County of Fairfax, Virginia

2012
Planning Commission

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Assistant Director

May 7, 2012

Gregory A. Riegle, Esquire
McGuireWoods LLP
1750 Tysons Boulevard, Suite 1800
Tysons Corner, VA 22102

RE: FDPA 82-P-069-01-16 – Chick-Fil-A, Inc.
Springfield District

Dear Mr. Riegle:

The purpose of this letter is to formally advise you, as the agent for the applicant on the above referenced case, that on Thursday, May 3, 2012, the Planning Commission voted unanimously (Commissioner Hall absent from the meeting) to approve FDPA 82-P-069-01-16, subject to the final development conditions dated May 1, 2012, as attached.

The Commission also voted unanimously (Commissioner Hall absent from the meeting) to approve a modification of the transitional screening and waiver of the barrier requirements between the fast-food use and the adjacent residential uses, in favor of the treatments depicted on the FDPA.

Enclosed also for your records is a copy of the verbatim of the Commission's action on this matter. If you need additional information, please let me know.

Sincerely,

Barbara J. Lippa

Barbara J. Lippa
Executive Director

Attachments (a/s)
cc: Pat Herrity, Supervisor, Springfield District
Peter F. Murphy, Jr., Commissioner, Springfield District
William O'Donnell, Staff Coordinator, ZED, DPZ
May 3, 2012 date file
O-8c file

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FINAL DEVELOPMENT PLAN AMENDMENT CONDITIONS

FDPA 82-P-069-01-16

May 1, 2012

If it is the intent of the Planning Commission to approve FDPA 82-P-069-01-16 for site modifications to an approved commercial development located at Tax Map 45-4 ((11)) 1C, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions, which supersede all previous conditions for the subject property:

1. Development of the property shall be in substantial conformance with the Final Development Plan Amendment entitled "Fair Lakes Land Bay 2" prepared by Bohler Engineering, consisting of seven sheets dated April 26, 2012.

2. Signage shall be in conformance with the Fair Lakes Comprehensive Sign Plan, as may be amended.

3. Landscaping shall be provided in substantial conformance with the concepts shown on the FDPA as determined and approved by Urban Forest Management Division (UFMD). Any tree or shrub determined to impact existing utility easements or sight distance shall be replaced with an appropriate size or relocated elsewhere on the site with equal size and quality, as determined by UFMD.

4. 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 Department of Public Works and Environmental Services (DPWES), prior to issuance of a Non-Residential Use Permit (Non-Rup).

5. The maximum number of seats for the fast food restaurant with a drive-through shall be determined by DPWES during site plan review based on the number of parking spaces shown on the FDPA. Seats may be reduced or added in compliance with the parking regulations for fast food restaurants with a drive-through outlined in Article 11 of the Zoning ordinance, provided that the width of the landscaped buffers shown on the FDPA are not reduced.

6. The maximum hours of operation for the fast food restaurant and drive-through window shall be limited to 6:00 a.m. to 11 p.m. daily.

7. The hours of trash pick-up and deliveries shall be limited to between the hours of 9:00 a.m. and 9:00 p.m. Monday through Friday and between the hours of 9:00 a.m. and 6:00 p.m. on Saturday.

8. All lighting, including streetlights, security lighting, signage lighting and pedestrian or other incidental lighting shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.

9. In order to minimize the adverse impact of cooking odors on the adjacent residences, all food preparation facilities shall utilize a ventilation system equipped with filters which are regularly maintained.

10. The applicant/operator shall not allow the discharge of air contaminants generated by the restaurants or their solid waste which cause reasonable objectionable odors to the nearby residences and shall employ, but not limted to, the following control measures:

    a. All putrescible material as defined by the Fairfax County Code Section 109-1-1, shall be stored in sealed containers which are reserved exclusively for use by the restaurant. Such putrescible material shall not be shredded or unsealed.
    b. All putrescible materials shall be removed by a commercial refuse hauler from the subject property a minimum of twice a week.

    These regulations shall be in addition to any other performance standard regulations, ordinances or restrictions provided by law.

11. The decibel level of the speaker phone for the drive-through window shall measure no more than 45 decibels at the property lines abutting residential units.

12. The fast food restaurant owner/operator shall be responsible for the daily removal of litter. On a daily basis, the vicinity of the fast food restaurant shall be inspected and any loose trash shall be picked up and placed in dumpsters.

13. Trash dumpsters shall be screened on all four sides. The screening enclosure shall consist of masonry on three sides to match the restaurant building, and the fourth side doors shall consist of materials designed to be opaque and fully screen the dumpsters.

