

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director

DATE: January 6, 2009

SUBJECT: BZA Application # 17825 – Supplemental Report – Request for a special exception under §§ 706, 743, 2302, and 3104 for a gasoline service station at 1400 Maryland Avenue, N.E.

OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends denial** of the Applicant's request for:

- Special exception relief under §§ 706, 743, 2302, and 3104 for a gasoline service station.

APPLICATION BACKGROUND

The Applicant's request for relief was originally scheduled for a Board of Zoning Adjustment (BZA) hearing on October 14, 2008. OP submitted a report, dated October 7, 2008, stating that OP was unable to make a recommendation due to outstanding public space issues related to the proposed use of the site and a deficient site circulation plan, among other reasons. As designed, the proposal would require the use of public space for operation of the business. At the hearing, the Applicant and ANC 6A requested a postponement of the hearing until after the Public Space Committee (PSC) reviewed the proposed use of public space. On December 18, 2008, the PSC heard the case and denied the Applicant's request for a public space permit.

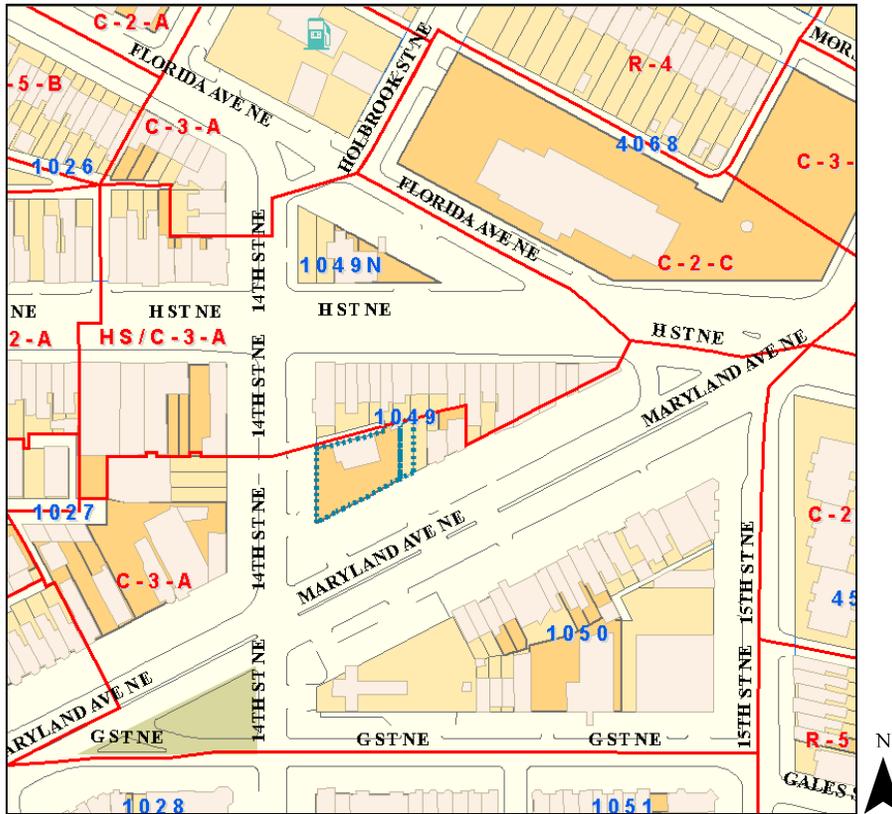
For a more detailed description of the site and context, refer to the October 7, 2008 OP report.

APPLICATION IN BRIEF

Property owner 1400 Maryland Avenue Ltd Empire Leasing Inc. (hereinafter, the "Applicant") has requested special exception relief under §§ 706, 743, 2302, and 3104 to permit a new gasoline service station in a C-3-A zone. The Applicant is proposing to renovate an existing building and construct 4 gasoline pump islands capable of accommodating 8 cars at one time. A canopy would cover the pumps. The building would support the sale of gasoline, as well as house a convenience store and a sandwich preparation area. Green roofs are proposed for the building and canopy. The Applicant would provide 5 vehicular parking spaces, a bicycle rack, and an air pump. The Applicant has indicated that the station would remain open 24 hours and seven days a week and would be staffed by at least one employee at all times. It is unclear if the sandwich preparation and convenience store uses would have similar hours.

The gasoline service station structures would be mostly contained on private property. However, the use of considerable amounts of public space for signage and vehicular access, circulation,

queuing, and servicing would be critical to the functioning of the station. An additional curb cut would also be needed along Maryland Avenue to provide access to the site. The PSC's denial of the Applicant's public space permit would appear to make the proposed use unworkable as currently designed.



