



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
4/10/2008

MEMORANDUM: MODIFICATION OF SPECIAL EXCEPTION

DATE: March 25, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Ralph Wilson, Zoning Supervisor, Development Review Division *RDW*

FROM: Damon B. Orobona, Zoning Analyst, Development Review Division *D.B.O.*

SUBJECT: **Special Exception Modification No. 1630-A: Freestate Petroleum Corporation.** Request for a special exception modification to permit additions to an existing automobile filling station, C-1 zone, located at 20700 Frederick Road, Germantown, Maryland 20876.

MASTER PLAN: 1989 *Germantown Master Plan*

FILING DATE: August 7, 2007

PLANNING BOARD: April 10, 2008

PUBLIC HEARING: April 18, 2008

STAFF RECOMMENDATION: Partial Approval:

The applicant is proposing to expand the existing filling station by adding 6 new fueling positions to the central fueling area of the site, razing the existing car wash and replacing the it with a diesel fueling station with 4 fueling positions, adding a kerosene filling area, and installing a new underground storage tank to house various fueling products.

Staff supports the expansion of the existing filling station to include the addition of the 6 new fueling positions in the central fueling area, the kerosene filling area, and the new underground storage tank. Staff believes this limited expansion is a reasonable increase in the level of activity on site and is not likely to have an unacceptable impact upon the community.

Staff does not support the addition of the diesel fueling station as proposed by the applicant. The diesel fueling station is designed to provide diesel fueling positions for the convenience of larger commercial trucks to ease congestion at the central fueling area. However, the proposed location of the diesel station is very close to homes to the west and incompatible with the adjoining residential area. Although the applicant is proposing new fencing and additional trees at the property line, these improvements are not adequate to buffer nearby homes from increased activity and mitigate adverse effects generated by the diesel pumps.

Additionally, the placement of the diesel fueling station fails to satisfy the Zoning Ordinance setback standard under § 59-G-2.06(b)(5). This provision requires gasoline pumps to be located a minimum of 10 feet behind the building line. As depicted on the site plan, the locations of the diesel fueling pumps fail to satisfy this standard. For these reasons, Staff recommends that approval of the application not include the addition of the diesel fueling station.

If approved with or without the diesel station, Staff recommends that the applicant:

1. Improve the landscape screening along the northern and western property lines by planting 10-foot to 12-foot evergreen trees as follows:
 - a. Replace the dogwoods planned for the western border, north of the existing car wash, with evergreen trees planted six feet apart; and
 - b. Plant a row of staggered evergreen trees planted six feet apart along the site's northern property bordering 20723 and 20725 Summer Sweet Terrace; and
2. Ensure strict compliance of licensees, employees, and contracted dumpster services with regard to County Code § 48.21(b) regarding time-of-day restrictions for solid waste/dumpster pickup; and
3. Comply with the conditions of the Montgomery County Department of Permitting Services' letter of November 1, 2006, accepting the applicant's Stormwater Management Concept Plan.

SUMMARY OF REPORT:

Site Size and Location:	Site size is 1.14 acres. The site is located in the northeast corner of the intersection of Frederick Road (MD 355) and Boland Farm Road in Germantown.
Zone and Proposed Use:	The site is zoned C-1 and is currently developed with a filling station comprised of 12 fueling positions, a small convenience store, and a car wash. The applicant proposes to expand upon its existing operations by adding 6 new fueling positions to the central fueling area of the site, razing the car wash facility and replacing it with a diesel fueling station with 4 fueling positions, adding a kerosene filling area, and installing a new underground storage tank for various fuel products.
Master Plan Consistency:	The proposal conforms to the Land Use Plan and the Zoning and Highway Map of the 1989 <i>Germantown Master Plan</i> .
Environmental Impact:	There are no forests, streams, wetlands, floodplains, or other natural features on site. The proposal is exempt from the Forest Conservation Law.
Transportation Analysis:	Vehicular and pedestrian access to the site and internal traffic circulation will be safe and adequate.
Zoning Ordinance:	The proposed location of the diesel fueling station does not meet the setback standard under § 59-G-2.06(b)(5). Additionally, the diesel island does not satisfy other sections under §§ 59-G-2.06 and 59-G-1.21 designed to ensure compatibility.

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I. PROCEDURAL HISTORY

Petition No. S-1630-A, filed August 7, 2007, seeks a modification of an existing special exception pursuant to §§ 59-G-1.3(c) and 59-G-2.06 of the Montgomery County Zoning Ordinance ("Zoning Ordinance" or "Code") to permit additions to the automobile filling station. The subject property is in the C-1 Zone, which allows an automobile filling station by special exception.¹

A special exception for an automobile filling station on site was originally granted to Mobil Oil Corporation in 1989. In 2004, the special exception was transferred to the current applicant, Freestate Petroleum Corporation.

A hearing on the application will be held in the Office of Zoning and Administrative Hearings on April 18, 2008 in the Stella B. Werner Council Office Building at 100 Maryland Avenue, Rockville, Maryland. The Montgomery County Planning Board ("Planning Board") will conduct an initial public review on April 10, 2008. The Planning Board Offices are located at 8787 Georgia Avenue, Silver Spring, Maryland.

II. RELEVANT FACTS AND FINDINGS

A. Subject Property and Neighborhood

The subject property is located at 20700 Frederick Road, Germantown, Maryland, in the northwest quadrant of the intersection of Frederick Road (MD 355) and Boland Farm Road. The subject property is approximately 1.14 acres in size, is irregular in shape, and has approximately 150 feet of street frontage along Frederick and nearly 250 feet of frontage along Boland Farm. It is bordered to the north and west by single-family homes and townhouse units, to the east by Frederick Road, and to the south by Boland Farm Road. Approximately 1000 feet to the north of the site is Milestone Center, an 868,000

¹ § 59-C-4.2(e)

square foot retail center containing big box stores such as Wal-Mart, Target, and Home Depot.

The site is now occupied by an automobile filling station approved in 1989 under Special Exception No. 1630. The filling station is comprised of six multi-product dispensers covered under canopy (for a total of 12 fueling positions). Diesel fuels, as well as different grades of regular gasoline are dispensed through the existing multi-product pumps. The 936 square foot building on site contains storage for the station and a small, 392 square foot convenience store for patrons. Also, the site has a 648 square foot automatic car wash facility near the site's western property line. The car wash is not currently in use and apparently has not been in service for quite some time.

Technical staff of the Maryland-National Capital Park and Planning Commission ("Staff") has defined the neighborhood to include all properties within sight of the proposed station as well as peripheral properties that may be subject to noise, glare, vibrations, or fumes associated with the proposed use. At the heart of the neighborhood is the intersection of Frederick Road and Boland Farm Road, the stretch of roadway that has the heaviest use from vehicles traveling to and from the filling station site. Although the subject property is zoned C-1, all surrounding properties in the neighborhood are zoned R-200/TDR or R-200. Despite predominantly residential zoning, a church, the existing Freestate station itself, and the previously mentioned Milestone Shopping Center slightly to the north of the neighborhood somewhat detract from the pure residential character of the neighborhood. Additionally, a fire station is slated for construction directly across Boland Farm Road to the south of the filling station.² The most intense residential use in the vicinity of the filling station is the community of Seneca Vista, located directly adjacent to the filling station's northern and western property lines. The nearest home in the Seneca Vista community is only 22 feet from the filling station's property line.

² Mandatory Referral Number MR-07304-DPWT-1, approved by the Planning Board on May 31, 2007.

The neighborhood boundary is outlined below in green. The only other special exception within the neighborhood is a non-resident medical practitioner's office located to the south of the subject property that was approved on March 17, 2000.



B. Proposed Modifications

Modifications of the terms or conditions of a special exception are authorized by § 59-G-1.3(c) of the Zoning Ordinance. The applicant is proposing to extend the existing canopy of the station to cover 3 new fueling pumps (6 new filling stations) in the central fueling area. Additionally, the applicant is proposing to raze the existing car wash and replace it with 2 new diesel pumps (4 fueling

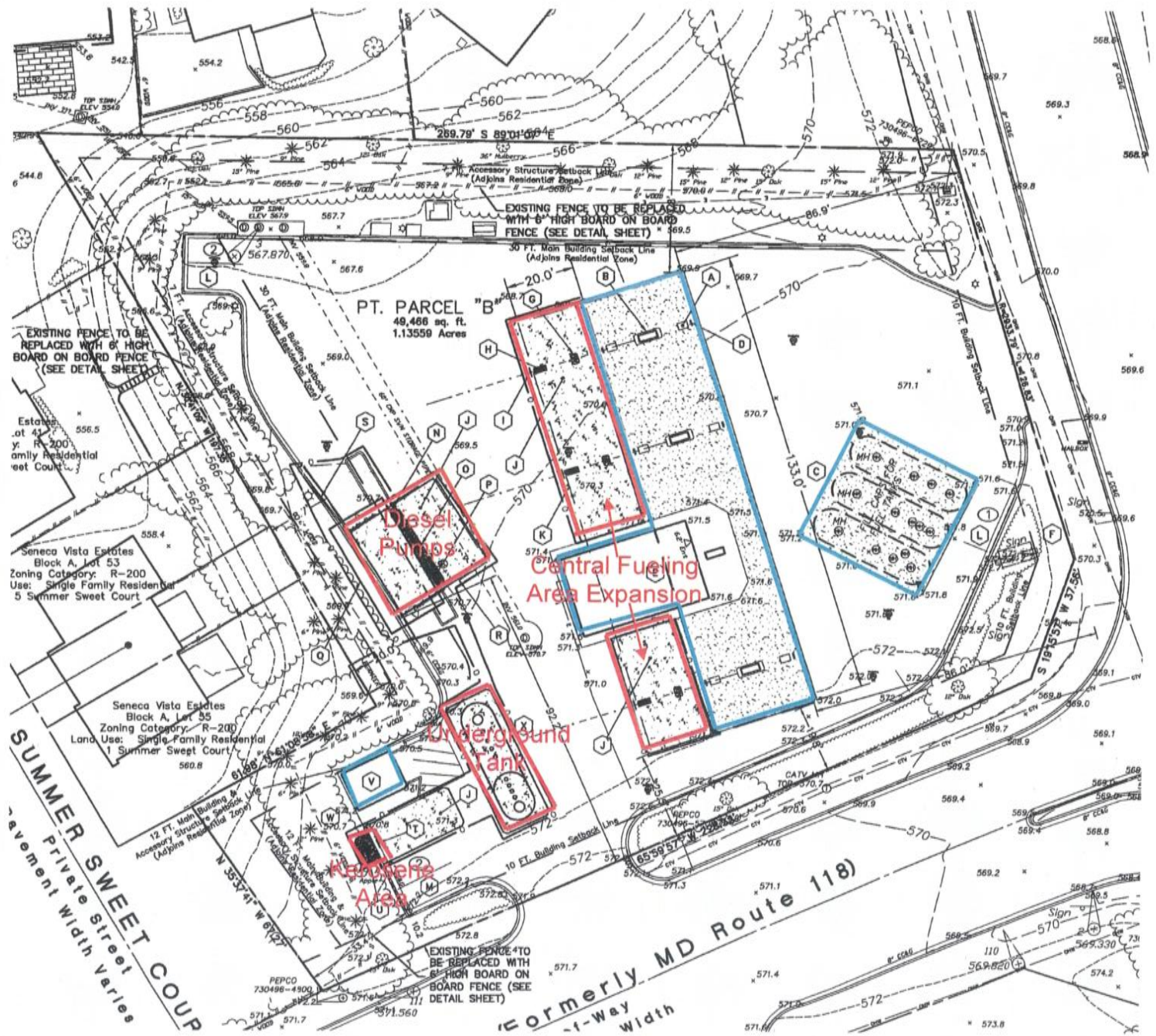
positions) under a new canopy towards the site's western property line. It is the applicant's intent to designate the new diesel fueling station for the refueling of larger commercial vehicles and trucks. The applicant is also proposing to add a kerosene fueling area with 2 fueling points in the southwest corner of the site adjacent to the existing trash enclosure. An underground, 30,000 gallon, split-compartment fuel storage tank will also be installed near the southwest corner of the site to supply the new pumps. Landscaping and a new fence are also part of the modification proposal.

The applicant plans to operate the filling station from 5:30AM until 11:00PM, Monday through Thursday. On Friday and Saturday, the station will open at 5:30AM and close at midnight, and on Sunday the station's hours will be 7:00AM until 10:00PM. Waste removal will occur between 7:00AM and 9:00AM. No more than two employees will be on site at any one time.

The photograph below depicts the existing conditions of the site, followed by the site plan on page 9 that illustrates the location of existing facilities (outlined in blue) and proposed new facilities (outlined in red). Finally, an example of a typical kerosene station is shown on page 10.

Freestate Existing Conditions





Example of Kerosene Filling Station (Not Currently Existing On-Site)



C. Master Plan Compliance

The property is located within the area covered by the 1989 *Germantown Master Plan*. The filling station conforms to the Land-Use Plan and the Zoning and Highway Map of the Master Plan. The Land-Use Plan designates the subject site for retail use, and the Zoning and Highway Map shows the site for convenience commercial use. Although the Master Plan provides no direct guidance concerning special exceptions, Staff considers the proposed use to be consistent with the land use objectives of the *Germantown Master Plan*.³

D. Transportation Analysis

³ See Community-based Planning Memorandum at Attachment 4.

Frederick Road (MD 355) is recommended in the *Germantown Master Plan* as a six-lane major highway within a 150-foot right-of-way. Boland Farm Road is recommended in the Master Plan as a four-lane arterial with an 80-foot right-of-way. The recommended right-of-way for both Frederick Road and Boland Farm already exist in the vicinity of the subject site and therefore no additional right-of-way is required from the applicant. The *Countywide Bikeways Functional Master Plan* recommends a shared-use path along Frederick Road; the path has been implemented along the west side of the roadway.

The site has two existing access points: one on Boland Farm Road with full turning movements and one on Frederick Road that is restricted to a right-in/right-out movement only. At the request of Staff, the applicant also submitted a traffic circulation study for the station. Staff has reviewed both vehicular and pedestrian access to the site and the internal traffic circulation of the station taking into account an increase in intensity. Staff finds both the access and station circulation to be safe and adequate.⁴

E. Environmental Analysis

The subject site has no forest on site and is exempt from the Montgomery County Forest Conservation Laws. As such, forest conservation plan approval is not required by the Planning Board. There are no streams, wetlands, floodplains or other natural features on site. One specimen tree is located at the common property line with lot 37 of the Seneca Vista Community.

The site drains to the northwest to an existing 30-inch pipe under Summer Sweet Terrace and to an existing stormwater management facility. The Germantown Bog is in vicinity of the site but no runoff from the subject site will drain in the direction of the bog. An accepted stormwater management concept plan letter from DPS was filed with the application.⁵ Planning staff has also reviewed the concept plan and is satisfied that the proposed stormwater

⁴ See Transportation Planning Memorandum at Attachment 5.

⁵ See Attachment 9.

management controls will adequately handle any additional runoff resulting from increased activity.⁶

F. Development Standards

The proposed filling station expansion complies with all development standards of the C-1 Zone. Parking setbacks under § 59-E-2.81(a) are not applicable because the parking area on this site does not constitute an automobile parking facility as there are less than 6 spaces proposed on site.

However, the proposal is non-compliant with the setback requirement under § 59-G-2.06(b)(5). This provision is shown highlighted in red in the table below and is discussed in more detail under Part III.C of this report.

Development Standard	Required	Provided	Applicable Zoning Provision(s)
Maximum Lot Area	15 Acres	1.14 Acres	§ 59-C-4.341
Building Height	30'	18'	§ 59-C-4.342
Minimum Building Setback from R.O.W. (Frederick Road – Route 355)	10'	87'	§ 59-C-4.343(a)(1)
Minimum Building Setback from R.O.W. (Boland Farm Road)	10'	19.8'	§ 59-C-4.343(a)(3)
Minimum Side Yard Setback from R-200/TDR Property to the North ⁷	12'	38'	§ 59-C-4.343(b)(1) and § 59-C-1.323(b)(1)
Minimum Rear Yard Setback from R-200/TDR Property to the West ⁸	30'	32'	§ 59-C-4.343(b)(1) and § 59-C-1.323(b)(2)

⁶ See Environmental Planning Staff Memorandum at Attachment 6.

