



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

September 24, 2010

Sheri L. Akin, Land Use Planner  
McGuire Woods  
1750 Tysons Boulevard, Suite 1800  
Vienna, VA 22102-4215

Re: Interpretation for RZ 77-S-073, Backlick Shopping Center, Tax Map 90-2 ((1)) 28: Fast Food Restaurant with Drive-Thru as a Permitted Use

Dear Ms. Akin:

This is in response to your letter of August 12, 2010, requesting an interpretation of the proffers and Generalized Development Plan (GDP) accepted by the Board of Supervisors in conjunction with approval of the above-referenced application. As I understand it, your question is whether a proposed fast food restaurant with drive-thru (Chick-fil-a, Inc.) would be a permitted use in the Backlick Shopping Center under the proffers. This determination is based on your letter; an attached exhibit entitled "Chick Fil A & Advanced Auto Option 05," prepared by Cowie Associates, PC dated July 27, 2010; an exhibit entitled "Backlick Shopping Center," prepared by Huntley, Nyce % Associates, Ltd., dated September 25, 2007; and, an attached Clerk's Letter with staff report excerpts from RZ 77-S-073. Copies of the letter and relevant exhibits are attached.

As I understand it, the subject property is located in the Backlick Shopping Center, which lies between Backlick Road and I-495. The property is governed by RZ 77-S-073, which was approved by the Board of Supervisors on February 13, 1988, and rezoned 5.15 acres from the RE-1 District to the C-D District, subject to proffers, to permit the development of a shopping center. The property is now zoned C-6 and it is also located in the HC (Highway Corridor) and CRD (Commercial Revitalization) Overlay Districts.

Your letter states that it is your understanding that, pursuant to Par. 1B of Sect. 4-605 of the Ordinance, a fast food restaurant is permitted by right because the use will be located within a building containing at least six (6) other uses which are not fast food restaurants. According to the Zoning Administration Division (ZAD), the proposed use is permitted in the C-6 District by right provided it meets the use limitations specified in Sect. 4-605 of the Zoning Ordinance for the C-6 District and the use limitations specified in Sect. 7-607 and 7-608 for the HC Overlay District, which set forth requirements for pedestrian and vehicular circulation and access to the shopping center.

**Department of Planning and Zoning**  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035-5509  
Phone 703 324-1290  
FAX 703 324-3924  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



**Excellence \* Innovation \* Stewardship**  
**Integrity \* Teamwork \* Public Service**

Sheri L. Akin  
Page Two

It is my determination that the proposed fast food restaurant with drive-through as described in your submission would not be precluded by the rezoning proffers. Any plan for the development of the proposed use would be subject to the use limitations specified in the Zoning Ordinance, and subject to the evaluation and approval of DPWES. This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator.

If you have any questions regarding this interpretation, please feel free to contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,



Regina C. Coyle, Director  
Zoning Evaluation Division

O:\mgodf2\Proffer Interpretations PI\Backlick Shopping Center (RZ 77-S-073) fast food with drive-thru.doc

Attachments: A/S

cc: Jeffrey McKay, Supervisor, Lee District  
James Migliaccio, Planning Commissioner, Lee District  
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ  
Kenneth Williams, Office of Land Development Services, DPWES  
Angela Rodeheaver, Section Chief for Site Analysis, DOT  
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES  
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, DPZ  
File: RZ 77-S-073, PI 1008 078, Imaging, Reading File

McGuireWoods LLP  
1750 Tysons Boulevard  
Suite 1800  
McLean, VA 22102-4215  
Phone: 703.712.5000  
Fax: 703.712.5050  
www.mcguirewoods.com

Sheri L. Hoy  
Direct: 703.712.5483

McGUIREWOODS

Zoning Evaluation Division

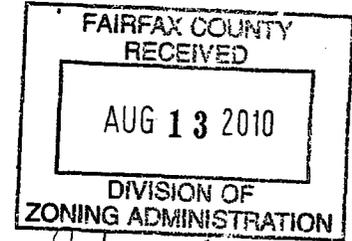
AUG 13 2010

RECEIVED  
Department of Planning & Zoning

shoy@mcguirewoods.com  
Direct Fax: 703.712.5050

August 12, 2010

Ms. Eileen McLane  
Zoning Administrator  
Zoning Administration Division  
Suite 807  
12055 Government Center Parkway  
Fairfax, Virginia 22035



**Re: Chick-fil-A, Inc.  
Backlick Shopping Center  
Tax Map No. 90-2-((1))-28  
Zoning Interpretation Request**

Dear Ms. McLane:

This firm represents Chick-fil-A, Inc. ("Chick-fil-A") which is interested in operating a fast food restaurant with drive-thru at the above-referenced property. The property is zoned C-6 and is known as the Backlick Shopping Center. For your reference, a copy of the Tax Map with the property highlighted in red is attached.

