



# County of Fairfax, Virginia

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June 30, 2016

**2016 Planning  
Commission**

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*Assistant Director*

**John W. Cooper**  
*Clerk to the Commission*

Francis A. McDermott  
Hunton & Williams, LLC  
1751 Pinnacle Drive, Suite 1700  
McLean, VA 22102

**Re: SEA 88-S-077-07 – GOLDEN BROOK, LLC  
Sully District**

Dear Mr. McDermott:

At its June 29, 2016 meeting, the Planning Commission voted 8-0 (Commissioners Hurley, Keys-Gamarra, Lawrence, and Murphy were absent from the meeting) to **RECOMMEND APPROVAL** of the above referenced application, subject to the development conditions dated June 15, 2016. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to final decision by the Board of Supervisors.

This action does not constitute exemption from the various requirements of this county and state. The applicant is responsible for ascertaining if permits are required and obtaining the necessary permits such as Building Permits, Residential Use Permits and Non Residential Use Permits. Information concerning building permits may be obtained by calling 703-222 0801.

Sincerely,

  
John W. Cooper, Clerk  
Fairfax County Planning Commission

Attachments (a/s)

cc: Kathy L. Smith, Supervisor, Sully District  
Karen Keys-Gamarra, Planning Commissioner, Sully District  
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office  
Michael Lynskey, Staff Coordinator, ZED, DPZ  
Robert Harrison, ZED, DPZ  
June 29, 2016 date file

 To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.

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**Fairfax County Planning Commission**  
12000 Government Center Parkway, Suite 330, Fairfax, VA 22035  
703-324-2865 (Voice) 703-324-7951 (TTY) 703-324-3948 (Fax)  
[www.fairfaxcounty.gov/planning](http://www.fairfaxcounty.gov/planning)



**PROPOSED DEVELOPMENT CONDITIONS**  
**SEA 88-S-077-07**  
**June 15, 2016**

If it is the intent of the Board of Supervisors to approve SEA 88-S-077-07, located at Chantilly Shopping Center, Tax Map 44-1((09))-6 (the "Property"), to permit a fast food restaurant with drive-through, pursuant to Sect. 9-505 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance by Golden Brook, LLC, its successors and assigns (collectively the "Applicant") with the following development conditions. These conditions supersede conditions previously approved with SEA 88-S-077-03 and amended by SEA 88-S-077-04 and SEA 88-S-077-05, as to this Property only. Previous conditions carried forward, or with only minor updates, are marked with an asterisk (\*). Previously approved development conditions applicable to portions of the Special Exception area not subject to this SEA shall remain in full force and effect.

1. This Special Exception Amendment ("SEA") is granted for and runs with the land indicated in this application, and is not transferable to other land. \*
2. This SEA is granted only for the purpose(s), structure(s) and/or use(s) indicated on the SEA Plat approved with this application, as qualified by these development conditions.\*
3. This SEA is subject to the provisions of Article 17, Site Plans. Any plan submitted in conjunction with this approval shall be in substantial conformance with the approved SEA Plat, consisting of nine (9) sheets, entitled "Special Exception Amendment Plat for Golden Brook, LLC", prepared by Bohler Engineering and dated October 14, 2015, as revised through May 6, 2016, and these conditions. Outdoor seating/dining for the proposed fast-food restaurant shall be permitted on the Property within the building envelope area depicted on the SEA Plat, provided adequate parking is provided, per the Zoning Ordinance. Minor modifications to the approved SEA Plat shall be permitted, as determined by the Zoning Administrator, pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance. \*
4. Subject to approval by VDOT, and prior to receiving a Non-RUP for the fast food use, the applicant shall complete construction of an approximately 130 foot long (including taper) right turn lane on westbound Willard Road, at its intersection with Chantilly Shopping Center Drive, as shown on Sheet 9 of the SEA Plat.
5. As committed by proffer in RZ 88-S-026, and prior development conditions, the building facades and related structures (including dumpster enclosures and signage) shall be compatible with the character and architecture of the remainder of the shopping center, to be determined at the time of building plan review. All four sides

of the fast food restaurant building shall be architecturally treated, and building façade materials may include brick, tile, concrete tile, masonry block, glass and/or metal. \*

