



FAIRFAX COUNTY

APPLICATION FILED: June 5, 2002
PLANNING COMMISSION: February 20, 2003
BOARD OF ZONING APPEALS: March 4, 2003
BOARD OF SUPERVISORS: Not Scheduled

V I R G I N I A

February 6, 2003

STAFF REPORT

**APPLICATIONS PCA 79-L-147 & SEA 84-V-009-2
(Associated with SP 2002-MV-032)**

MOUNT VERNON DISTRICT

APPLICANT: Khan International, LLC

ZONING: C-5

PARCEL: 107-4 ((1)) 11A

ACREAGE: 34,578 sq. ft.

FLOOR AREA RATIO (FAR): 0.12

OPEN SPACE: 7640 sq. ft. (22 percent)

PLAN MAP: Retail

SE CATEGORY: Category 5

PROPOSAL: To Expand the Facilities at an Existing Service Station/Quick Service Food Store by Adding a new 1,352 sq. ft. Building with Four (4) Service Bays. The Existing Building is 2700 sq. ft. in size; the Proposed Building was Partially Built without Permits and within Ten (10) feet of the Eastern Property Line (the Required Rear Yard is 20 feet).

STAFF RECOMMENDATIONS:

Staff recommends that PCA 79-L-147 be approved subject to the execution of the draft proffers contained in Appendix 1.

Staff further recommends that SEA 89-V-004 be approved subject to the development conditions in Appendix 2.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).



FAIRFAX COUNTY

APPLICATION FILED: June 25, 2002
BOARD OF ZONING APPEALS: March 4, 2003
TIME: 9:00 a. m.

V I R G I N I A

FEBRUARY 6, 2003

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2002-MV-032

MOUNT VERNON DISTRICT

APPLICANT & PROPERTY OWNER: Kahn International, Inc.

SUBDIVISION: N/A

STREET ADDRESS: 9308 Gunston Cove Road

TAX MAP REFERENCE: 107-4 ((1)) 11A

LOT SIZE: 34,578 square feet.

ZONING DISTRICT: C-8

ZONING ORDINANCE PROVISION: 4-807, 8-914

SPECIAL PERMIT PROPOSAL: To allow a reduction to minimum yard requirements based on an error in building location to permit a building to remain 10 feet from the rear lot line.

The Board of Zoning Appeals' decision does not become final until the day following the next official meeting day of the BZA, but not less than eight (8) days, whichever is the latter, unless the BZA waives this requirement. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**A GLOSSARY OF TERMS FREQUENTLY
USED IN STAFF REPORTS WILL BE
FOUND AT THE BACK OF THIS REPORT**

DESCRIPTION OF THE APPLICATIONS

Proffered Condition Amendment & Special Exception Amendment:

The applicant, Khan International, LLC, the owner of the property, is seeking approval of a proffered condition amendment application (PCA 79-L-147) and a special exception amendment application (SEA 84-L-009-2) to permit modifications to the existing service station/quick-service food store previously approved at this location. The application proposes to add a second building, 1,352 sq. ft., to the site (the shell of the building was built without the proper approvals and too close to the rear lot line). The existing building, 2,700 sq. ft., contains a quick-service food store and the office/cashier functions associated with the existing service station on the site. The current service station operation is limited to gas pumps and a quick service food store; the purpose of the second building is to add four service bays to the service station use. The resulting overall gross floor area (GFA) on the site would be 4,052 sq. ft. resulting in a floor area ratio (FAR) of 0.12, with 7,640 square feet of open space or approximately 22 percent of the application property. These applications do not include a request to allow a fast food restaurant in addition to the previously approved service station and quick-service food store; the applications only propose to allow the building with service bays to be completed.

Special Permit:

The special permit is to allow a reduction to the minimum yard requirement based on an error in building location to permit a building to remain 10 feet from the rear lot line. The shell for the new building was built without the proper permits within ten feet of the eastern property line; the rear yard setback in the C-5 District is 20 feet.

	Structure	Yard	Min. Yard Req.	Permitted Extension	Minimum Allowed	Structure Location	Amount of Error	Percent of Error
Special Permit	Service Bay Building	Rear	20.0 feet	N/A	20.0 feet	10.0 feet	10.0 feet	50 %

Additional Information:

A reduced copy of the proposed combined Generalized Development Plan/Special Exception Plat/Special Permit Plat (Combined Plan) is included in the front of this report. The applicant's draft proffers are included as Appendix 1. Proposed Development Conditions for SEA 84-L-009-2 are contained in Appendix 2 and the Proposed Development Conditions for SP 2002-MV-032 are in Appendix 3. The applicant's affidavit is Appendix 4 and the applicant's statements regarding the application are included as Appendix 5.

