County of Fairfax, Virginia
Planning Commission Meeting
February 5, 2025
Planning Commission Action

SEA 2007-MA-019– PMG NORTHERN VIRGINIA, LLC
(Mason District)

PLANNING COMMISSION RECOMMENDATIONS:
On February 5, 2025, the Planning Commission voted 11-0 to recommend to the Board of Supervisors the following actions:

- Approval of SEA 2007-MA-019, subject to the development conditions, dated January 23, 2025; and

- Approval of the waiver of the requirement for a vehicle fueling station with a convenience store to be part of an industrial building or complex in Sections 4102.5. CC. and 4102.5. NN of the Zoning Ordinance in favor of the redevelopment shown on the SEA Plat.

ATTACHED DOCUMENTS:
Proposed Development Conditions dated January 23, 2025

MJ

APPENDIX 1

PROPOSED SPECIAL EXCEPTION DEVELOPMENT CONDITIONS

SEA-2007-MA-019

January 23, 2025

If it is the intent of the Board of Supervisors to approve Special Exception SEA-2007-MA-019, located at 5533 Backlick Road, Tax Map 80-2 ((7)) Z1 and 80-2 ((7)) Z2, to permit a vehicle fueling station and convenience store, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.

3. A copy of this Special Exception MUST BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property.

4. This Special Exception Amendment is subject to the provisions of Article 8, Site Plans, as may be determined by the Director of Land Development Services (LDS). Any plan submitted pursuant to this Special Exception Amendment must be in substantial conformance with the approved Special Exception Amendment Plat, entitled "Special Exception for the Petroleum Marketing Group 5533 Backlick Road" and prepared by Colliers Engineering and Design, which is dated January 16, 2025 and these conditions. Minor modification to the approved Special Exception Amendment may be permitted pursuant to subsection 8100.5 of the Zoning Ordinance.

5. Stormwater management measures must be provided in substantial conformance with the SEA Plat subject to approval of LDS.

6. <u>Electric Vehicle Charging:</u> Prior to the issuance of a non-RUP for the convenience store, the applicant must demonstrate that the SEA site accommodates a minimum of two (2) parking spaces as electric-vehicle-ready, to be served by a Level 2 electric vehicle (EV) charging station. “Electric-vehicle-ready” means the provision of space, conduit banks, conduits, and access points allowing for the easy installation of vehicle charging stations in the future, and

does not include the installation of transformers, switches, wiring, or charging stations."

7. Native Landscaping**:** Landscaping must be generally consistent with the quality, quantity and the locations shown on the SEA Plat and must be non-invasive, predominantly native species and include a plant selection that includes species that will reduce the need for supplemental watering and the use of chemical fertilizers, herbicides and pesticides. All landscaping provided must be native to the mid-Atlantic region to the extent available and feasible and must be non-invasive (meaning the Applicant must not use any plant species identified in the 2014, or latest version, of the Virginia Invasive Plant Species List published by the Virginia Department of Conservation and Recreation). The Applicant, in consultation with and approval by FCON, may modify the exact species to be used, such as when plant materials are not available or have been deemed by FCON to no longer be appropriate.

8. Tree Inventory and Condition Analysis: The Applicant must submit a Tree Inventory and Condition Analysis as part of the first and all subsequent plan submissions. The Tree Inventory and Condition Analysis must be prepared by a Certified Arborist or Registered Consulting Arborist and must include elements of PFM 12-0307 deemed appropriate to the project site as determined by FCON.

9. Tree Preservation Plan: The Applicant must submit a Tree Preservation Plan and Narrative as part of the first and all subsequent plan submissions. The Tree Preservation Plan and Narrative must be prepared by a Certified Arborist or Registered Consulting Arborist and must include elements of PFM 12-0309 deemed appropriate to the project site as determined by FCON.

10. Project Arborist/Pre-construction Meeting: Prior to the pre-construction meeting the Applicant must have the approved limits of clearing and grading flagged with a continuous line of flagging. The Applicant must retain the services of a Certified Arborist or Registered Consulting Arborist (Project Arborist) to attend the pre-construction meeting to review the limits of clearing and grading with an FCON representative to determine where adjustments to the clearing limits can be made to increase the area of the tree preservation and/or to increase the survivability of trees at the limits of clearing and grading. Such adjustments must be recorded by the Project Arborist and tree protection fencing must be implemented under the Project Arborist's supervision based on these adjustments.