14. All four sides of the fast food restaurant building shall be consistent with the elevations provided in Exhibit A.

15. Prior to approval of the site plan, the applicant will execute an agreement and post a "green building escrow," in the form of cash or a letter of credit from a financial institute acceptable to DPWES as defined in the Public Facilities Manual, in the amount of $50,000. This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of certification, by the U.S. Green Building Council, under the most current version of the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system or other LEED rating system determined, by the U.S. Green Building Council, to be applicable to the building. The provision to the Environment and

Development Review Branch of DPZ of documentation from the U.S. Green Building Council that the building has attained LEED certification will be sufficient to satisfy this commitment. If the applicant fails to provide documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification within two years of issuance of the final non-RUP for the building, after sufficient written notice to the Applicant, the escrow 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 applicant provides to the Environment and Development Review Branch of DPZ, within two years of issuance of the final non-RUP for the building, documentation demonstrating that LEED certification for the building has not been attained but that the building has been determined by the U.S. Green Building Council to fall within three points of attainment of LEED certification, 50% of the escrow will be released to the applicant; the other 50% 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 applicant fails to provide, within two years of issuance of the final non-RUP for the building, documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification or demonstrating that the building has fallen short of certification by three points or less, after sufficient written notice to the Applicant, 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 Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, 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 proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

The applicant will include, as part of the site plan submission, a statement certifying that a LEED®-accredited professional who is also a professional engineer or licensed architect is a member of the design team, and that the LEED-accredited professional is working with the team to incorporate sustainable design elements and innovative technologies into the project with a goal of having the project attain LEED certification.

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) rating system, or other LEED rating system determined to be applicable to the building(s) by the U.S. Green Building Council, that the applicant anticipates attaining. A professional engineer or licensed architect will provide certification statements at both the time of site

plan/subdivision 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 certification of the project.

Prior to approval of non-RUPs, the applicant will provide to the Environment and Development Review Branch of DPZ a letter from a LEED®-accredited professional certifying that a green building maintenance reference manual has been prepared for use by future building occupants (including tenants of properties to be rented or leased), that this manual has been written by a LEED-accredited professional, that copies of this manual will be provided to all future building occupants and that this manual, at a minimum:

- provides a narrative description of each green building component, including a description of the environmental benefits of that component and including information regarding the importance of maintenance and operation in retaining the attributes of a green building;
- provides, where applicable, product manufacturer's manuals or other instructions regarding operations and maintenance needs for each green building component, including operational practices that can enhance energy and water conservation;
- provides, as applicable, either or both of the following: (1) a maintenance staff notification process for improperly functioning equipment; or (2) a list of local service providers that offer regularly scheduled service and maintenance contracts to assure proper performance of green building-related equipment and the structure, to include, where applicable, the HVAC system, water heating equipment, water conservation features, sealants, and caulks; and
- provides contact information that building occupants can use to obtain further guidance on each green building component.

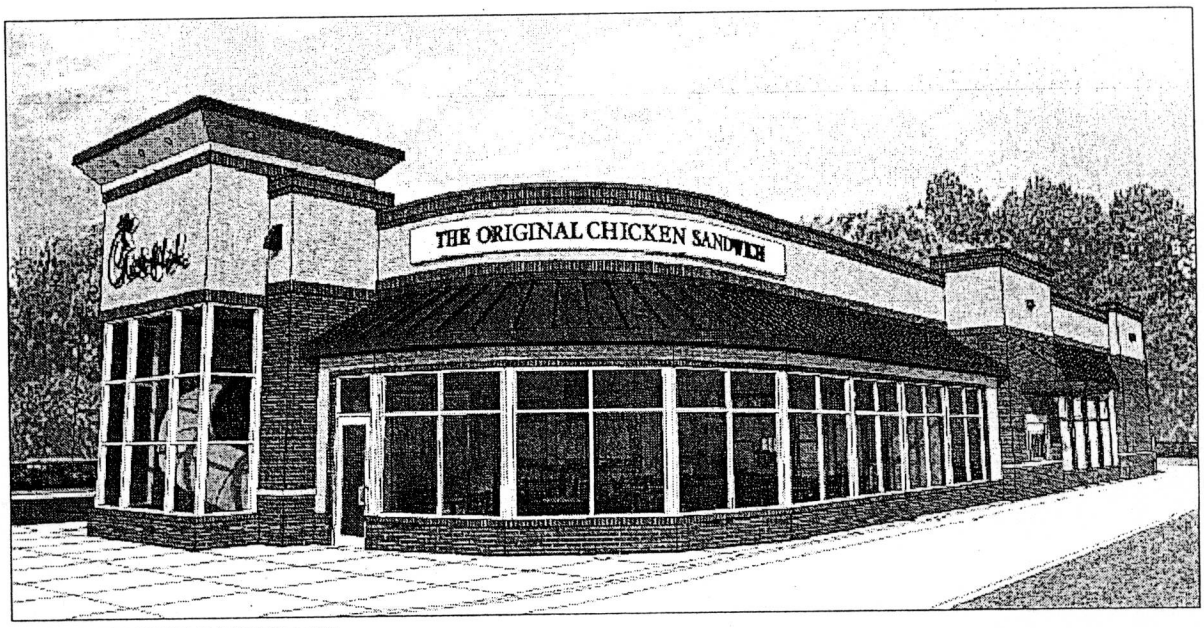
Prior to approval of non-RUPs, the applicant will provide an electronic copy of the manual in pdf format to the Environment and Development Review Branch of the Department of Planning and Zoning.

Prior to site plan/subdivision plan approval, the applicant will designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning 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.