It is our understanding, pursuant to Section 4-605(B), a fast food restaurant may be permitted by-right when:

1. Such use is located within a building of a shopping center, which building contains at least six (6) other uses which are not fast food restaurants other than those permitted by Par. 1A above, drive-in financial institution, or quick-service food stores; and
2. All uses within that building are connected by party walls or partitions to form one continuous structure.

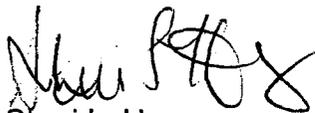
I have enclosed for your review a copy of the conceptual layout and current/proposed tenants of the Shopping Center. I have also enclosed a copy of the existing conditions for the Shopping Center. We believe the requirements of Section 4-605(B) are met in that such use will be located within a building containing at least 6 other uses that are not fast food restaurants, drive-in financial institutions or quick-service food stores.

August 12, 2010  
Page 2

In addition, the Backlick Shopping Center is governed by Rezoning No. 77-S-073 which was approved by the Board of Supervisors on February 13, 1978. A copy of said approval is attached hereto. We request a further determination that the proposed fast food restaurant with drive-thru will be in substantial conformance with the governing proffers for the subject property. Based upon our review, there are no conditions that restrict fast-food restaurants with drive-thru facilities. In addition, although conceptual in nature, the shopping center will meet the parking and FAR calculations noted on the Schematic Land Use Plan, as well as current Zoning Ordinance Regulations for the C-6 Zoning District and Shopping Center Parking requirements.

Thank you for your assistance. Enclosed is a check in the amount of \$500.00 to cover the cost of this request. If you have any questions, please feel free to contact me.

Sincerely,



Sheri L. Hoy  
Land Use Planner

encs.

cc: Mr. Scott Thigpen, Chick-fil-a Inc.  
Gregory A. Riegle, Esquire, McGuireWoods LLP  
Keith Simpson, Bohler Engineering

\\14805964.1

**ZONING: (C-6)**

- LOT SIZE REQUIREMENTS:**  
 1. MINIMUM LOT AREA: 80,000 SQ. FT.  
 2. MINIMUM LOT WIDTH: 300 FEET  
 3. THE MINIMUM LOT SIZE REQUIREMENTS MAY BE WAIVED BY THE BOARD IN ACCORDANCE WITH THE PROVISIONS OF SECT. 9-910.
- MAX. BUILDING HEIGHT:** 40 FEET, SUBJECT TO INCREASE AS MAY BE PERMITTED BY THE BOARD IN ACCORDANCE WITH THE PROVISIONS OF SECT. 9-910.
- MINIMUM YARD REQUIREMENTS:**  
 A. FRONT YARD: CONTROLLED BY A 40' ANGLE BALK PLANE, NOT LESS THAN 40 FEET  
 B. SIDE YARD: NO REQUIREMENT  
 C. REAR YARD: 20 FEET
- MAXIMUM FLOOR AREA RATIO:** 8.66, PROVIDED HOWEVER AN INCREASE TO 10.00 MAY BE PERMITTED BY THE BOARD IN ACCORDANCE WITH THE PROVISIONS OF SECT. 9-910.
4. REFER TO SECT. 9-36 FOR PROVISIONS THAT MAY QUALIFY THE MINIMUM YARD REQUIREMENTS SET FORTH ABOVE.

**LEGAL DESCRIPTION**

BACKLICK SHOPPING CENTER  
 THE PROPERTY OF  
 BACKLICK CENTER LLC  
 SPRINGFIELD DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

BEGINNING AT A POINT IN THE EASTERN RIGHT-OF-WAY OF BACKLICK ROAD, ROUTE 617 (WIDTH VARIES), SAID POINT BEING THE NORTH-WESTERLY CORNER OF THE LOT OF 100,000 SQUARE FEET, MORE OR LESS, BEING THE PROPERTY OF THE CITY OF FARMAS, SAID POINT BEING THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY OF BACKLICK ROAD, ROUTE 617 (WIDTH VARIES) WITH THE EASTERN RIGHT-OF-WAY OF LEE CENTER, NOW OR FORMERLY THE SITE OF:

THESE DEPARTING THE EASTERN RIGHT-OF-WAY OF BACKLICK ROAD AND WITH THE WESTERN LINE OF LEE CENTER 8' 24" 1/2" W 324' 11" 1/2" TO A POINT IN THE WESTERN RIGHT-OF-WAY OF HENRY G. SHIRLEY MEMORIAL HIGHWAY INTERSTATE 95 (WIDTH VARIES), SAID POINT BEING THE SOUTH-WESTERLY CORNER OF LEE CENTER, THENCE WITH THE WESTERLY RIGHT-OF-WAY OF INTERSTATE 95, 177.00 FEET ALONG THE LINE OF A CURVE CURVING TO THE LEFT, HAVING A RADIUS OF 26,827.57 FEET, A DELTA OF 90° 22' 30" AND A CHORD BEARING AND DISTANCE OF S 89° 02' 10" W 177.00 FEET TO A POINT; A 27° 32' 00" W 21.00 FEET TO A POINT; A BEARING OF W 42.78

THESE DEPARTING THE WESTERN RIGHT-OF-WAY OF INTERSTATE 95 AND WITH THE NORTHERLY LINE OF THE ADJACENTLY ADJACENT SPURWAY LAFAYETTE PARTNERSHIP, A 27° 32' 00" W 21.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 4,711 ACRES OF LAND.

**NOTES:**

1. THE PROPERTY DESCRIBED HEREON IS LOCATED ON FAIRFAX COUNTY TAX ASSESSMENT MAP NO. 08-2-21-01-008 AND IS ZONED C-6.
2. THE FOLLOWING ITEMS AFFECT THE PROPERTY SHOWN HEREON, BUT ARE NOT PLATTED:  
 A. STORM WATER DETENTION AGREEMENT OR 2846 PG 208  
 B. STORM WATER DETENTION AGREEMENT OR 2800 PG 108  
 C. COMMERCIAL UTILITY AGREEMENT OR 2716 PG 174
3. TITLE REPORT FURNISHED BY CHICAGO TITLE INSURANCE COMPANY COMMITMENT NO. 348-79105 EFFECTIVE DATE JUNE 28, 2007 AT 8:58 AM.
4. PARKING SPACES ARE AS SHOWN TO THE LOCATIONS OF UNDERGROUND UTILITIES SUCH AS, BUT NOT LIMITED TO, ELECTRIC, TELEPHONE, GAS, TV, CABLE, WATER, SEWER, AND STORM SEWER. ON ABOVE GROUND UTILITIES, PRIVATE AND PUBLIC, OTHER UTILITIES MAY EXIST OF WHICH HEAVY DUTY AND SPECIAL OTHER UTILITIES MAY EXIST. NO CERTIFICATION IS MADE AS TO THE EXISTENCE OF HAZARDOUS MATERIAL WASTE OR OTHER ENVIRONMENTAL HAZARDS OF THE PROPERTY.
5. HENRIE, NYCE AND ASSOCIATES, LTD. HAS NO KNOWLEDGE OF NOR HAS BEEN PROVIDED WITH ANY INFORMATION AS TO THE EXISTENCE OR DELINEATION OF WELLS UNDER OR ADJACENT TO THE PROPERTY SHOWN HEREON.
6. NO CERTIFICATION IS MADE AS TO ADDITIONAL COVENANTS OR RESTRICTIONS SUBJECT TO THE DATE OF THE ABOVE DESCRIBED TITLE REPORT THAT MIGHT APPEAR IN AN UPDATED TITLE REPORT OF THE SUBJECT PROPERTY.
7. GROSS FLOOR AREA IS BASED ON EXTERIOR WALL DIMENSIONS.
8. THIS PROPERTY IS LOCATED IN FLOOD ZONE "C" (AREAS OF MINIMAL FLOODING). THIS STATEMENT IS FOR INFORMATION ONLY AND THE SURVEYOR ASSUMES NO LIABILITY FOR THE CORRECTNESS OF THE CITED ZONE. IN ADDITION, IT DOES NOT REPRESENT THE SURVEYOR'S OPINION OF THE PROBABILITY OF FLOODING.