⁷ Except in circumstances not relevant here, C-1 property adjoining a residential zone must have a side yard setback not less than that required in the adjoining zone. The adjoining property to the north is zoned R-200/TDR, which has a 12 foot side setback requirement.

⁸ Except in circumstances not relevant here, C-1 property adjoining a residential zone must have a rear yard setback not less than that required in the adjoining zone. The adjoining property to the west is zoned R-200/TDR, which has a 30 foot rear setback requirement.

Development Standard	Required	Provided	Applicable Zoning Provision(s)
Minimum Green Area Provided	10% of Lot	34% of Lot	§ 59-C-4.344
Required Number of Parking Spaces	1 Space Per Employee = 2 Required 1 Spaces Per 200 s.f. of Retail (392 s.f. Retail) = 1.96 Required Total = 3.96	5	§ 59-E-3.7
Minimum Fuel Pump Setback from Building Line	10'	2'	§ 59-G-2.06(b)(5)

G. Community Involvement in Petition

Numerous letters and petitions have been received from the residents of the surrounding community.⁹ Staff met with representatives of the neighboring Seneca Vista community on January 25, 2008 to discuss the application. Several residents attended the meeting, and each voiced strong objections to the proposed expansion. Concerns included the scale of the expansion, the placement of the diesel fueling station, illumination and glare from canopy lighting, noise and vibrations from increased physical activity at the site, odor and fumes associated with additional gas pumping activity, and diminishment of peaceful enjoyment of property.

III. ZONING ORDINANCE ANALYSIS

A. Inherent and Non-inherent Adverse Effects

⁹ See Attachment 10.

The standard of evaluation for a special exception requires consideration of the inherent and non-inherent adverse effects on the nearby properties and general neighborhood where the use is proposed.¹⁰ Inherent adverse effects are the harmful effects caused by the physical and operational characteristics necessarily associated with the particular use irrespective of the size or scale of operations.¹¹ Non-inherent adverse effects are any harmful effects caused by physical and operational characteristics not necessarily inherently associated with the particular special exception use, or adverse effects created by unusual characteristics of the site.¹²

Any analysis of inherent and non-inherent adverse effects must first establish what physical and operational characteristics are necessarily associated with a particular special exception use. As established by past cases, the following are the inherent physical and operational characteristics necessarily associated with an automobile filling station: (1) fuel pumps; (2) a structure providing storage space and shelter for employees; (3) traffic generated by customers, employees, and fuel delivery trucks; (4) potential for queuing vehicles on site; (5) noise associated with the use; (6) signage advertising gas products and prices; (7) outdoor lighting; (8) longer hours of operation than the average business establishment; (9) environmental impacts that may include fumes from idling vehicles and potential spillage of automobile fluids; and (10) underground fuel storage tanks.

Any adverse effects of the proposed automobile filling station that result from the above ten characteristics are considered inherent adverse effects. Alone, inherent adverse effects are not sufficient to constitute a denial.¹³ On the other hand, adverse effects that are not characteristic of an automobile filling station use, or inherent effects that are proliferated due to distinctive site

¹⁰ § 59-G-1.2.1.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

characteristics, are considered non-inherent adverse effects, which may be sufficient to result in the denial of the special exception application.¹⁴

In the instant case, the applicant is proposing to expand the existing filling station by adding 6 additional fueling positions to a central fueling area that already contains 12 positions, adding a separate diesel island with 4 positions where the car wash is now located, installing a new underground fuel storage container, and constructing a kerosene dispensing area.

Although the proposed expansion is generally within acceptable limits, only a marginal expansion of the current filling station operation is justifiable. The proposed diesel fueling station is problematic because of its proximity to adjacent residential homes. The applicant is razing the car wash near the site's western property line and replacing it with the diesel station, only 48 feet from the back deck of the nearest home to the west. In the original 1988 special exception application (S-1630), the land to the north and west of the filling station site was undeveloped. However, even with the Seneca Vista Community undeveloped at the time, the Planning Board raised substantial concerns over having the car wash in such close proximity to land zoned for residential development. In the S-1630 Chairman's letter, the Chairman stated that the "basic concerns regarding [the] application relates to the adverse impact that the carwash could have on the neighboring R-200 zone to the west...particularly because [the car wash] is only set back 12 feet from the western property line." The Board ultimately approved the car wash, but required substantial landscape buffering and limited hours of operation to mitigate potential adverse effects.

The area surrounding the subject site is much more developed than it was in 1988. Townhomes and single-family homes now surround the filling station to the north and to the west. The applicant is proposing the diesel fueling area in the same location as the existing car wash with the anticipation that only larger commercial vehicles will use it.

The placement of the diesel pumps on site will be detrimental to adjacent residential homes. Again, there will be exactly 48 feet from the back deck of the

¹⁴ *Id.*

closest residential townhome to the west to the proposed diesel canopy. To put that in perspective, the average length of an 18-wheel truck is 50-60 feet. The unusual topography of the site slopes downward approximately 12 feet from the filling station to the homes to the west. Given the unusual topography, noise and vibrations from large commercial vehicles starting up or idling at the pump may travel more easily into the backyards, decks, and bedroom windows of adjoining homes.

Additionally, the diesel pumps do not meet the required setback standard under § 59-G-2.06(b)(5). This standard requires all gasoline pumps to be located on-site at least 10 feet behind the building line. A "building line" is defined as "a line, parallel to a lot line, creating an area into which a structure must not project..."¹⁵ In the instant case, the location of the diesel fueling station is only 2 feet behind the building line reflected on the applicant's site plan. It appears that if the applicant relocates the diesel area to satisfy the 10-foot setback standard it will impede the internal traffic circulation of the site.

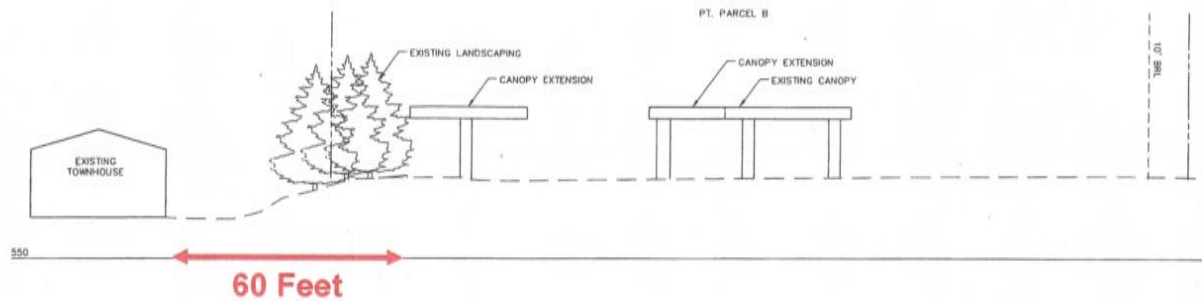
For these reasons, the location of the diesel fueling station is expected to have non-inherent adverse effects. The aerial photograph and cross section below help illustrate the proximity of residential homes to the proposed diesel station and the unusual topography of the site.

Aerial Photograph of Subject Site and Adjoining Neighbors



¹⁵ § 59-A-2.1

Cross Section of Proposed Diesel Island



The proposed kerosene pumps, although located at the western side of the site, will not have the same impact on the adjoining residential zone because the kerosene station is buffered by the existing trash enclosure and is further removed from residences than the proposed diesel pumps. Also, the intensity and physical activity associated with a kerosene area will not likely match that of the diesel pumps because the kerosene pumps entail pedestrians manually filling 5-gallon handheld cans. Because kerosene is generally in demand only during winter months, the kerosene island should see much less activity.

It is Staff's conclusion that, if the diesel pumps are removed from the expansion plan and all other conditions of approval are met, there will be no adverse effects above and beyond those necessarily inherent to an automobile filling station.

B. General Conditions Precedent to Approval of Use

§ 59-G-1.21. General Conditions.

- (a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:
 - (1) Is a permissible special exception in the zone.

Analysis: An automobile filling station is an allowable special exception use in the C-1 Zone.

- (2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

Analysis: The proposed filling station expansion does not comply with all the standards and requirements set forth in § 59-G-2.06 (as detailed in Part III.C). If the diesel fueling area is removed however, the expansion will comply.

- (3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

Analysis: The filling station conforms to the Land-Use Plan and the Zoning and Highway Map of the *Germantown Master Plan*. The Land-Use Plan designates the subject site for retail use, and the Zoning and Highway Map shows the site for convenience commercial use. Although the Master Plan provides no direct guidance concerning special exceptions, Staff considers the proposed use to be consistent with the land use objectives of the *Germantown Master Plan*.¹⁶

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

¹⁶ See Community-based Planning Memorandum at Attachment 4.

Analysis: The expanded filling station would not, by its nature, increase population density in the neighborhood. Staff is concerned, however, about the scale and bulk of the proposed expansion. If all conditions of approval are implemented, and the diesel pumps deleted from the site plan, the design, scale, bulk, and intensity of the proposed modifications will be in harmony with the general character of the neighborhood. No similar uses are present in the neighborhood.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

Analysis: The placement of the diesel canopy, only 48 feet from the nearest adjoining residential deck, will be detrimental to the use and peaceful enjoyment of the properties to the west. As explained in Part III.A., the proposed placement for the diesel pumping station is located on an area of the site that has an approximate 12-foot downward slope from the diesel canopy to the adjoining homes. Noise and physical activity generated from the diesel pump station may have more of an intense effect on adjoining homes given this topography. Although the applicant has attempted to mitigate adverse effects by proposing a 6-foot wooden fence and additional landscaping, these measures will not adequately mitigate potential noise, odor, and physical activity generated by the diesel operation and will cause the diesel pumps to be detrimental to the use and peaceful enjoyment of the adjoining residential properties to the west.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

Analysis: As addressed in § 59-G-1.21(a)(5) above, the noise, vibrations, fumes, odors, and physical activity generated by the diesel area will be objectionable to the adjoining homes to the west given the proximity of the pumps and the

unusual topography of the site. These same effects would likely be absent if the diesel area was proposed in a location more compatible with residential homes.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

Analysis: There are two existing special exceptions in the neighborhood (a medical practitioner's office and the subject filling station). There will not be any change to the number of special exceptions in existence and therefore the expansion should not alter the existing character of the area.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

Analysis: There is no evidence that the proposed filling station expansion would be adverse to the health, safety, or security of the residents, visitors, or workers in the area.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.
 - (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public

facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

Analysis: The impact of the proposed filling station on public facilities is evaluated at the special exception stage of review because no preliminary plan review is necessary in this application. A traffic study was required for the filling station application per the *Local Area Transportation Review (LATR) Guidelines* since the filling station is estimated to generate 30 or more peak-hour trips during the typical weekday morning (6:30AM – 9:30AM) and evening (4:00PM – 7:00PM) peak periods.

Three intersections were identified as critical intersections that may be affected by the proposed filling station expansion and were examined to determine whether they met the applicable congestion standard. The congestion standard in the *Germantown East Policy Area* is 1,425 Critical Lane Volumes (CLV). The CLV impacts of the proposed expansion of a filling station, on critical intersections in the vicinity of the site, were analyzed and are summarized in the table below.

Location	Existing Condition		Background Condition		Total Future Condition	
	AM	PM	AM	PM	AM	PM
MD 355/Shakespeare Boulevard	1188	920	1191	930	1199	934
MD 355/ Bowman Farm Road	943	1109	1113	939	1116	939
MD 355/MD 118	1260	1273	1260	1273	1264	1292

As shown in the above table, all intersections analyzed, as well as future scenarios, will continue to operate within acceptable CLV values of 1,425. Therefore, this special exception application meets the LATR requirements of the APF review and the proposal will not reduce the safety of vehicular or pedestrian traffic.

Policy Area Mobility Review (PAMR) is not applicable as the original special exception (S-1630) was filed prior to January 1, 2007. This is an amendment to the original S-1630 application filed in 1988.

The applicant has received a letter from DPS stating that the applicant's proposed stormwater management concept plan is acceptable.¹⁷ The site will be adequately served by water, sanitary sewer, and police and fire protection. The use will have no impact on school systems.

C. Specific Conditions Precedent to Approval of Use

§ 59-G-2.06. Automobile filling stations.

(a) An automobile filling station may be permitted, upon a finding, in addition to findings required in division 59-G-1, that:

- (1) The use will not constitute a nuisance because of noise, fumes, odors or physical activity in the location proposed.

Analysis: The proposed diesel fuel station will constitute a nuisance for adjoining residences and is non-compatible with the adjoining residential homes to the west. Although the applicant is proposing to install a new wooden fence and additional landscaping, Staff finds that a wooden fence and additional plantings are not adequate to mitigate potential noise and vibrations from larger commercial vehicles starting up and idling at the pump, fumes and odors from automobile fluids being accidentally spilt, and the overall physical activity generated from the diesel operation.

¹⁷ See Attachment 10.

- (2) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly.

Analysis: Transportation Staff has concluded that the additional expansion of the site will not adversely affect the neighborhood roads and that the site can handle the levels of anticipated traffic generated by the expanded operations. The two entrances to the site will be unchanged.

- (3) The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density and number of similar uses.

Analysis: The filling station is consistent with the *Germantown Master Plan*. The expansion, considering the conditions of approval listed in the beginning of this report, will not affect the logical development of the surrounding residential neighborhood. There are no other filling stations in the neighborhood as defined.

(b) In addition, the following requirements must be complied with:

- (1) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, slightly, solid fence, not less than 5 feet in height, together with a 3-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. Location, maintenance, vehicle sight distance provisions and advertising pertaining to screening shall be as provided for in article 59-E. Screening shall not be required on street frontage.

Analysis: The filling station abuts the R-200/TDR Zone at the northern and western property lines. The abutting land is developed with residential townhouses and single-family homes. It is not recommended for reclassification in the *Germantown Master Plan* and there is no natural terrain that effectively screens the filling station from the residential homes. The applicant is proposing to install a 6-foot, sight-tight, board on board fence along the property lines adjoining the residential neighbors. Shrubs and evergreen trees are proposed along the outside of the fence.

- (2) Product displays, parked vehicles and other obstructions which adversely affect visibility at intersections or to station driveways are prohibited.

Analysis: The submitted plans indicate that no displays or other obstructions would adversely affect visibility at intersections or access driveways.

- (3) Lighting is not to reflect or cause glare into any residential zone.

Analysis: The applicant's submitted photometric plan shows footcandle levels surrounding the filling station's northern and western property lines to be at 0.0 or 0.1. This measurement meets the Zoning Code requirements under § 59-G-1.23(h)(2), a standard for lighting in residential zones.

- (4) When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot as defined in section 59-A-2.1, and such driveways shall not exceed 30 feet in width; provided, that in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 40 feet from the center line of any abutting street or highway.

Analysis: The driveway layout already exists and the applicant is not proposing any changes to the ingress and egress of the site. Both driveways are at least 20 feet from the intersection of Frederick Road and Boland Farm Road.

- (5) Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line; and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

Analysis: A "building line" is defined as "a line, parallel to a lot line, creating an area into which a structure must not project." According to the applicant's site plan, the diesel pumps are not 10 feet behind the building line as this provision requires. As currently proposed, the diesel pumps are located 2 feet behind the building line. It appears that if the applicant relocates the diesel area to satisfy the 10-foot setback standard it will impede the internal traffic circulation of the site and may cause transportation issues.

All other fuel pumps and service appliances are located at least 10 feet behind the building line. The storage area associated with the filling station is inside the convenience store building. The various driveways are more than 20 feet apart and all driveways are perpendicular to the curb.

- (6) Light automobile repair work may be done at an automobile filling station; provided, that no major repairs, spray paint operation or body or fender repair is permitted.

Analysis: This application does not propose to offer automobile repair work.

- (7) Vehicles shall not be parked so as to overhang the public right-of-way.

Analysis: The site layout does not contain any parking spaces that would allow a vehicle to be parked in a location that overhangs into the public right-of-way.

- (8) In a C-1 zone, an automobile, light truck and light trailer rental, as defined in section 59-G-2.07, and in a C-2 zone, an automobile, truck and trailer rental lot, as defined in section 59-G-2.09, may be permitted as a part of the special exception, subject to the provisions set forth for such uses in this section. In addition, a car wash with up to 2 bays may

be allowed as an accessory use as part of the special exception.