The special exception amendment application is subject to the applicable special exception standards contained in Article 9, Special Exceptions, of the Zoning Ordinance and the special permit application is subject to the applicable standard contained in Article 8, Special Permits. The relevant standards are contained in the Excerpts from the Zoning Ordinance found in Appendix 13.

LOCATION AND CHARACTER

The application property is located on the east side of Gunston Cove Road approximately 300 feet south of Lorton Road. The existing building is located in the center of the property with the pump islands located to the south of the building. There are four pump islands located under a 284 square foot canopy. Parking for the existing quick service food store is located along the southern and eastern perimeters of the property. The partially completed, four bay automobile service building is located to the north of the existing building in the area shown on the previously approved SE Plat as a septic field (sanitary sewer service has since been connected to the property). The service bay building is set back ten feet from the eastern property boundary and twenty-five feet from the northern property boundary. The area in front of the service bay building is shown on the proposed plan to be paved; however, that paving was not installed as part of the previous construction activity on the site.

The application property is bounded on three sides by a recently constructed VDOT commuter parking lot. The fourth side, to the west and across Gunston Cove Road is occupied by a Shell Oil service station and a residence. All of the property to the west is zoned C-5 and shown on the Comprehensive Plan map as 'Retail and Other.

BACKGROUND

RZ 79-L-147:

On November 2, 1981, the Board of Supervisors approved RZ 79-L-147, rezoning 0.8983 acres from the R-1 District to the C-5 District subject to proffers. This included all of the application property and some land subsequently dedicated for road purposes. The proffered plan showed a proposed service station and a retail building. A copy of the Clerk to Board's letter, the proffers and the proffered Generalized Development Plan (GDP) are included in Appendix 6.

SE 80-L-122:

SE 80-L-122 was approved concurrently with RZ 79-L-147 to allow a service station and a quick-service food store. However, this approval expired prior to the establishment of the uses approved by the special exception. The records regarding SE 80-L-122 are on file at the Department of Planning and Zoning.

SE 84-V-009:

On April 2, 1984, the Board of Supervisors approved SE 84-V-009 to allow a quick-service food store and service station in this location. The approval also included a waiver of the minimum lot size pursuant to the provisions of Sect. 9-610. A copy of the Clerk to the Board's letter regarding the approval, which includes the adopted development conditions, and a reduction of the Special Exception Plat (SE Plat) referenced by the conditions is in Appendix 7. Subsequently, and after a review of the building plans revealed that those plans included kitchen and dining facilities, the property owner was notified that approval for a fast food restaurant was not included in the special exception for this site and a stop work order was issued on September 23, 1986 to cease construction of the fast food restaurant. The stop work order was rescinded on January 9, 1987, upon receipt of a letter from the applicant's attorney that the applicant would submit a special exception amendment application to authorize the fast food restaurant and refrain from using the facilities associated with that use. A Non-Residential Use Permit (A 0148087) was issued on January 30, 1988 for the service station and quick-service food store, subject to the then property owner complying with the conditions established by the correspondence related to the stop work order regarding the fast food restaurant. The records regarding the stop work order and its rescission are on file with the Department of Planning and Zoning.

SEA 84-V-009:

This application filed on November 19, 1986, proposed to amend SE 84-V-009 to include a fast food restaurant in the list of allowed uses. The application was withdrawn on January 24, 1988. The records regarding this application are on file with the Department of Planning and Zoning.

Construction of New Building:

As part of the filing of the pending applications, the statement of justification states that the applications were being filed to correct a situation that occurred when the new building was built on the property without obtaining proper permits, site plan approval or zoning approval. The current property owner states that the contractor was required by the contract between the property owner and the contractor to obtain all necessary permits, but failed to do so. A review of the history of the property indicated that while an application for a building permit had been filed by the contractor, that application was never pursued and construction of the building commenced. The construction was stopped when the contractor hired to do the work abandoned the job. See the applicant's statements in Appendix 5.