**SURVEYOR'S CERTIFICATE**

TO (1) MCCAFFERTY LOGGERS/FAIRFAX VIRGINIA CENTER LLC, A DELAWARE LIMITED LIABILITY COMPANY AND (2) BACKLICK CENTER LLC, A VIRGINIA LIMITED LIABILITY COMPANY, (3) CHICAGO TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALL FACILITY LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NPS IN 2004, AND INCLUDES ITEMS 1, 2, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, AND 18 OF TABLE A THROUGH FURNISHING TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NPS AND IN EFFECT ON THE DATE OF THIS CERTIFICATE. THE UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE COMMONWEALTH OF VIRGINIA, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.

DATE: SEPTEMBER 16, 2007  
 H. CHRISTOPHER REEDER, L.L.C. NO. 002574



**VICINITY MAP**  
 SCALE: 1" = 2000'

**TITLE EXCEPTIONS:**

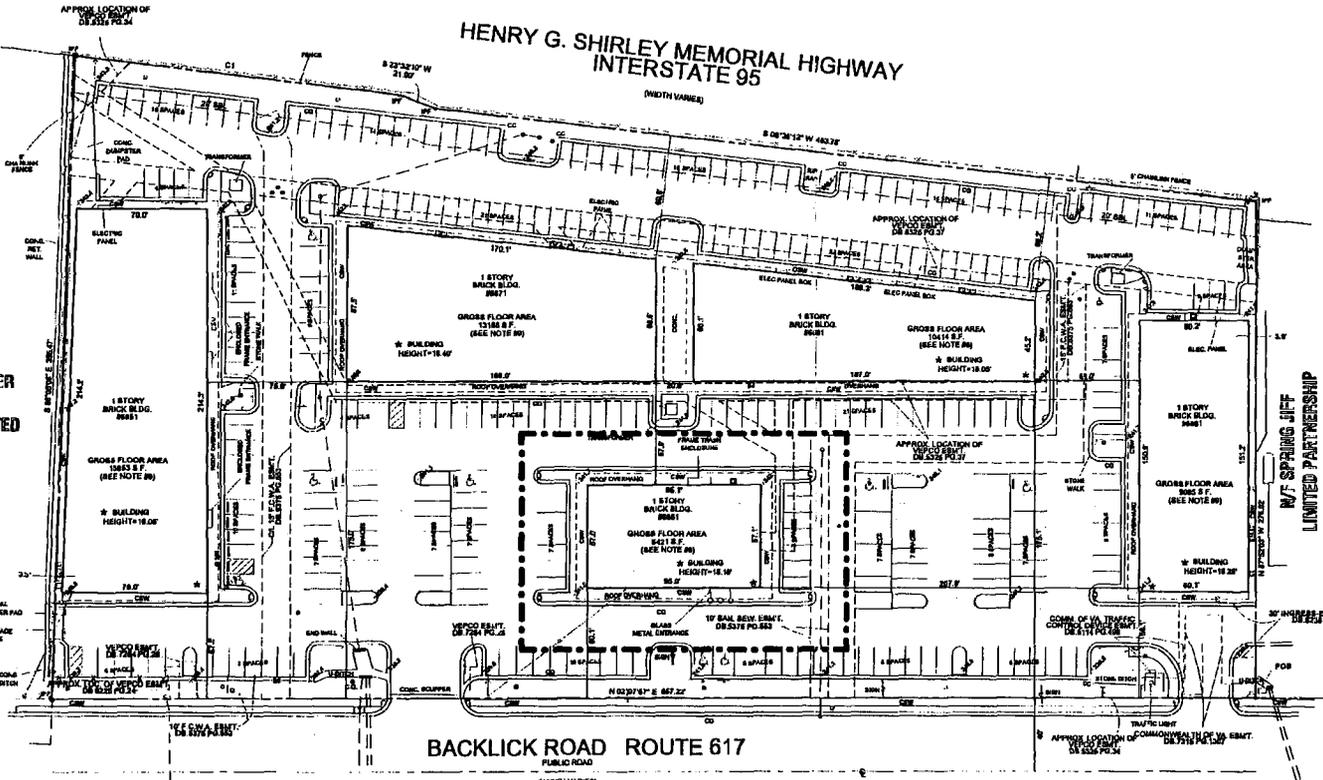
- ITEM 1 - NON SURVEY ITEM  
 ITEM 2 - NON SURVEY ITEM  
 ITEM 3 - DR. 8338 PG. 8024 - AFFECTS PROPERTY AND IS SHOWN  
 ITEM 4 - DR. 8338 PG. 8037 - AFFECTS PROPERTY AND IS SHOWN  
 ITEM 5 - DR. 8338 PG. 8024 - AFFECTS PROPERTY AND IS SHOWN  
 ITEM 6 - DR. 7344 PG. 8024 - AFFECTS PROPERTY AND IS SHOWN  
 ITEM 7 - DR. 8338 PG. 8024 - AFFECTS PROPERTY AND IS SHOWN  
 ITEM 8 - DR. 8338 PG. 8024 - SEE NOTE 2  
 ITEM 9 - DR. 8338 PG. 8148 - SEE NOTE 2  
 ITEM 10 - DR. 8114 PG. 8484 - AFFECTS PROPERTY AND IS SHOWN  
 ITEM 11 - DR. 7318 PG. 1307 - AFFECTS PROPERTY AND IS SHOWN  
 ITEM 12 - DR. 7318 PG. 1314 - SEE NOTE 2