Analysis: No rental activity or car wash is proposed as part of this application.

D. Need for the Proposed Use

Under § 59-G-1.24, before granting a special exception for an automobile filling station, the Board of Appeals must find that a need exists for the proposed station to serve the population in the general neighborhood considering the availability of similar uses in the area. The applicant presented a written report from Thomas Point Associates, Inc. that demonstrates such a need in this neighborhood. In particular, the report states that the area will experience population growth over the next few years and that there are limited alternative modes of transit in the area. Additionally, the report estimates that the existing filling stations in the area cannot meet the demand for gasoline. Residents in the market area spent \$30.3 million on gasoline, but local filling stations only accounted for \$17.2 million of the sales. The report points out that there is a \$13.1 million gap to be filled. Additionally, the applicant submitted a revised memorandum arguing that there is a need for kerosene fuel in the subject neighborhood.

Research & Technology Staff carefully reviewed the submitted reports and found that the analysis provided, while having serious errors, proved that there is a market demand for more gasoline in the Germantown East Policy Area. Staff also found that the revised memorandum concerning kerosene adequately describes a market for kerosene in this location.¹⁸

IV. STAFF RECOMMENDATION

Based on the forgoing analysis, Staff recommends that Petition S-1630-A, a special exception to modify an existing automobile filling station in the C-1 zone,

¹⁸ See Research & Technology Internal Staff Memorandum at Attachment 8.

S-1630-A

located at 20700 Frederick Road, Germantown, Maryland, be approved without the diesel pumps and subject to the conditions set forth at the beginning of this report.

V. ATTACHMENTS

1. Neighborhood Boundary Map
2. Site Plan
3. Community-based Planning Internal Memorandum
4. Transportation Planning Internal Memorandum
5. Environmental Planning Internal Memorandum
6. Development Review Internal Memorandum
7. Research & Technology Internal Memorandum
8. DPS Stormwater Management Concept Plan Acceptance Letter
9. Correspondence from Community

ATTACHMENT 1

Neighborhood Boundary



LEGEND

-  S-1630-A Site
 Parcel
 Building
-  Paved Area
 Lake and Pond
 Stream and River

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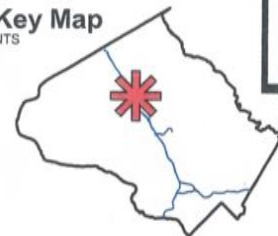
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1 inch = 400 feet

Address: 20650 Frederick Rd, Germantown



NTS







MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

March 18, 2008

MEMORANDUM

TO: Damon Orobona, Zoning Analyst
Development Review Division

VIA: Sue Edwards, Team Leader, I-270 Team *SUE*
Community-Based Planning Division

FROM: Pamela Johnson, AICP, Planner/Coordinator, 301-495-4590 *PJ*
Community-Based Planning Division

SUBJECT: Special Exception S-1630A, Petition of Freestate Petroleum Corporation
to Modify the Existing Special Exception for a Service Station at 20650
Frederick Road, Germantown, C-1 Zone.

Description of Proposal: The applicant, Freestate Petroleum Corporation, submitted Special Exception S-1630A, to modify existing Special Exception S-1630 and improve the service station at 20650 Frederick Road (MD 355), at the southwest corner of Frederick and Boland Farm Roads. The applicant wants to expand the central canopy and install three more multi-fuel dispensers, replace the car wash structure with two diesel pumps, and install a kerosene pump in the southwest corner. Additionally, the applicant plans to replace the existing five-foot perimeter fence with a sturdier, six-foot fence and enhance lighting and landscaping. As shown in Attachments 1, 2, and 3 and described in the Staff Report, the 1.2-acre property is zoned C-1 for Convenience Commercial use, and is bordered by single-family homes to the north and west.

The station's main 16-foot tall canopy, covering the central store and its three fuel islands containing two fuel pumps each, would extend 20 feet westward over the three new multi-fuel pumps. A new canopy, 15-feet tall and about 15 feet from the western border with adjacent homes, would cover the two proposed diesel pumps. Partial screening for the adjoining homes would include the new wood fence, landscaped on both sides. The new kerosene fuel pump would be 20 feet from an adjacent home.

Conformance with Comprehensive Plan—The proposal conforms with the Land-Use Plan and the Zoning and Highway Map of the 1989 Germantown Master Plan. The Land-Use Plan designates the subject site for retail use, and the Zoning and Highway Map shows the site for Convenience Commercial use. The Plan does not specifically mention the subject property.

Outreach and Compatibility—The applicant provided notice on the project to adjacent and confronting homeowners and homeowners' associations on September 7, 2007. The

applicant also invited neighboring homeowners to a September 18, 2007 meeting, where residents discussed concerns about potential noise, particularly from vehicles idling before business hours. Staff met with concerned residents on January 25, 2008 about potential adverse impacts from the diesel and kerosene pumps, including fumes, noise and safety hazards, glare and increased station use. A project description, with Planning Board hearing date information is posted on the agency website.

Thirty-six residents of Seneca (Vista) Crossing II submitted a petition dated September 23, 2007, opposing the proposal. A letter from petitioners Rose and Fred Benear, of 3 Summer Sweet Court, adjacent to the station, expressed these concerns: (Attachment 4)

- The proposed diesel pumps' proximity to their homes, diesel fumes and smoke from truck stacks will degrade their air quality, and interfere with their enjoyment of their decks and open windows and with their children's' enjoyment of their yards.
- A large truck, using the diesel dispenser, could crash the wooden fence between their homes and the station, spilling diesel fuel into their yards.
- The expansion could create congestion on the two-lane Boland Farm Road and on MD 355. (These residents are unaware of any vehicle queue on MD 355 in front of the station.)
- Glare from the proposed additional lighting will disrupt their sleep. [The revised lighting plan meets County standards for outdoor lighting.]
- The relocated trash bin beside their homes will be intrusive, spilling trash and creating noise during pick-ups. [The revised plan leaves the bin in its current location.]
- The station's hours (5:30/6:00 a.m. to 11:00 p.m. Monday to Thursday; 5:30/6:00 a.m. to 12:00 a.m. Friday/Saturday; and 7:00 a.m. to 10:00 p.m. Sunday) will be intrusive. [The existing station's hours would be the same, but the proposed diesel pumps' hours beside their homes exceed the 7 a.m. to 11 p.m. hours approved in 1989 for the car wash.]

In late February, Santiago and Lourdes Dandoval of 20727 Summer Sweet Terrace and Rose and Frederick Benear sent letters to the Planning Board Chairman Royce Hanson opposing the project, with objections similar to those in the noted resident petition, and also complaining about noise.

The proposal conforms with the Master Plan general land-use and zoning classifications. The central canopy expansion and the addition of pumps to existing islands will create more activity and greater external impacts than the existing operation. Staff believes that conditions proposed for this special exception, including enhanced landscaping, will sufficiently mitigate potential impacts from this activity. Staff is pleased with the applicant's revised submission (March 4, 2008), showing a taller and more substantial replacement fence, increased landscaping, and relocating the proposed kerosene pump farther away from the closest home, which also would permit the existing trash bin to remain in its current location, rather than relocate to a more intrusive location beside several homes as previously proposed. Also, the outdoor lighting has been modified to meet County standards preventing glare from intruding onto neighboring properties.

Staff is still concerned, however, about the compatibility of the proposed diesel pumps with homes adjoining the site's western border since the canopy would overhang the building line by 10 feet and only be 15 feet from the property line. Also, the proximity of the diesel pump operation and idling trucks might create intrusive noise, fumes, and safety hazards. The pumps' location violates the standard for Automobile Filling Stations granted by special exception (Section 59-G-2.06 (b) (5)), requiring gasoline pumps be at least 10 feet behind the building line, rather than just three, as these pumps are.

Staff notes that while the applicant is proposing additional tree planting between the pumps and adjoining homes, that the car wash structure would no longer screen impacts from the operation, and that the canopy would operate longer hours than the carwash. In their 1989 special exception approval, Planning Board members were concerned that approving a car wash at its current location might discourage adjacent residential development, but decided that enhancing the buffering and limiting the hours of the car wash would be sufficient. Board members, however, did not foresee replacing the car wash with diesel pumps patronized by large trucks potentially producing fumes, and noise and operating greater hours than a car wash, but not contained within the car wash structure. Staff believes these additional impacts will be objectionable to neighboring homes, even with additional screening.

Staff does recommend additional screening for homes along the northwest corner. We recommend replacing the row of dogwoods proposed for the western perimeter, north of the carwash, with mixed evergreen trees (three Leyland Cypress and three green giant Arborvitae or equivalent substitutes), and planting the northern perimeter, inside the fence, in front of 20723 and 20725 Summer Sweet Terrace, with a staggered row of three southern magnolias, three green giant Arborvitae, and three Leyland cypress or equivalent substitutes (replacing the existing isolated shrubbery). All these trees should be ten-to-twelve feet tall, and planted about six feet apart, -on-center with a mulched ground cover.

Staff recommends that the applicant revise the proposal to be compatible with the adjacent residences, with the development standards for lots adjoining the R-200/TDR Zone and with an Automobile Filling Station permitted by special exception by:

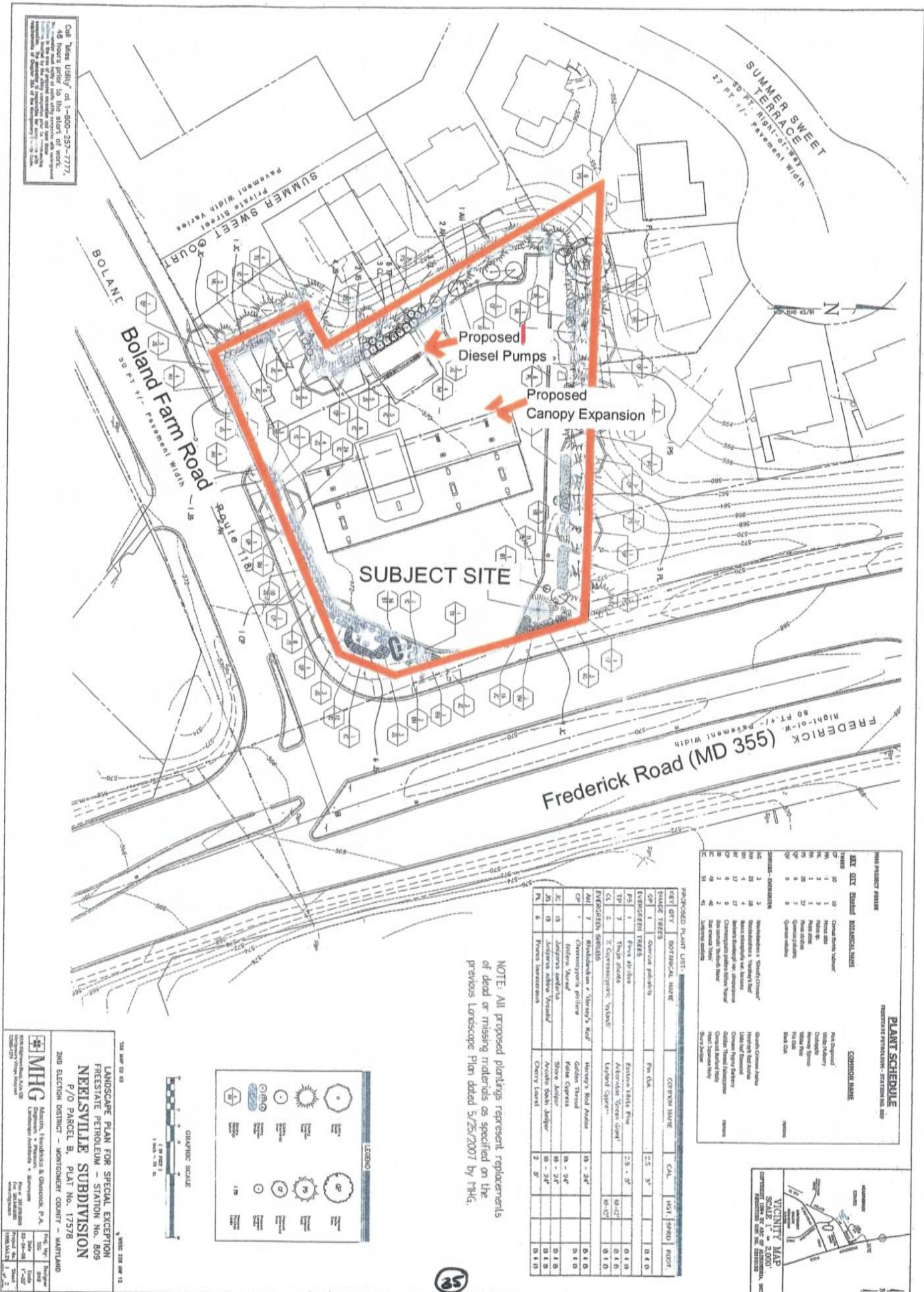
1. Relocating the diesel pumps proposed for the site's western end to an area that would be more compatible with adjoining residential development.
2. Improving the landscape screening of the adjoining homes by planting approximately 10-to-12-foot-tall evergreen trees as follows:
 - a. Replace the dogwoods planned for the western border, north of the car wash, with evergreen trees, including three Leyland cypress and three green giant Arborvitae, planted six feet apart on a mulched bed;
 - b. Plant a row of staggered evergreen trees along the site's northern corner, in front of 20723 and 20725 Summer Sweet Terrace, including three Leyland cypress, and three southern magnolias, planted six feet apart on a mulched bed; and
 - c. Ensure these trees' endurance by proper maintenance and replacement for two years.

Attachments

1. Proposed Site and Landscape Plan
2. Germantown Vicinity Master Plan Zoning and Highway Plan
3. Vicinity Map
4. Petition and Petitioners' Letter, and Other Residents' Letters
5. Photos of Existing Freestate Service Station and Adjoining Property

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Proposed Site and Landscape Plan



Zoning and Highway Plan

① The specific alignment of the transit easement between I-270 and M-27 will be determined at the time of preliminary subdivision plan approval.

