

ABTB Mid-Atlantic, LLC

STATEMENT OF JUSTIFICATION

REVISED
July 23, 2024

Please accept the following as a Statement of Justification in support of the submitted General Development Plan Amendment, Special Use Permit, and Special Exception applications to allow the development of 10120 Fairfax Boulevard with an approximately 2,090 square foot restaurant with a drive-through window/facility. This Statement of Justification is submitted in conjunction with the General Development Plan Amendment/Special Use Permit Plat, prepared by Dynamic Engineering Consultants, P.C. dated January 18, 2024, (the “GDPA/SUP Plat”) as amended though July 19, 2024, and other submitted supporting materials. The contents of this Statement of Justification address the approval considerations for the submitted applications, as set forth in Sections 6.4.9 and 6.7.7 of the City of Fairfax Zoning Ordinance (the “Zoning Ordinance”).

ABTB Mid-Atlantic, LLC (the “Applicant”) is the contract lessee of an approximately 0.66 acre property located in the City of Fairfax. The property consists of one (1) tax parcel identified among the City of Fairfax’s tax assessment records as 47-4-23-000-D (the “Subject Property”). The Subject Property is currently a vacant pad site that is part of the Boulevard Marketplace Shopping Center (the “Shopping Center”). Zoned to the CR (Commercial Retail) District, the Subject Property is included in a Generalized Development Plan (“GDP”) that was approved by City Council in 2008, subject to proffers dated June 2, 2008, to allow a total of 17,300 square feet of commercial space, including a 4,300 square foot bank building with drive-through on the Subject Property. In 2011, the Shopping Center was subdivided into two separate parcels, including the Subject Property and the adjacent parcel identified as 47-4-23-000-A (“Parcel A”). In 2017, City Council approved a GDP amendment, which converted the previously approved drive-through bank on the Subject Property to an approximately 5,100 square foot retail building. To date, the approved retail building has not been constructed, and the Subject Property remains vacant.

PROPOSED DEVELOPMENT

The Applicant proposes to redevelop the Subject Property with a drive-through Taco Bell restaurant. No modifications or improvements are proposed to Parcel A, which will remain in its existing condition. The proposed development will provide a high-quality, active commercial use that will revitalize an underutilized parcel. As shown on the submitted GDPA/SUP Plat, the Applicant proposes a commercial use that will be consistent with the recommendations of the Comprehensive Plan and will be compatible with the commercial character of the surrounding area. As illustrated on Sheet 3 of the GDPA/SUP Plat, the proposed restaurant with drive-through will consist of an approximately 2,090 square-foot, one story building. The proposed drive-through lane will wrap around the new building and parking area and will accommodate 13 stacking spaces, which exceeds the minimum number required by the Zoning Ordinance. A total of 20 parking spaces are provided on the Subject Property, including 11 spaces along the existing

drive aisle. Bicycle parking and a small outdoor dining patio area will also be provided proximate to the restaurant's main entrance.

The Subject Property is particularly well-suited for the proposed use given its location along the City's main commercial corridor. In addition, the proposed use is consistent with the existing pattern of development along the Fairfax Boulevard corridor, which includes a number of existing drive-through restaurant uses. Primary access to the Subject Property will be through the existing internal circulation of the Shopping Center. The Shopping Center is served by two existing vehicular access points along Fairfax Boulevard – including one signalized full-movement access and one right-in/right-out access. An additional right-in/right-out vehicular access is provided to the adjacent Patient First parcel, which provides for inter-parcel vehicular access to the Subject Property. No changes are proposed to the existing access or on-site circulation conditions associated with the Shopping Center. To accommodate adequate pedestrian circulation, the Applicant will incorporate a 6-foot wide sidewalk between the proposed building and parking areas. In addition, the Applicant proposes to maintain the existing 6-foot wide trail along the western property line that connects to the George Snyder Trail to the north of the site. To provide enhanced connectivity from Fairfax Boulevard to the George Snyder Trail as well as the main entrance of the proposed building, the Applicant proposes to construct a new 6-foot wide pathway from Fairfax Boulevard that will ultimately link to the existing 6-foot wide trail along the western lot line. All new sidewalks on-site will integrate ADA curb ramps with detectable warning strips. Next, a 3.5-wide landscape strip is proposed between the drive-through lane and the 6-foot wide trail as shown on the GDPA/SUP Plat to provide an additional buffer between pedestrians and vehicles in the drive-through lane. Finally, while the northern portion of the Subject Property includes Resource Protection Area (“RPA”) and floodplain, none of the Applicant's proposed site improvements will encroach into these environmentally sensitive areas. All site work is limited to previously disturbed areas of the site. No changes are proposed to the proffers associated with the prior approvals.

