

PROPOSED DEVELOPMENT CONDITIONS

SEA 80-P-135-03

March 15, 2002

If it is the intent of the Board of Supervisors to amend SE 80-P-135 located at 2955, 3001, 3005 and 3009 Gallows Road (Tax Maps 49-4 ((1)) 17, 20, 21 and 22) previously approved for use of a Fast Food Restaurant with a Drive Through to permit a Fast Food Restaurant with a Drive Through, a Mini-Warehouse Facility, an increase in land area and an increase in FAR, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions. These conditions supercede those previously approved in conjunction with SE 80-P-135.

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. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Proposed Public Storage and McDonald's", prepared by BL Companies and dated April 17, 2001, as revised through November 20, 2001, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. A copy of this Special Exception SHALL BE POSTED in a conspicuous place on the property along with the Non-Residential Use Permits of the uses and shall be made available to all Departments of the County of Fairfax during hours of operation of the permitted uses.
5. Landscaping, in substantial conformance with the location, quality, quantity and design as depicted on Sheet LL-1 of the Special Exception Plat shall be installed on each lot, as shown on the Special Exception Plat, as determined by the Urban Forester, prior to issuance of each Non-RUP. Sufficient funds to complete landscaping on the entire site and within the right-of-way shall be bonded prior to the issuance of the associated lots Non-RUP, subject to DPWES approval. In the event that Gallows Road is scheduled to be widened within two (2) years of the date of site plan approval, landscaping improvements within the right-of-way, and within those areas that may be

necessary for temporary construction easements, may be bonded at the time of site plan approval subject to DPWES approval, and installed within one planting season after construction of the road is completed, as determined by VDOT, and as qualified above.

At planting, the minimum size caliper of deciduous trees shall be 2.5 inches; evergreen/coniferous trees shall be 6-7 feet in height and additional vegetation shall be provided within the planting strips, including ornamental shrubs, ground cover, flowering plants and grasses, as determined by the Urban Forestry Division. The landscaping shall be maintained including the landscaping located in the public right-of-way adjacent to Gallows Road. Any dead, dying or diseased vegetation shall be promptly replaced.

6. The eight (8) foot wide sidewalk along the each lot's frontage of Gallows Road shall be constructed prior to issuance of associated lots Non-RUP, subject to DPWES approval. Sufficient funds to complete the sidewalk along the frontage shall be bonded prior to the issuance of the first Non-RUP, subject to DPWES approval. Brick pavers shall be provided between the sidewalk along Gallows Road and the northern entrance to Building B. In the event that Gallows Road is scheduled to be widened within two (2) years of the date of site plan approval, sidewalks within the right-of-way, and within those areas that may be necessary for temporary construction easements, may be bonded at the time of site plan approval subject to DPWES approval, and constructed within one year after construction of the road is completed, as determined by VDOT, and as qualified above.
7. Site amenities shall be installed in the "pocket park" in substantial conformance with the location and quantity depicted on the Special Exception Plat prior to issuance of the Non-RUP for Lot 2, as determined by DPWES. Trash receptacles shall be located in the proximity of the pocket park. Damaged amenities shall be promptly repaired or replaced by the applicants. Evergreen shrubs shall be planted along the western and southern portions of the pocket park to form a hedge to prevent trash from blowing onto adjacent properties, as determined by the Urban Forester.
8. The architecture of all four sides of the buildings shall be in substantial conformance with the elevations provided of Sheets A2.01 and A2.02 of the Special Exception Plat in terms of style, color and materials. Glass used for façade purposes on the mini-warehouse facility shall be reflective and tinted solar-gray, or be substantially similar color in terms of tint and appearance to solar-gray, as determined by DPWES. The insulated glass for the fast food restaurant and aluminum and insulated glass for the tower entrance of the mini-warehouse facility shall be substantially similar in terms of tint and appearance, as determined by DPWES. Glass used for façade purposes and insulated glass shall be substantially similar in terms of tint, as determined by DPWES.