—**— Danger: Reach of Little Seneca Lake

RURAL ZONE	RURAL	RESIDENTIAL, ONE-FAMILY 1000 SQ FT	R-60	MULTIPLE-FAMILY, MEDIUM DENSITY RESIDENTIAL	R-20	CONVENIENCE COMMERCIAL	C-2
RURAL DENSITY TRANSFER ZONE	RUT	RESIDENTIAL, TRANSFERABLE DEVELOPMENT RIGHTS	RE-2(TDR)	MULTIPLE-FAMILY, HIGH-RISE PLANNED RESIDENTIAL	FL	GENERAL COMMERCIAL	C-3
RESIDENTIAL, ONE-FAMILY 2 ACRES	RE-2	RESIDENTIAL, TRANSFERABLE DEVELOPMENT RIGHTS	R-2000(TDR)	RESIDENTIAL, MIXED USE DEVELOPMENT	RMX	HIGHWAY COMMERCIAL	C-4
RESIDENTIAL, ONE-FAMILY 2 ACRES, CLUSTER	RE-2C	RESIDENTIAL, TRANSFERABLE DEVELOPMENT RIGHTS	R-60(TDR)	PLANNED DEVELOPMENT / TOWN SECTOR	PD/TS	LIMITED COMMERCIAL	C-5
RESIDENTIAL, ONE-FAMILY 1 ACRE	RE-1	RESIDENTIAL, TOWNHOUSE 3 UNITS PER ACRE	RT-2	PLANNED MOBILE HOME DEVELOPMENT	R-MH	LOW-DENSITY, OFFICE COMMERCIAL	C-6
RESIDENTIAL, ONE-FAMILY 10000 SQ FT	R-200	RESIDENTIAL, TOWNHOUSE 3 UNITS PER ACRE	RT-4	COMMERCIAL, TRANSITIONAL	C-1	LIGHT INDUSTRIAL	C-7
RESIDENTIAL, ONE-FAMILY 10000 SQ FT	R-150	RESIDENTIAL, TOWNHOUSE 10-15 UNITS PER ACRE	RT-12.5	OFFICE BUILDING, INTENSITY MODERATE	C-8	TECHNOLOGY AND BUSINESS PARK	C-9
RESIDENTIAL, ONE-FAMILY 1000 SQ FT	R-90	MULTIPLE-FAMILY, LOW DENSITY RESIDENTIAL	R-200	COMMERCIAL, OFFICE BUILDING	C-0	RESEARCH AND DEVELOPMENT	RD

Vicinity Map

S-1630A Freestate Service Station



Map compiled on January 16, 2008 at 3:44 PM | Site located on base sheet no - 228NW12 | Date of Orthophotos: April 2006 - Used with permission from Montgomery County Government

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map



N



Research & Technology Center



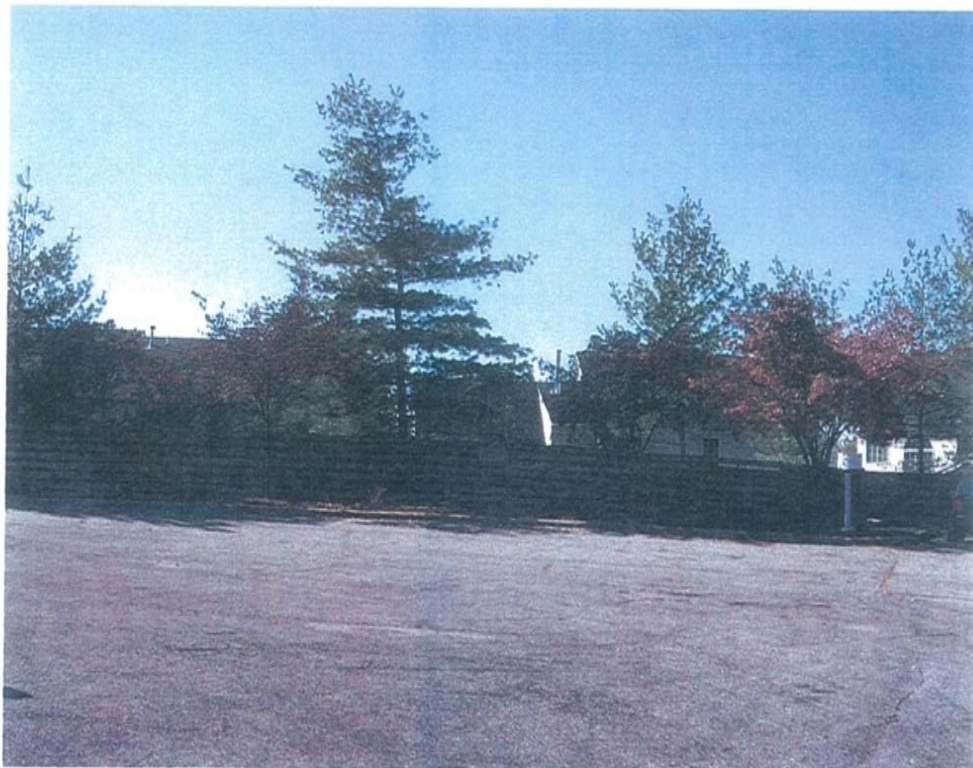
1 inch = 150 feet
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Please see community letters in beginning on page 50

View of Front Entrance, Freestate Service Station, 20650 Frederick Road



View of Border of Station with Homes Along the Western Property Line





MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

March 13, 2008

MEMORANDUM

TO: Damon Orobona
Development Review Division

VIA: Shahriar Etemadi, Supervisor *for KHK*
Transportation Planning

FROM: Ki H. Kim, Planner/Coordinator *KHK*
Transportation Planning

SUBJECT: Freestate Gas Station Expansion
Special Exception Case No. S-1630-A

This memorandum represents Transportation Planning staff's Adequate Public Facilities (APF) review and recommendations on the subject special exception application for the proposed expansion of the gas station located in the northwest quadrant of the intersection of Frederick Road (MD 355) and Boland Farm Road in the Germantown East Policy Area.

RECOMMENDATION

Based on our review of the site plan and the traffic analysis submitted by the applicant, staff recommends the following conditions as part of the APF test related to approval of the subject special exception application.

1. Total development under this special exception is limited to a fuel station with 24 fueling positions and a 1,000 square-foot convenience store.

DISCUSSION

Local Area Transportation Review

Three intersections were identified as critical intersections to be affected by the proposed expansion of a gas station and were examined in the traffic study to determine whether they met the applicable congestion standard. The congestion standard in the Germantown East Policy Area is 1,425 Critical Lane Volumes (CLV). The Critical Lane Volume (CLV) impacts of the proposed expansion of a fuel station, on critical intersections in the vicinity of the site, were analyzed and are summarized in Table 1.



Table I

Location	Existing Condition		Background Condition		Total Future Condition	
	AM	PM	AM	PM	AM	PM
MD355/Shakespeare Boulevard	1188	920	1191	930	1199	934
MD 355/Bowman Farm Road	943	1109	1113	939	1116	939
MD 355/MD 118	1260	1273	1260	1273	1264	1292

As shown in the above table, all intersections that are currently analyzed, as well as the future scenarios will continue to operate within acceptable CLV values of 1,425. Therefore, this application meets the LATR requirements of the APF review.

Policy Area Mobility Review (PAMR)

PAMR is not applicable to this special exception application as the application is filed prior to January 1, 2007.

Site Access and Vehicular/Pedestrian Circulation

The site has two existing access points, one on Frederick Road (MD 355) as “right-in and right-out” only and the second on Boland Farm Road that will remain the same. Staff reviewed existing access to the site and the internal traffic circulation shown on the site plan and finds it to be safe and adequate. Staff also finds that the internal pedestrian circulation and the existing sidewalk and bikeway along MD 355 are safe and adequate. A traffic signal with pedestrian signal phasing will be installed at MD 355/Boland Farm Road intersection as a part of the East Germantown Fire Station project. The signalized MD 355 intersections at Shakespeare Boulevard and Germantown Road (MD 118) include pedestrian signal phasing with appropriate pedestrian crosswalk pavement markings.

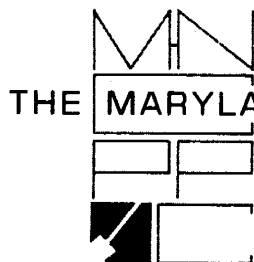
Master Plan Roadway and Bikeway

The 1989 Germantown Master Plan recommends Frederick Road (MD 355) as a six-lane major highway within a 150-foot wide right-of-way adjacent to the site. MD 355 exists as a six-lane divided highway in the vicinity of the site. Boland Farm Road is recommended in the Germantown Master Plan as a four-lane arterial with a 80-foot wide right-of-way. The recommended right-of-way for MD 355 and Boland Farm Road exist in the vicinity of the site and no additional right-of-way is required from the applicant.

The Countywide Bikeways Functional Master Plan recommends a shared-use path along MD 355 and the path is being implemented along the west side of the roadway.

Summary

Transportation Planning staff concludes that the application meets the minimum transportation requirements and has no objection to approving the proposed petition.





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MEMORANDUM

March 17, 2008

TO: Damon Orobana, Senior Planner/Zoning Analyst Development Review

VIA: Stephen D. Federline, Supervisor, Environmental Planning 

FROM: Lori Shirley, Planner Coordinator, Environmental Planning 

SUBJECT: Special Exception No. S-1639-A; Freestate Petroleum Corporation
20650 Frederick Road, Germantown

Review Comments

Environmental Planning staff offers the following comments for your consideration for the above referenced special exception. A revised site plan received by the Environmental Planning Section on March 6, 2008 was the most current plan reviewed in the preparation of this memo. Sufficient justification and information to address required finding #6 has not been submitted to demonstrate that the proposed expanded operations at the station will not create objectionable noise, fumes, and odors. Therefore, a recommendation in support of this special exception cannot be made at this time. Staff's primary area of concern is the proposed two-pump diesel fuel island due to the anticipated increase in noise, vibrations, fumes, odors, dust, illumination, glare and physical activity that will result closer to Lots 53-55 of Seneca Vista Estates.

Background/Proposal

The property is known as 20650 Frederick Road, Germantown, is located on the northwest side of the Boland Farm Road/Frederick Road intersection, is zoned C-1 (Convenience Commercial) and totals 1.20 acres. The site is surrounded on two sides by the adjacent Seneca Vista Estates residential neighborhood, Lots 37-41 and 53-55. There is an existing self-service gas station including a small building with snack shop and office, three canopy-covered fuel islands with two multi-product dispensers on each island and an automatic roll-over, self-service car wash structure, the latter that is not operational.

The proposal is to upgrade the gas station for additional fueling capacity and more fuel choices with an expanded overhead canopy for an additional fuel island and, a separate kerosene fuel island at the southwest corner of the site. Kerosene fuel is currently not offered. A new two-pump diesel fuel island with canopy cover is proposed where the carwash structure is located and it will be razed for placement of the two-pump diesel fuel island.

Discussion

The site is exempt from the Montgomery County Forest Conservation law. Therefore, no forest conservation plan approval is required by the Planning Board. The basis of this

memo is to review required findings of a special exception in Section 59-G-1.21(a) (6) of the Montgomery County Zoning Ordinance.

Forest Conservation

There is no forest on-site. One specimen tree is located at the common property line with Lot 37 of Seneca Vista Estates. The site has a valid exemption from the Montgomery County Forest Conservation law (Modification of Existing Developed Property) by letter dated March 23, 2006 (4-06239E). Tree save considerations were part of the special exception review. A revised Landscape Plan was submitted for additional trees to be planted where some gaps were identified along the common property lines with the adjacent residential neighborhood.

Special Exception Required Findings

Section 59-G-1.21(a) (6) of the Montgomery County Zoning Ordinance reads as follows:

(6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

On January 25, 2008, Environmental Planning and Development Review staff met with residents of the adjacent Seneca Vista Estates to discuss the proposal. Seven residents were present. Each one expressed objections to the proposal mostly due to the increased vehicle traffic to be generated as close as 20 feet from the common property line in relation to the proposed two-pump diesel fuel station. Residents described the existing condition at the gas station as noisy, with trash pick service typically in the early morning hours, fumes are detected from some residences' back yards and periodically, neighborhood teenagers cut through adjacent back yards to climb the existing fence to the other side, the existing lighting spills onto the backyards of some of the residents during evening hours and trash from the commercial dumpster is oftentimes windblown onto their properties. The general consensus of the residents was in opposition to the proposal, especially the new diesel fuel island. Staff believes the primary findings of significant concern and potential impact from the proposed operation are noise, odors, illumination, and physical activity, particularly as related to the new fuel island.

On February 12, 2008, Environmental Planning staff participated in a meeting with representatives from Freestate Petroleum Corporation, their attorney, landscape architect and environmental consultant. The purpose of the meeting was to discuss the residents' concerns with emphasis on required finding #6 regarding objectionable noise, vibrations, fumes, odors, etc.

On March 7, 2008, Environmental Planning staff received the amended Statement of Operations in response to the February 12, 2008 meeting. These amended areas in the statement read as follows as these relate to finding #6:

"Petitioner will implement a policy that will restrict purchases as this new island to 25 gallons or greater. Therefore, while this feature will speed the flow of refueling for all customers, this detached island will be less patronized than the main set of pumps and islands.

Due to the location of the detached island adjacent to residentially zoned properties, the Petitioner will implement the following programs to ensure that noise fumes from operation of trucks being refueled will not be objectionable to nearby residences:

- A. *On the columns supporting the canopy, signs will be posted advising customers that vehicles must be shut off (pursuant to fire code regulations) during refueling.*
- B. *Security cameras will be monitored and customers will be instructed to shut off their vehicles if they are left running during refueling.*
- C. *The Petitioner maintains a speaker system of low volume to advise customers when they are having problems with operation of the pumps. This same audio system will be employed to instruct customers to shut off their vehicles if left running during refueling.*

Due to the proximity of the new pump island near the western property line of the site, additional landscaping will be installed to screen views of the canopy and pumping operations from residences to the west. The revised landscaping plan incorporates recommendations from the landscape architect for M-NCPPC's I-270 Corridor Team and will provide substantial screening between the residential and commercial uses."

While all of these proposals will help achieve the objective of minimizing noise /visual effects on the surrounding residential area, two issues remain: 1) enforceability, and 2) compliance with county standards for noise compatibility. No supporting materials were submitted to address whether noise anticipated from the proposed expanded operations and the additional traffic onsite, particularly that activity closest to the common property line with the adjacent Seneca Vista Estates neighborhood, will meet County Noise Ordinance requirements. The revised site plan received on March 6, 2008 shows the existing trash dumpster is located 42 feet from the closest residential dwelling on Lot 55 of Seneca Vista Estates. Similarly, no other supporting material was submitted as of this writing to explain how operations at the proposed two-pump diesel fuel island, and vents from the underground storage tanks will not create objectionable fumes or odors in the adjacent residential neighborhood.

Therefore, staff does not have sufficient justification at this time to support finding #6 that the proposed expanded operations at the station will not create objectionable noise, fumes, and odors. Staff's primary area of concern is the proposed two-pump diesel fuel island due to the anticipated increase in noise, vibrations, fumes, odors, dust, illumination, glare and physical activity that will result closer to Lots 53-55 of Seneca Vista Estates. Most of the vehicles that would re-fuel at the proposed diesel fuel island would be large tank-capacity vehicles (trucks) that generate noise, vibration and represents increased physical activity 20 feet from the adjacent residential neighborhood. The proposed kerosene fuel island is shown where no residential structures are directly behind it. The frequency of physical activity at the proposed kerosene fuel island is likely to be much less compared to the proposed two-pump diesel fuel island. In order for a complete review to be conducted of supportive materials and information in relation to required finding #6 the following items should be submitted:

- 1) A demonstration of compliance with county Noise Ordinance, Chapter 31B of the County Code. Compliance effort shall include:
 - a. Analysis of all gas station- related noise under worst case conditions, and comparison to noise ordinance standards per Chapter 31B-5 of the County Code.

- b. Identification and commitment to implement mitigation measures to meet or exceed Noise Ordinance standards including: time of day restrictions or prohibition of noisy activities during nighttime hours per the Noise Ordinance; control of all amplified noise; increased separation of inherent noise-producing activities (dumpsters, heavy trucks, etc.) from residential uses; and/or construction of noise barriers.

The following note should become a future condition of approval of the site plan:

The owner of the gas station shall ensure strict compliance of licensees, their employees, and contracted dumpster services with Section 48.21(b) of the County Code regarding time-of-day restrictions in solid waste/dumpster pickup.

A revised site plan was received in Environmental Planning on March 14, 2008 in the late afternoon and was not used in the preparation of this memo.

Environmental Guidelines

This property is not located within a Special Exception Protection Area or Primary Management Area. There are no streams, wetlands, floodplain or other natural features on-site. The site is in the Little Seneca Creek watershed that is designated as class I-P waters.

Stormwater Management

The existing stormwater management controls will handle additional runoff. The site drains to the northwest to an existing 30-inch pipe under Summer Sweet Terrace and to an existing stormwater facility. The Germantown Bog is in vicinity of the site; however, none of the stormwater runoff from this site will drain to the bog based on the existing stormwater management controls.

If you have any questions regarding these comments, please contact me at either extension 4551 or electronically at lori.shirley@mncppe-mc.org.

LS:ls

G:/DevRev/se_zon_mr/S_1630_A_20650_FrederickRoad_FreestatePetroleumCorp_2_do
cx

ATTACHMENT 6



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

Date: February 1, 2008

To: Damon Orobona
Development Review Division

From: Neil Braunstein *NB*
Development Review Division

Subject: Board of Appeals Petition No. S-1630-A

The property consists of one recorded parcel in the C-1 zone. Because the parcel is recorded on a plat, a preliminary plan application is not needed at this time. However, any adequate public facilities (APF) issues will need to be addressed with issuance of the building permit.

ATTACHMENT 7

Orobona, Damon

From: Akundi, Krishna
Sent: Thursday, February 28, 2008 4:15 PM
To: Orobona, Damon
Subject: FW: Special Exception No S-1630-A

Damon

Research staff reviewed the supplement to the market needs analysis and found the response sufficient.

Staff spoke with applicant's market analysis consultant. While staff found technical errors in consultant's presentation of gasoline demand, staff concluded that these errors would not alter the applicant's proof that there is a market demand for more gasoline sales in the Germantown East Policy Area. On the other hand, staff was critical of applicant's argument for supplying kerosene at the proposed site. The attached supplement, provided by applicant, addresses the kerosene issue as agreed.

