



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of March 12, 2011

DATE: March 3, 2011

SUBJECT: U-3054-03-1 USE PERMIT REVIEW to renew a restaurant with a drive-through window; property known as Taco Bell; located at 4681 S. King St. (RPC# 28-019-031).

Applicant:

Taco Bell
4681 King Street
Arlington, Virginia 22206

C.M. RECOMMENDATION:

Renew the use permit for a restaurant with a drive-through window, subject to all previously approved conditions and an amended Condition #19, and with no further scheduled County Board review.

ISSUES: This is a review of an existing use permit for a fast-food restaurant with a drive-through window and no issues have been identified.

SUMMARY: This is a three-year review of a use permit for the King Street Taco Bell with a drive-through facility. The use operates in compliance with the use permit conditions. The use has been reviewed several times and has been found to be in compliance with the use permit conditions. However, an error in Condition #19 at the time of original approval requires the drive-through window to close at 12 *p.m.* (noon) on Sundays through Thursdays. All information available from the original application was that the applicant requested a closing of the drive through at 12 *a.m.* (midnight) and that staff's intention was to recommend approval of this request. The applicant has been closing at midnight since the original approval. Therefore, staff recommends renewal of the use permit for a restaurant with a drive-through window, subject to all previously approved conditions and an amended Condition #19, and with no further scheduled County Board review.

BACKGROUND: The Taco Bell drive-through was approved by the County Board in July 2003, and in July 2004 the County Board approved a use permit amendment to make minor adjustments to the approved site layout from the original approval. The use permit was renewed by the County Board in September 2006, March 2007, and March 2008. No issues were identified at the time of those renewals.

County Manager: *BMD/GA*
Staff: Peter Schulz, DCPHD, Planning Division
PLA-5845

6.

DISCUSSION:

Since the last review (March 2008):

Use Permit Conditions: The drive-through use is in compliance with all use permit conditions.

Zoning Enforcement: The Zoning Administration Enforcement staff inspected the site and found the Taco Bell to be compliant with the conditions of approval.

Civic Associations: The drive-through use is located in the Claremont Civic Association. The civic association has been notified and to date there have been no comments.

The drive-through restaurant use has operated since 2006. Two previous use permit renewals found no issues with this use. The applicant is compliant with the conditions of approval. Most conditions of approval were construction-related and were satisfied before the issuance of a master certificate of occupancy. Staff has found the applicant compliant with the few ongoing conditions of approval that regulate how the drive-through operates, apart from Condition #19.

Condition #19 requires, as written in the July 2003 staff report and adopted in the minutes of the July 19, 2003, County Board meeting that the drive-through operation close at 12 p.m. (noon) on Sundays through Thursdays. All available information indicates the intent was to require Sunday through Thursday closing at 12 a.m. (midnight). The staff report from July 2003 states that the applicant proposes to be open until 11 p.m. on Sundays through Thursdays, but Condition #19 of the same staff report states “12 p.m” as the required closing time. The Taco Bell drive-through has been open until midnight (12 a.m.), Sunday through Thursday, since its opening in 2006. Subsequent renewals of the use permit did not discover this issue, and since no complaints have been lodged from the community about the hours of operation being later than negotiated, it appears clear from the record that the intent all along was to permit Sunday through Thursday drive-through hours of operation from 6 a.m. to 12 a.m.

CONCLUSION: As it is staff’s current practice to not schedule County Board review of use permits for new construction (similar to the County’s practice for new site plans), and because there have been no operational issues, staff recommends that the use permit be renewed with no further scheduled County Board review. Any issues that may arise from this use in the future, such as property maintenance or zoning violation issues, can be handled in the usual manner by the Code or Zoning Enforcement process. If egregious violations occur, staff always has the option of bringing the use permit to the County Board for an unscheduled review. Staff also recommends amending Condition #19 to reflect the true intent of the condition. Therefore, staff recommends renewal of the subject use permit for a drive-through bank, subject to all previously approved conditions, with an amended Condition #19, and with no further scheduled County Board review.

Amended Condition #19

19. The developer agrees to limit the hours of operation of the drive-through to the hours of 6:00 a.m. to 12:00 p.m. Sunday through Thursday, and 6:00 a.m. to 2:00 a.m. on Fridays and Saturdays.

PREVIOUS COUNTY BOARD ACTIONS:

July 12, 1975	Approved U-2022-75-1 for a public garage subject to conditions with a County Board review in one (1) year (July 1976).
July 31, 1976	Renewed U-2022-75-1 with a review in two (2) years (July 1978).
July 29, 1978	Renewed U-2022-75-1 with a review in one (1) year (July 1979)
July 7, 1979	Renewed U-2022-75-1 with additional conditions and no further review.
July 19, 2003	Approved U-3054-03-1 Use Permit Request for a restaurant with a drive-through window: premises known as 4681 South King Street (RPC-#28-019-031).
July 10, 2004	Approved an amendment to U-3054-03-1 Use Permit Request for a restaurant with a drive-through window: premises known as 4681 South King Street (RPC-#28-019-031), subject to all previous conditions with three amended conditions and with a review in two years (July 2006).
September 16, 2006	Renewed a use permit for a restaurant with a drive-through with a County Board review in six months (March 2007).
March 17, 2007	Renewed the use permit subject to all previously approved conditions, with a review by the County Board in one (1) year (March 2008).
March 15, 2008	Renewed the use permit subject to all previously approved conditions, with a review by the County Board in three (3) years (March 2011).

