the staff, the applicant, and the Legal Department, and that the revised condition be brought before the Planning Board in the form of the resolution.

On January 21, 2013, the applicant submitted revised language for Condition 2(c) which stated the following;

- c. "Provide canopies or another form or architectural treatment to the 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".

On January 22, 2013, The Legal Department stated that they were in agreement with the applicant's revised language subject to one minor typographical error being corrected, (revising the 2nd "or" in the condition to "of"). On January 22, 2013, the applicant provided written consent stating that they were in agreement with the Legal Department's revised language. The Zoning Section is also in agreement with the revised condition.

As a result, Condition 2(c) has been revised accordingly.

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, 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 be 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 canopies or another form of architectural treatment to the 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.

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 Geraldo, with Commissioners Washington, Geraldo, Bailey, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, January 17, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of February 2013.

Patricia Colihan Barney
Executive Director

By Jessica Jones
Planning Board Administrator

PCB:JJ:JF:arj