The supplement addresses our contention that the estimate of local demand for kerosene is unsupported. In response, applicant reframed that point to show that the demand for kerosene is widespread in Montgomery County as demonstrated by sales at its other locations in Rockville, Wheaton, and Burtonsville as well as its location in Clarksville, Maryland.

Applicant also corrects the confusion surrounding what share of kerosene sales could be attributed to homeowners. And provides a picture of Freestate's kerosene dispenser at its Rockville location indicating what it would look like at the Germantown location.

Applicant's consultant, however, concedes that technically there is no undersupply of kerosene in the Germantown East Policy area (see page 2 of supplement). Staff finds that this is not disqualifying given the other facts presented.

Please let me know if you would like me to respond in memo form.

ATTACHMENT 8



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

November 1, 2006

Mr. Scott Roser
Macris, Hendricks & Glascock, P.A.
9220 Wightman Road
Montgomery Village, MD 20886-1279

Re: Stormwater Management **CONCEPT** Request
for Freestate Petroleum
Preliminary Plan #: N/A
SM File #: 227841
Tract Size/Zone: 1.14ac./C-1
Total Concept Area: 1.14ac.
Lots/Block:
Parcel(s): Parcel B
Watershed: Little Seneca Creek

Dear Mr. Roser:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via the existing quantity control structure. The existing water quality structure (oil-grit separator) will be retro-fitted to include a concrete slab in order to by-pass the larger storm events, and enhance the existing water quality benefits. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs. Recharge is not required.

The following **conditions** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way



unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Blair Lough at 240-777-6335.

Sincerely,

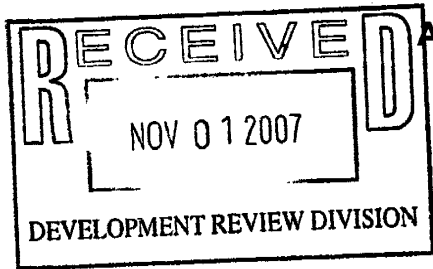


Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm bli

cc: C. Conlon
S. Federline
SM File # 227841

QN -existing; Acres: 1.14
QL - on-site; Acres: 1.14
Recharge is not provided



September 27, 2007

Re: Free State Gas Station Expansion**Case No.** [Recorded @ Montgomery County Board of Appeals]: **S-1630-A***To whom it may concern.*

I am writing on behalf of the Homeowners and Residents of Seneca(Vista) Crossing II.

The Residents of Seneca(Vista) Crossing II oppose the Free State enlarging and modify the Free State Gas Station. All Townhouses & Homes are against enlarging and adding diesel pumps and have a number of concerns and complaints.

Here is a list of Residents that do not want this to take place: Free State Gas Station Expansion.

- 1- Thuy Van & Tam Tran 1 Summer Sweet Ct. Germantown*
- 2- Tonkhyen Nong 4 Summer Sweet Ct. Germantown*
- 3- Su-Ling Huang 2071 Summer Sweet Terrace Germantown*
- 4- Trey (Coronado) 20726 Summer Sweet Terrace Germantown ✓*
- 5- Mihai Sirbu, 20724 Summer Sweet Ter, Germantown. MD*
- 6- Rose & Fred Benek 3 Summer Sweet Ct. Germantown*
- 7- James & Susan Earnest 20720 Summer Sweet Terrace Germantown MD 20876*
- 8- Loi P. Nguyen 20719 Summer Sweet Ter ✓ Germantown MD 20876*

Re: Free State Gas Station Expansion**Case No.** [Recorded @ Montgomery County Board of Appeals]: **S-1630-A**

September **27**, 2007

To whom it may concern.

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have a number of concerns and complaints.

Here is a list of Residents that do not want this
to take place: Free State Gas Station Expansion.

- 9- [Signature] 20712 Summer Sweet tr.
- 10- Faith Williams - 20710 Summer Sweet Terrace
- 11- CECILIA GREY-THERIOT - [Signature] 20704
- 12- David & Alma [Signature] 20700
- 13- Jack Zuber, 20708 Summer Sweet Terrace
- 14- [Signature] 20709 SUMMER SWEET TER.
- 15- David [Signature] 20715 Summer Sweet Terr
- 16- Vishwas Paveth 20722 summer sweet terrace

Re: Free State Gas Station Expansion

Case No. [Recorded @ Montgomery County
Board of Appeals]: **S-1630-A**

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- 17- [Signature] 20729 Summer Sweet Terrace
- 18- Bella Dehl 20718 Summer Sweet Terrace
- 19- Renla Mathis 20725 Summer Sweet Ter.
- 20- Santiago Sandoval 20727 Summer Sweet TR.
- 21- Hui ping Zhang 20 8 Summer Sweet Ct. Germantown
- 22- Janice Wilson 5 Summer Sweet Ct, Germantown, MD 20876
- 23- [Signature] Marzou, 20615 SST, 6 Town 20876
- 24- Sue Andres, 20616 Summer Sweet Terrace

Re: Free State Gas Station Expansion

Case No. [Recorded @ Montgomery County
Board of Appeals]: **S-1630-A**

September **27**, 2007

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Here is a list of Residents that do not want this
to take place: Free State Gas Station Expansion.

- 25- Debaki Nandan Chowdhry 20612 Summer Sweet Terrace, 20876
26- Cheung Lee 20610 Summer Sweet Terrace, 20876
27- Banita Mishra 20606 Summersweet Terrace
28- Vikas Kumar 20604 SUMMER SWEET TR, GERMANTOWN, MD 20876
29- Lee + Tim Marshall 20600 Summer Sweet Terr. Germantown, Md 20876
30- ERIC SMITH 20601 SUMMER SWEET TERR GERMANTOWN MD 20876
31- JAMES HUFF 20603 SUMMER SWEET TERR GERMANTOWN, MD 20876
32- Judith DeArmas - 20613 Summer Sweet tr. Germantown, Md 20876

Re: Free State Gas Station Expansion
Case No. [Recorded @ Montgomery County
Board of Appeals]: **S-1630-A**

September 27, 2007

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33- Emod Zie toon 20611 Summer Sweet tr.

34- [Signature] 41901 Isen Manor Dr.

35- [Signature] 20723 Summer Sweet tr
Germantown, MD 20876

36- Tony Nguyen & Triah Tran 11705 Isen Manor Dr.

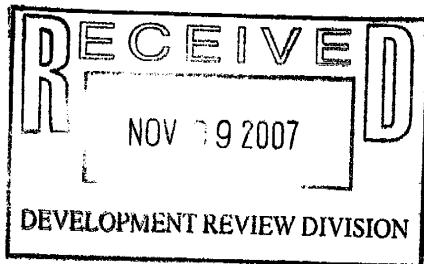
37- PATRICIA GUZMAN & ALFONSO GUZMAN 11900
ISEN MANOR

38- [Signature] Melvin White Summer Sweet tr 20605

39-

40-

Re: Free State Gas Station Expansion
Case No. [Recorded @ Montgomery County
Board of Appeals]: S-1630-A



11/9/07

To whom it may concern
Here is a list of our concerns.

- 1- A- Excuse from tracks and car are unhealthy to breathe and smell.
- B- Smoke stacks will be blowing into our homes and into our back yard and through our back windows, so we will not be able to open our windows for fresh air.
- C- We will not be able to sit on our decks and enjoy our back yard, our children will not be able to play in their own back yards, from having to breathe the fumes from the smoke stacks and diesel fumes.
- D- Trucks will not turn off their trucks while waiting in line to fuel up. Therefore we will be breathing the fumes from their smoke stacks and diesel fumes.
- 2- A- Since the new pumps are so close to our back yards, if a truck or car was to go out of control it could easily end up in our back yard where our children play, or even into our homes.
- B- These new pumps are so close to the fence that if there were a spill or a leakage it could end up in our back yard and contaminate our grounds in our back yards.
- 3- A- Some of our community went to the meeting in September 18, 2007. The reason for the new pumps were to stop the lines on rt. 355. The people in our community have never seen a line, but if this is the case we surely will now with all these new pumps.
- B- We already have a problem now with crossing rt. 355 to Boland Farm road. This is a busy intersection and Boland Farm road is only a one lane road. This is going to cause a line onto Boland Farm rd. We now will have back-ups on Boland Farm rd, We will now have a harder time crossing the busy intersection, this may cause accidents.
- C- There is a Fire Station in the plans for the lot across from

the Free State gas station. This will create more traffic into this already busy intersection. We don't need more lines .

- 4- A- Lighting from the gas station is also going to be a problem . They will be adding more light with the new pumps . These light will be coming into our children back window. How are our children suppose to get there rest.
- B- The new hours for the gas station are going to be from 5:30 am to 11:00pm on mon. - thur. and 5:30am to 12:00 am on Friday and Sat. Sunday from 7am to 10pm . This is going to create lots of noise and our children and they need there rest.
- 5-A- The gas station is going to move there trash dumpster from where it is now, there is no house in front of it , to a place on the other side where it will now be in the middle of 3 homes.
- B- This causes another problem with the smell. noise, rodent and trash flying into our yards when they empty the dumpster.

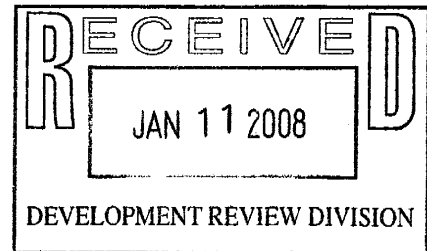
Please help us to stop these things from happening.

Thank you,
Rose & Fred Benear

December 28, 2007.

Damon B. Orobona, JD
Sr. Planner/Zoning Analyst
Development Review Division
Montgomery County Planning Department
The Maryland-National Capital Park and Planning Commission
Tel: 301-495-4621
FAX: 301-495-4621
e-mail damon.oro bona@mncppc-mc.org

Hearing Examiner's Office
Montgomery County Board of Appeals
100 Maryland Ave., Rooms 200 and 217,
Rockville, MD.20852
Tel: 240-777-6600



Ref: Case S-1630-A – Special Exception Pending for Modification (Gas Station Free State Petroleum Co.) - Analyst Assigned: Damon B. Orobona, JD, Sr. Planner/Zoning Analyst
Opposition to the expansion of the Free State Gas Station located at the corner of Boland Farm Rd. and 355, in Germantown, Maryland 20876, by the Seneca Crossing Section II Homeowners Association [HOA] (Seneca Vista Community)

The undersigned, residents and owners at Seneca Vista Community (Seneca Crossing Section II Homeowners Association [HOA]) respectfully present our concerns and total opposition to the expansion of the Free State Gas Station. The list of concerns related to our opposition to this gas station expansion (*zone modification*) is as follows:

1. **Suspected violation of Federal Law** regarding fence separation between businesses/commercial and residential areas. This gas station has a wooden fence;
2. **Increased urban air pollution** caused by more autos and trucks serving gasoline, diesel and kerosene as early as 5:30AM until 12:00AM., operating more than 18 hours. This will carry respiratory and other health effects due to:
 - i). **Smoke and fumes blown into our backyards and homes**, which we will be forced to breath, especially when opening the doors and/or windows of our houses; and
 - ii). **Noise produced by the vehicles serving fuel** from early in the morning until late at night;
3. **Increased probabilities of auto accidents** and a safety hazard for our children due to the **increase in the number of autos and trucks making lines on 355 and Boland Farm Rd.** waiting to enter the gas station, blocking the turning lanes and affecting the free flow of traffic, including the school bus routes serving the neighborhood;
4. **Decreased opportunity for ourselves and our children to enjoy our homes and backyards** due to:
 - i). **Smoke from vehicles exhausts, and fumes from gasoline, diesel and kerosene** from the vehicles being served and the fuel pumps; and
 - ii) **Increased light reflection into our houses and yard areas**, depriving us and our children not only from the enjoyment of our homes but also from needed rest every day/night;
5. **Increased risk of health hazards due to spills, probable explosion(s), and fire.** It is planned the addition of two fuel tanks - one to hold 24K gallons of diesel, and another to hold 6K gallons of kerosene, and several fuel pumps, which will jeopardize our lives and our quality of life due to the proximity of these installations;
6. **Increased trash amount blown into our yards** mainly at trash pick up times (about two-three times a week) and with that the proliferation of pests such as rodents, roaches and other vermins, which carry diseases; and

6. Increased trespassing activity into our community, and the possibilities for criminal activity.

Boland Farm Rd. and 355 is already a busy intersection, and the traffic generated by vehicles gaining access to the Free State Gas Station from both Boland Farm Rd. and 355 will increase the probabilities of accidents to occur and will put the lives of our children at risk.

Moreover, since a fire station has been approved for construction across from the gas station, the gas station expansion may become an added hazard at any given time.

Additionally, one of our neighbors at Summer Sweet Ct. is already suffering from respiratory ailments. Smoke, fumes and air pollution increased by the expansion of the gas station may aggravate this neighbor's health further.

We sincerely hope that this modification will not pass, and we request your best offices to explain and show to the Free State Petroleum Co. owners that their idea of expansion will bring along aggravation and ill relationship to the entire community.

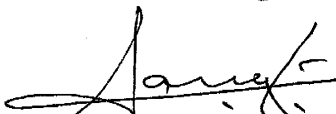
Please make note that **this letter is complementing the single petition delivered to you by homeowners Rose and Fred Benear, and the petition signed by 39 of the Seneca Vista Community homeowners and residents, hand delivered to you as well by our neighbors Fred and Rose Benear, on Friday, November 9, 2007.**

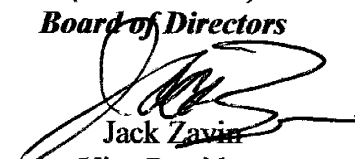
We look forward to receive your news notifying us about the reconsideration of this case and eventually its none acceptance.


Sincerely,

Seneca Crossing Section II (Seneca Vista) Homeowners Association (HOA)

Board of Directors


Santiago Sandoval
President



Jack Zavin
Vice President



James Earnest
Secretary and Treasurer

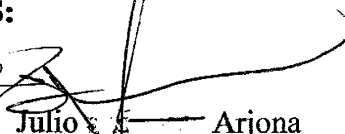
Homeowners and Residents at


***Summer Sweet Ct. and Summer Sweet Tr.,
directly affected by this "Free State" gas station expansion***

SUMMER SWEET TR. HOMEOWNERS AND RESIDENTS:


Jim Nguyen and Chi Truong
House # 20719

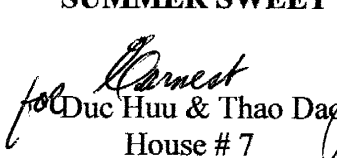


Shyue-Waei and Su-Ling
House # 20721

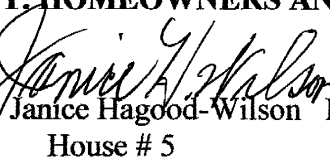

Julio E. Arjona
House # 20723

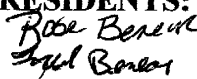

Gregg and Paula Mathis
House # 20725



Santiago and Lourdes Sandoval
House # 20727

SUMMER SWEET CT. HOMEOWNERS AND RESIDENTS:

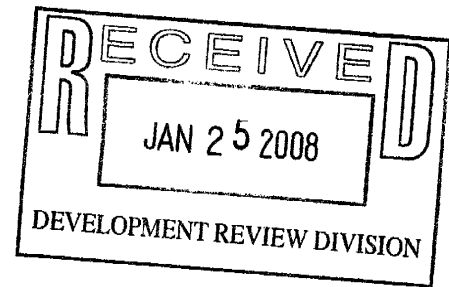

for  Earnest
Duc Huu & Thao Dao
House # 7


Janice Hagood-Wilson
House # 5


Rose Benear
Fred & Rose Benear
House # 3


Thuy Van & Tam Tran
House # 1

Shyue-Waei Huang
Su-Ling Huang
20721 Summer Sweet Terrace
Germantown, MD 20876



Re: Case No. S-1630A Petition of Free State Petroleum Corporation

Dear Board of Appeals:

We are writing to object to the granting of the motion. We have several problems regarding the listed modifications to the establishment. Our main concerns will be expressed according to the petition letter we received.