Area Map

ZONING REQUIREMENTS

The site is zoned C-3-A, which permits gasoline service stations by special exception and convenience stores and fast food restaurants (when the use is located more than 25' from a residence district) as a matter of right. The following table, which reflects information supplied by the Applicant, summarizes certain zoning requirements for the project and the relief requested:

Item–Section: C-3-A Zoning	Restriction	Existing	Proposed	Relief: deviation/percent
Lot Area (square feet) § 401	None	7,262 sq. ft.	7,262 sq. ft.	Conforms
Lot Occupancy (building area/lot) § 403	None	18%	40%	Conforms
Floor Area Ratio (floor area/lot area) § 401	2.5 non-res.	.18	.4	Conforms
Rear Yard § 404	12' + min.	32'	32'	Conforms
Parking Spaces § 2101	4 min.	-	5	Conforms

SPECIAL EXCEPTION RELIEF

SECTIONS 706 AND 743

A gasoline service station use in a C-3-A zone may be permitted as a special exception under § 743. Section 743 provides that a proposal must meet the provisions of § 706 as examined below:

706.1 A gasoline service station established or enlarged after May 12, 1958, shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of chapter 23 of this title and the provisions of this section.

The gasoline service station would be permitted as a special exception.

706.3 The station shall not be located within twenty-five feet (25 ft.) of a Residence District unless separated from the Residence District by a street or alley.

The gasoline service station would not be located within 25' of a residence district.

706.4 The operation of the use shall not create dangerous or other objectionable traffic conditions.

The Applicant has provided a vehicular circulation plan and a traffic study. However, PSC denial of the Applicant's public space permit significantly alters the viability of the proposed gasoline service station operation. The Applicant's proposed traffic and circulation plans are no longer accurate in light of the PSC denial. OP lacks sufficient information to evaluate whether vehicles could access and circulate through the site in a safe and effective manner, but the site area constraints would appear to make on-site circulation unworkable. To date, the Applicant has not submitted any revised traffic or circulation plans. As such, the Applicant has not met the requirements of § 706.4.

706.5 The Board may impose requirements pertaining to design, appearance, screening, or lighting, or other requirements it deems necessary to protect adjacent or nearby property.

If the BZA considers an approval for this application, OP suggests that the Board include conditions to limit or prohibit any sound amplification systems. The BZA may also consider limitations on the hours of operation of the gas station, sandwich preparation, and convenience store uses.

706.6 Required parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle onto public space.

Due to PSC's denial of the Applicant's public space permit and the lack of information provided by the Applicant, the Applicant has not met the requirements of § 706.6.

SECTION 2302

A gasoline service station use is subject to the requirements of § 2302 as provided below:

2302.1 A public storage garage, repair garage, mechanical parking garage, or gasoline service station established or enlarged in any district except in the C-M or M Districts shall be subject to the provisions in this section.

The proposed gasoline service station would be located in a C-3-A zone and subject to the provisions of this section.

2302.2 No portion of the structure or premises to be used for any of the uses listed in § 2302.1 shall be located within twenty-five feet (25 ft.) of a Residence District unless separated from that Residence District by a street or alley.

The proposed gasoline service station would not be located within 25' of a residence district.

2302.3 No use listed in § 2302.1 shall have a vehicular entrance or exit connected with a street at a point closer than twenty-five feet (25 ft.) to any Residence District existing at the time the use is established, unless separated from the Residence District by a street or alley.

The proposed gasoline service station would not have a vehicular entrance or exit connected with a street at a point closer than 25' to any residence district.

2302.4 No driveway of any entrance or exit to any use listed in § 2302.1 shall be closer than forty feet (40 ft.) to a street intersection as measured from the intersection of the curb lines extended.

The Applicant has indicated that the nearest curb cut to an intersection, namely one of the curb cuts along 14th Street, would be 57' from a street intersection as measured from the intersection of the curb lines extended.

2302.5 Except in a C-M or M District, all grease pits or hoists constructed or established as part of a use listed in § 2302.1 shall be within a building.

The Applicant has not proposed any grease pits or hoists.

SECTION 3104

The general standards by which the BZA should review special exceptions are set forth in Section 3104.1 and listed below.

(a) Will the special exception be in harmony with the general purpose and intent of the Zoning Regulations and Maps?

To not impair the intent of the zone plan, a gasoline service station would have to adequately address the relevant special exception tests. In this case, the special exception would not be in harmony with the general purpose and intent of the zoning regulations and map. The use does not appear capable of being adequately located on the site and the Applicant has not satisfactorily addressed the relevant tests.

(b) Will the special exception tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps?

The PSC denial of the use of public space reflects a determination that the proposed use would adversely and inappropriately impact the adjacent public space. Additionally, the Applicant's proposed traffic and circulation plans are no longer accurate in light of the PSC denial. OP lacks sufficient information to evaluate whether vehicles could access and circulate through the site in a safe and effective manner, although the site area constraints would appear to make on-site circulation not possible. OP also understands that there is substantial community opposition to the proposed gasoline station use.

COMMUNITY COMMENTS / ANC

ANCs 6A and 6C have submitted letters indicating votes in opposition to the proposal. OP has received numerous phone calls and emails noting objections to the proposal. To date, OP has not received any communications indicating support. Council members Wells, Cheh, and Brown have sent a letter to OP in opposition to the use of public space for a gasoline service station use. OP also understands that the Capitol Hill Restoration Society and Stanton Park Neighborhood Association are opposed to the proposal.

CONCLUSION

OP **recommends denial** of the Applicant's request for special exception relief.

JLS / pg

Paul Goldstein, Case Manager