Notice of Violation:

During a site visit as part of the review of the pending application, it was noted that the uses on the site included a fast food restaurant, among other things, that were in violation of the approved Special Exception. The current owner purchased the property with the fast food operation ongoing; the previous owner had not complied with the

conditions of obtaining a Non-Residential Use Permit in 1988, contrary to the representations in the previous correspondence from the owner's attorney. A Notice of Violation was issued on November 25, 2002. The violations included operating a fast food restaurant without approval of a special exception and the erection of the new building in violation of the approved special exception and without the approval of a site plan or a building permit. A copy of the Notice of Violation is included as Appendix 8.

On December 14, 2002, the current property owner submitted a letter stating that the facilities associated with the operation of a fast food restaurant would be removed from the existing building. The letter also noted that the pending applications had been filed to correct the violation related to the construction of the new building without the appropriate approvals. A copy of the letter from the applicant is included as Appendix 9. A subsequent inspection by the Zoning Inspector on December 31, 2002 confirmed that the equipment and booths related to the fast food restaurant have been removed from the premises. See the letter dated January 24, 2003 in Appendix 10. It should be noted that the applicant is not requesting approval of a fast food restaurant in conjunction with this amendment request.

COMPREHENSIVE PLAN PROVISIONS (Appendix 11)

Plan Area:	IV
Planning District:	Lower Potomac Planning District
Planning Sector:	Lorton-South Route 1 Community Planning Sector (LP2)
Land Unit:	Land Unit F-1

On Page 81 of 116 in the Area IV volume of the 2000 Comprehensive Plan, under the heading "Recommendations, Land Use", the Plan states:

"Land Unit F

Land Unit F includes established and developing industrial uses adjacent to the RF&P Railroad tracks and continues south of Mims Street to Hassett Street, incorporating properties fronting on both sides of Route 1. Existing uses include storage yards, warehouse/wholesale activities, a concrete batching plant and a metals recycling facility.

Future industrial development should complement the goals and objectives of the Lorton Plan, especially those with respect to upgrading the image of Lorton. Uses envisioned for this area include industrial/flex space uses, retail and other related business and employment uses. Industrial development should be of a type appropriate to specific sites in the areas; i.e., rail-using industries adjacent to rail siding tracks, vehicular-oriented industrial parks proximate to Route 1. Industrial uses adjacent to residential and other non-industrial uses should be enclosed, effectively buffered and set back to minimize use conflicts. Maximum FARs should not exceed .35. Intensities and uses should generally transition down from the railroad tracks to

Route 1. Further expansion of industrial uses beyond the planned designation should not be allowed.

The area on the west side of Route 1 south of Mims Street is planned as a mixed industrial/office park developed as a single architectural whole to avoid the appearance of strip development. The total area should be consolidated and access to Route 1 should be limited by use of a service drive to a signalized intersection at Giles Run Road.

Strip development, free-standing retail uses, and/or automobile-oriented uses should not be allowed.”

...

“**Sub-unit F1**

Sub-unit F1 is located south of the Lorton Road/I-95 interchange, which is planned to be improved. Current uses include a gasoline station, convenience store and warehouses. Any new development should be for retail and industrial uses as shown on the Plan map. Retail uses should be neighborhood-serving and up to .15 FAR. Industrial uses should be up to .35 FAR.”

The Comprehensive Plan Map shows this property to be planned for retail and other.

ANALYSIS

Combined Generalized Development Plan/Special Exception Plat/Special Permit Plat (Combined Plan) (Reduction at front of staff report)

**Title of GDP/SE Plat/SP Plat
(Combined Plan):**

Citgo Service Station

Prepared By:

Metropolitan Consulting Engineers

Original and Revision Dates:

December 10, 2002

The Combined Plan consists of a single sheet. The following features are depicted on the Combined Plan:

- Uses. The applications propose to continue the existing allowed uses on the site, the service station and the quick-service food store. The applications have been filed to expand the service station to include service bays in the partially constructed building.
- Site Layout. The existing building is located in the center of the site with the pump islands and the associated canopy located to the south of the building. The canopy extends over the building by a few feet. The proposed/partially built building for the service bays is located to the north of the existing building, ten feet from the eastern property boundary and 26 feet from the northern property line. A paved area for access to the

service bays and 9 parking spaces is to be located in front of the service building. There is an existing shed in the northeast corner of the existing parking lot, which will be removed as part of this approval.