We object to the additional diesel dispensers according to number four on the letter which states "the existing car wash building on the west side of the site to be removed, and a new diesel fuel island to be located instead..." **The addition of these dispensers will attract more and bigger trucks to the establishment.** We have observed dump trucks and 18-wheeler trucks pumping diesel between the hours of 9 a.m. to 11 a.m. on multiple occasions. The existing pumps are enough for all vehicles, and therefore the establishment does not need to add another section for diesel dispensers.

We object to the new hours of operation as the establishment would be opening earlier and closing later than their current hours of operation. This is according to number ten on the letter which states "hours of operation: Monday through Thursday 5:30 a.m. to 11 p.m.; Friday 5:30 a.m. to 12 midnight; and Sunday 7 a.m. to 10p.m." We also suggest that they post a sign stating that no vehicle may park on the premises before and after the hours of operation. This is for the safety of the neighborhood as we have observed vehicles parked on multiple occasions. Therefore, we argue that the establishment should keep the current hours.

We object to moving the trash dumpster/enclosure to the northwest corner of the site. This is according to number nine on the letter which states "the existing trash dumpster/enclosure... to be moved from the southwest to the northwest corner of the site." This results in moving the dumpster directly behind our backyard. We are concerned about this move because the dumpster is currently emptied between the hours of 3 a.m. to 4 a.m. We suggest that a quiet zone be established at least after 7 a.m. every day of the week. Another concern is that when the dumpster is emptied, we have observed trash flying into our backyard as well as the surrounding backyards around the establishment on multiple occasions. Therefore, the establishment should keep the dumpster at its current location.

We thank you for taking the time to read our concerns and hope they will be addressed. If you have any questions, feel free to contact me or my wife at (301) 528-5213.

COMMUNITY FORUM

Wednesday, January 23, 2008

LETTERS • OPINIONS

Page A-

LETTERS TO THE EDITOR

Neighbors concerned over gas station's proposed expansion

The government and many of us, the people, are convinced that less dependence on oil and other petroleum-based fuels is better for our economy and our future. However, there are still some gas station owners who want to continue expanding their operations adding fuel storage tanks and serving pumps, in full disregard of the neighborhood they are in.

They become a nuisance and a source of increased pollution and health-related illnesses, mainly respiratory diseases, not to mention a decrease in our quality of life.

This is the case of the Free State gas station at Route 355 and Boland Farm Road, whose owners want to expand, adding a 30,000-gallon fuel storage tank to hold 24,000 gallons of diesel and 6,000 gallons of kerosene,

and several dispensing pumps.

The Seneca Vista community neighbors oppose this expansion.

Gas station representatives have said that this expansion "will reduce the on-site queuing and waiting time for customers," as well as eliminate the possibility of cars "lining up on 355." The real story is that this expansion will only help increase the owners' profits at the expense of the quality of life of the homeowners and residents of Seneca Vista community who will see a decrease in their opportunity to enjoy their homes and backyards.

The expansion will increase smoke and fumes blown into backyards and homes; increase noise produced by vehicles filling in fuel, and refuse trucks picking up trash; increase fumes from trucks dispensing into

underground storage tanks; increase light spillage and glow; and increase the probabilities of auto accidents, explosion(s), and fire.

This expansion will change the character of the surrounding neighborhoods, increasing not only vehicle traffic but pedestrian as well, which is already a problem since people cross through private property to get to the small convenience store at the gas station. It is also questionable why is a bigger gas station needed when there are three others within walking distance from each other, and why is kerosene to be added to the fuel list when all the houses in the area are heated by gas or electricity.

Seneca Vista homeowners and residents hope that the Montgomery County Planning

Department, and the Montgomery County Board of Appeals give to this case their utmost attention to understand that this modification to the original site will not be of service to the surrounding neighborhoods, nor will it be of service to any customer in this area of Germantown. Instead, it will bring aggravation to all homeowners and residents at Seneca Vista community, and a decrease in their quality of life, especially to those in closer proximity to the gas station.

Santiago Sandoval, Jack Zavin and James Earnest, Germantown

The writers are president, vice president and secretary-treasurer, respectively of the Seneca Crossing Section II (Seneca Vista) Homeowners Association Board of Directors.

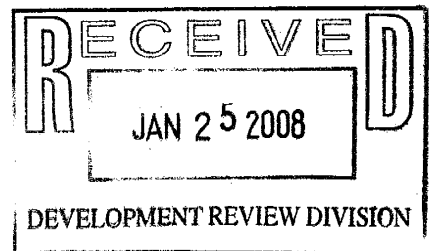
The Gazette

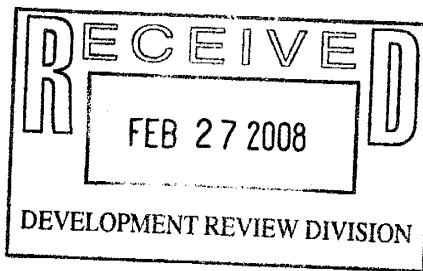
GERMANTOWN • BOYDS • POOLESVILLE

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Trinh T. Le, Homes Editor





*Rose L Benear
Frederick L Benear
3 Summer Sweet court
Germantown Md. 20876*

Feb. 26, 2008

Re: Case No. S- 1630A Petition of Free State Petroleum Corporation

Dear, Mr. Royce Hanson (Chairman of the Planning Board)

We are writing to object to the granting of the motion. We have several problems regarding the listed modification to the establishment. Our main concerns will be expressed in this letter.

Traffic problems:

There is already a traffic problem on rt.355 and Boland Farm rd... By adding more fueling points a total of 18 in the main area and 4 more diesel fueling points and 2 Kerosene fueling points on the west side of the site. The total of fueling point has gone from 12 to 24. You will have double the fueling point. Now we have a greater problem with more traffic on rt.355 and Boland Farm rd. There will be more traffic coming in and out of the Free State gas station. Boland Farm rd is a one lane road. Rt.355 is a two land road with a turning lane into the Free State gas station or turning on to Boland Farm rd. We have people turning in to the gas station that change there minds and cut car off turning back in to the straight land. This is already a problem and has caused traffic problems. There is a Fire Station in the plans for the lot across from the Free State gas station on Boland Farm rd. This will create more traffic into this already busy intersection. We really don't need any more traffic or lines. We are ok with the Fire Station that is already going to happen.

Too close to our homes:

By putting the diesel and Kerosene fueling points on the west side, this creates a problem with them being very close to the houses surrounding the gas station. They are extremely close to our homes. There is a Law in Maryland for example: Maryland has a law that prohibits smoking in Restaurants, Bars, working places, and even Outdoors Sporting Events, Because of second hand smoke. If this is true why should we be forested to breath unhealthy air that is polluted by Trucks and car fumes created by diesel fuel? We object to increased urban air pollution caused by more autos and trucks serving gasoline, diesel and kerosene as early as 5:30 am until 12:00am operating more then 18 hours. Smoke and fumes being blown in our homes and back yards.

There are other problem: Now we will get into another area. We will not be able to sit in our swings on our decks and enjoy our backyards, or have cook out. Or let our Children play in there own backyards for fear of them having to breath this unhealthy air.

Noise and Lighting:

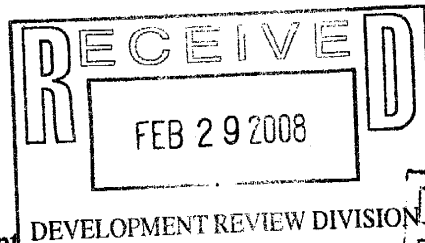
We object to Noises caused by vehicles, and Increasing Light reflecting into our children Bedrooms and our back yards- Depriving our children not only from enjoyment of our homes and back yards but from the well needed rest everyday and night. We as home owner will not be able to open our windows to get fresh air due to the gas smell and diesel fumes, smoke stack. We as home owner have a responsibility to our children and family. There are other problems I would like to bring up, That is these fueling points are so close to our home that if there were to be a car or truck that goes out of control it could end up in our backyard were our children are playing, or even our homes . If there were to be a gas or diesel spill this could end up in our yards and in the soil of our grounds. Free State is going to re-locate the Trash dumpster to an area were there are home right behind it. This could and would cause Rodents and there trash will end up in our yards, and the noise from when they dump the trash at the early morning hours will interrupt our children sleep.

Please help or community stop the modification . Help us stop this from taking place. For our health our children and the health of our community.

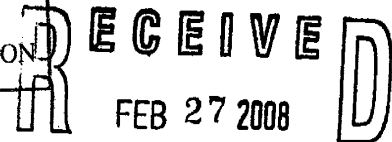
Thank you.

Rosefred Benet

Mr. Royce Hanson
Chairman of the Planning Board
Montgomery County Planning Department
The Maryland-National Capital Park and Planning Commission
8787 Georgia Ave.,
Silver Spring, MD 20910-3760.



February 25, 2008.



OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Ref: Opposition to the expansion of the FreeState Gas Station located at the corner of Boland Farm Rd. and 355, in Germantown, Maryland 20876.

Case S-1630-A – Special Exception Pending for Modification (Gas Station FreeState Petroleum Co.) - Analyst Assigned: Damon B. Orobona, JD, Sr. Planner/Zoning Analyst.
Concerns that stand against this FreeState gas station expansion.

Mr. Chairman,

The undersigned, resident and homeowner at Seneca Vista Community (Seneca Crossing Section II) respectfully present to you my concerns and total opposition to the expansion of the FreeState Gas Station. These concerns have been already presented to Mr. Damon Orobona and other Staff in that Planning Department, including Pamela Johnson, Ralph Wilson and Lori Shirley.

Besides the list of concerns to which I would appreciate very much your high consideration, I would like to bring to your attention the outcomes of my recent conversation held with Mr. Kiho Kim (Planning Department Transportation Office) last February 13, 2008. When I questioned Mr. Kim about his approval to the updated Traffic Impact Analysis presented to him by the FreeState Petroleum company (*the original study was conducted in 2006*), concluding that the gas station expansion "will not generate a significant traffic impact", his reply was that the "Congestion Standard is not yet exceeded", and that he had to apply that criteria.

My answer to him was that such on-the-desk decision, based on current standards – figures calculated several years ago - without serious consideration of the future damages this gas station expansion will cause – in the short and medium terms, was a very poor way to ok a proposal. At my insistence about how many years had he considered in his evaluation as to the currently applied Congestion Standards would hold without creating a havoc in our community, he declined to continue the conversation and invited me to contact Ms. Pamela Johnson, Planner Coordinator at the Community-Based Planning Division. I spoke with Ms. Johnson who kindly encouraged me to write to you presenting all the concerns related to this gas station expansion (*zone modification*) issue, with special attention to this Traffic Impact Analysis. So, here I am appealing to your good judgment and experience in these matters, to deny this modification.

Other concerns that stand against this FreeState gas station expansion are:

1. **Increased probability for a tragedy to take place if a vehicle, especially a large one, loses control and runs into any of the backyards of the houses placed at the bottom of the hill adjacent to this gas station** (all the directly affected houses next to this gas station are located at the bottom of a hill). Four pictures are attached for your reference and guidance to the sites;
2. **Decreased opportunity for ourselves and our children to enjoy our homes and backyards due to:**
 - i). **Smoke from vehicles exhausts, and fumes from gasoline, diesel and kerosene from the vehicles filling gas, diesel and kerosene, and the fuel pumps themselves;**

- ii) **Increased glare and light reflection into our houses and yard areas**, depriving us and our children not only from the enjoyment of our homes but also from needed rest every day/night; and
- iii) **Noise produced by the vehicles filling fuel, and people's conversations**, since early morning (5:30AM) until its closing time (12:00AM midnight);
- 3. **Increased probabilities for auto accidents** and a higher risk to our lives and our children's lives because of the **increase on the number of autos and trucks making lines on 355 and Boland Farm Rd.** waiting to fill in gasoline, diesel, or kerosene, blocking the turning lanes and affecting the free flow of traffic into the neighborhood, including the school bus routes serving our community;
- 4. **Increased health risks and fire hazards due to spills, fumes and probable explosion(s)**, due to the addition of 12 more pumps (dispensers) and two fuel tanks - one to hold 24K gallons of diesel, and the other to hold 6K gallons of kerosene, which will constantly jeopardize our lives and our quality of life due to the proximity of these installations;
- 5. **Increased urban air pollution** caused by more autos and trucks filling gasoline, diesel and kerosene as early as 5:30AM until very late 12:00AM midnight. This will carry respiratory and other health effects due to:
 - i). **Smoke and fumes blown into our backyards and homes**, which we will be forced to breath, especially when opening the doors and/or windows of our houses; and
 - ii). **Noise produced by the vehicles serving fuel** since early morning until late at night;
- 6. **Increased trash amount blown into our yards** mainly at trash pick up times (about two-three times a week) and with that the proliferation of pests such as rodents, roaches and other vermins, which carry diseases; and
- 7. **Increased trespassing activity into our community, and the possibilities for criminal activity**, triggered mainly by the "convenience store" in site.

Boland Farm Rd. and 355 is already a busy intersection, and the traffic generated by vehicles gaining access to the *FreeState* Gas Station from both Boland Farm Rd. and 355 will increase the probabilities for accidents to occur and will put our lives at a constant risk.

Moreover, since a Fire Station has been approved for construction across from the gas station, the gas station expansion may become an added hazard at any given time.

Additionally, one of our neighbors is already suffering from respiratory ailments, and smoke, fumes and urban air pollution in general increased by the expansion of this gas station may aggravate this neighbor's health.

I sincerely hope that you can help us make understand the *FreeState* Petroleum Co. owners all the aggravation and ill relationship that their idea of expansion will bring along.

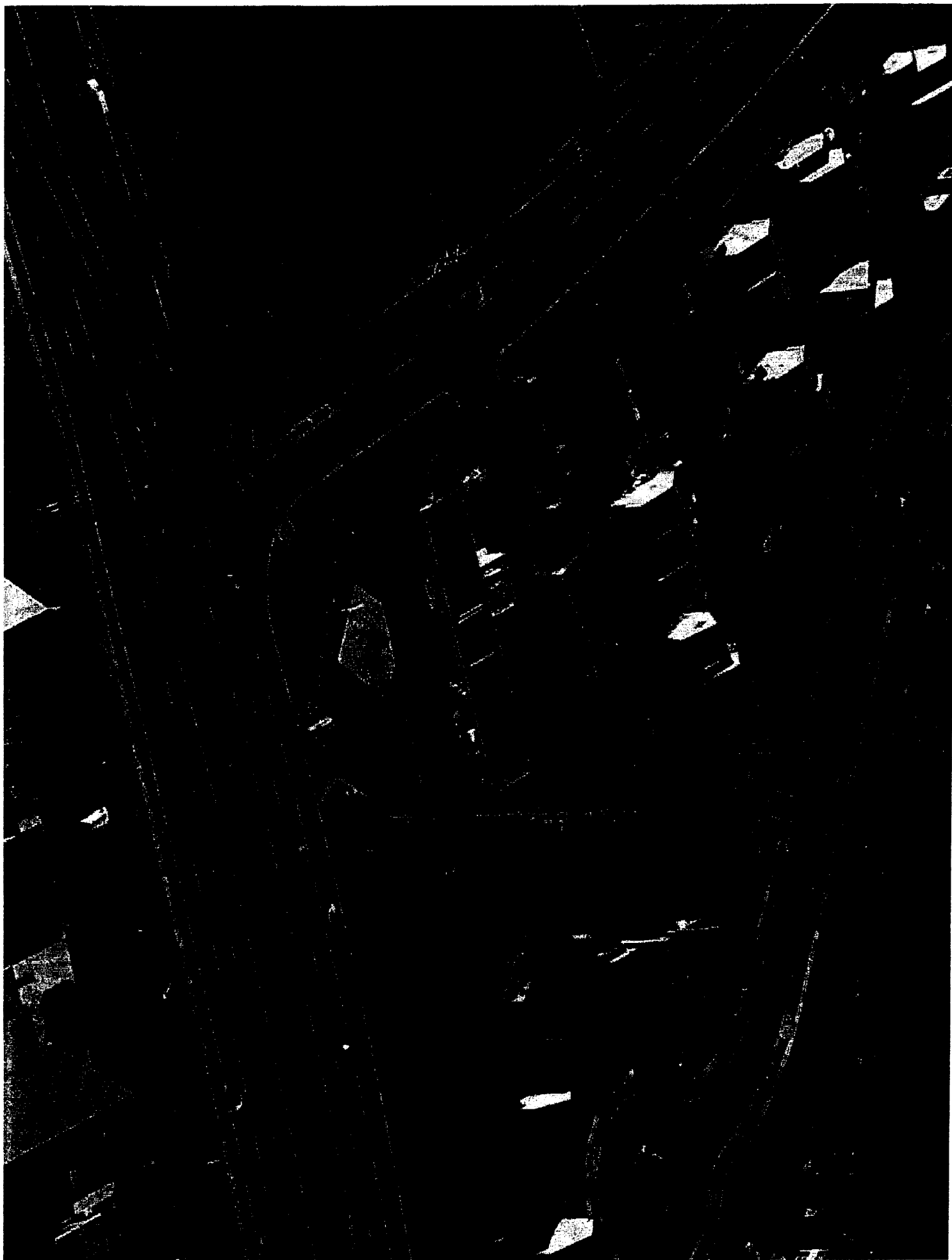
I thank you in advance for all your attention and time devoted to this important and very sensitive community issue.

