

DEVELOPMENT CONDITIONS

SEA 94-M-047

September 22, 2005

If it is the intent of the Board of Supervisors to approve SEA 94-M-047 located at the Seven Corners Shopping Center, Tax Map 51-3 ((1)) 29 and 29A, and 51-3 ((16)) (B) 1, previously approved for a fast food restaurant or drive-in bank in a highway corridor overlay district, to permit building additions (including an additional fast food restaurant and an additional fast food restaurant with a drive through window), site modifications, a reduction in land area to 31.56 acres, a waiver of certain sign regulations, and CRD modifications (open space and parking reduction) pursuant to Sect. 7-607, 9-620 and 9-622 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions, which supersede all previous conditions: (conditions carried forward unchanged from the previous approval are marked with an asterisk *)

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. Where there is a conflict between the SE Plat (including the notes thereon) and these conditions, these conditions shall govern the development.
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 "Seven Corners Shopping Center" prepared by Walter L. Phillips Incorporated, and dated October 18, 2002 as revised through August 30, 2005, 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. The only changes to the uses in and/or the buildings and layout of the shopping center (from that reflected on the SE Plat), which may be permitted without an amendment to this special exception are those which (a) do not require approval of a special exception; (b) do not involve the circulation, parking, layout or landscaping of any freestanding fast food restaurant or the drive-through bank; and (c) do not involve the bus transit center or any on-site bus circulation associated with the transit center.
5. Prior to each site plan approval, an on-site directional sign plan shall be developed and implemented that facilitates the movement of pedestrians, buses, automobiles and delivery vehicles through the site, subject to approval by DPWES and the Fairfax County Department of Transportation (DOT). *

6. All signage shall be in conformance with Article 12 of the Zoning Ordinance, except as follows. Two free-standing signs may be allowed as shown on the SE Plat, one on the Route 50 frontage and one on the Route 7 frontage. Each sign shall have a maximum height of 25 feet and a maximum sign area of 171 square feet. The sign along the Route 50 frontage may be relocated to another location along Route 50 during or after construction of the proposed pedestrian bridge across Route 50 in order to make the signs more visible, but such relocation shall not allow an increase in height or sign area.
7. All new or replacement lighting, including security, pedestrian and/or other incidental lighting, shall be in accordance with the Performance Standards contained in Part 9 (Outdoor Lighting Standards) of Article 14 of the Zoning Ordinance. This shall not preclude the installation of new bulbs in existing fixtures that do not meet current standards.
8. Prior to the each site plan approval, a landscaping plan for the portion of the shopping center under said site plan shall be approved by Urban Forest Management (UFM). At a minimum, landscaping shall be provided that is consistent in quantity and quality with that depicted on the SE Plat. The landscaping improvements shown at the Thorne Drive entrance on Sheet 3 of the SE Plat may be installed after the completion of the proposed transit center, but no later than 6 months after the transit center becomes operational.
9. Within 60 days of written notice from the County that funding for preliminary engineering is available for the construction of the portion of the adopted Route 7 Improvement Plan (VDOT Project 0007-029-117, PE 101, approved by the Virginia Commonwealth Transportation Board after a public hearing on October 23, 1990) located along the site's frontage, right-of-way as shown on the SE Plat along Route 7 shall be dedicated in fee simple to the Board of Supervisors (at no cost) in accordance with the adopted plan, along with all necessary ancillary easements (including temporary construction easements and permanent maintenance and utility easements), as determined by Fairfax County DOT. *
10. The design of, receipt of approvals for, funding of, and construction of the transit center facilities and the pedestrian bridge shall not be the responsibility of the applicant. Should the Pad 4 fast food restaurant site be developed prior to the transit center, the interim layout shown on Sheet 1 may be constructed; however, should the interim layout be constructed, funds shall be escrowed for the final site layout (including curb, parking lot layout, and landscaping shown outside of the right-of-way, but not including transit center improvements to be constructed in the right-of-way) as shown on Sheet 3, in an amount determined by DPWES and Fairfax County DOT.
11. Upon the earlier of (a) the next site plan approval following approval of this Special Exception Amendment or (b) 60 days written notice from the County, those areas designated on the SE Plat for dedication for the pedestrian bridge (VDOT project # 0050-029-139) shall be dedicated, in fee simple and at no cost, to the Board of Supervisors.
12. Upon the earlier of (a) the next site plan approval following approval of this Special Exception Amendment or (b) 60 days written notice from the County, those areas