- *Vehicular access, pedestrian access, and parking.* This element of the site development is not proposed to be changed. Access to the property is from Gunston Cove Road located along the western boundary. There are two existing curb cuts onto the road. One is located approximately 15 feet north of the southern property line near the northern end of the canopy. The second is located approximately 45 feet north of the other entrance and is opposite the existing building. A sidewalk has been constructed along the Gunston Cove Road frontage of the property. In addition to the parking near the proposed service building, there are parking spaces, both parallel and angled parking shown along the eastern boundary. A total of 26 parking spaces are shown.
- *Building Description:* The existing building is constructed of brick that has been painted white. The existing building is eighteen feet high and has a flat roof. The roof of this building overhangs the building by three feet on all sides. The building overhang and the canopy are decorated with a red stripe, centered on the fascia that covers about half of the fascia of the roof. There is a narrow blue strip below the red strip. The canopy height is not given on the Combined Plan; however, pictures submitted with the application shown it to be approximately five feet taller than the building.

With regard to the partially built building, the exterior has been completed but the doors have not been installed and interior improvements have not been completed. The building has a peaked roof and is thirty (30) feet in height. It is brick faced on all four sides; this brick has not been painted.

- *Open space and landscaping.* The open space is the same as that shown on the GDP/SE Plat associated with the original approval, with the exception of the removal of the septic field area to accommodate the new building and its associated parking and travelways in the northern portion of the site.

The open space is all located along the periphery of the site. There are several existing trees, both deciduous and ornamental, located along Gunston Cove Road, an 18 inch oak on the northern property line and a row of four evergreen trees along the southern boundary. The Combined Plan shows the following additional landscaping to be planted: two additional large deciduous trees along the eastern boundary, one behind the new service building and one across from the existing canopy.

- *Utilities:* As shown on the Combined Plan, the site has been connected to public water and public sewer. Therefore, the drain fields shown on the previous plans are no longer required.

- Stormwater Management/Best Management Practices. There is an existing underground stormwater detention facility on the property. The Combined Plan states that the net increase in new impervious surfaces is 4600 square feet. Note 31 states that the applicant intends to use an innovative BMP facility to manage the additional runoff. The note further states that either a stormceptor or Filterra system is proposed.

Transportation Analysis (Appendix 12)

The proposed addition to the previously approved uses does not adversely impact the surrounding road network. The previous approvals included requirements to dedicate right-of-way and to improve Gunston Cove Road. These improvements were completed as part of the initial development of this facility.

Environmental Analysis (Appendix 11)

Issue: Stormwater Management/Best Management Practices

At the time of site plan review, the development will be required to address the water quality requirements based on new development and construction on the site. Section 118-3-3, Par. 3 of the Chesapeake Bay Preservation Ordinance states, "For redevelopment of any property not currently served by one (1) or more BMPs, the total phosphorus runoff pollution load from the property shall be reduced by at least ten percent (10%) from the phosphorus runoff pollution load prior to redevelopment." As stated in Note 12 on the Combined Plan, the applicant is proposing to include an innovative SWM/BMP structure as part of the site's development. The information provided by an e-mail from a representative of the manufacturer of the Filterra system notes that it provides 74 percent phosphorus removal (see Appendix 5 for a description of the Filterra system). However, while this system has received approval in other circumstances, its use will require approval of a waiver by DPWES. While the development plan should provide for an alternate BMP location on site in the event a waiver is not granted; in this instance, since the alternative BMP is likely to be an underground chamber it can be added to the site without much impact to the Combined Plan. However, to ensure that the applicant is aware that an alternative facility may not be in substantial conformance with the proffered plan, a draft proffer would require that proffered condition amendment application and a special exception amendment application be filed if the waiver is not approved and an acceptable alternative that is in substantial conformance with the approval cannot be found.

Resolution:

Staff believes this issue has been resolved with the proposed proffer commitment.

Issue: Lighting

Service stations frequently use high-output lamps that are not adequately shielded to prevent glare. In order to avoid over-lighting of the facility, recessed lamps should be provided in a service station canopy. All parking lot lighting should have full cut-off fixtures and up-lighting for design elements such as signs, landscaping or architectural illumination is discouraged. Security lighting, such as “wall packs”, shall also be shielded and directed downward. Guidance for good lighting practices may be found in the handbook entitled “Lighting for Exterior Environments” by the Illuminating Engineers Society of North America (IESNA) also referred to as RP-33.

