



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 24, 2010**

DATE: April 6, 2010

SUBJECT: U-3184-07-1 USE PERMIT RENEWAL for a drive-through for a bank located at 5510 Lee Highway (RPC #10-001-007).

Applicant:

Bean, Kinney & Koffman, P.C.
2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201

C. M. RECOMMENDATION:

Renew the use permit for a drive-through facility, with an Administrative Review, January 2011, and no further scheduled County Board review.

ISSUES: This is a use permit renewal for a drive-through facility associated with a bank. No issues have been identified.

SUMMARY: A use permit approved for the construction of a drive-through facility for a bank at 5510 Lee Highway was approved in January 2008. With the approval, a review was to be completed one (1) year following issuance of a Certificate of Occupancy or January 2010, whichever occurred first. The subject use permit was due for renewal on January 26, 2010, which was prior to the issuance of a Certificate of Occupancy. While the need for the use permit to be extended with the deferral of the renewal was indicated in the staff report, this language was not also included in the recommendation and therefore the County Board's action, and thus, the use permit expired. Therefore, to ensure that the spirit and intent of the County Manager's recommendation is consistent with the ordinance adopted by the County Board on January 26, 2010, and to ameliorate the inadvertent expiration of the subject use permit, staff recommends, that the subject use permit be renewed with an Administrative Review in January 2011 and no further scheduled County Board review.

BACKGROUND: In January 2008, a use permit was approved for the construction of a detached drive-through facility in association with the construction of a bank at 5510 Lee Highway. While the bank is permitted by-right in the "C-1" Zoning District, a special exception

County Manager: BMD/GA

County Attorney: [Signature]

Staff: Samia Byrd, DCPHD, Planning Division

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use permit is required for the drive-through facility. The use permit for the drive-through facility was approved with conditions regulating the construction of the bank and drive-through with a review either one (1) year following issuance of a Certificate of Occupancy or January 2010, whichever occurred first. Construction is now complete and the bank is anticipated to open in May 2010, upon issuance of a Certificate of Occupancy.

DISCUSSION: On January 26, 2010, the County Board accepted the County Manager's recommendation to defer consideration of renewal of the subject use permit to the January 2011 County Board meeting. The intent of this recommendation, as stated in the staff report, was that the use permit be extended with a review in January 2011. The deferral was recommended to ensure that construction of the facility was complete and sufficient time allowed for its operation to commence. While the need for the use permit to be extended with the deferral of the renewal was indicated in the staff report, this language was not also included in the recommendation and therefore the County Board's action, and thus, the use permit expired. It is therefore necessary for the County Board to act to continue the use permit. Such continuation will permit the issuance of a Certificate of Occupancy for the bank's drive-through facility, as its construction is now complete and the bank anticipates opening on May 1, 2010.

Finally, the purpose of scheduling subsequent periodic reviews for use permits is to monitor compliance with approved conditions regulating the use, particularly where conditions have been approved to mitigate impacts of the use on the surrounding neighborhood and/or properties. In the case of the drive-through facility, all approved conditions pertain to its construction, and construction is now complete. As the issuance of construction and building permits is tied to condition compliance, the conditions of approval have continuously been monitored by the appropriate Planning, Zoning, Inspection Services Division and the Department of Environmental Services staff, and there are no issues. After issuance of the Certificate of Occupancy, Zoning would continue to monitor compliance such that any issues or violations identified by complaint to the Zoning Office would be addressed, and if appropriate the use permit recommended for County Board review. However at this time, given that the use permit approved the construction of a drive-through facility which is complete, with use permit conditions regulating such construction, additional County Board review is not being recommended.

Since County Board Approval (January 2008):

Use Permit Conditions: The subject use in compliance with the approved conditions of the use permit.

Community Code Enforcement: There are no community code enforcement issues with the subject use permit.

Fire Marshal's Office: There are no issues with the Fire Marshal's Office related to this use permit.

Police Department: There are no issues with the Police Department related to this use permit.

State ABC Board: There are no issues associated with the subject use permit relevant to the State ABC Board.

Civic Associations: The Leeway Overlee Civic Association has been contacted and as of the writing of this report, staff has not yet been contacted regarding any issues. The Civic Association was in support of the use permit at the time of its initial approval in January 2008.