11. Tree Protection Fencing: The Applicant must provide appropriate tree protection devices, based on site conditions and proposed construction activities as reviewed and approved by FCON. Tree protection fence must consist of four-foot

high welded wire attached to six-foot steel posts driven 18 inches into the ground and space no further than 10 feet apart; or super silt fence.

12. Tree Preservation Measures: Tree preservation measures must be clearly identified, labeled, and detailed on the Erosion and Sediment Control Plan sheets and Tree Preservation Plan. Tree preservation measures may include, but are not limited to the following: root pruning, crown pruning, mulching, watering, etc. Specifications must be provided on the plan detailing how preservation measures must be implemented. Tree preservation activities must be completed during implementation of Phase 1 of the Erosion and Sediment Control Plan.

13. Site Monitoring: The Applicant's Project Arborist must be present on-site during implementation of the Phase 1 Erosion and Sediment Control Plan and monitor any construction activities conducted within or adjacent to areas of trees to be preserved. Construction activities include, but may not be limited to clearing, root pruning, tree protection fence installation, vegetation/tree removal, and demolition activities. During implementation of Phase 2 Erosion and Sediment Control Plan, the Project Arborist must visit the site on a regular basis to continue monitoring tree preservation measures and ensure that all activities are conducted as identified in the Tree Preservation Plan and approved by FCON. Written reports must be submitted to FCON and SDID site inspector detailing site visits. A monitoring schedule and Project Arborist reports must be described and detailed in the Tree Preservation Plan.

14. Invasive Plant Species Management: Forested areas containing plant species that are known to be invasive in quantities that threaten the long-term health and survival of the existing vegetation present must be the subject of an invasive plant species management plan in order for the area to be awarded full 10-year canopy credit. At the time of site plan submission, the applicant must provide a management plan for review and approval by FCON specifying the common and scientific name of invasive species proposed for management, the target area for management efforts, methods of control and disposal of invasive plants, timing of treatments and monitoring, duration of the management program, and potential reforestation as needed.

15. Landscape Planting Pre-Installation Meeting: Prior to installation of any plants to meet the requirements of the approved landscape planting plan, the contractor/developer must coordinate a pre-installation meeting on the site with the landscape contractor, FCON staff, and any additional appropriate parties. Any proposed changes to planting locations, tree/shrub planting sizes, and species substitutions shown on the approved plan must be reviewed and must be approved by FCON staff prior to planting. The installation of plants not approved

by FCON may require the submission of a revision to the landscape plan or removal and replacement with approved trees/shrubs prior to bond release.

16. Soil Remediation: Soil in planting areas that contain construction debris and rubble, are compacted or are unsuitable for the establishment and long-term survival of landscape plants, must be the subject of remedial action to restore planting areas to satisfy cultural requirements of trees, shrubs and groundcovers specified in the landscape planting plan. The applicant must provide notes and details specifying how the soil will be restored for the establishment and long-term survival of landscape plants for review and approval by FCON.

17. Demolition: The demolition of all existing structures and site features within or adjacent to tree preservation areas must be accomplished in the least disruptive manner practical as reviewed and approved by FCON. All tree protection fencing must be in place and verified by a County representative prior to commencement of demolition activities.

18. Pursuant to subsection 4102 of the Zoning Ordinance, this Special Exception will automatically expire, without notice, thirty six (36) months after the date of approval unless the vehicle fueling station and convenience store use has been established, as evidenced by issuance of a Non-Residential Use Permit, 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.

19. The proposed trail along Backlick Road must connect and match up to the existing offsite 10 foot wide trail to the north of the subject property. The portion of the offsite trail segment that is less than 10 feet in width must be upgraded to 10 feet in width unless documentation is provided indicating an inability to get permission for the improvement. If permission is not granted to upgrade the offsite trail segment, the alternative shown on the SEA Plat may be implemented.

20. The maximum gross floor area devoted to retail sales of food, beverages, and other frequently needed items for household consumption must not exceed 4,000 square feet.

21. The preparation of food is limited to that allowed in a Limited Food-Service Establishment in accordance with Chapter 43.2 of the County Code or the use of microwave ovens by customers for purchased food items.

22. The final architectural design must be in substantial conformance with the general type, quality and proportion of materials depicted in building perspectives shown on the SEA Plat.

23. No wrecked, inoperative, or abandoned vehicles may be stored on the site.

24. The accessory outdoor storage and display area for goods offered for sale must not exceed 50 square feet and must not impede pedestrian access shown on the SEA Plat.