This is an already developed site with existing lighting on poles consisting of box lighting directed downward in the recommended manner. The existing canopy lighting is not shielded or recessed as recommended. A proposed development condition requires that new pole lighting be similar in type to the existing lighting and that when the canopy lighting is replaced that it be recessed and be limited in light output.

Resolution:

This issue is considered to be resolved.

Land Use Analysis (Appendix 11)

Although the Plan discourages free-standing auto-oriented uses in Land Unit F, the Plan also acknowledges the existing uses on the site and recommends neighborhood serving retail development, as shown on the Plan map, up to 0.15 FAR. Staff views the addition of service bays to be an appropriate use for the site. Other site improvements should also be provided in the form of additional landscaping, adequate circulation and appropriate service station lighting. Additional landscaping is shown on the Combined Plan with more required by the proposed development conditions, adequate circulation is provided and, as discussed in the Environmental Analysis section, the issues regarding lighting are adequately addressed.

ZONING ORDINANCE PROVISIONS (Appendix 13)

Bulk Standards (C-5)		
Standard	Required	Provided
Lot Size	40,000 sq. ft.	34,578 sq. ft. ¹
Lot Width	200 feet	271 feet
Building Height	40 feet	30 feet
Front Yard	45° ABP ² ≥ 40 feet	40 feet
Side Yard	No requirement	n/a
Rear Yard	20 feet	10 feet ³

Bulk Standards (C-5)		
Standard	Required	Provided
Floor Area Ratio (FAR)	0.30	0.12
Open Space	20 percent (6916 sq. ft.)	22 percent (7640 sq. ft.)
Parking Spaces	26 spaces	26 spaces
Loading Spaces	1 space	Not shown

¹ With the approval of SE 84-V-009, the Board of Supervisors granted a waiver of the minimum lot size requirement. This requirement does not require re-approval as part of this application.

² ABP = Angle of Bulk Plane

³ SP 2002-MV-032 has been filed to allow the new but partially built building to remain ten feet from the rear lot line.

Transitional Screening and Barriers

The surrounding uses are all commercial and as such transitional screening and barriers are not required.

Special Exception Standards

Additional Standards for Automobile-Oriented Uses, Car Washes, Drive-In Banks, Drive-Through Pharmacies, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Station/Mini-Marts (Sect. 9-505)

Category 5 Standards (Sect. 9-503)

General Special Exception Standards (Sect. 9-006)

Sect. 9-505, Par. 1 includes five standards that are applicable in all instances and Par. 3 includes standards that are applicable in the C-5 District, among other districts. With regard to Par. 1:

- Sub-paragraph 1A requires that the use have the same architectural features or be compatible with the building group or neighborhood with which it is associated. The surrounding uses consist of another service station, industrial buildings located along Gunston Cove Road, the nearby interchange for I-95 and Lorton Road, the railroad bridge over Lorton Road and the commuter parking lot that is located on three of four sides of this building. Staff has concluded that the neighborhood is sufficiently diverse that the existing building and proposed but partially built building will be compatible with its surroundings.
- Sub-paragraph 1B requires that the use be designed so that pedestrian and vehicular circulation is coordinated with that on adjacent properties. As described in the Description of the SE Plat section, the proposed development meets this standard.

- Sub-paragraph 1C requires that the site be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation and that the parking spaces be provided and located in such a manner to facilitate safe and convenient access. As described in the Description of the SE Plat and illustrated on that document, the application meets this standard.
- Sub-paragraph 1D requires that the lot area and width be sufficient to accommodate the uses and that the use shall not adversely impact nearby residential areas. As noted above, the Board has previously approved a waiver of minimum lot size. Further, there is not any residential development nearby that would adversely affected by the proposed improvements to this existing service station/quick-service food store.
- Sub-paragraph 1E addresses drive-through pharmacies and is not applicable in this instance.

With regard to Par. 3 of Sect. 9-505:

- Sub-paragraph 3A states that there should be no outdoor storage or display of goods offered for sale except for the outdoor storage of goods permitted at a service station. The site currently does not utilize outside storage and display, as evidenced by the photographs submitted with the application and recent site visits by staff. A proposed development conditions would prohibit outdoor storage and display at the site.
- Sub-paragraph 3B states that service stations shall not be used for the performance of major repairs and shall not include the storage of more than four abandoned, wrecked or inoperable vehicles for more than 72 hours. This standard will be applicable during the future operation of the service station.