CONCLUSION: On January 26, 2010, staff recommended and the County Board acted to defer consideration of the renewal of a use permit for the construction of drive-through facility for a bank located at 5510 Lee Highway. While the intent of the deferral as stated in the staff report was to extend the use permit and allow additional time for construction of the drive-through to be completed and its operation to commence, this was not expressly stated in the recommendation of the staff report and therefore, not included in the Ordinance adopted by the County Board. As construction of the drive-through facility is now complete, and is consistent and in compliance with the approved conditions, staff recommends that the use permit be renewed with an Administrative Review in January 2011 and no further County Board review.

PREVIOUS COUNTY BOARD ACTIONS

December 8, 1956	Approved use permit U-1246-56-1 for a drive-in restaurant.
November 14, 2007	Deferred consideration of use permit U-3184-07-1 for a drive-through facility for a bank at 5510 Lee Highway.
January 26, 2008	Approved use permit U-3184-07-1 for a drive-through facility for a bank at 5510 Lee Highway.
January 26, 2010	Deferred consideration of use permit U-3184-07-1 renewal to the January 2011 County Board meeting.

Approved Conditions:

The following Conditions 1 through 5 of the use permit approval must be met by the developer before the issuance of the Clearing, Grading, and Construction Permit:

1. The developer agrees to comply with plans and building façade elevations dated January 10, 2008 as reviewed and approved by the County Board at its January 26, 2008 meeting and made a part of the public record, together with any modifications proposed by the developer and accepted by the County Board or vice versa. The approval of this use permit expires two years after the date of County Board approval if the approved plan is not under construction.
2. The developer agrees to comply with all state and local laws and regulations not modified by the County Board's action on this plan and shall obtain all necessary permits.
3. The developer agrees to file five (5) copies of a site development plan which complies with the final approval of the County Board with the Zoning Administrator within 90 days of County Board approval and before issuance of the Clearing, Grading, and Demolition Permit.
4. The developer agrees to submit a detailed final site development and landscape plan at a scale no larger than 1 inch = 25 feet before issuance of the Excavation/Sheeting and Shoring Permit or first Building Permit, whichever comes first, and the plan shall be approved by the County Manager or his designee before issuance of the final Building Permit. In order to facilitate comparison with the final site engineering plan, the landscape plan shall be at the same scale as the engineering drawing. The County may require more detailed plans appropriate to landscape installation at a larger scale 1 inch = 10 feet. The County may permit minor changes in building, street, and driveway locations and other details of design as necessitated by more detailed planning and engineering studies if such changes are consistent with the provisions of the Zoning Ordinance governing administrative approval and with the intent of the site development plan approval. The landscape plan shall include a Street Tree Plan which shall be reviewed by the Department of Parks, Recreation and Community Resources (DPRCR) and shall be accompanied by the site engineering plan and the two (2) plans shall be compared to ensure that there are no conflicts between street trees and utilities. Neither plan shall be approved until the landscape plan and the site engineering plan agree. The installation of all plant materials shown on the final landscape plan shall take place before issuance of the First Certificate of Occupancy. The final site development and landscape plan shall include the following details:
 - a. The location and dimensions of traffic signal poles and control cabinets, utility meters, utility vaults and boxes, transformers, mechanical equipment, fire hydrants, standpipes, storm water detention facilities, and the location of all existing and proposed utility lines and of all easements. The location of traffic control cabinets shall be shown on the final site engineering plan and placed so as not to obstruct pedestrian travel or be visually obtrusive. Traffic control cabinets shall not be

located in the public sidewalk. Transformers shall be screened and shall not be placed in the setback area between the building and the street;

- b. The location, dimensions, and materials for driveways, driveway aprons, parking areas, interior walkways, and sidewalks as well as for address indicator signs;
 - c. The location and types of light fixtures for the building, parking, and non-streetscape walkway areas: Lighting fixtures and lighting plan shall not result in any glare beyond the property line and the applicant shall use fully shielded, light efficient fixtures aimed directly at the ground or shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter. Façade and architectural lighting should be aimed from the top down, if at all possible; or the applicant shall otherwise, make certain that any up-lighting does not extend beyond the highest point of the building;
 - d. Topography at two (2)-foot intervals and the finished first floor elevation of all structures;
 - e. Landscaping for internal circulation areas, raised planters, and surface parking areas, including a listing of plant materials and showing details of planting, irrigation, and drainage; and
 - f. The location and planting details for street trees and shrubs in accordance with Department of Environmental Services (DES) Standards and Specifications for planting in public rights-of-way along Lee Highway and North Illinois Street as shown on the approved final site engineering and landscape plans.
 - g. The applicant agrees that the architectural and streetscape details shall be consistent with the urban design recommendations of the Arlington County Planning Division and as shown in elevations as reviewed and approved by the County Board at its January 26, 2008 meeting. Final design of the building, consistent with the approved elevations of the building, shall be subject to the approval of the County Manager or his designee.
 - h. Prior to approval by the County Manager, the applicant shall send a copy of the final landscape plan to the President of the Leeway Overlee Citizens Association for review and comment.
5. Landscaping shall conform to Department of Public Works Standards and Specifications and to the following requirements:
- a. Planting materials shall be of good nursery stock. A nursery guarantee shall be provided by the developer for two (2) years including the replacement and maintenance (to include but not be limited to pruning, feeding, spraying, mulching, weeding, and watering) of all landscape materials following issuance of the Master Certificate of Occupancy;