25. SUSTAINABLE BUILDING DESIGN.

The Applicant commits to certification of the proposed building as shown on the SEA Plat through one of the following programs:

LEED

a. LEED-NC or LEED-CS. The Applicant will include, as part of the site plan submission and building plan submission, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design-New Construction ("LEED®-NC"), Core and Shell ("LEED®-CS") rating system, or other LEED rating system determined to be applicable to the building(s) by the U.S. Green Building Council ("USGBC"), that the Applicant anticipates attaining. A LEED-accredited professional ("LEED-AP") who is also a professional engineer or licensed architect will provide certification statements at both time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED certification of the project.

b. In addition, prior to site plan approval, the Applicant will designate the DPZEDRB@fairfaxcounty.gov as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

c. Project Checklist. Prior to the building plan approval, the Applicant will submit documentation, to the Environmental Branch of DPD and to LDS, regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated

construction-related credits, will be sufficient to attain LEED certification. Prior to release of the bond for the project, the Applicant will provide documentation to the Environmental Branch of DPD and to LDS demonstrating the status of attainment of LEED Certified or higher of certification from the USGBC for the building.

d. Green Building Escrow. As an alternative to the actions outlined in the above paragraphs, or if the USGBC review of design-oriented credits indicates that the project is not anticipated to attain a sufficient number of design-related credits to support attainment of LEED certification, the Applicant will post, a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to LDS as defined in the PFM in the amount of $39,382 which is five percent (5%) of the estimated value of the proposed improvement as determined by the Department of Tax Administration. This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED certification, or higher level of certification, by the USGBC, under the most current version of the LEED-NC or LEED-CS rating system or other LEED rating system determined, by the USGBC. The provision to the Environmental Branch of DPD and to LDS of documentation from the USGBC that the building has attained LEED certification will be sufficient to satisfy this commitment. At the time LEED certification is demonstrated to the Environmental Branch of DPD, the escrow funds and/or letter(s) of credit will be released to the Applicant.

e. Release of Green Building Escrow. The Green Building Escrow will be released in accordance with the following:

    i. If prior to bond extension, reduction, or final bond release for the building site, whichever occurs first, the Applicant provides to the Environmental Branch of DPD documentation demonstrating that LEED certification for the building has not been attained but that the building has been determined by the USGBC to fall within three points or less of attainment of LEED certification, 50 percent of the green building escrow will be released to the Applicant; the other 50 percent will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of County environmental initiatives. If certification is still in progress at the time of application for the bond extension or reduction, the time frame for the provision of the documentation described above will be automatically extended to the time of the next bond extension or extensions. However, the

documentation must be provided prior to the final bond release for the building site.

ii. If prior to the bond extension, reduction, or final bond release for the building site, whichever occurs first, the Applicant fails to provide documentation to the Environmental Branch of DPD demonstrating attainment of LEED certification or demonstrating that the building has fallen short of LEED certification by more than three (3) points, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of County environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, the time frame for the provision of the documentation described above will be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the building site.

iii. If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environmental Branch of DPD, that USGBC completion of the review of the LEED certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds will be made to the Applicant or to the County during the extension.

f. Waiver of Green Building Escrow. If the Applicant, prior to building plan approval and prior to the posting of the Green Building Escrow pursuant to Proffer 6.A.c, submits documentation to EDRB from the USGBC's design final review, demonstrating that the proposed building is anticipated to attain a sufficient number of design-related credits that, along with anticipated construction-related credits, will be sufficient to attain LEED Silver, the requirement for posting the Green Building Escrow will be waived.

A. EarthCraft Light Commercial. If the Applicant selects EarthCraft, then the Applicant will, prior to issuance of the building permit for the proposed building as shown on the SE Plat, provide documentation from the assigned EarthCraft Light Commercial ("ECLC") project manager demonstrating that the proposed use has had both the ECLC Design and Planning Review and the ECLC Pre-Construction Meeting, and is meeting all requirements to

obtain ECLC certification. Prior to issuance of the Non-RUP for the proposed building, the Applicant will provide documentation from the assigned ECLC Project Manager demonstrating that the project has met all requirements pertaining to the ECLC Final Site Visit and has applied for the ECLC certification.

B. Equivalent Program. The Applicant reserves the right to utilize an equivalent alternative program in consultation with and approved by the Environmental Branch of DPD prior to site plan approval.

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, must not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant is responsible for obtaining the required Non-Residential Use Permits through established procedures, and this Special Exception is not valid until this has been accomplished.