

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	January 6, 2020
Action Required:	Adoption of a Resolution to Approve a Special Use Permit
Presenter:	Joey Winter, City Planner – NDS
Staff Contacts:	Joey Winter, City Planner – NDS Lisa Robertson, Chief Dep. City Attorney
Title:	SP19-00008 – Chick-fil-A Barracks Road Special Use Permit

Background:

Mr. John Martinez of Chick-fil-A Inc. has submitted a Special Use Permit (SUP) application to authorize a specific land use (i.e., a restaurant drive through window) at 1000 Emmet Street North in the Barracks Road Shopping Center, as allowed by City Code §34-796. Additionally, modifications to yard regulations are being requested pursuant to City Code §34-162. The site is zoned URB (“Urban Corridor Mixed Use District”) with an Entrance Corridor overlay and has an area of approximately .801 acre. The property is further identified on a portion of City Real Property Tax Map 1 Parcel 1 (City real estate parcel identification no. 010001000). The Comprehensive Plan’s General Land Use Plan calls for Mixed Use development in this area.

The applicant is proposing to demolish the existing Burger King (with a drive-through window) at this location and construct a Chick-fil-A restaurant with a drive-through window. The proposed restaurant use is allowed by right within the URB zoning district. However, per §34-796, a Special Use Permit is required for the restaurant’s drive through window. **City Council review of this Special Use Permit should focus solely on whether a restaurant drive through window is appropriate for this location, with suitable regulations and safeguards (development conditions).** It should not focus on whether a restaurant is appropriate for this location or if Chick-fil-A is the appropriate type of restaurant.

Discussion:

The proposed use (restaurant with a drive through window) is identical to the current use at this location. The proposed development is harmonious with existing patterns of use and development within the neighborhood and the Barracks Road Shopping Center. On Emmet Street North between the Route 250 Bypass and Massie Road, a distance of just over one mile, there are currently eleven businesses operating drive through windows - six restaurants, four banks, and one pharmacy. There are four drive through windows north of the Barracks Road intersection (Cookout, Zaxby’s, Arby’s, and SunTrust Bank) and seven drive through windows south of the Barracks Road intersection (Bank of America, CVS Pharmacy, Burger King, McDonald’s, Wells Fargo Bank, Virginia National Bank, and Taco Bell). There are currently five businesses operating drive through windows in the Barracks Road Shopping Center- two

restaurants and three banks. **Reasonable conditions have been recommended by staff and the Planning Commission, to mitigate potential adverse impacts on pedestrian traffic in the vicinity related to the drive through window use.**

This site lies in the Route 29 North [Emmet Street] Entrance Corridor, so the Entrance Corridor Review Board (ERB) made a recommendation on this request. On December 10, 2019, the ERB recommended this proposed drive through window will not have an adverse impact on the Entrance Corridor.

City Code §34-162 allows City Council to modify yard regulations (setbacks) as part of an SUP condition. Modifications to yard regulations are being requested by the applicant due to the large utility easements that cross the property near Emmet Street North. The City's Utilities Engineer has recommended that front yard regulations be modified to allow access to the sanitary sewer line and storm sewer culverts that cross this site. The recommended modification is that the maximum setback along Emmet Street North be changed from 30 feet to 92 feet.

Alignment with City Council's Vision and Strategic Plan:

This project aligns with **Strategic Plan Goal 3: Beautiful Environment - Objective 3.1 Engage in robust and context sensitive urban planning and implementation.**

Community Engagement:

The applicant held a Community Meeting for this application as required by City code §34-41(c)(2) on November 14, 2019, at Venable Elementary School. One member of the public attended this meeting.

On December 10, 2019, the Planning Commission held a joint Public Hearing with City Council. No members of the public spoke in favor of or against this application.

Staff received one written comment from a member of the public expressing concern about this application.

Budgetary Impact:

This has no impact on the General Fund.

Recommendation:

The Planning Commission took the following action:

Mr. Lahendro moved to recommend approval of SP19-00008 subject to the following conditions:

1. An accessible pedestrian route from the public sidewalk on Emmet Street North to the primary entrance of the restaurant shall be provided. City staff shall have the authority to require additional safety measures be taken to protect pedestrian traffic in this route from vehicle traffic related to the drive through window use.
2. A pedestrian route from the internal parking area of the Barracks Road Shopping Center to the west of the Special Use Permit area to the primary entrance of the restaurant shall be provided.