The proposed building is characterized by attractive architecture, the provision of quality landscaping, and a reduction of impervious surface. The proposed building will be architecturally compatible with the adjacent buildings in the Shopping Center through the use of compatible masonry and cornice details that are consistent with the materials of the two existing buildings on Parcel A. Building materials may include, but are not limited to brick, Hardie cement board panels, E.I.F.S, and other quality materials. The proposed restaurant building will be one story at a maximum height of twenty-five (25) feet. Quality landscaping is proposed, including robust vegetation around portions of the drive-through lane as shown on the GDPA/SUP Plat. This will result in a significant improvement over the existing landscape conditions on the Subject Property today. The existing street trees, landscaping, streetlights and streetscape along Fairfax boulevard will be retained, ensuring that the established streetscape along this segment of Fairfax Boulevard will remain uniform and consistent. However, in consideration of established street trees that may be located within existing utility easements along the streetscape, the Applicant proposes to plant additional street trees to the extent feasible to further enhance the site's tree canopy. Furthermore, the Applicant proposes to establish a “no mow zone” within the RPA buffer itself to allow for regrowth of natural vegetation, keep the existing trees in this area of the Subject Property healthy, and ensure this area will remain protected and undisturbed in the future. Lastly, the Applicant proposes to install evergreen trees directly adjacent the menu board within the drive-through lane

as shown on the GDPA/SUP Plat. Doing so will provide additional visual screening as well as assist to absorb any noise pollution that may result from the menu board sound levels, thereby mitigating any possible adverse noise-related impacts to surrounding neighbors as a result of this proposed development. In the end, the proposed development will result in increased green open space and an overall decrease of impervious surface.

GDP AMENDMENT APPLICATION

To permit the development of a restaurant use on the Subject Property, the Applicant requests an amendment to the previously approved rezoning and general development plan, which currently depicts an approximately 5,100 square foot retail building on this vacant pad site. No changes are proposed to the previous proffered commitments, all of which have been fulfilled. This proposed amendment fulfills each of the approved considerations set forth in Section 6.4.9 of the Zoning Ordinance:

The proposed use is in substantial conformance with the Comprehensive Plan. The Future Land Use Map for the City of Fairfax indicates that the Subject Property is planned for a Commercial Corridor Place Type, which supports commercial uses, including restaurants with drive-through facilities. In addition, the surrounding land use designations are similarly Commercial Corridor. In redeveloping the existing, underutilized parcel into a more active, high-quality community-serving use, the proposed redevelopment is consistent with the stated objectives of the Comprehensive Plan and will provide a benefit to the City by promoting the economic viability of the Fairfax Boulevard corridor. In addition, the proposed amendment to convert the approved retail building to a restaurant with a drive-through remains highly suitable and consistent with the current CR District. Currently, the Subject Property is sufficiently served by public transportation facilities, and the existing utility infrastructure is adequate for the proposed uses. Further, the proposed development is compatible with the surrounding area, as the Subject Property is entirely surrounded by other commercial uses, including an adjacent shopping center with various restaurants, a salon, and convenience stores as well as a medical office. Finally, the proposed development is in keeping with the stated purpose of the CR District. Accordingly, the proposed development will further enhance the growth of commercial activities planned for the Fairfax Boulevard corridor by adding a community-serving use that is convenient for the City's residents.

SPECIAL USE PERMIT

In conjunction with the proposed amendment to the rezoning and general development plan, the Applicant requests approval of a special use permit application pursuant to Section 3.5.5.D.10 of the Zoning Ordinance to allow a drive-through window/facility in connection with the proposed restaurant use. As shown on the GDPA/SUP Plat, the drive-through window will be located on the side of the proposed building that is adjacent the Shopping Center and does not face any residential districts. The Applicant proposes 13 stacking spaces, which exceeds the 10 spaces required, where the location and the direction of the flow of these spaces will be clearly demarcated with pavement markings. In addition, the stacking lane does not abut a parking aisle nor is it located between proposed parking spaces or the public entrance to the restaurant.

In addition, the proposed drive-through window/facility fulfills the approval considerations for a special use permit set forth in Section 6.7.7 of the Zoning Ordinance. The integration of a drive-through window with the proposed restaurant use is consistent with the Comprehensive Plan as a community-serving, commercial use that is supported by the Commercial Corridor land use designation. The use is compliant with all applicable Zoning requirements, related to setbacks, buffers, lighting, signage, parking, and other related requirements. In addition, the inclusion of the drive-through window/facility will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use nor will it have a negative, adverse effect on public welfare, property, and improvements in the neighborhood. As discussed previously, to mitigate any residual noise that may result from the menu board of the drive-through, the Applicant proposes to install a number of evergreens adjacent the menu board to absorb any excessive sound pollution. As stated above, the surrounding area is entirely commercial in nature and includes other existing restaurants. Thus, the addition of a new restaurant with a drive-through window/facility on the Subject Property will have a positive, beneficial impact on the surrounding neighborhood that is in keeping with the area, as it offers a new and convenient dining option for the City's residents, workers, and visitors.