- b. Planting materials and landscaping shall meet American Standard for Nursery Stock Z50.1-73 and shall also meet the following standards:
 - (1) Major deciduous trees (shade or canopy trees such as Oaks, Maples, London Planes, Japanese Zelkovas, etc.) - a height of 12 to 18 feet with a minimum caliper of 3 to 3 1/2 inches.
 - (2) Evergreen trees (such as Scotch Pines, White Pines, Hemlocks, etc.) - a minimum height of 8 to 10 feet.
 - (3) Ornamental deciduous trees (such as Cherries, Dogwoods, Serviceberries, Hornbeams, etc.) - a height of 10 to 14 feet with a minimum caliper of 1 1/2 to 2 inches.
 - (4) Shrubs - a minimum spread of 18 to 24 inches.
 - (5) Groundcover - in 2 inch pots.
- c. All new lawn areas shall be sodded; however, if judged appropriate by the County Manager or his designee, based on accepted landscaping standards, seeding may be substituted for sod. All sod and seed shall be state certified;
- d. Exposed earth not to be sodded or seeded shall be well-mulched or planted in ground cover. Areas to be mulched may not exceed the normal limits of a planting bed;
- e. Soil depth shall be a minimum of four feet for trees and tall shrubs and three feet for other shrubs.
- f. Finished grades shall not exceed a slope of three to one or the grade that existed before the site work began.
- g. The developer agrees to maintain the site in a clean and well maintained condition before issuance of the Clearing, Grading, and Demolition Permit and agrees to secure and maintain the site throughout the construction and phasing process. Further, the developer agrees to submit a maintenance agreement which shall ensure that all landscaped areas located on private property are kept in a clean and well-maintained condition after the expiration of the two (2) year guarantee required in condition number 5.a. above and to follow the terms of the maintenance agreement approved for that purpose by the Zoning Administrator.
- h. The developer agrees to notify the DPRCR Urban Forester at 703-228-6557 at least 72 hours in advance of the scheduled planting of any street trees in the public right-of-way and to be available at the time of planting to meet with the staff of the

DPRCR to inspect the plant material, the tree pit, and the technique of planting. Soil used in the tree pit must meet the specifications for street tree planting available from DPRCR Urban Forester.

6. The developer agrees to contact all utility companies, including the electric, telephone, and cable television companies, and offer them access to the site at the time of utility installation to install their cables. To comply with this condition, the developer agrees to submit to the Zoning Administrator letters from the developer to the utility companies offering them access as stated above before the issuance of any building permit.
7. The developer agrees that the final sidewalk pattern/design and final selection of materials and colors to be used shall be as determined by the County Manager or his designee on the final site development and landscape plan and final engineering plan, in accordance with the applicable urban design standards approved by the County Board and in effect at the time of the final landscape plan approval. The developer further agrees to construct the sidewalk improvements detailed below prior to the issuance of the first Certificate of Occupancy for occupancy of the applicable phase of the project. The sidewalks along the street frontages of this development shall be concrete and shall be placed on a properly-engineered base approved as such by the Department of Environmental Services (DES). The sidewalk treatments shall continue across all driveway aprons for loading and garage entrances along all frontages of the site plan, and there shall be no barriers to impede the flow of pedestrian traffic. The sidewalks shall contain street trees placed in either tree pits, tree grates or planting strips, consistent with the Standards for Planting and Preservation of Trees in Site Plan Projects, and as specified below. Placement, planting and root enhancement options shall be consistent with the Standards for Planting and Preservation of Trees in Site Plan Projects, and as specified below. Street trees shall not be placed within the vision obstruction area. All public walkways shall be constructed to County Standard. The developer agrees to maintain and replace the street trees and sidewalks for the life of the use permit. The sidewalk sections and street tree species shall be as follows:

Lee Highway – A minimum five-foot-wide utility/planting strip adjacent to the back of curb and a minimum 10-foot-wide concrete sidewalk. The developer also agrees to relocate the existing fire hydrant located at the southwest corner of Lee Highway and Illinois Street out of the clear sidewalk and into the new utility strip along Illinois Street providing all of the appropriate connections to the existing water main located in Lee Highway.