- a. This route shall allow for safe pedestrian access across Wise Street and/or the internal vehicular travelways of Barracks Road Shopping Center.
 - b. City staff shall have the authority to require additional safety measures be taken to protect pedestrian traffic in this route from vehicle traffic related to the drive through window use.
 - c. Within the Special Use Permit area, this route shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, to the maximum extent feasible.
 - d. This condition does not require the applicant to change grade or otherwise modify any existing pavement except where the existing pavement will have already been disturbed by the applicant's own actions.
3. Setbacks shall be required, as follows:
- a. Primary street frontage along Emmet Street North: Five (5) feet, minimum; ninety-two (92) feet, maximum.

Mr. Solla-Yates seconded the motion. The motion passed 4 – 2 to recommend approval of the SUP application to City Council, with the following votes recorded:

Mr. Lahendro: Yes	Mr. Heaton: No
Mr. Solla-Yates: Yes	Ms. Green: No
Ms. Dowell: Absent	
Mr. Stolzenberg: Yes	
Mr. Mitchell: Yes	

Alternatives:

City Council has several alternatives:

- (1) By motion: adopt the attached Resolution;
- (2) By motion(s): amend the conditions set forth within the attached Resolution, and then move to approve the Resolution as amended; or
- (3) By motion: deny approval of the SUP; or
- (4) By motion: defer any action on the SUP.

Attachment(s):

- A. Resolution
- B. Link to the Staff Report and background information from the December 10, 2019 Planning Commission meeting (Staff Report begins on page 1):
<https://www.charlottesville.org/home/showdocument?id=67461>

**RESOLUTION
APPROVING A SPECIAL USE PERMIT
TO AUTHORIZE THE ESTABLISHMENT AND OPERATION OF A
RESTAURANT WITH A DRIVE-THROUGH WINDOW
AT 1000 EMMET STREET NORTH**

WHEREAS, Chick-fil-A, Inc., by its agent John Martinez, (“Applicant”), with the endorsement of Federal Realty Investment Trust (“Property Owner”) has requested City Council to approve a special use permit pursuant to City Code §34-796, to authorize the establishment of a restaurant with a drive-through window (the proposed “Special Use”) at 1000 Emmet Street North, identified on City Tax Map 1 as Parcel 1 (real estate parcel identification # 010001000) (“Subject Property”). The Subject Property is within the City’s Urban Corridor (URB) Mixed Use zoning district; and

WHEREAS, the requested Special Use is generally described within the Applicant’s application materials submitted in connection with SP19-00008 (the “Application Materials”), and the Special Use is allowed by special use permit within the URB zoning district, pursuant to City Code §34-796; and