With regard to Sect. 9-503, Standards for All Category 5 Uses:

- Par. 1 addresses conformance with the bulk standards in the underlying zoning district. As noted in the Bulk Standards chart above, with the exception of the required lot size, which was previously waived and the required rear yard along the eastern boundary, the application meets the bulk requirements. The setback of the proposed/partially constructed building along the eastern boundary is the subject of the pending special permit application for an error in building location, which is addressed below.
- Par. 2 requires that the use comply with the applicable performance standards contained in Article 14 of the Zoning Ordinance. As noted in the environmental analysis, the lighting should be fully shielded. A proposed development condition requires that all new lighting installed be fully shielded and will require that when new canopy lighting is installed it will meet the requirements of the Zoning Ordinance in effect at that time. However, this

application will be required to comply with the applicable performance standards during operation of the proposed use on the site.

- Par. 3 states that the provisions of Article 17, Site Plans, are applicable. Given that this application package has been filed to legitimize a circumstance where a building was constructed without permits, the proposed development conditions include specific time frames in which the applications, plans and permits required to legitimize this circumstance must be filed. Further, to ensure that the existing building is reconstructed or repaired as necessary to meet the building code, the proposed development conditions require that it be inspected and the building permit application include the repairs needed to comply with code.

With regard to the provisions of Sect. 9-006, General Standards, which are applicable to all special exception uses:

- This property is part of Land Unit F-1 of the Lorton-South Route One Community Planning Sector. The adopted Comprehensive Plan identifies this area to be developed with retail uses; as noted in the Land Use Analysis, while the Plan discourages free-standing retail uses, it also recognizes that existing uses may be continued. Staff has concluded that the proposed expansion of the existing service station use is consistent with the recommendations, thereby satisfying the requirement of Par. 1 to be in harmony with the adopted Comprehensive Plan.
- As discussed above, the proposed expansion of the existing combined service station/quick-service food store is in harmony with the purpose and intent of the applicable zoning district regulations as required by Par. 2.
- Staff has concluded that the proposed redevelopment of this property will not affect the relationship of the facility with the adjacent properties, thereby satisfying Par. 3.
- The vehicular and pedestrian traffic associated with this facility will not be hazardous nor conflict with neighborhood traffic, as required by the provisions of Par. 4 and discussed elsewhere in this report.
- Transitional screening and barriers are not required; therefore, Par. 5 has been satisfied.
- As noted in the Bulk Standards chart, the amount of open space is in excess of the amount required in the C-5 District, satisfying the requirements of Par. 6.
- Par. 7 addresses utilities and parking at the site. The parking on-site meets the minimum parking requirement for the combined uses. The utilities that serve the existing development will be available for the new facility.

- Par. 8 addresses signage. The provisions of Article 12, Signs, are applicable to the site. In addition, the proposed development condition regarding signage in Appendix 1 would prohibit the use of temporary signs without a permit.

Special Permit Standards

Provisions for Approval of a Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
Group 9 Standards (Sect. 8-903)
General Special Permit Standards (Sect. 8-006)

In Staff's opinion, the above referenced Special Permit Standards have been satisfied.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

This application has been filed to allow the addition of an additional building for service bays at the site. While the building was built without the proper permits, the applicant filed the application to rectify the situation prior to being served with a Notice of Violation, when the property owner became aware that the contractor did not obtain the required permits. The proposed development conditions for the special exception amendment include strict time frames in which to legitimize the building that was built without proper permits. Once informed of the violation regarding the fast food operation, that violation was immediately cleared up. Staff has concluded that the requested expansion is in conformance with the recommendations of the Comprehensive Plan for Sub-unit F-1 of the Lorton – South Route One Community Planning Sector. Staff has also concluded that the application meets the zoning ordinance standards applicable to an automobile oriented use, for a request for approval of an error in building location, and the bulk requirements of the C-8 District.

If it is the intent of the Board of Zoning Appeals to approve SP 2002-MV-032, the Board should condition its approval by requiring conformance with the conditions set forth in Appendix 3 of this report, Proposed Special Permit Development Conditions.