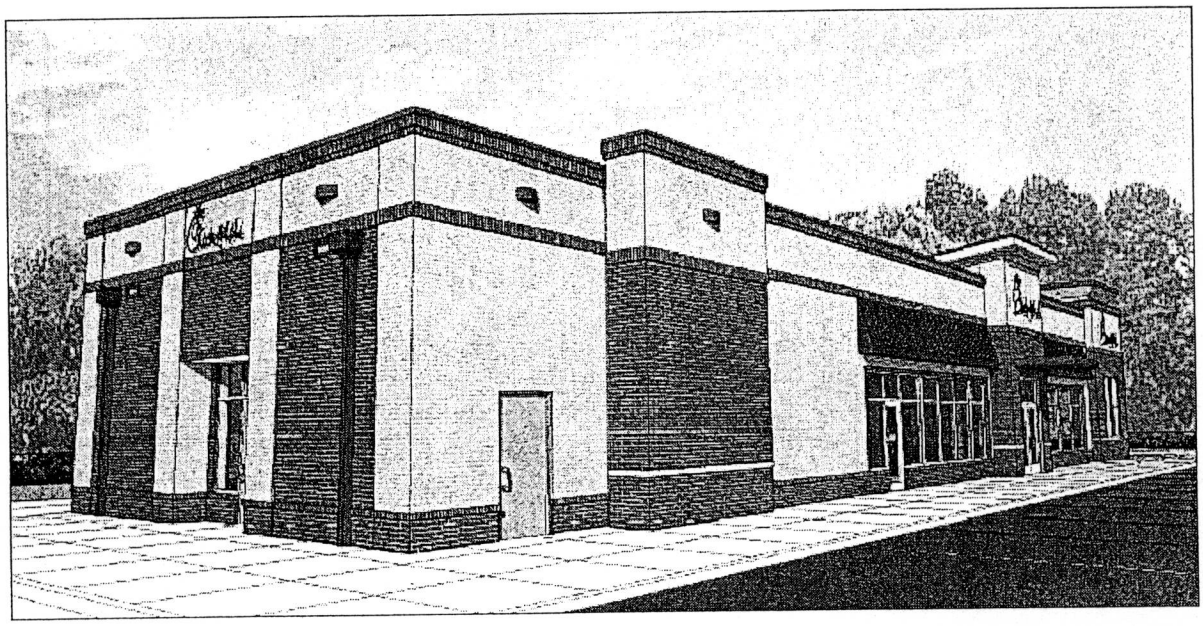
The above proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by the Planning Commission.

Exhibit A

1 FRONT-LEFT PERSPECTIVE
NO SCALE



1 FRONT-RIGHT PERSPECTIVE
NO SCALE



1 **REAR-LEFT PERSPECTIVE**
NO SCALE

Planning Commission Meeting
May 3, 2012
Verbatim Excerpt

FDPA 82-P-069-01-16 – CHICK-FIL-A, INC.

After the Close of the Public Hearing

Vice Chairman Alcorn: The public hearing is closed; recognize Commissioner Murphy.

Commissioner Murphy: Thank you, Mr. Chairman. I want to first thank the speaker for coming out this evening. I can understand your concerns, but you moved from one busy part of town to another busy part of town. And part of the Town at Fairfax Center area, as Mr. O'Donnell said, that calls for this type of development, it's mixed-use commercial residential. That's the whole spectrum. From where you live all the way to the other end, you'll notice the integration of commercial uses with residential uses. And that's what that area is designed to do. And I think the traffic will be – will be less or even comparable to the restaurant that's already there. If you had come to the meeting – and I understand you were out of town – but one of the things the citizens who did come to the meeting liked was the layout of this application; putting the drive-through closer to the street rather than the residential area, increasing the buffering and screening, making a smaller footprint from the restaurants already there, and sort of blending in with the mixed-use development of the residential, and commercial, and retail. This is in conformance with the Comprehensive Plan. It addresses more than satisfactorily all the standards of a Special Exception – if this were a Special Exception – well, the Final Development Plan Amendment, but you have the same kind of standards. And it also is in conformance with the Fairfax Center checklist. So therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 82-P-069-01-16, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 1ST, 2012.

Commissioner Litzenberger: Second.

Vice Chairman Alcorn: Seconded by Commissioner Litzenberger. Any discussion on that motion? All those in favor of approving FDPA 82-P-069-01-16, subject to the development conditions dated May 1st, 2012, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Murphy: Mr. Chairman, I ALSO RECOMMEND THAT WE APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING AND A WAIVER OF THE BARRIER REQUIREMENTS BETWEEN THE FAST-FOOD USE AND THE ADJACENT RESIDENTIAL USES IN FAVOR OF THE TREATMENTS DEPICTED ON THE FDPA, which in fact increases the buffering between the commercial use and the residential use. So the waiver is for the benefit of the people who live in the residential area.

Commissioner Litzenberger: Second.

Vice Chairman Alcorn: Seconded by Commissioner Litzenberger. Any discussion on that motion? All those in favor, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

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(The motions carried unanimously with Commissioner Hall absent from the meeting.)

JN