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 as revised by these conditions and reviewed and approved by the County Board at its July 10, 2004 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 1/16 inch = 1 foot 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 (1/16 inch = 1 foot, 1/8 inch = 1 foot, or 1/4 inch = 1 foot). 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, streets, parking, and walkway areas: Lighting fixtures and lighting plan shall not result in any glare beyond the property line;
 - 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 Public Works (DPW) Standards and Specifications for planting in public rights-of-way along South King 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. Materials for the building facades shall be predominantly brick (no less than 60% of all exterior wall surfaces). Final design of the building and screening of rooftop equipment shall be subject to the approval of the County Manager or his designee. Streetscape shall include six (6)-foot wide landscaped strip and six (6)-foot wide walkway with a combination of concrete with brick or decorative paver accent banding.
 - h. Prior to approval by the County Manager, the applicant shall send a copy of the final landscape plan to the President of the Claremont Civic 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.
 - i. The developer agrees to coordinate with the Arlington County Urban Forester to develop, install, and maintain a supplemental planting plan for the King Street frontage subject to review and approval of the Virginia Department of Transportation (VDOT), before issuance of any Certificate of Occupancy.
 - j. The applicant agrees to maintain the street trees and shrubs along the frontage of the site, in accordance with the VDOT permits and regulations.
- 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.
 - a. The developer agrees to construct driveway entrances and curb and gutter in accordance, where applicable, with the VDOT and Arlington County Standard R-20 for concrete curb and gutter and the appropriate construction standards R-1.0, -1.1, -1.2, -1.3, and -1.4 for pavement.
 - b. The developer agrees to remove and replace existing curb, gutter and sidewalk along the street frontages of this site which is in poor condition or damaged by the developer according to Arlington County and VDOT standards and specifications, before issuance of any Certificate of Occupancy. Further the developer agrees to widen the existing four (4) -foot wide walkway on the South King Street frontage of the site to six (6) feet paved with concrete with brick or decorative paver accent strips along with six (6)-foot wide utility planting strips.
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.
9. The developer agrees to provide at his total expense, underground utility services to the restaurant, including any transformers needed to serve the proposed restaurant, 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 South King Street 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 DPW 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 DPW 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, the 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, including the equipment installed on the roof or around the building, shall be screened so as not to be visible from public rights-of-way.
17. The developer agrees to identify a community liaison for the Taco Bell Restaurant who will be available to the adjacent residential community during the hours of operation to discuss any concerns of the community associated with the operation of a restaurant with a drive-through window. The developer agrees to provide the name and telephone number of this representative to the Claremont Civic Association and the Zoning Administrator before issuance of the Certificate of Occupancy.
18. The developer agrees to pay the capital cost for the installation of approved Arlington County street lighting, when it is determined to be necessary by the DPW. In addition, the developer agrees to furnish and install all conduit and junction boxes necessary for the lighting system. All construction shall meet Virginia Power standards. Lighting shall be in accordance with the following: South King Street: Carlyle street lights as determined by the DPW.
19. The developer agrees to limit the hours of operation of the drive-through to the hours of 6:00 a.m. to 12:00 p.m. Sunday through Thursday, and 6:00 a.m. to 2:00 a.m. on Fridays and Saturdays.
20. The developer agrees to control the sound generated by the speakers for the drive-through window so that the sound levels heard outside of the site would not exceed the maximum noise level of 65 dBA, as permitted by the Arlington County Noise Standards, at any time of the day.
21. The developer agrees to include on-site pavement markings and signs to facilitate safe pedestrian trips to and from the subject site. The site design shall include an on-site travel aisle crossing to the proposed Taco Bell restaurant with a sign that prohibits vehicles from queuing in the designated crossing area.
22. The developer agrees to contribute the funds (not to exceed \$2,500.00) necessary, as determined by the Department of Public Works, to install additional signs and pavement markings to provide safe ingress and egress to Chesterfield Road, before issuance of any Certificate of Occupancy.
23. The developer agrees to allow bicycles to use the drive-through window so long as said use does not violate local or state laws or reasonable insurance requirements to the developer.

24. The developer agrees to install and maintain five (5) bicycle parking spaces on site.



© Arlington County, Virginia

U-3054-03-1 USE PERMIT REVIEW
4681 S. King St. (Taco Bell)
(RPC #28-019-031)

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