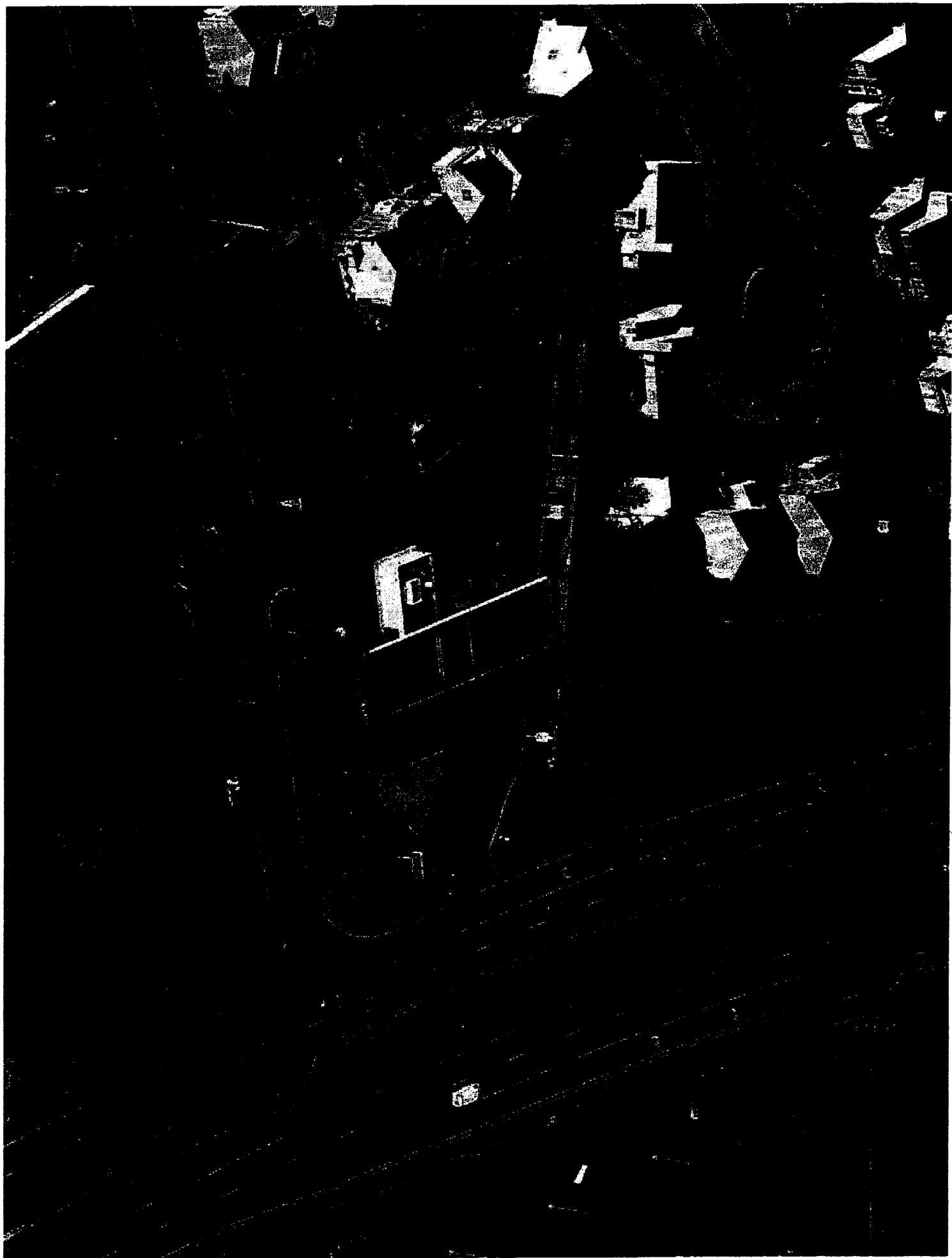
Sincerely,

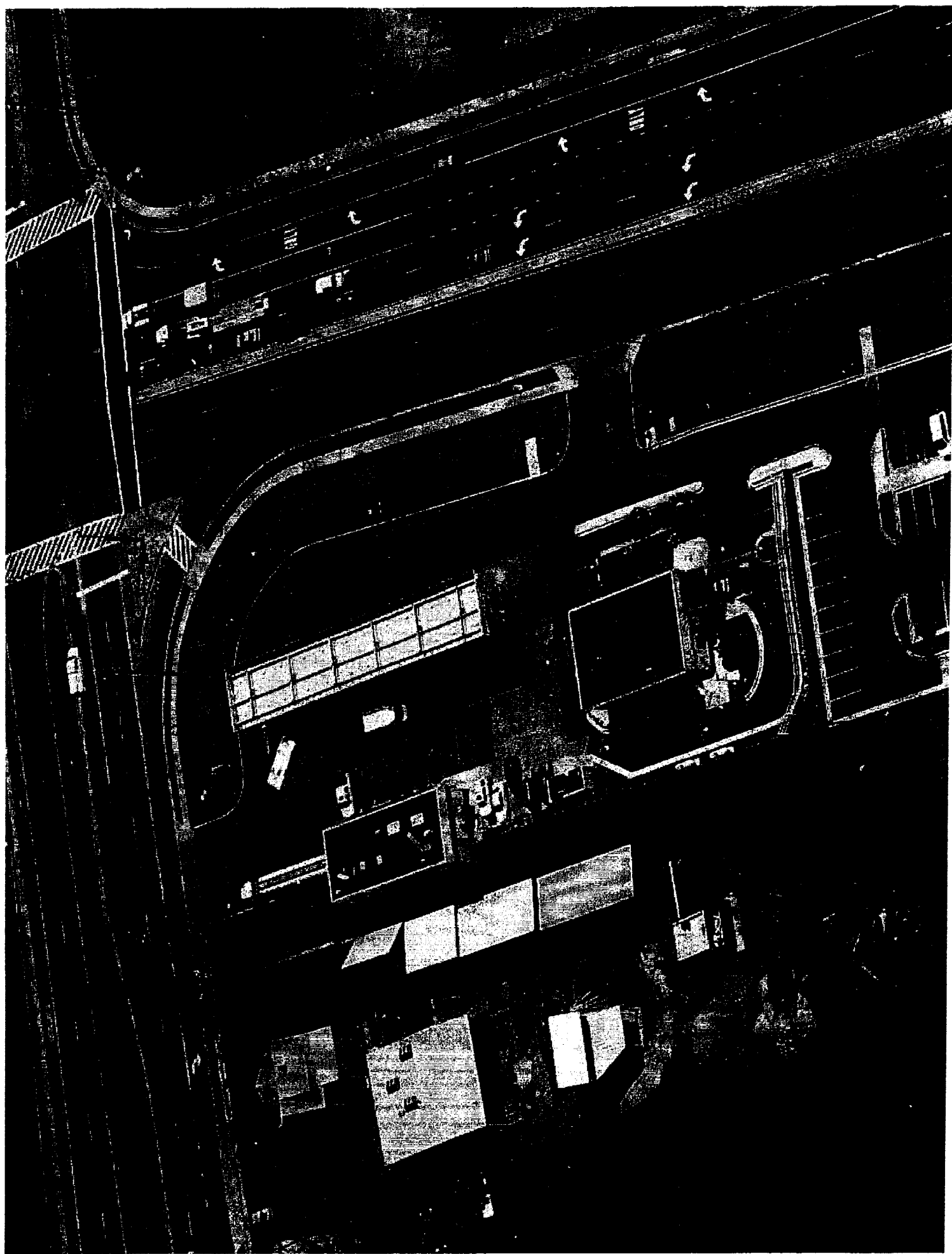

Santiago (and Lourdes) Sandoval

Homeowners and Residents at Seneca Vista Community
20727 Summer Sweet Tr., Germantown, MD 20876

Cc: Pamela Johnson, Damon Orobona (Mo.Co. Planning Department).









RECEIVED
0227
MAR 06 2008

Tam Tran & Thuy Van
Tang Nguyen & Mai Tran
To Nguyen & My Nguyen
1, 4, and 6 Summer Sweet Ct.
Germantown, MD 20876

February 29, 2008

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Mr. Royce Hanson
Chairman of the Planning Board
Montgomery County Planning Department
The Maryland-National Capital
Park and Planning Commission
8787 Georgia Ave.,
Silver Spring, MD 20910-3760

RECEIVED
MAR 13 2008
DEVELOPMENT REVIEW DIVISION

Ref: Case S-1630-A - Special Exception Pending for Modification (Gas Station Free State Petroleum Co.)

Dear Mr. Hanson:

We are the residents and owners at Seneca Vista Community respectfully present our concerns and total opposition to the expansion of the Free State Gas Station. The list of concerns related to our opposition to this gas station expansion (zone modification) is as follows:

1. Suspected violation of Federal Law,
2. Increased Urban Air Pollution,
3. Smoke and fumes blown into our backyards and homes,
4. Noise produced by the vehicles serving fuel,
5. Increased probabilities of auto accidents,
6. Increased number of autos and trucks in line on 355 and Boland Farm Rd.,
7. Decreased opportunity for ourselves and our children to enjoy our homes and backyards,
8. Smoke from vehicles exhausts, and fumes from gasoline, diesel and kerosene,
9. Increased light reflection into our houses and yard areas,
10. Increased risk of health hazards due to spills, probable explosion(s), and fire,
11. Increased trash amount blown into our yards, and
12. Increased trespassing activity into our community, and the possibilities for criminal activity.

We sincerely hope that you would help us to prevent this modification will not pass, and we request your best offices to explain and show to the Free State Petroleum Co. owners that their idea of expansion will bring along aggravation and ill relationship to the entire community.

We would deeply appreciate very much your full attention to this issue and eventually to help the denial to this modification.

Truly Yours,

Tam Tran Thuy Van

Tam Tran & Thuy Van

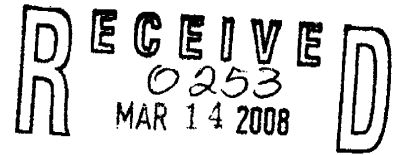
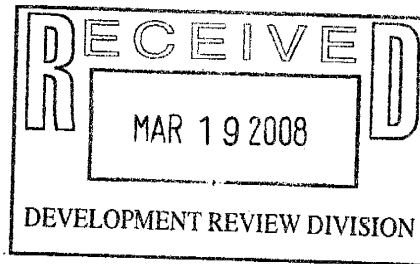
Tang Nguyen Mai Tran

Tang Nguyen & Mai Tran

To Nguyen

To Nguyen & My Nguyen

March 12, 2008



OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Shyue-Waei Huang
Su-Ling Huang
20721 Summer Sweet Terrace
Germantown, MD 20876

RE: Case No. S-1630A Petition of Free State Petroleum Corporation

Dear Mr. Hanson:

We are writing to provide you with a list of our primary concerns. We believe that the gas station violates Section 59-G-2.06. We have enclosed a copy for your convenience and our concerns will be listed according to the document.

The gas station proposes to expand their current pumping stations. An increase in the number of pumps will lead to an increase of cars and diesel trucks. They will add more pollution and hazardous fumes to the homes around the perimeter of the gas station. This expansion would violate (a) 1 as it states that the "use will not constitute a nuisance because of noise, fumes, odors..." In addition, this expansion will "create a traffic hazard or traffic nuisance." A fire station has been proposed to be built across from the gas station. The influx of vehicles at the gas station will create obstacles for fire trucks in the event of emergencies, violating (a) 2.

The gas station currently uses a wooded fence to separate the station from the residential zone. However, their proposal states that "the existing car wash building on the west side of the site to be removed, and a new diesel fuel island to be located instead..." We have enclosed two aerial photos that include our house with respect to the gas station. You can see in the photos that our house, labeled A, sits at the bottom of a hill. The wooded fence is not a strong barrier to protect us in the case that a truck malfunctions or loses control. It is possible that a truck will break the fence, slide down the slope, and into our home; causing substantial damage and possible loss of lives. Not only is our family in constant danger, but the homes around the gas station is also located at the bottom hill.

Another concern is that the gas station does not maintain their wooded fence. We have enclosed several pictures that document the fence's current condition and closer images of the hill discussed in the previous paragraph. We suggest that the station build a concrete or solid brick wall to protect residents from any future dangers.

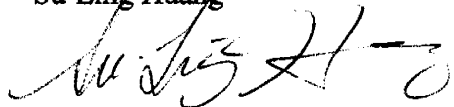
Our final concern is that the lighting from the diesel island, labeled 1, will "reflect or cause glare into any residential zone" (b) 3) because it will be closer to residential homes. This is a nuisance that we cannot constantly endure and will affect the quality of living in our home.

We thank you for taking the time to read our concerns and hope they will be addressed. If you have any questions, feel free to contact me or my wife at (301) 528-5213.

Shyue-Waei Huang



Su-Ling Huang



Sec. 59-G-2.06. Automobile filling stations.

(a) An automobile filling station may be permitted, upon a finding, in addition to findings required in division 59-G-1, that:

(1) The use will not constitute a nuisance because of noise, fumes, odors or physical activity in the location proposed.

(2) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly. *(FIRE STATION)*

(3) The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density and number of similar uses.

(b) In addition, the following requirements must be complied with:

(1) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, sightly, solid fence, not less than 5 feet in height, together with a 3-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. Location, maintenance, vehicle sight distance provisions and advertising pertaining to screening shall be as provided for in article 59-E. Screening shall not be required on street frontage.

(2) Product displays, parked vehicles and other obstructions which adversely affect visibility at intersections or to station driveways are prohibited.

(3) Lighting is not to reflect or cause glare into any residential zone.

(4) When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot as defined in section 59-A-2.1, and such driveways shall not exceed 30 feet in width; provided, that in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 40 feet from the center line of any abutting street or highway.

(5) Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line; and all service storage or similar activities in connection

with such use shall be conducted entirely within the building. There shall be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

(6) Light automobile repair work may be done at an automobile filling station; provided, that no major repairs, spray paint operation or body or fender repair is permitted.

(7) Vehicles shall not be parked so as to overhang the public right-of-way.

(8) In a C-1 zone, an automobile, light truck and light trailer rental, as defined in section 59-G-2.07, and in a C-2 zone, an automobile, truck and trailer rental lot, as defined in section 59-G-2.09, may be permitted as a part of the special exception, subject to the provisions set forth for such uses in this section. In addition, a car wash with up to 2 bays may be allowed as an accessory use as part of the special exception.