9. The highest grade EIFS and licensed EIFS contractors shall be utilized to install the facades, as determined by DPWES. The facades shall be routinely maintained to preserve the appearance. An inspection of the facade shall be conducted every three (3) years, and a written inspection report shall be provided to the Zoning Administrator of Fairfax County. Any remedial measures recommended by the inspection report shall be implemented within ninety (90) days.
10. Public access easement shall be placed over all on-site travel lanes and recorded in the land records prior to site plan approval. The public access easement shall provide public access on the site for Tax Map 49-4 ((1)) 15B and Tax Map 49-4 ((1)) 30 and between Lots 1 and 2, in a form approved by the Office of the County Attorney.
11. A shared parking agreement shall be recorded in the land records between Lots 1 and 2 prior to site plan approval. Lot 2 shall be granted a perpetual easement for the parking spaces located directly to the east of the structure on Lot 1, in a form approved by the Office of the County Attorney. In accordance with Article 11, the minimum number of parking spaces located on Lot 1 for the benefit of Lot 2 shall be determined prior to site plan approval to provide for the required number of parking spaces based on the total number of proposed seats (indoor and outdoor) for the fast food restaurant, as determined by DPWES.
12. Parking spaces shall meet the provisions of Article 11 of the Zoning Ordinance and the geometric design standards in the Public Facilities Manual, as determined by DPWES.
13. Frontage improvements shall be constructed in front of each lot prior to issuance of the associated lot's Non-RUP in conformance with the design and alignment of Gallows Road, subject to VDOT and DPWES approval. Sufficient funds to complete the frontage improvements shall be bonded prior to the issuance of the first Non-RUP, subject to DPWES approval. Should the design of the Gallows Road improvement not be determined prior to the development of the site, if determined appropriate by DPWES, an amount equivalent to the construction costs of the frontage improvements may be escrowed, with the amount determined by DPWES. In accordance with Development Condition 29 the dedication area for Gallows Road shall be determined by VDOT and DOT.
14. Except for on-site directional signs and a menu board for the drive-through facility, no pole-mounted signs shall be permitted on the site. One freestanding monument sign shall be permitted for each of the two buildings; each sign shall be limited to eight (8) feet in height and fifty (50) square feet in sign area. Building mounted signs shall be limited to those permitted by Article 12. No flags or banners shall be displayed on the building, except that an American Flag mounted on a flag pole may be permitted. All signs installed on the application property shall be unified in theme, design, and color exclusive of

corporate and/or business logos. If lighted, signs shall be internally lit or lighted from the top downward.

15. All outdoor pole lighting fixtures shall be a maximum height of sixteen (16) feet, full cut-off; focused downward, shielded to minimize glare with a flat lens and shall meet the Performance Standards set forth in Article 14 of the Zoning Ordinance. Lighting shall be provided in accordance with Sheet LL-1 of the Special Exception Plat. Lights shall be provided for the internal circulation of the site and along the sidewalk adjacent to Gallows Road, subject to DPWES approval. Exposed neon tubing and the use of ground mounted spotlights to illuminate signs or buildings shall be prohibited on-site; however, ground mounted spotlights may be permitted to illuminate an American Flag. There shall be no lighting permitted on the buildings, including ribbed lights on the roof of buildings, except to light building mounted signs. All building mounted security lights shall be shielded to minimize light trespass onto adjacent properties.
16. All trash dumpster(s) located on the property shall be enclosed by a solid, opaque barrier with a gate, as determined by DPWES.
17. There shall be no outdoor storage or display of goods permitted on-site.
18. Best Management Practices and Stormwater Detention shall be provided on-site to meet on-site requirements and help alleviate existing downstream drainage issues identified during site plan review, subject to DPWES approval. The site shall comply with the Chesapeake Bay Preservation Ordinance, as determined by DPWES.
19. The maximum number of interior seats for the fast food restaurant shall be limited to one hundred (100) seats. The maximum number of exterior table seats or "pocket park" seats shall be limited to the number which can be accommodated by the number of parking spaces provided for the fast food restaurant in accordance with Article 11 of the Zoning Ordinance. There shall be no parking spaces required for bench seats if they are not part of a table.
20. A speaker box may be allowed to facilitate transactions for the drive through facility. The volume of the speaker box shall be maintained at a level that is not audible from adjacent properties.
21. The fast food restaurant shall patrol the subject property and the surrounding area within one hundred (100) feet daily, for the collection of fast food trash.
22. The outdoor area devoted to the rental trucks shall be limited to the eastern portion of the site. There shall be no maintenance or refueling of rental vehicles on-site. In accordance with Development Condition 29 a maximum of two rental spaces may be located on the lot.