SPECIAL EXCEPTIONS

To support the proposed development, the following Special Exceptions are requested pursuant to Section 6.17.1 of the Zoning Ordinance:

1) A modification of Section 3.6.2 to permit a trail within the 10-foot side yard setback:

Currently, there exists a 6-foot trail along the western property line that is within the 10-foot side yard setback. This existing trail is subject to a private Deed of Easement that was executed on March 11, 2015 between the various owners of the Shopping Center at the time and recorded in Deed Book 24056 Page 1040. According to this Deed of Easement, a 12-foot trail easement was granted for the purposes of constructing, operating, and maintaining a public trail(s) through and across the various parcels within the Shopping Center, as shown on an attached Plat. The existing trail was subsequently constructed in accordance with the Deed of Easement and the associated Plat, wherein the 12-foot trail was split evenly and constructed right on top of the shared Property line between Parcel A and D. Specifically, 6 feet of the 12-foot trail is on Parcel A and the other 6 feet is located on Parcel D. It should also be noted that, pursuant to the Deed of Easement, all facilities installed in the trail easement, including the trail itself, shall be and remain the property of the City, where the City and its agents shall have full and free use of the easement. Thus, as this is an existing condition constructed in accordance with a private agreement by the parties to establish a trail that remains property of the City, this modification request is reasonable and warranted.

2) A waiver of Section 4.5.7.D.1 to provide an interior landscaped island for every ten parking spaces:

Currently, there exists 12 parking spaces within an existing parking aisle along the portion of the Subject Property that fronts Fairfax Boulevard. This existing condition was constructed in 2012 in accordance with the original GDP approved in 2008. The Applicant

does not propose to modify this existing approved condition. However, the Applicant does propose to improve and enhance this area of the Subject Property by integrating a new pedestrian connection from Fairfax Boulevard to the existing George Snyder Trail to the north, as discussed in more detail above. Doing so will require the widening of an existing parking lot island to the west and the loss of one parking space. Because this is an existing approved GDP condition of the Subject Property that the Applicant does not propose to modify apart from the incorporation of a new, desired pedestrian connection as shown on the GDPA/SUP Plat, this waiver request is reasonable and appropriate.

In accordance with Section 6.17.7.A of the Zoning Ordinance, the Applicant's proposal complies with the criteria for approval of special exceptions as follows:

1. Ensure the same general level of land use compatibility as the otherwise applicable standards

The proposed development is and will continue to be compatible with the surrounding commercial development. The proposed special exceptions relate to existing conditions onsite that were constructed in accordance with existing approvals or agreements. The Applicant does not seek to modify these existing conditions in such a way that would alter the same general level of land use compatibility as the otherwise applicable standards.

2. Not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate transitioning, screening, setbacks and other land use considerations

The proposed development will be harmonious with surrounding commercial land uses and is compliant with all applicable Zoning requirements, related to setbacks, buffers, lighting, signage, parking, and other related requirements. Thus, the proposal will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development.

3. Be generally consistent with the purposes and intent of this chapter and the comprehensive plan

The proposed development is consistent with the purpose and intent of the Zoning Ordinance and is in substantial conformance with the Comprehensive Plan. By redeveloping the existing, vacant parcel into a more active, high-quality community-serving use, the proposed redevelopment is consistent with the stated objectives of the Comprehensive Plan and will provide a benefit to the City by promoting the economic viability of the Fairfax Boulevard corridor.

4. Be based on the physical constraints and land use specifics, rather than on economic hardship of the applicant

The requested special exceptions uphold existing approvals or agreements that govern the Subject Property and are necessary to maintain existing conditions onsite that benefit the larger Shopping Center. They are not based on any economic hardship of the Applicant.

CONCLUSION

The Applicant's proposal presents an opportunity to develop and activate a vacant pad site with a vibrant, high-quality community-serving use that advances the Comprehensive Plan's objectives of enhancing commercial activities along the Fairfax Boulevard commercial corridor. The proposed development will generate increased economic activity and contribute to the City's continued fiscal growth. The Applicant is eager to bring the first Taco Bell to the City and is committed to ensuring that the proposed development fits into the fabric of Fairfax.