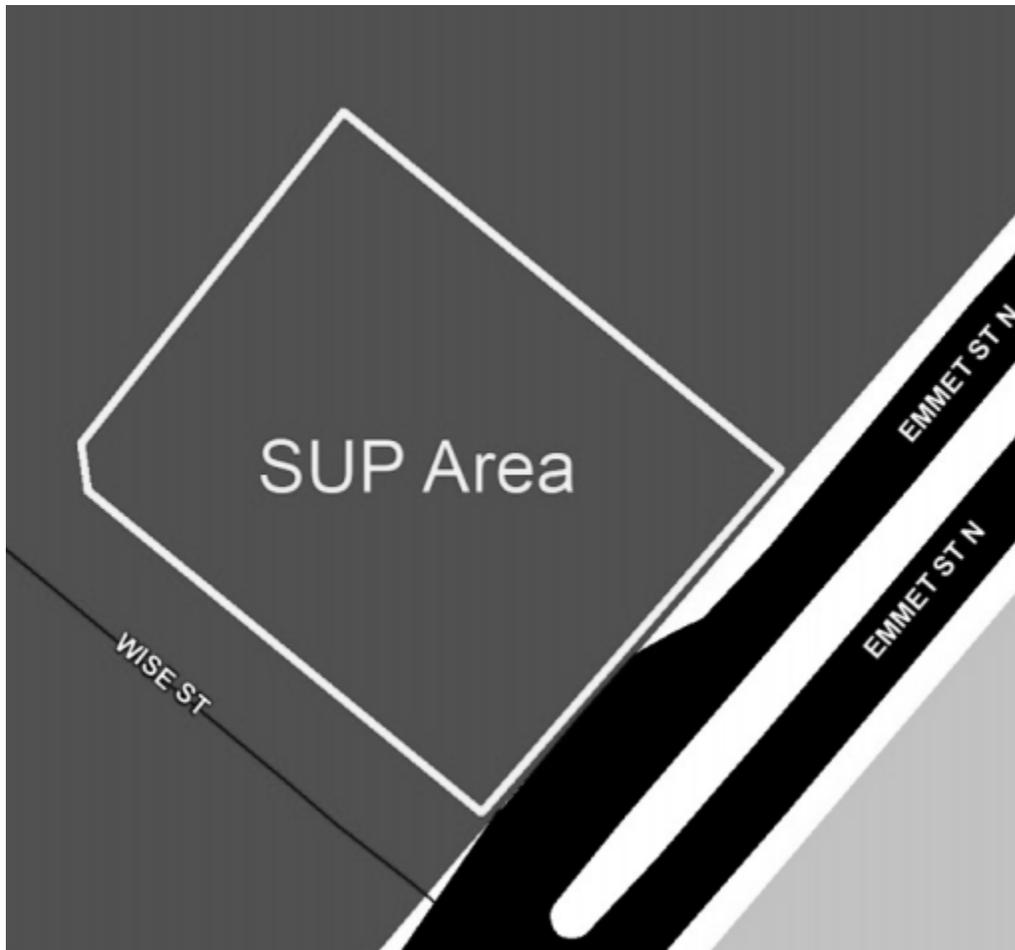
WHEREAS, the existing building at the Subject Property is proposed to be demolished/ removed to allow for establishment of the Special Use and related buildings and improvements; and

WHEREAS, following a joint public hearing, duly advertised and conducted by the Planning Commission and City Council on December 10, 2019, the Commission voted to recommend that City Council should approve the requested Special Use, subject to certain development conditions recommended by the Commission as being suitable regulations and safeguards; and

WHEREAS, upon consideration of the comments received during the joint public hearing; the Staff Report; and the Planning Commission’s recommendations, as well as the factors set forth within §34-157 of the City’s zoning ordinance, this Council finds and determines that granting the requested special use permit, subject to suitable regulations and safeguards, would serve the public necessity, convenience, general welfare or good zoning practice; now, therefore,

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that, pursuant to City Code §34-796, a special use permit is hereby approved and granted, subject to conditions, as follows:

1. The proposed Special Use, as described and represented within the Application Materials, is hereby authorized to be established on approximately 0.801 acre (approx. 34,892 square feet) of the Subject Property, in the general or approximate location depicted below:



2. The following development conditions shall apply to the use and development of the Subject Property for the Special Use:
 - a. An accessible pedestrian route from the public sidewalk on Emmet Street North to the primary entrance of the restaurant shall be provided. The City Engineer shall have the authority to require specific safety measures within the final site plan for the Special Use, in order to protect pedestrian traffic in this route from vehicle traffic related to the drive through window use, in accordance with accepted engineering and safety requirements.
 - b. A pedestrian route from the internal parking area of the Barracks Road Shopping Center to the west of the Special Use Permit area to the primary entrance of the restaurant shall be provided.
 - i. This route shall allow for safe pedestrian access across Wise Street and/or the internal vehicular travelways of Barracks Road Shopping Center.
 - ii. Within the Special Use Permit area, this route shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, to the maximum extent feasible.

- iii. The City Engineer shall have the authority to require specific safety measures within the final site plan for the Special Use, in order to protect pedestrian traffic in this route from vehicular traffic related to the drive-through window.
 - iv. This condition does not require the developer to change grade or otherwise modify any existing pavement except where the existing pavement will have already been disturbed by demolition of the existing use or construction of the Special Use.
 - c. Buildings and structures constructed or established as part of the Special Use shall be subject to the following setbacks: along the Special Use site's primary street frontage (i.e., along Emmet Street North): Five (5) feet, minimum; ninety-two (92) feet, maximum.
- 3. In addition to the above-referenced conditions, the Special Use authorized by this SUP, and all buildings, structures, improvements and uses located on the Subject Property, shall comply with all other applicable provisions of Chapter 34 (Zoning) of the Code of the City of Charlottesville.