23. There shall be no gates or fences used on-site to prevent free flow vehicular circulation between Lots 1 and 2 and Gallows Road.
24. The final location of the proposed pedestrian connection to the east shall be determined at the time of site plan approval, as determined by DPWES.
25. Speed humps shall be provided across the southern stacking and travel lane near the entrance to the fast food restaurant, as approved by DPWES. Stop bars and stop signs shall be provided near the exit of the drive through and signage provided to regulate the drive through traffic.
26. Prior to issuance of the first Non-RUP, \$15,800 shall be contributed to the Park Authority for the acquisition of parkland or equipment in the Merrifield area. This contribution shall be subject to inflationary adjustments from the date of special exception approval to the date the money is contributed based increases to the Construction Cost Index from the Engineering News Record.
27. Prior to issuance of the first Non-RUP, \$10,000 shall be contributed to Fairfax County to be used for trip reduction in the Merrifield area. The contribution may also be used for the construction of a bus shelter in the immediate vicinity or for a shuttle service in the Merrifield area should one be established. This contribution shall be subject to inflationary adjustments from the date of special exception approval to the date the money is contributed based increases to the Construction Cost Index from the Engineering News Record.
28. Prior to the issuance of a Non-RUP for Lot 1, the Applicant shall use its best efforts to obtain an off-site public access easement for an area of no greater than thirty (30) feet wide by twelve (12) feet wide over the adjacent outlet road (and which may be twenty-four (24) feet wide by twelve (12) feet wide subject to Department of Transportation approval), hereinafter referred to as the "Easement". The Easement is intended to provide a vehicular connection between properties identified as Tax Map 49-4 ((1)) 30 and Lot 1 of the subject property across the outlet road, and, if obtained, shall be constructed by the Applicant to a standard determined by DPWES. The Easement shall be subject to the review and approval by the County Attorney. If the Easement cannot be secured, the Applicant shall demonstrate to the satisfaction of DPWES that the attempt to obtain the granting of the Easement was diligently pursued. Evidence of diligent pursuit shall consist of the attempt by the Applicant of acquiring the Easement by quit-claim deed of easement from the owner(s) of the outlet road, or by an easement from the owner of the Easement rights to the outlet road. In the event that those measures prove unacceptable to Fairfax County, and/or if the Applicant is unable to obtain an acceptable quit-claim deed of easement, the Applicant shall provide evidence to DPWES that Applicant has been diligent in attempting to locate the owner(s) of the outlet road, and that, if the owner(s) have been located, that an offer has been provided to said owner(s) to grant the Easement for an amount equal to the appraised fair-market value of the Easement referred to above. In the event

that diligent efforts are not successful, the following shall be provided to Fairfax County and is hereby deemed to satisfy this condition:

- A. A request shall be made in writing to the Director of Property Management requesting that Fairfax County acquire the right-of-way or Easement through its powers of eminent domain; however, the Applicant shall not be obligated to pay for the costs incurred by Fairfax County to acquire the necessary right of way or Easement. The request shall include the information listed below:
1. Plans and profiles showing the Easement;
 2. An independent appraisal, by an appraiser who is not employed by the County, of the value of the land taken;
 3. A sixty (60) year title search certificate of the right-of-way and/or temporary or permanent easements to be acquired;
 4. An escrow in an amount equal to the appraised value of the Easement to be acquired; and
 5. Sufficient funds to complete the travel way across the Easement shall be escrowed prior to the issuance of the Non-RUP for Lot 1, subject to DPWES approval.
29. In the event that the Tax Map 49-4 ((1)) 30 is redeveloped to provide an interparcel access located at the eastern portion of Lot 1, the proposed western interparcel access may be removed. If the western interparcel access is removed the landscaping provided along Gallows Road shall be continued across that area; this may require the removal of the concrete. If the landscaping can be continued across the frontage of Gallows Road without the removal of the concrete, then that area may be used for additional parking.
30. Right-of-way along the Gallows frontage of the site as shown on the SE Plat, shall be dedicated and conveyed in fee simple to the Board of Supervisors. Such dedication shall occur at site plan approval for the property. In the event, that prior to site plan approval, the Department of Transportation (DOT) in consultation with VDOT, determines that the minimum right of way dedication needed for the expansion of Gallows Road is less than ninety (90) feet, the applicants shall dedicate the right of way in accordance with DOT and VDOT recommendations. The landscaping and trail may be relocated to the west to correspond with the revised right of way dedication, but must be in accordance with the special exception plat and the Boulevard Streetscape design of the Comprehensive Plan. Parking for the mini-warehouse facility may be revised to permit 60 or 90 degree parking along the eastern portion of the site and additional parking may be provided in place of the five (5) parallel parking spaces. An additional parking space may be provided for a rental truck in the general location of the rental truck space shown on the special exception plat. The size of the fast food restaurant shall not be increased from 4,440 square feet and one hundred (100) interior seats. The size of the mini-warehouse

facility may be increased to a maximum of 97,407 square feet, including the cellar. The footprint for the mini-warehouse facility may be increased or modified to accommodate the increased size if the minimum setbacks are maintained as shown on the special exception plat. The overall FAR for the site shall not exceed 0.56 and a minimum of 20% open space shall be provided. The site plan shall be submitted to the Zoning Administrator for review and approval in consultation with the Providence District Planning Commissioner.

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 applicants from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicants shall be themselves responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception 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.