

INTER-OFFICE MEMORANDUM
PRINCE GEORGE'S COUNTY, MARYLAND
ZONING HEARING EXAMINER OFFICE
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TO: Jackie Brown, Committee Director
Planning, Housing, and Economic Development Committee

FROM: Maurene Epps McNeil
Chief Zoning Hearing Examiner

DATE: September 12, 2022

RE: CB-076-2022

This bill will now require that Gas Stations be permitted upon approval of a special exception and no longer be permitted by right in certain zones. I would recommend a few changes to the draft.

1. Since the bill is revising requirements for Gas Stations, the title should be concerning "Gas Stations" on page 1, line 2. The purpose clause itself should be revised as follows, on page 1, lines 3-5:

For the purpose of requiring special exception approval for Gas Stations in certain zones, and revising the requirements for approval of a special exception for Gas Stations.

2. We currently address the new language on page 4, lines 8-10, but agree it may be included in the bill.
3. The bill will increase the setback (from 300 feet to 500 feet) from any lot on which a school, outdoor playground, library, or hospital is located. It will also require sidewalks 8 feet in width for the area between the building line and the curb. All gasoline pumps must be 35 feet behind the street line. Finally, an acoustic analysis will be required to address the impact of nighttime noise.

(See pages 4-5). All of these changes will make many existing stations nonconforming uses. If that is not the sponsors' intent language should be added (perhaps a new paragraph (cc)(5)) to clarify that existing uses will not be considered nonconforming.

4. On page 5, line 15 now requires that any signage on site "be limited to the minimum necessary". This language may be subject to different interpretations, and therefore subject to legal challenge. If the Council would like to limit the number of freestanding signs it should specifically note the number. Signs at each pump island and the number of freestanding signs are regulated in Section 27-61502 of the Zoning Ordinance. It might be helpful if any limitations are also referenced in that Section.
5. On page 5, lines 16-18 require Applicant submit a remediation plan for the site upon abandonment. There is current language in the law (shown on page 5, lines 28-31 and page 6, lines 1-2) that addresses what must be done upon abandonment of the site. If the sponsors are envisioning something different the language on page 5 lines 16-18 should be further refined. In any event, I believe a full plan for remediation may be premature at the time of application since said plan may not satisfy any federal, state or County law in effect years down the road when the abandonment may occur.
6. The new language on page 6, lines 8-10, requires the District Council to consider the number of existing or proposed gas stations within a 3-mile radius of the subject property. First, proposals may or may not come to fruition, so it may be arbitrary to consider proposed gas stations when evaluating an application. Second, the other gas stations in the market area presented by Applicant are taken into consideration currently when the Council makes a determination as to whether the Special Exception is "necessary". Finally, a Special Exception is a use that the Council has already determined should be permitted, if certain prerequisites are satisfied. Case law notes that an Applicant need not, therefore, prove that the use will be a boon/benefit to the area. Accordingly, an applicant does not have to prove that the use is "warranted" and that term should be deleted on line 8.

Cc: Rana Hightower
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Charlotte Aheart
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