County Board Agenda Item
Meeting of July 9, 2005

REVISED REPORT

DATE: June 24 July 7, 2005

SUBJECT: U-2167-78-1 USE PERMIT REVIEW for review of comprehensive sign plan, automobile service station located at 2835 Washington Blvd. (RPC # 18-031-005) (Shell)

Applicant:
Motiva Enterprises LLC

By:
M. Catherine Puskar, Attorney
Walsh, Colucci, Lubeley, Emrich & Terpak PC
2200 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201

REVISION EXPLANATION: The original recommended administrative review date in September 2006 should be changed to September 2005, prior to the County Board review in July 2006.

C.M. RECOMMENDATION: 
Renew, subject to all previous conditions, with quarterly administrative reviews in (September 2005, December 2005, April 2006, and June 2006 and September 2006) and with a County Board review in one (1) year (July 2006).

ISSUES: None.

SUMMARY: This use permit for a Shell gas station in the Lyon Park area was approved originally in 1976 for Texaco and has been reviewed numerous times. The business has been operating in compliance with all use permit conditions and County codes. A near neighbor complains the applicant does not observe the different seasonal plantings as required by the use permit (Condition #5). Staff will continue to work with the applicants counsel to ensure that the plantings are provided in accordance with the use permit conditions. In agreement with the neighbor, staff recommends that during the next year the use permit be renewed with administrative reviews during each of the planting seasons (September 2005, December 2005, April 2006, and June 2006 and September 2006) to ensure that the landscaping complies with Condition #5 and with a review by the County Board in July 2006.

DISCUSSION: In October 2003, the applicant requested and received approval to revise Condition #4 in order to change the color of the canopy. Since the last review by the County
Board in October 2004, the use permit was administratively reviewed in April 2005 and found to be in compliance with the revised use permit conditions and County regulations. In the recent reviews, the landscaping of the site has been the focus of discussion. During the review period, the applicant replanted and maintained the annuals and evergreens as specified in the approved landscaping plan. The applicant continues to make efforts to maintain the landscaped areas and the rest of the site. Currently the landscaping has some missing plantings. The applicant is in the process of planting summer landscape materials.

A near neighbor, resident of the Clarendon-Courthouse Civic Association, complains that the applicant does not observe the different seasonal plantings as required by the use permit (Condition #5). He further requested that staff ensure that the irrigation system is operational and that he receive a copy of the fuel delivery plan (Condition #12). Staff will continue to work with the applicants’ counsel to ensure that the plantings are provided in accordance with the use permit conditions and to ensure that the irrigation system is operational and that the requested copy of the fuel delivery plan is provided to the neighbor. Staff is recommending quarterly administrative reviews to provide better oversight of the landscaping requirements.

Since the Last Review (October 2, 2004):

**Use Permit Conditions:** The applicant is generally in compliance with the conditions of the use permit, however, there are a few missing plantings in the site’s landscaping. The applicant is currently in the process of removing older plantings and installing new summer plantings.

**Community Code Enforcement:** Community Code Enforcement has not reported any issues or violations with this business.

**Fire Marshal’s Office:** The Fire Marshal’s Office did not report any issues or violations with this business.

**Civic Associations:** The gas station is located within the boundary of the Lyon Park Civic Association. The Lyon Park Civic Association, Clarendon-Courthouse Civic Association, and Clarendon Alliance were contacted by a standard mailing notice and by e-mail. The President of the Lyon Park Civic Association reported that his Association has no issues with the gas station.
PREVIOUS COUNTY BOARD ACTIONS:

July 29, 1978  Approved a use permit (U-2167-78-1) for the operation of a self-service gasoline station at 2835 North Washington Boulevard.

July 7, 1979  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, with a review in two (2) years.

April 28, 1981  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, with a review in one (1) year.

April 3, 1982  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, with a review in three (3) years.

April 13, 1985  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, with a review in one (1) year.

April 15, 1986  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, with a review in one (1) year.

April 4, 1987  Continued a use permit (U-2167-78-1) for the operation of a gasoline station with a review in six (6) months.

October 17, 1987  Continued a use permit (U-2167-78-1) for the operation of a gasoline station with a review in three (3) months.

December 12, 1987  Approved a use permit (U-2167-78-1) amendment for price display on a freestanding identification sign.

February 6, 1988  Continued a use permit (U-2167-78-1) for the operation of a gasoline station with a review in six (6) months.

August 13, 1988  Continued a use permit (U-2157-78-1) for the operation of a gasoline station with a review in six (6) months.

February 11, 1989  Continued a use permit (U-2167-78-1) for the operation of a gasoline station subject to six additional conditions, all previous conditions and a review at the May 13, 1989 County Board meeting.
May 13, 1989  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions and with a review in six (6) months.

January 9, 1990  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions and with a review in three (3) months.

May 22, 1990  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, new conditions (#7) and (#8), and with a review in six (6) months.

November 17, 1990  Continued a use permit (U-2167-78-1) for the operation of a gasoline station subject to all previous conditions, and with a review in six (6) months.

May 14, 1991  Deferred a use permit (U-2167-78-1) for the operation of a gasoline station subject to all previous conditions, and with review at the July 13, 1991 County Board meeting.

July 30, 1991  Continued a use permit (U-2167-78-1) for the operation of a gasoline station subject to all previous conditions, with a review in one (1) year. In addition, approved an amendment to a use permit (U-2167-78-1) for the relocation of the approved free-standing sign, the installation of a second free-standing sign, and denied the installation of a three-sided sign, subject to all previous conditions and with a review in one (1) year.