(9) In a Rural Village Overlay Zone the following additional standards apply for new development:

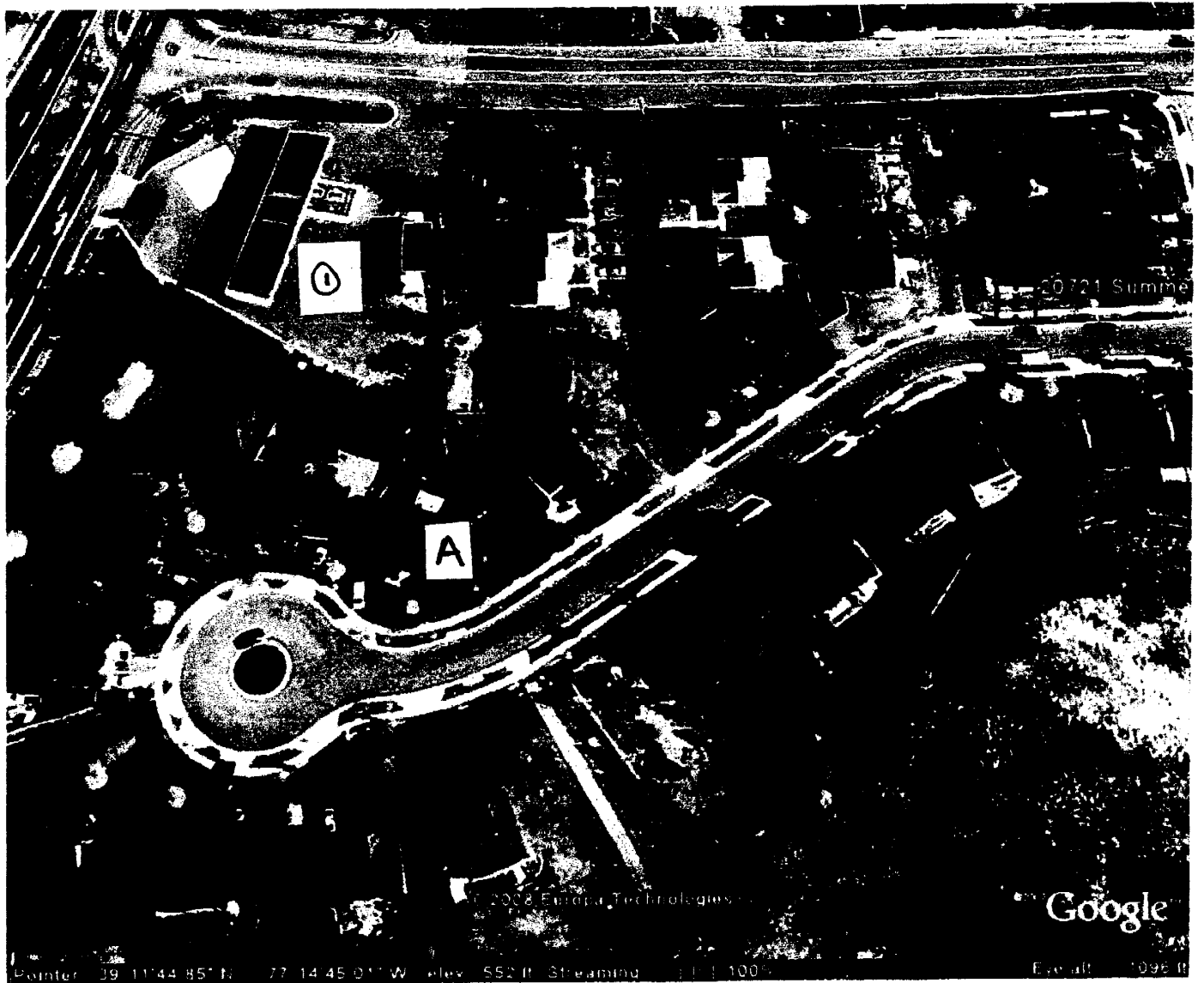
(A) Car wash is prohibited.

(B) Pump canopies must not exceed 35 feet in height.

(C) Any structure approved for the use must not exceed the scale and bulk of existing commercial structures in the village.

(Legislative History: Ord. No. 10-32, § 18; Ord. No. 12-1, § 1; Ord. No. 12-10, § 5; Ord. No. 13-76, §1; Ord. No. 15-71, § 1.)

Editor's note—In American Oil Company v. Board of Appeals of Montgomery County, 270 Md. 301, 310 A.2d 796 (1973) the court affirmed the denial of a special exception for a gasoline station, ruling that Amoco had not demonstrated a present need by the neighborhood population for the station. In Pemberton v. Montgomery County, 275 Md. 363, 340 A.2d 240 (1975) the court affirmed the granting of a special permit for a gasoline station. In B.P. Oil, Inc. v. County Board of Appeals for Montgomery County, 42 Md. App. 576, 401 A.2d 1054 (1979), the court sustained the County's denial of a special exception for a filling station.





© 2008 Europa Technologies

Position: 29° 11' 44.49" N, 77° 14' 42.65" W, elev: 558 ft, Streaming: [1] [1] 100

A

Live alt: 6870 ft



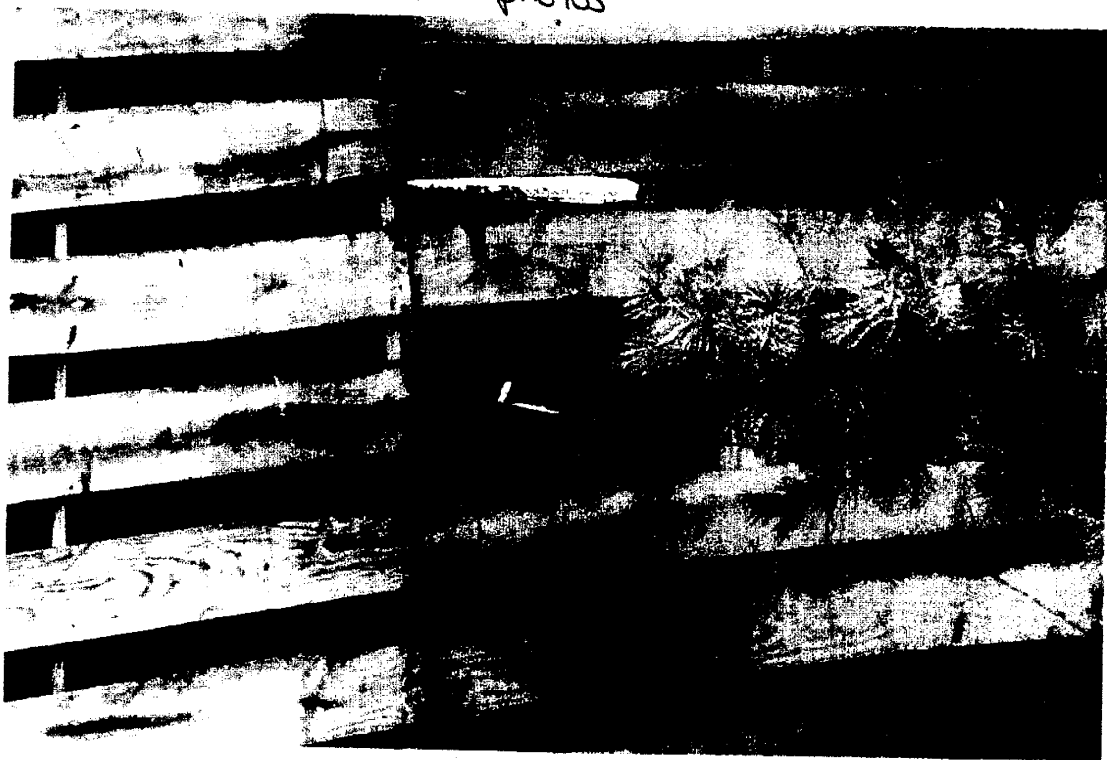
Evidence that we live at
bottom of hill.

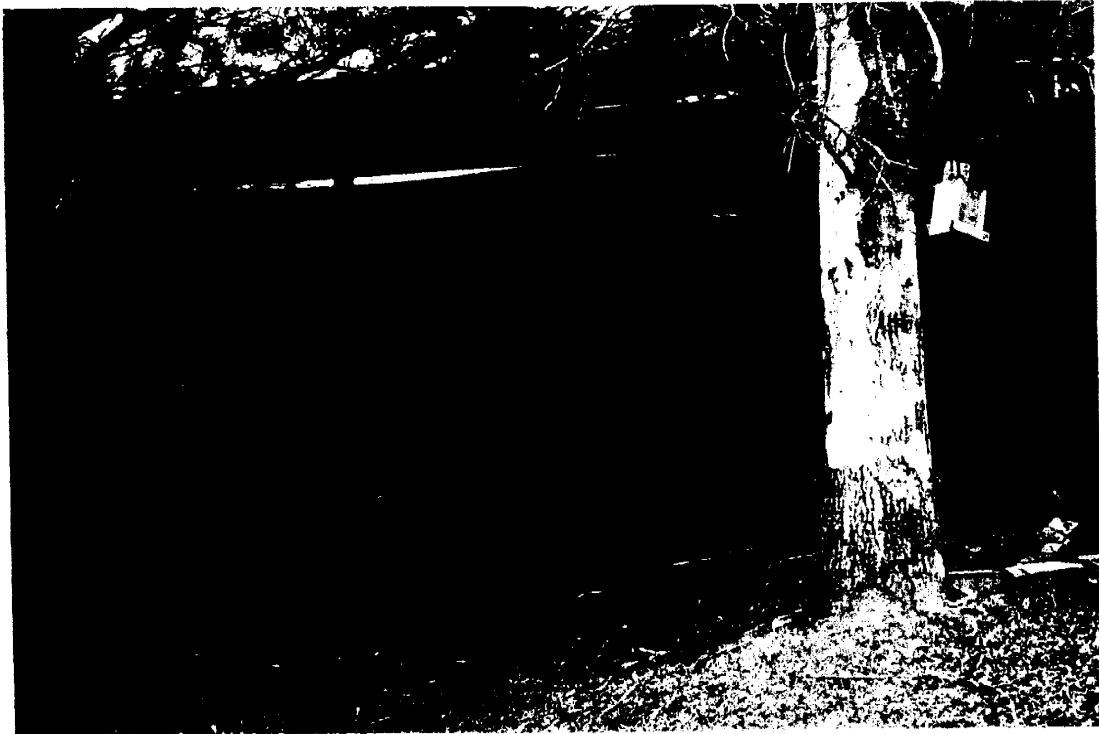
- Proposed diesel island is
2 tress away from resident
homes



Shows that resident homes
around perimeter of gas
station sits at bottom of
the hill.

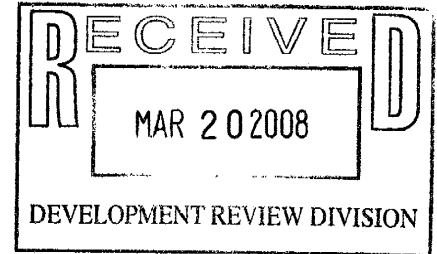
Evidence that wooded
fence is not maintained
in next 3 photos





March 15, 2008.

Mr. Royce Hanson
Chairman of the Planning Board
Montgomery County Planning Department
The Maryland-National Capital Park and Planning Commission
8787 Georgia Ave.,
Silver Spring, MD 20910-3760



Ref: Our opposition to the expansion of the FreeState Gas Station located at the corner of Boland Farm Rd. and 355, in Germantown, Maryland 20876.

Case S-1630-A – Special Exception Pending for Modification (Gas Station FreeState Petroleum Co.) - Analyst Assigned: Damon B. Orobona, JD, Sr. Planner/Zoning Analyst.

Concerns that stand against this FreeState gas station expansion.

Dear Mr. Chairman,

We are writing to provide you with a list of our concerns. We also believe that the gas station violates Section 59-G-2.06 of the Maryland State Law regarding Automobile filling stations. Our concerns are listed below:

The FreeState gas station is currently separated from the residential zone by a wooden fence. The existing car wash building on the west side of the site is going to be removed and replaced by a new diesel fuel island. We have enclosed two aerial photos that include our houses with respect to the gas station. You can see that our houses sit at the bottom of a hill, very close to the gas station, still not that close to storage tanks and fuel pumps. A fence will not be strong enough barrier to contain a vehicle that loses control or malfunctions. A truck will very likely brake the fence, and run down the hill into our houses causing damage and possible loss of lives. We are in constant danger as the situation in now and any addition closer to our houses increases the probability for a tragedy to occur.

The gas station proposes to expand their current pumping islands. An increase in the number of pumps will lead to an increase of cars and diesel trucks and general vehicular traffic in the area. They will add more pollution and hazardous fumes into our houses. I suffer from respiratory illnesses that gets aggravated with outdoor poor air quality. With respect to the above cited law, this expansion would violate (a) 1 as it states that the "use will not constitute a nuisance because of noise, fumes, odors ...". In addition, this expansion will "create a traffic hazard or traffic nuisance." A fire station has been proposed to be built across from the gas station, and the influx of vehicles at the gas station will create obstacles for fire trucks in the event of emergencies, violating (a) 2.

Another concern is that the lighting from the diesel island will "reflect or cause glare into any residential zone" ((b) 3) because it will be closer to our houses. This is a nuisance that we cannot constantly endure and will affect the quality of living in our homes.

Furthermore, the increased diesel and gas spills will continue washing down into the drain, ending into the storm pond next to our neighborhood with the environmental degradation that this runoff represents.

We would appreciate very much your highest consideration to our petition to reject the FreeState request for expansion.

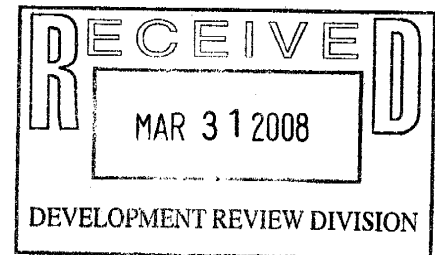
GREGORY & PAULA MATHIS
20725 SUMMER SWEET TER
GERMANTOWN, MD 20876



OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

March 22, 2008

Mr. Royce Hanson
Chairman of the Planning Board
Montgomery County Planning Department
The Maryland-National Capital
Park and Planning Commission
8787 Georgia Ave
Silver Spring, MD 20910-3760



Mr. Hanson:

As residents of the Seneca Vista development, we are reaching out to you regarding Case No. S-1630-A Petition of Freestate Petroleum Corporation to expand their present operation.

We live directly behind this gas station and the propose changes will adversely affect us. Presently we are awakened every morning by the loud rumbling of the gas pumps being activated for daily use. In the evenings we are forced to close the blinds early for all the rooms facing the gas station due to the glaring lights. The proposed extension plan calls for additional lights with some being placed on higher locations. Through out the entire day we are subjected to loud music from the vehicles using the station. We built our home prepared to accept some limitations but why should we be subjected to severely limiting the use and enjoyment of home to satisfy the greed of one entity. The previous gas station did not have such high volume.

Extending the usage of the gas station will result in additional traffic on their premises. There is limited space for the maneuvering of large trucks. Adding more gas pumps will result in over crowding which can potentially result in an accident. Our house is located at the bottom of an incline with the gas station literally sitting at the top of the incline. The board-on-board fence which separates the two properties is no deterrent to a run away vehicle which is a likely possibility in what will be a densely populated area if the proposed plan is approved.

Additionally, in this time when Maryland is promoting a "Going Green" philosophy, why would the agency agree to the expansion of this gas station which will contribute to further polluting the air? Within our development there is one home owner who is presently on oxygen full time 27 - 7. Unfortunately she lives behind the gas station on another side. While she presently lives with the fumes being emitted by the vehicles refueling, allowing more vehicles to use the space will place more stress on her lungs which will result in the faster deterioration of her health.

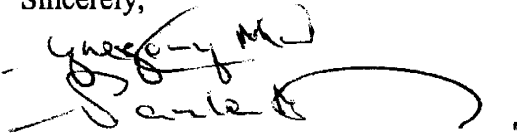
Also, we are concerned about the installation of additional or enlarged underground tanks. Should a leakage occur, most if not all of the yards surrounding the gas station will be affected. This can also impact the ecology system of the overflow pond.

In addition, approval was granted for the building of a fire house opposite the gas station. The foreseeable traffic increase which will result from the extended gas station along with fire trucks and ambulances will make for an over crowded Route 355 and Boland Farm Road along with increase accidents.

Finally, with three other gas stations within a one mile radius of this Freestate gas station, how can the owners with all honesty justify their arguments for increasing the number of gas pumps which will contribute to higher air pollution, increase noise levels, traffic congestion, potential accidents, glaring lights and other inconveniences to the residents? We do not think that the ability to enjoy our home should be sacrificed for the gain of the Freestate gas station owners.

While we know that the present state or services of the gas station cannot be reduced, we are requesting that their proposal for modification not be permitted. We are asking you to seriously consider our appeal and are hoping for a favorable resolution to this potential hazard.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Mathis", with a large, sweeping flourish extending to the right.

Greg & Paula Mathis