

STAFF ANALYSIS

STAFF PERSON: Cameron Langille, Senior Planner II
BOARD OF SUPERVISORS: March 17, 2021
PROJECT: Seminole Lane Drive-Through Window
TAX MAP PARCELS: 045B1-05-0A-01100

Special Exception to Modify County Code § 18-5.1.60(d)

Proposal

The applicant has requested a special exception to vary the hours of operation for a drive-through window at a proposed restaurant on Tax Map Parcel (TMP) 045B1-05-0A-01100. The property is zoned HC Highway Commercial. An initial site plan application is currently under review to allow the property to be redeveloped by-right as a coffee shop with a drive-through window and vehicular queue lane at the rear, or southeast side, of the parcel. The subject property is bordered by the HC Highway Commercial zoning district on three (3) sides to the south/southwest, west, and north/northeast. To the east/southeast, adjacent parcels are zoned R1 Residential and are located within the Carrsbrook subdivision.

County Code §18-5.1.60 (d) states that when any portion of a drive-through lane is located between 50' and 100' of a residential zoning district, the hours of operation for the drive-through window can be no earlier than 7:00 A.M. and no later than 10:00 P.M. daily as follows:

5.1.60 Each drive-through window shall be subject to the following:

d. If any portion of a drive-through lane that is located between 50 and 100 feet of a residential district, the rural areas district, the Monticello Historic district, or any part of a planned development allowing residential uses, the drive-through window shall be open for business no earlier than 7:00 a.m. and shall be closed no later than 10:00 p.m., daily.

As noted in the exhibits provided by the applicant, the drive-through lane and ordering window would be located approximately 62' from the boundary of the R1 Residential district. Therefore, the hours of operation for the drive-through window must comply with the supplemental regulation.

The applicant is requesting to modify the permitted hours of operation to allow the drive-through window to operate from 5:30 A.M. – 10:00 P.M. daily. The applicant's justification is summarized as follows:

- There is a significant change in topography between the subject property and the adjacent R1 zoning district. The location of the proposed drive-through lane sits approximately 24' below the lowest elevation on adjacent parcels in Carrsbrook. This elevation difference is maintained for the entire length of the rear property line, which is the boundary between the HC and R1 zoning districts. Furthermore, these slopes extend into the subject property for a depth of 48.' This mitigates impacts from site and vehicle lights on adjacent residential properties.
- The applicant has provided an acoustics study prepared by a sound scientist which evaluates the noise that would be generated by the drive-through lane, ordering station, and pick-up window at the zoning boundary between the HC and R1 districts. The results show that the sounds generated by the drive-through operation would be equivalent to or less than existing sounds generated by vehicular travel along Route 29. Therefore, the drive-through operation would not result in noticeable noise increases at adjacent residential properties.
- Section 4.20 of the Zoning Ordinance already requires a 50' minimum rear setback for any structures located on the property. Furthermore, the property is subject to the proffers of ZMA2019-11 which restrict grading activities within 20' of the rear property

boundary adjacent to the R1 zoned parcels. These proffers and regulations reinforce noise and light mitigation measures because they will protect the existing vegetated and sloped areas adjacent to the residential parcels.

ANALYSIS OF SPECIAL EXCEPTION REQUEST: Requests for modifications must be reviewed under the criteria established in County Code § 18-33.49(B), taking into consideration the factors, standards, criteria and findings for each request; however no specific finding is required in support of a decision. Under County Code § 18-5.1, the applicant can request a modification of County Code § 18-5.1.60 (d). Any modification must meet the findings listed in County Code § 18-5.1(a) of the Zoning Ordinance. The applicant has addressed these findings in detail in its request. Staff has made brief comments regarding the criteria in County Code § 18-5.1(a) below.

5 SUPPLEMENTARY REGULATIONS

5.1(a) SUPPLEMENTARY REGULATIONS

The Board may modify or waive any such requirement upon a finding that such requirement would not forward the purposes of this chapter or otherwise serve the public health, safety, or welfare or that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement; and upon making any finding expressly required for the modification or waiver of a specific requirement.

Staff's opinion is that the request to modify the hours of operation for the drive-through window to allow it to open at 5:30 A.M. would not cause harm to the public health, safety, or welfare. The difference in topography between the subject parcel and adjacent residential lots creates a natural barrier that mitigates noise and light from the drive-through operation. This is evidenced by the results of the sound study provided by the applicant. Furthermore, the existing vegetation at the rear of the subject property is dense, it will not be disturbed in accordance with the proffers of ZMA2019-11, and this will contribute to the mitigation of light and sound. Requirements and mechanisms that are already in place will maintain a natural landscape and sloped buffer between vehicles in the drive-through lane and the adjacent R1 properties. These factors ensure that light and sound generated by the drive-through window will not adversely affect residential properties in Carrsbrook.

Recommendation

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the special exception to modify the requirements of County Code § 18-5.1.60 (d) with the following condition:

- 1.The drive-through window may open for business no earlier than 5:30 A.M. and must close no later than 10:00 P.M. daily.