July 11, 1992  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to the deletion of condition #3 originally approved on February 11, 1989, all previous conditions, and with a review in one (1) year.

July 27, 1993  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, and with a review in one (1) year.

July 9, 1994  Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, and with a review in two (2) years.
<table>
<thead>
<tr>
<th>Date</th>
<th>Action Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 15, 1996</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, and with a review in one (1) year.</td>
</tr>
<tr>
<td>July 19, 1997</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, and with a review in six (6) months.</td>
</tr>
<tr>
<td>January 17, 1998</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, and with a review in two (2) years.</td>
</tr>
<tr>
<td>January 29, 2000</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, and with a review at the March 11, 2000 County Board meeting.</td>
</tr>
<tr>
<td>March 11, 2000</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, and with a review in six (6) months.</td>
</tr>
<tr>
<td>October 7, 2000</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, with a staff administrative review in six (6) months and a County Board review in one (1) year.</td>
</tr>
<tr>
<td>October 13, 2001</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, with a County Board review in one (1) year.</td>
</tr>
<tr>
<td>October 19, 2002</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, with a County Board review in two (2) months.</td>
</tr>
<tr>
<td>December 7, 2002</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, with a County Board review in six (6) months.</td>
</tr>
<tr>
<td>June 14, 2003</td>
<td>Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, with an administrative review in three (3) months (September 2003) and a County Board review in six (6) months (December 2003).</td>
</tr>
<tr>
<td>October 18, 2003</td>
<td>Approved a use permit (U-2167-78-1) amendment to change the color of the canopy, subject to all previous conditions.</td>
</tr>
</tbody>
</table>
conditions and amended conditions #4 and #11, with an administrative review in six (6) months (April 2004) and a review by the County Board in one (1) year (October 2004).

October 2, 2004

Continued a use permit (U-2167-78-1) for the operation of a gasoline station, subject to all previous conditions, with administrative review in six (6) months (April 2005) and a County Board review in nine (9) months (July 2005).
Approved Conditions:

1. Final engineering plans shall be approved by the Department of Public Works prior to issuance of the building permit.

2. Access to the site shall be provided by two curb cuts not to exceed 30 feet in width – a curb cut each on Washington Boulevard and 10th Street, North.

3. Brick shall be used to construct the kiosk, sign base, and screening walls to the rear and south side of the site and surrounding the trash receptacle area to a height of six (6) feet (except where set back regulations permit the wall to be no taller than four feet).

4. The canopy over the pump station shall have recessed lighting and no message content or signs shall be installed on any portion of the canopy. No more than three (3) colors shall be permitted to be painted on the canopy. There shall be no exterior and internal lighting of the canopy. Changes to the canopy shall comply with the County’s Sign Guidelines and are subject to administrative approval.

5. The applicant agrees to install and maintain the landscaping as shown on the landscape plan dated November 18, 2002, with the removal and replacement of two (2) densiformis yews from either side of the serpentine hedge around the monument signs with annuals and the placement of one (1) yew on the 10th Street North frontage west of the landscape boulder. The applicant agrees to follow the County standards for “Landscape Maintenance Management Program,” “Planting Notes,” “Planting Specifications,” and “Planting Details for Shrubs.” The applicant further agrees that the annuals shall have color all four seasons, resulting in replacement three to four times per year.

6. The proposed identification sign shall be limited in area to a maximum of 49 square feet and shall be mounted on a brick base with a maximum height of three feet. The total height of the sign shall not exceed 10 feet. The price portion of the sign shall not exceed 59 percent of the total sign area and there shall be no other messages on the sign. Signs may be illuminated only during business hours. The final sign design shall be approved by the County Manager or his designee prior to the issuance of any permits.

7. The existing temporary price signage shall be removed prior to the issuance of a building permit or sign permit for the new sign.

8. The applicant shall maintain a product recovery unit that recovers and purifies contaminated groundwater. The unit shall be effectively screened. Copies of test results required by the State Water Control Board shall be filed with the Zoning Administrator.
9. The applicant shall provide the State Water Control Board with monthly monitoring reports of its product recovery system and provide copies of these reports to the Zoning Administrator.

10. Warning signs and other appropriate measures, including the possible installation of convex mirrors, shall be posted at the 10th Street North exit as a safety precaution to pedestrians and drivers.

11. The applicant shall identify a responsive on-site liaison who shall be available during the hours of the station’s operation to receive and respond to community concerns. The name and telephone number of the liaison shall be sent to the Clarendon Alliance, Clarendon-Courthouse and Lyon Park Civic Association presidents and the Zoning Administrator.

12. The applicant shall develop and adhere to a fuel delivery plan and schedule which minimizes the disturbance of area residents. In developing the plan and schedule, the applicant shall consider including the following four provisions:

   a. Tanker delivery hours shall conform to the County anti-noise ordinance, i.e., not after 9:00 p.m. nor before 7:00 a.m.
   b. “Stage I Vapor Recovery System” must be used for each tanker delivery.
   c. Air horn usage in the neighborhood shall be confined to emergencies only.
   d. Tankers shall avoid using North Egdewood Street.

13. The applicant shall comply with all State and local environmental regulations. If any incidents should occur which require any type of remedial action by Texaco pursuant to State and local environmental laws, Texaco shall inform the County of the same as well as keep the County informed of all the procedures necessary to rectify the situation. Future continuance of the use permit is contingent upon Texaco’s good faith efforts to achieve full compliance with State Water Control Board regulations.

14. The height of the brick wall along the rear property line shall be lowered to four (4) feet at the 10th Street North exit once the product recovery unit is removed.

15. The hours of station operation shall be limited to between 6:00 a.m. and 12:00 midnight, effective June 30, 1990.