Recommendation

Staff recommends approval of PCA 79-L-149 subject to the execution of the draft proffers contained in Appendix 1.

Staff further recommends that SEA 84-V-009-2 be approved subject to the proposed Special Exception development conditions contained in Appendix 2.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Draft Proffer Statement for PCA 79-L-147
2. Proposed Development Conditions for SEA 84-V-009-2
3. Proposed Development Conditions for SP 2002-MV-032
4. Affidavits
5. Applicant's Statements
6. Proffers and Reduction of the Proffered Generalized Development Plan for RZ 79-L-147
7. Approved Development Conditions and Reduction of the Special Exception Plat for SE 84-V-009
8. Notice of Violation dated November 25, 2002
9. Letter dated December 14, 2002, from the Abdul G. Khan regarding the Notice of Violation
10. Letter dated January 24, 2003 from Michael L. Simms, Senior Zoning Inspector regarding the Cessation of the Fast Food Restaurant Use
11. Plan Citations, Land Use Analysis and Environmental Analysis
12. Transportation Analysis
13. Selected Excerpts from the Zoning Ordinance
14. Glossary of Terms

**Proffer Condition Amendment PCA 79-L-147
Khan International, LLC
9308 Gunston Cove Road
Tax Map No. 107-4 ((1)) 11A**

**PROFFERS
February 1, 2003**

Pursuant to Section 15.2-2303A of the Code of Virginia, 1950, as amended, and Section 18-203 of the Zoning Ordinance of the County of Fairfax (1978, as amended) ("Ordinance"), subject to the Board of Supervisors' approval of the requested Proffer Condition Amendment, PCA 79-L-147 ("PCA"), for the applicant and owner, Khan International, LLC, for themselves, their successors and assigns ("Applicant") hereby proffer the following conditions ("Proffers"). If this application is approved, the proffer conditions described below supersede all previously proffered conditions applicable to the Property.

1. Development of the subject property shall be in substantial conformance with the plat prepared by Metropolitan Consulting Engineers, dated December 10, 2002, entitled Citgo Service Station Special Exception Plat, SEA No. SE 84-V-009, Special Permit for Error in Building Location and Generalized Development Plan # PCA 79-L-147.
2. Pursuant to Paragraph 4 of Section 8-204 of the Zoning Ordinance, minor modifications from the Generalized Development Plan (GDP) may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the GDP without requiring the approval of a proffered condition amendment application provided such changes are in substantial conformance with the GDP as determined by the Zoning Administrator and do not decrease the setback from the peripheries; or reduce open space or landscaping.
3. If a waiver is not granted for the proposed innovative storm water management best mgt practices facility, any alternative facility must be in substantial conformance with Generalized Development Plan #PCA 79-L-147. If the alternative facility is not of substantial conformance, then a PCA/SEA will be required.

Applicant/Title Owner
Khan International, LLC

By: _____

Name: _____

Title: _____

PROPOSED DEVELOPMENT CONDITIONS

SEA 84-V-009-2

February 6, 2002

If it is the intent of the Board of Supervisors to approve SEA 84-V-009-2 located at Tax Map 107-4 ((1)) 11A (9308 Gunston Cove Road) previously approved for a combined service station and quick-service food store to allow the construction of an additional building with four service bays pursuant to Sect. 4-504 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions (these conditions supersede all previous conditions):

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Amendment Plat approved with the application, as qualified by these development conditions.
3. This Special Exception Amendment is subject to the provisions of Article 17, Site Plans, as may be determined by the Department of Public Works and Environmental Services (DPW & ES). Any plan submitted pursuant to this Special Exception Amendment shall be in substantial conformance with the approved Special Exception Amendment Plat **entitled Citgo Service Station prepared by Metropolitan Consulting Engineers, which is dated December 10, 2002 and these conditions.** Minor modifications to the approved Special Exception Amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. The plan submitted pursuant to Article 17, Site Plans, shall include a landscape plan for the review and approval of the Urban Forestry Division, that includes the landscaping provided for in Conditions Number 13 and 14.
5. The existing Canopy lighting shall be replaced w/in 18 months of approval of this special exception amendment and shall be replaced with flush mounted and full – cutoff lights so that all glare is minimized and directed downward with no glare emitting above the horizontal plane of the canopy. The fascia of the canopy shall not be lighted except for an internally luminated sign. The canopy lamps shall be limited to 400 watts each and, at the time of installation shall meet the standards of the Zoning Ordinance in effect at the time of installation.
6. There shall be no outside storage of goods offered for sale.
7. The trash dumpster shall be fully screened with a brick wall or board on board fence and a gate.