6. A parking tabulation for the entire shopping center site shall be included on any site plan associated with this SEA and approved by DPWES prior to final site plan approval. No Non-Residential Use Permit (Non-RUP) for the use shall be issued unless it has been demonstrated that parking for the entire shopping center can be provided in accordance with the Zoning Ordinance, as determined by DPWES. \*
7. Directional signage (as permitted by Article 12) shall be provided, as generally depicted on the SEA Plat, and as determined necessary to facilitate orderly traffic flow to and from the drive-through. Such directional signage shall be of compatible materials, and of consistent character with the architectural treatment of the shopping center. \*
8. Landscaping for the proposed fast food use shall be provided in substantial conformance with the Landscape Plan shown on the SEA Plat. Any tree or shrub determined to negatively impact existing utility easements or sight distance shall be replaced with planting(s) of an appropriate size or relocated elsewhere on the site with an equal size and quantity, as determined by the Urban Forest Management Division (UFMD) of DPWES. All landscaping shall be maintained in good condition and/or replaced, as needed, for the life of the SEA. \*
9. All street trees shall be considered required landscaping, and shall be maintained and/or replaced (with species acceptable to UFMD), as needed, to maintain the streetscape shown on the SEA Plat.
10. The fast food restaurant owner/operator shall be responsible for daily removal of litter on the Property.
11. Green Building Commitment:
  - (i) The Applicant shall include, as part of the site plan submission for the Building, a statement certifying that a LEED-accredited professional who is also a professional engineer or a licensed architect is a member of the design team ("LEED-AP"), and that the LEED-AP is working with the team to incorporate the green building elements identified below, or equivalent green building elements, as determined by The Environment and Development Review Branch (EDRB) of DPZ.
  - (ii) Prior to building plan approval for the Property, the Applicant shall execute a separate agreement and post a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES and defined in the Public Facilities Manual. The amount of the escrow shall be \$2.00 per square

foot of gross floor area of the building. The green building escrow shall be in addition to and separate from other bond requirements, and shall be released prior to final construction bond release, once the following conditions have been met:

- a. The LEED-AP has submitted a certification statement, including supporting documentation, confirming that the green building elements listed below, or approved equivalent green building elements, have been incorporated into the design and construction of the Building.
- b. EDRB concurs with and accepts the certification statement.

If the Chief of EDRB does not concur or accept the certification statement, and a review of the documentation determines that the green building elements listed below have not been implemented or included in the design and construction of the project, then the Chief of EDRB shall notify the Applicant's LEED-AP. The Applicant's LEED-AP and the Chief of EDRB shall discuss the potential deficiencies and develop appropriate resolutions, which may include substitute techniques or elements that achieve the same intended sustainability or energy conservation benefits, or their equivalent. Thereafter, if the Applicant fails to take the necessary corrective actions and have the Applicant's LEED-AP submit a revised certification statement with supporting documentation within 90 days, then the entirety of the green building escrow for the property shall be released to Fairfax County and shall be posted to a fund within the county budget supporting implementation of county environmental initiatives. However, if the necessary corrective actions cannot be completed within 90 days, and the Applicant can provide documentation in support of this, then the time period may be extended as determined appropriate by the Zoning Administrator and no release of escrowed funds shall be made to either the Applicant or the county during this time period.

(iii) Green building elements:

The fast food restaurant (the "Building") shall have incorporated into its building program the following green building elements, which are based on the principles of the U.S. Green Building Council's ("USGBC") Leadership in Energy and Environmental Design for new construction ("LEED-NC") rating system; or such other equivalent green building elements from LEED-NC or an alternative rating system that may be applicable at the time of the Building's design, as determined in consultation with the Environment and Development Review Branch of DPZ ("EDRB"). All required documentation referenced below shall be provided with the certification statement, and accepted by EDRB, as described in section (ii), above.

- (a) The Applicant shall provide a secure bicycle rack for bicycles, with a total number of bike parking spaces consistent with the Fairfax County Policy and Guidelines for Bicycle Parking for a fast food restaurant of this size, as approved by FCDOT at the time of site plan review. The Applicant shall provide proof of installation and plan location.
- (b) The Applicant shall exclusively use regionally adaptive and non-invasive species for new landscape and other new plantings on the Property. The Applicant shall provide a planting list showing species and location of plantings.
- (c) The Applicant shall install on the building a roofing membrane with a Solar Reflectance Index (SRI) appropriate to the slope of the roof (i.e., for a low-sloped roof (<2:12) equal to or greater than 78 for a minimum of 75% of the total roof area; and for a high-sloped roof (>2:12) equal to or greater than 29). The Applicant shall provide proof of installation, roof area calculations and manufacturers' product data.
- (d) The Applicant shall install water-efficient landscaping, as determined by the Urban Forest Management Division ("UFMD"), to be detailed on a landscape plan included with the site plan that lists the species, number, size, and spacing of trees and plant materials, and shall provide proof of installation and the installation date.
- (e) For new lighting installed for the use associated with this SEA, the Applicant shall provide an exterior site lighting system that uses full cutoff fixtures and LED technology to minimize light pollution and reduce energy consumption. The Applicant shall provide lighting specifications and locations.
- (f) The Applicant shall install motion sensor faucets and flush valves, and ultralow-flow plumbing fixtures that have a maximum water usage as listed below. The Applicant shall provide proof of installation and manufacturers' product data.
  - Water Closet (gallons per flush, gpf) 1.28
  - Urinal (gpf) 0.5
  - Showerheads (gallons per minute, gpm\*) 2.0
  - Lavatory faucets (gpm\*\*) 1.5
  - Kitchen and janitor sink faucets 2.20
  - Metering faucets 0.25

\* When measured at a flowing water pressure of 80 pounds per square inch (psi).