**PARKING:**

- SHOPPING CENTER:**  
 A. 100,000 SQUARE FEET OF GROSS FLOOR AREA OR LESS: FOUR AND THREE-TENTHS (4.3) SPACES PER 100 SQUARE FEET OF GROSS FLOOR AREA.  
 B. GREATER THAN 100,000 SQUARE FEET, BUT LESS THAN 400,000 SQUARE FEET OF GROSS FLOOR AREA: FOUR (4) SPACES PER 100 SQUARE FEET OF GROSS FLOOR AREA.  
 C. GREATER THAN 400,000 SQUARE FEET OF GROSS FLOOR AREA: ONE (1) SPACE PER 300 SQUARE FEET OF NET FLOOR AREA FOR THE FIRST 100,000 SQUARE FEET, PLUS 80 (80) SPACES PER EACH ADDITIONAL 100,000 SQUARE FEET OF NET FLOOR AREA.
- \* EXCEPT THAT THE AREA OCCUPIED BY OFFICES AND EATING ESTABLISHMENTS SHALL BE PARKED IN ACCORDANCE WITH THE APPLICABLE STANDARDS FOR SUCH USES AS SET FORTH IN THIS SECTION.

**LEGEND:**

- C - CITY WIRE
- H - HANDICAP PARKING
- R - HANDICAP RAMP
- W - WATER VALVE
- W - WHEEL STOP
- B - BOLLARD
- M - MARKING (TYPE AS NOTED)
- N - NUTLINE PAINT
- C - CLEANOUT
- T - TELEPHONE PEGS
- G - GAS VALVE/METER
- L - LIGHT POLE
- U - UTILITY POLE
- F - FINE HYDRANT
- S - SIGN
- F - FENCE LINE
- O - OVERHEAD WIRE
- B - BURN - STORM BURNER
- S - SAN - SANITARY LINE
- P - POINT OF BEGINNING
- P - IRON PIPE FOUND
- B - BENCH MARK
- C - CONCRETE BENCHMARK
- L - LOADING BRIDGE
- B - BUILDING RESTRICTION LINE
- C - CURB AND GUTTER
- N - NOW OR FORMERLY
- C - CURB CUT



**PARKING TABULATION:**

REGULAR SPACES	318
LOADING SPACES	1
HANDICAP SPACES	1
TOTAL SPACES	320

**CURVE TABLE**

CURVE	DELTA	RADIUS	ARC	CHORD	BEARING	TANGENT
C1	90° 22' 30"	26,827.57	177.00	177.00	S 89° 02' 10" W	39.22

**OWNER**

BACKLICK CENTER LLC  
 A VIRGINIA LIMITED LIABILITY COMPANY  
 601 LOGAN COURT  
 SUITE 200  
 SPRINGFIELD, VA 22150  
 DR. 10482 PG. 500

**AREA TABULATION**

SITE AREA: 304,214.847 SQ. FT. OR 4.7111 ACRES.

**Henriette, Nyce & Associates, LLC**  
 Surveyors - Civil Engineers - Land Planners  
 10000 WOODBURN ROAD  
 SUITE 100  
 FAIRFAX COUNTY, VIRGINIA 22030  
 Phone: (703) 778-0000  
 Fax: (703) 778-0000  
 E-mail: hnyce@hnyce.com



**BACKLICK SHOPPING CENTER**  
 SPRINGFIELD DISTRICT  
 FAIRFAX COUNTY, VIRGINIA  
 ALTA/ACSM LAND TITLE SURVEY

SCALE: 1" = 30'

DATE: 8-21-08

BY: H-10-2007  
 DATE: 8-26-2007

SHEET 1 OF 1  
 FILE NO. RP-991