8. The maximum number of employees on the site at any one time shall be limited to eight (8).
9. Vehicle inspections and repairs shall be preformed within the interior of the service bays only. No inspections or repairs shall be performed outside of the service bays.
10. No abandoned, wrecked or inoperable vehicles shall be stored outdoors on the property.
11. Outdoor lighting fixtures shall be no higher than 15 feet and shall be similar in style to the existing lights. All fixtures shall be fully shielded and directed downward to prevent glare.
12. The site will be patrolled daily to pick up any trash on the site.
13. Three large deciduous trees shall be planted along the eastern boundary. These trees are in addition to those shown on the SE Plat. One of these trees shall be planted at the southeastern corner of the building with service bays, the second in the vicinity of the fifth or sixth parking space south of the building with service bays and the third in the vicinity of the parallel parking spaces along that boundary. Another large deciduous tree shall be planted in the open space area north of the building with service bays; however, if it is determined by the Urban Forestry Division that this tree would be too close to the storm drainage line, this tree may be relocated elsewhere on the property.
14. The SE Plat shows twelve additional trees to be planted along the western boundary; these trees shall be changed to flowering shrubs, as approved by the Urban Forester, which shall be maintained at a height of three to four feet to maintain visibility of the site from the adjacent properties and Gunston Cove Road.
15. All signs on the property shall conform with the applicable requirements of Article 12, Signs. Temporary signs and other advertising methods, such as but not limited to, portable metal signs, signs or banners on light poles, flags or banners located on poles or strung between structures on site, shall not be permitted outside of the building.
16. If a waiver is not granted for the proposed innovative stormwater management/best management practice facility, any alternative facility must be in substantial conformance with the special exception plat and these conditions. If the alternative facility is not in substantial conformance, then approval of Special Exception Amendment shall be required.
17. The site plan or minor site plan required by Article 17 of the Zoning Ordinance shall be submitted within three (3) months of the approval of this Special Exception Amendment. This period may be extended with the approval of the Director, Zoning Evaluation for three (3) months for good cause shown by the applicant and shall be diligently pursued. The request for extension of the

- period in which to submit a site plan or minor site plan shall be submitted prior to the expiration of the first three month period.
18. No additional work shall be done on the service bay building until such time as the required site plan approval is obtained and a building permit is obtained. Prior to submitting an application for a building permit for the service bay building, that building shall be inspected by a professional engineer or architect to determine whether the construction conforms to the Virginia Uniform Statewide Building Code (USBC) and report of this inspection prepared and submitted with the plans submitted as part of the building permit application. Any portion of the structure that does not meet the USBC shall be retrofitted to meet current Codes and regulations. Any modifications needed to meet the USBC shall be included on the plans submitted with the application for a building permit.
 19. To ensure that the partially completed service bay building does not become derelict, completion of the improvements required to obtain a Non-Residential Use Permit for the building shall be completed in a timely manner. To this end, a Non-Residential Use Permit for this building shall be obtained within eighteen (18) months of the date of approval of this Special Exception. If a Non-Residential Use Permit is not obtained within that time, the building shall be demolished and removed from the site, the curb and gutter previously installed for the nine parking spaces shall be demolished and removed from the property and this area shall be stabilized with ground cover and six large deciduous trees shall be planted in the area. A one-year extension may be allowed upon the approval of the Director, Zoning Evaluation Division, provided that the applicant can demonstrate that the delays were due to unforeseeable circumstances not present at the time of approval of this application. The request for an extension of this deadline shall be submitted to the Director, Zoning Evaluation Division, at least thirty (30) days prior to the deadline becoming effective.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception Amendment shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exception Amendment shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

PROPOSED DEVELOPMENT CONDITIONS

February 6, 2003

SP 2002-MV-032

1. This Special Permit is approved to allow the existing building with service bays to remain ten (10) feet from the eastern boundary of Tax Map Parcel 107-4 ((1)) 11A as shown on the combined Generalized Development Plan/Special Exception Amendment Plat/ Special Permit Plat prepared by Metropolitan Consulting Engineers, dated December 10, 2002 submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.