\*\* When measured at a flowing water pressure of 60 pounds per square inch (psi).

- (g) The Applicant shall hire a commissioning authority and develop and incorporate commissioning requirements into the design and construction of the building. The commissioning authority hired by the Applicant shall develop and implement a commissioning plan and verify the installation and performance of the systems to be commissioned, as well as preparing a final report. The Applicant shall provide proof of hiring of the commissioning authority, as well as the final commissioning report.
- (h) The project shall not have any chlorofluorocarbon (CFC) based refrigerants in any of the building systems. The Applicant shall provide manufacturer's specification sheets for any refrigerant installed in the building.
- (i) The project shall benchmark energy usage using the ENERGY STAR Portfolio Manager. The Applicant shall provide a report from Portfolio Manager prior to final bond release.
- (j) The Applicant shall provide an area for the separation, collection and storage of glass, paper, metal, plastic and cardboard generated by both customers and employees. There shall be a dedicated area for the storage of the recycled materials. The Applicant shall provide proof of installation, installation locations and a copy of the Applicant's recycling hauling contract.
- (k) The Applicant shall use low-emitting materials for all adhesives, sealants, paints, coatings, flooring systems, composite wood, and agrifiber products, as well as furniture and furnishings if available. Low-emitting is defined according to the following table:

| Application                       | (VOC Limit g/L less water) |
|-----------------------------------|----------------------------|
| • Carpet Adhesive                 | 50                         |
| • Rubber floor adhesive           | 60                         |
| • Ceramic tile adhesive           | 65                         |
| • Anti-corrosive/ anti-rust paint | 250                        |
| • Clear wood finishes             | 350                        |

The Applicant shall provide proof of installation and the manufacturers' product data.

- (l) For any carpet, the Applicant shall install carpet and carpet padding that shall meet the testing and product requirements of the Carpet and Rug Institute Green Label Plus Program. The Applicant shall provide proof of installation and the manufacturers' product data.
- (m) For tile flooring, the Applicant shall install vinyl composition tile and rubber tile flooring that shall meet the requirements of the FloorScore certification

program. The Applicant shall provide proof of installation and the manufacturers' product data and certification letter.

- (n) The Applicant shall install only LED or fluorescent lamps in all interior building lighting fixtures. The Applicant shall provide a maximum lighting power allowance of 1.25 watts/square foot (code maximum is 1.5 watts/square foot for retail area and 0.9 watts/per square foot for the service department area). The Applicant shall provide proof of installation, energy usage calculations and manufacturers' product data.
- (o) The Applicant shall install Energy Star appliances and equipment for all refrigerators, dishwashers, water heaters, water coolers, and other appliances (if available). The Applicant shall provide proof of installation, installation locations, and manufacturers' product data, including the Energy Star energy guide.

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 amendment to permit a fast food restaurant with drive-through, expires 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.

Planning Commission Meeting  
June 29, 2016  
Verbatim Excerpt

SEA 88-S-077-07 – GOLDEN BROOK, LLC

After Close of the Public Hearing

Vice Chairman de la Fe: And we will close the public hearing. Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. Let me ask Mr. McDermott – if you come back to the podium – would you please confirm that you have – you and your client have read and understood and agree with the development conditions contained in the staff report dated June 15, 2016?

Francis A. McDermott, Applicant's Agent, Hunton & Williams, LLC: We do.

Commissioner Hart: Thank you. Mr. Chairman, this is a straightforward case to allow a fast food restaurant in the shopping center where the Expo Center is, which has many other fast food uses already. This would allow – it's actually to allow a drive-through with this particular new fast food. It has staff's favorable recommendation, with which I concur. And Commissioner Keys-Gamarra wasn't able to be here tonight, but she's in support of this as well. The West Fairfax County Citizens Association supports it. The Sully District Council had no opposition to it and I believe it's ready to move forward. Therefore, Mr. Chairman, I move that the Planning Commission – first, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 88-S-077-07 BY GOLDEN BROOK, LLC, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN THE STAFF REPORT DATED JUNE 15, 2016.

Commissioner Sargeant: Second.

Vice Chairman de la Fe: Seconded by Mr. Sargeant. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Secondly, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES TO APPROVE A DEVIATION OF TREE PRESERVATION TARGET, PER PUBLIC FACILITIES MANUAL SECTION 12-0508.3A, IN FAVOR OF A CONDITIONED COMMITMENT TO MAINTAIN AND/OR REPLACE EXISTING STREETScape TREES LOCATED WITHIN UTILITY EASEMENTS.

Commissioner Sargeant: Second.

Vice Chairman de la Fe: Seconded by Mr. Sargeant. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Hart: Thank you, Mr. Chairman.

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(Each motion carried by a vote of 8-0. Commissioners Hurley, Keys-Gamarra, Lawrence, and Murphy were absent from the meeting.)

JLC