

STAFF ANALYSIS

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BOARD OF SUPERVISORS: December 11, 2024
PROJECT: SE202400025 North Pointe Wendy's
PARCEL IDs: 03200-00-00-02000

Special exception to vary setbacks on an approved application plan and to modify setbacks required by Section 5.1.60

PROPOSAL

The applicant requests a special exception to modify two applicable setbacks in association with a proposed Wendy's restaurant and drive through.

1. The first request is to reduce the minimum required setback from the property line for parking from 20' to 7' to construct a parking lot for the proposed Wendy's. This setback was established on the North Pointe application plan originally approved with ZMA200000009. As established on the application plan, properties around the outside perimeter of the North Pointe development must maintain a 20' minimum setback from the property line to any parking or travelway for non-residential uses. Under County Code §18-8.5.5.3 (a)(1), the Board of Supervisors is authorized to grant a variation of an approved plan, code, or standard for minor changes to yard requirements. The development must still provide screening of the parking lot to the abutting property in accordance with the ordinance and subject to Architectural Review Board approval since the site is on an Entrance Corridor.
2. The second request is to modify the supplemental regulations for a drive-through lane abutting a rural property line from 50' to 46'. Albemarle County Code §18-5.1.60 (c) specifies that no portion of a drive-through lane shall be located within 50 feet of a residential district, the rural areas district, the Monticello Historic district, or any part of a planned development district allowing residential uses. However, Albemarle County Code §18-5.1 (a) allows the Board of Supervisors to modify or waive any requirements of §18-5.1

CHARACTER OF THE AREA

The proposed Wendy's site is part of the larger North Pointe planned development originally approved on August 2, 2006 (ZMA200000009) including an application plan, proffers and special use permit (SP200200072) with conditions. The subject parcel is shown for commercial development on the application plan, along with a conservation area along the eastern edge where flood plain is located. Since the initial rezoning, there have been several rezonings to amend proffers as well as numerous subdivision and site plan applications. In August 2024, a subdivision plat (SUB202400016) was approved which subdivided TMP 03200-00-00-02000 into four new lots. The subject parcel was created from this subdivision and the subject parcel is now approximately 1.5 acres. Additionally, there is an initial site plan application (SDP202400003) that is under review to construct a Wendy's restaurant on the parcel. The initial site plan has proposed an approximately 2,200 square foot building along with associated utilities, parking, a drive-through lane, and right-of-way dedication.

The 1.5-acre parcel is zoned Planned Development Mixed Commercial (PDMC) and fronts Route 29, Northside Drive, and a future 50 right-of-way near the eastern edge of the property. To the north of the parcel, is TMP 03200-00-00-022E0 which is zoned Rural Areas and has the address 3891 Seminole Trail. While an address is still assigned to the parcel, all structures have been removed and the site was previously cleared in association with an approved grading plan (WPO201600037).

ANALYSIS OF SPECIAL EXCEPTION REQUEST

Under County Code § 18-33.9 (A), factors, standards, criteria, and findings, however denominated, in the applicable sections of the Zoning Ordinance, are to be considered in special exception applications. The Board of Supervisors does not need to make specific findings in order to approve this special exception. Each of the two requests is analyzed under applicable criteria below.

Variation request to the North Pointe application plan to reduce parking setback for non-residential uses

Applicable factors are listed in County Code § 18-8.5.5.3 (c) and are analyzed below:

(1) Whether the proposed variation would be consistent with the goals and objectives of the comprehensive plan;

The special exception request would be consistent with the goals and objectives of the Places29 Master Plan. The master plan's primary designation for this parcel is Office/R&D/Flex/Light Industrial which allows commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, and packaging. Secondary uses may include retail/service uses such as restaurants. Additionally, the eastern edge of the parcel is designated as open space which would not be affected.

The abutting lot is currently zoned Rural Areas; however, the comprehensive plan designates it as Urban Density Residential and the previous single-family residence on the site has been demolished. Retail/service uses are also a secondary use within that designation.

The proposed variation is consistent with anticipated uses in the land use designations for both the subject parcel and the abutting parcel.

(2) Whether the proposed variation would increase the approved development density or intensity of development;

The special exception is for a parking lot setback and would not affect the development density or intensity of development. On Sheet B of the approved application plan, it illustrates the overall site development which illustrates a parking lot on the same parcel which is adjacent to the abutting lot without a 20' setback. Although Sheet A states that a 20' minimum setback from the property line to any parking shall be provided, the illustration on Sheet B does not illustrate that. The intensity of development is not expected to increase as this parcel has been designated for commercial use with a parking lot adjacent to the abutting lot. The development must still provide screening of the parking lot to the abutting property in accordance with the ordinance and subject to Architectural Review Board approval since the site is on an Entrance Corridor.

(3) Whether the proposed variation would adversely affect the timing and phasing of development of any other development in the zoning district;

This special exception would not impact the timing or phasing of other development in the zoning district.

(4) Whether the proposed variation would require a special use permit; and

A special use permit would not be required.

(5) Whether the proposed variation would be in general accord with the purpose and intent of the approved application.

The application plan for North Pointe provides a framework for development. Sheet A provides a table for non-residential setback requirements which includes a note that states, "For adjacent properties around the outside perimeter of the overall development, a 10' minimum setback from the property line to any building shall be provided and a 20' minimum setback from the property line to any parking or travelway shall be provided." Additionally, the table provides commercial building setbacks for "internal – from building to building" which includes a side minimum setback of zero feet. Lastly, Sheet B is titled "application plan" and illustrates the overall project development. In the area for this specific site, it illustrates a parking lot which is directly adjacent to the abutting lot within the 20' minimum setback. The request to allow a 7' setback between the parking lot and the abutting property line is consistent with the graphic depiction on the application plan.

Request to modify setbacks required by Section 5.1.60

The criteria for consideration for this request are listed in County Code §18-5.1 (a) and are analyzed below:

Upon a finding that such requirement would not forward the purposes of this chapter or otherwise serve the public health, safety, or welfare;

The special exception request is not expected to affect the purposes of this chapter or affect the public health, safety, or welfare.

that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement;

A modified regulation would continue to satisfy the purposes of this chapter to at least an equivalent degree. The applicant's request for a minimum of 46' slightly reduces the current requirement by 4'. The combination of the minor reduction and or ordinance required screening along the adjacent rural property line satisfies the purposes of the chapter to an equivalent degree.

upon making any finding expressly required for the modification or waiver of a specific requirement; except that, in no case, shall such action constitute a modification or waiver of any applicable general regulation set forth in section 4 or any district regulation

The special exception request does not affect any regulation in section 4 or any district regulation.

RECOMMENDATION

Based on these findings, Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve a special exception with the following conditions:

1. The location of the travelway must have a minimum setback of 7' from adjacent property line to any parking or travelway.
2. The location of the drive-through lane must have a minimum setback of 46' from the adjacent Rural Areas district property line.