- designated on the SE Plat as reservation/dedication for the transit center shall be dedicated, in fee simple and at no cost, to the Board of Supervisors. Upon dedication, the applicant shall be permitted to utilize the dedication area for the transit center for parking and/or construction staging subject to a license agreement approved by the County Attorney and executed concurrently with the dedication.
13. As determined by DPWES and the Fairfax County DOT, all required ancillary and/or construction easements (temporary and permanent) for the transit facility and the pedestrian overpass shall be granted to the Board of Supervisors at no cost, upon 60 days written notice from the County, or prior to any site plan approval following such written notice, whichever comes first. Such easements shall not result in a permanent change in the layout or design of parking spaces or drive aisles on the site.
 14. (a) The applicant shall contribute \$7,200 per year (\$600 per month), to Fairfax County for routine maintenance of the transit facility, starting at such time as operation of the new transit center commences, and continuing on an annual basis thereafter, for a period of ten years, or until such time as the applicant elects to provide day-to-day upkeep of the transit center area in accordance with Part (b) of this condition, whichever occurs first. The contribution amount shall be adjusted by increases to the *Marshall and Swift Building Cost Index* from the date of the Board of Supervisors' approval of this Special Exception application to the date of each contribution.

(b) In the event that, prior to the expiration of the required maintenance contributions, the applicant elects to maintain the transit center, the applicant shall, thereafter and in perpetuity perform day to day upkeep of the transit facility to include trash removal, cleaning, and mowing and landscape repair and replacement, but excluding capital repair or replacement of facilities.
 15. At the time of site plan approval or within 60 days of written notice (whichever occurs first), the applicant shall dedicate an appropriate, non-exclusive, ingress-egress easement across the site as necessary to provide bus access (public or other transit agency) through the site and to the transit center, in the locations shown on Sheet 3 of the SE Plat and labeled thereon as "Metro Bus Circulation On-Site." Minor modifications to the location of the access easement shall be permitted, as deemed appropriate by the Fairfax County DOT in consultation with the applicant and WMATA (or other appropriate transit agencies).
 16. Parking shall be provided in accordance with Article 11 of the Zoning Ordinance; a 20% parking reduction may be permitted as provided in Sect. A7-209.
 17. Parking tabs demonstrating compliance with the parking requirements shall be provided at the time of each Non-Residential Use Permit (Non-RUP).
 18. To the extent that can be accommodated by the parking spaces available on Parcel 29A (on the north side of Route 50), employees of businesses located on the Route 50 side of the shopping center shall be required to park on Parcel 29A from the week prior to Thanksgiving through January 1st of each year. Such requirement shall be included in the Seven Corners Shopping Center's Rules and Regulations, and in

specific lease language in future leases for tenant spaces on the Route 50 side of the center.

19. Until such time as a pedestrian bridge is completed across Route 50, shuttle service shall be provided for employees parking in Parcel 29A on the north side of Route 50 as follows. Service shall be provided at a minimum from the week prior to Thanksgiving through January 1st of each year. Service shall be provided as needed during other times of the year. The shuttle service plan shall be submitted to the Fairfax County DOT for review and approval, and shall include the procedure for disseminating information about the service to shopping center tenants and employees, and the procedure for determining when additional service is necessary.
20. No parking spaces shall be sold to or restricted for use only by specific shopping center tenants, other users, or uses.

Use Restrictions: Fast Food Pad Sites

21. The proposed fast food restaurants (Pads 3 & 4) shall utilize building materials and colors that are consistent or compatible with those used in the main shopping center. Architectural treatments shall be the same on all four sides of the fast food restaurant. Demonstration of existing and proposed building materials shall be submitted to DPWES with the building permit for each fast food restaurant.
22. Temporary promotional banners, balloons, flags, or rooftop displays shall not be permitted on the exterior of the fast food restaurant buildings. No promotional signage shall be permitted on any light poles; however, this shall not preclude the display of seasonal banners for the shopping center.
23. Outdoor seating may be provided for the proposed fast food restaurants (Pads 3 & 4), so long as such seating does not block any sidewalks or other pedestrian connections.

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 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, at a minimum, 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.