North Illinois Street - A minimum two-foot-wide utility/planting strip adjacent to the back of curb and a minimum 6-foot-wide concrete sidewalk.

8. The developer agrees to submit final site engineering plans to the Department of Public Works. The plans shall be drawn at the scale of 1 inch = 25 feet and be 24 inches by 36 inches in size. The Excavation/Sheeting and Shoring Permit shall not be issued for this site until final site engineering plans and the sequence of construction has been approved by the Department of Public Works.

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Renew drive-thru facility

9. The developer agrees to provide at his total expense, underground utility services to the bank including any transformers needed to serve the proposed bank, such as electric, telephone services, etc. No new aerial utilities shall be permitted along the periphery of the site, and any utility link shall not result in the installation of any new utility poles and/or aerial lines on or off-site. The applicant agrees to cooperate with future County utility undergrounding projects along Lee Highway including any easements that may be necessary in the future so that existing utility lines and overhead transformers can be placed underground. The plan shall be designed so that there are no new utility poles or pole mounted transformers provided on or off-site.
10. The developer agrees to install address indicator signs which comply with Chapter 27-12 of the Arlington County Code, or successor provision, in a location visible from the street and as shown on the final site development and landscape plan.
11. The final design and materials of the proposed signs, along with their location and associated landscaping, shall be reviewed and approved by the County Manager or his designee before the issuance of any sign permits.
12. All required easements and right-of-way agreements shall be submitted to the DES for approval and be recorded by the developer before issuance of the Footing to Grade Structure Permit or first Building Permit, whichever comes first.
13. The developer agrees to submit a performance bond estimate for the construction of all facilities (to include street trees and all landscape materials) within the public rights-of-way or easements to the DES for review and approval upon approval of the final engineering plan and before issuance of the Footing to Grade Structure Permit. Upon approval of the performance bond estimate, the developer agrees to submit a performance bond and agreement for the construction or installation of all these facilities (to include street trees and all landscape materials) within the public rights-of-way or easements to the DPW and this bond shall be executed by the developer in favor of the County before the issuance of the Footing to Grade Structure Permit.
14. The final design and materials of the drive-through aisle, any trash storage and loading areas, retaining and screening walls and adjacent landscaping shall be subject to the approval of the County Manager or his designee before issuance of any building permit.
15. The developer agrees to ensure that all parking spaces comply with the requirements of Section 33 of the Zoning Ordinance. Drawings showing that these requirements are met shall be approved by the Zoning Administrator before issuance of the Footing to Grade Structure Permit.
16. Mechanical equipment shall be screened so as not to be visible from public rights-of-way.

17. The developer agrees to identify a community liaison for Commerce Bank who will be available to the adjacent residential community during the hours of operation to discuss any concerns of the community associated with the bank and the operation of the drive-through facility. The developer agrees to provide the name and telephone number of this representative to the Leeway Overlee Civic Association and the Zoning Administrator before issuance of the Certificate of Occupancy.
18. The developer agrees to show on the final engineering plans street lighting along all frontages of the site prior to the issuance of the Excavation/Sheeting and Shoring Permit. The plans shall include the height and color of the street light poles. The developer agrees, at its cost, to purchase and install approved Arlington County street lighting along the frontages of the site prior to the issuance of the Shell and Core Certificate of Occupancy. In addition, the developer agrees to furnish and install all conduit and junction boxes necessary for the lighting system. All construction shall meet Arlington County standards.
19. The developer agrees to purchase and install Virginia Power "Carlyle" standard street lights along all frontages of the site in accordance with adopted County Street Lighting Policy. The height of the street lights shall be 16 feet.
20. The applicant agrees to construct Arlington County Standard driveway entrances to the site as shown on the final engineering plan approved by the County Manager or his designee.
21. The applicant agrees to dedicate an easement for public sidewalk and utilities purposes to the proposed back of sidewalk along both street frontages as shown on the final engineering plan approved by the County Manager or his designee prior to the issuance of the Certificate of Occupancy. The applicant agrees to dedicate an easement for public street and utilities purposes to the proposed back of curb along both street frontages as shown on the final engineering plan approved by the County Manager or his designee prior to the issuance of the Certificate of Occupancy.
22. The applicant agrees to show on the final engineering plans and construct pavement, sidewalk, curb and gutter along all frontages of this site in accordance with the Arlington County Standard for concrete sidewalk with concrete curb and gutter current at the time of implementation. The pavement, curb and gutter shall be constructed prior to issuance of the first Certificate of Occupancy for occupancy of the applicable phase of the project as follows:

Lee Highway – Face of curb shall be located approximately 28 feet south of the survey centerline or as approved by the County Manager on the final engineering plan maintaining the existing curb alignment.

North Illinois Street – Construct a new curb and gutter narrowing the street to 25-feet from face of curb to face of curb for approximately the first 85-feet from the Lee Highway intersection south the providing the appropriate transition to the existing 36-foot face of curb to face of curb Illinois Street width as approved by the County Manager on the final engineering plan.

North Illinois Street Gateway Treatment – Construct a “Gateway Treatment” on North Illinois Street narrowing the road at Lee Highway from 36-feet to 25-feet. The “Gateway Treatment” shall include a stamped colored asphalt treatment, a new crosswalk, new handicap ramps and the addition of street trees in a design that is intended to calm vehicular traffic as it enters the neighborhood from Lee Highway. The “Gateway Treatment” is show in the plans January 10, 2008.

25. The applicant agrees that no building signs are permitted on the south or west facades in compliance with section 34.D.2.
26. The applicant agrees that eight (8) bicycle parking spaces will be provided for this project for the employees and visitors. The bicycle spaces shall be installed at exterior locations within 50 feet of the primary entrance on Lee Highway, and such locations shall be reviewed by the Division of Transportation. Facilities for bicycle parking must meet the County standards for Class III bicycle racks. The developer agrees to obtain approval of the location, design and details of the bicycle spaces, by the Bicycle and Pedestrian Program Manager, as part of the final site development and landscape plan.
27. The applicant agrees to eliminate EIFS material from the proposed design and that each EIFS building element, as shown on the building facades on sheet #7 of the plans dated January 10, 2008, shall be replaced with masonry construction. The final façade design shall be submitted for review and approval by the County Manager prior to issuance of any building permit.
28. The applicant agrees to provide evidence of an agreement with their towing contractor that the towing company is prohibited from towing any vehicle from the site unless specifically requested to do so by the bank staff. Evidence of this agreement shall be provided to the Zoning Administrator prior to issuance of the Certificate of Occupancy.
29. Upon receipt of an approved final Building Permit and within sixty (60) days of receipt of written notice from the County Manager that Arlington County has approved final plans for the construction of sidewalk, curb and gutter for those certain properties known as 2201 N. Illinois Street, 2213 N. Illinois Street, 5445 N. 22nd Road and 2231 N. Illinois Street (collectively the “Missing Link Properties”), the developer agrees to deliver \$25,000 (Twenty Five Thousand Dollars) to the County Manager or his designee. The \$25,000 contribution shall be used first to fund the construction of sidewalk, curb and gutter and related work adjacent to the Missing Link Properties. Should a project for the Missing Link Properties not be approved, and Leeway Overlee Civic Association and the County Manager, or his designee, determine that another transportation or pedestrian related project located between 22nd St. N. and Lee Highway on N. Illinois St. would be beneficial, the developer shall alternatively contribute the aforementioned \$25,000 payment to the County Manager upon receipt of an approved final Building Permit and within sixty (60) days of written notice from the County Manager that such plans for a substitute project have been finally approved. If the developer has not received written notice from the County Manager within

five (5) years of approval of this use permit by the County Board that final plans for the Missing Link Properties, or a project located between 22nd St. N. and Lee Highway on N. Illinois St., has been approved, this condition # 29 shall be void, and the developer shall have no obligation to pay the aforementioned contribution.



**u-3184-07-1 Use Permit
5510 Lee Hwy.
(RPC #10-001-007)**

Note: These maps are for property location assistance only.
They may not represent the latest survey and other information.



Not To Scale

