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March 7, 2018

Via Hand-Delivery

Susan W. Blackburn, Zoning Administrator
Stafford County Department of Planning and Zoning
P.O. Box 339
Stafford, Virginia 22555

RE: Zoning Reclassification Application # RC17152031
Conditional Use Application #CUP17152030
Family Health Center Medical Clinic at the East Campus of Stafford Hospital Center, B-2
Request for Determinations

Dear Administrator Blackburn:

This firm represents Everett Lovell a landowner of property¹ that is zoned B-2. The Stafford County Planning Commission (“Planning Commission”) and the Stafford County Board of Supervisors (“Board”) recently considered the Zoning Reclassification Application #RC17152031 (“Rezoning”) and the Conditional Use Application #CUP17152030 (“CUP”) (together, “Zoning Applications”). The Board also recently adopted new rules regarding drive-throughs and the B-2 district. The Zoning Applications were submitted to allow the development and operation of a secured outpatient family health clinic on the East Campus of the Stafford Hospital Center complex (“Project”) which is in a B-2 district.

We have reviewed the Zoning Applications for the Project, the county staff’s comments, and the Stafford County Zoning Ordinance (“Zoning Ordinance”)²; there are various issues that are unclear. With regards to the Zoning Applications and this Project, please provide me with your formal determinations on the following:

1. Is a “drive-through”³ permitted in a B-2 district under the Zoning Ordinance?
2. Is a “drive-through” allowed at the Project site?
3. May an applicant obtain approval for a “drive-through” in a B-2 district by obtaining a conditional use permit?

¹ Mr. Lovell’s property address is 3071 Jefferson Davis Highway, Stafford, Virginia 22554-4524.

² Please provide your determinations based on the Zoning Ordinance as it existed on December 19, 2017. If there have been amendments to specific Zoning Ordinance provisions since that time that affect any of your determinations, please also provide your determinations based on any relevant amendments.

³ When “drive-through” is referenced in this request for a determination letter, it should exclude drive-throughs associated with (1) banks (lending institutions), (2) carry-out and cafe facilities, and (3) restaurants.

4. Can the Planning Commission consider and recommend for approval a conditional use permit that allows for a “drive-through” at the Project site?
5. Can the Board consider and approve a conditional use permit that allows a “drive-through” at the Project site?
6. May an applicant obtain approval for a “drive-through” in a B-2 district by “proffering” to construct and operate a “drive-through”?
7. Can the Planning Commission consider and recommend for approval the acceptance of the Project applicant’s “proffer” to construct and operate a “drive-through” in a B-2 district?
8. Can the Board consider and approve the acceptance of the Project applicant’s “proffer” to construct and operate a “drive-through” in a B-2 district?
9. Is a “drive-through” pharmacy permitted in a B-2 district under the Zoning Ordinance?
10. Is a “drive-through” pharmacy permitted at the Project site?
11. May an applicant obtain approval for a “drive-through” pharmacy in a B-2 district by obtaining a conditional use permit?
12. Can the Planning Commission consider and recommend for approval a conditional use permit that allows a “drive-through” pharmacy at the Project site?
13. Can the Board consider and approve a conditional use permit that allows a “drive-through” pharmacy at the Project site?
14. May an applicant obtain approval for a “drive-through” pharmacy in a B-2 district by “proffering” to construct and operate a “drive-through” pharmacy?
15. Can the Planning Commission consider and recommend for approval the acceptance of the Project applicant’s “proffer” to construct and operate a “drive-through” pharmacy at the Project site?
16. Can the Board consider and approve the acceptance of the Project applicant’s “proffer” to construct and operate a “drive-through” pharmacy at the Project site?
17. Can a conditional use permit be issued for a use in a zoning district if that use is not permitted in that zoning district under the Zoning Ordinance?
18. Can the Planning Commission consider and recommend for approval the granting of a conditional use permit allowing an applicant’s use of its property that is not permitted under the Zoning Ordinance for that property?

19. Can the Board consider and approve the granting of a conditional use permit allowing an applicant's use of its property that is not permitted under the Zoning Ordinance for that property?
20. May an applicant "proffer" a use of its property that is not permitted under the Zoning Ordinance for that property?
21. Can the Planning Commission consider and recommend for approval the acceptance of an applicant's "proffer" to use its property in a manner that is not permitted under the Zoning Ordinance for that property?
22. Can the Board consider and approve the acceptance of an applicant's "proffer" to use its property in a manner that is not permitted under the Zoning Ordinance for that property?
23. If an automated gate is used at the entrance of a commercial property is that considered a "restricted access entrance?"
24. If a manned gate is used at the entrance of a commercial property is that considered a "restricted access entrance?"
25. If a security guard is used at an entrance to a commercial property is that considered a "restricted access entrance?"
26. In accordance with the Zoning Applications, if the Project (i) is enclosed within a security fence, (ii) has only one vehicular access point, and (iii) that one access point has a security gate with a guard, and requires an identification check, then is the Project considered to have a "restricted access entrance"?
27. Does the Zoning Ordinance only permit "restricted access entrances" in residential developments?
28. Under the Zoning Ordinance, can "restricted access entrances" be installed and operated in non-residential developments?
29. Does the Zoning Ordinance permit "restricted access entrances" in a B-2 district?
30. Under the Zoning Ordinance, is a commercial development permitted to have only one access point to a public road?
31. Under the Zoning Ordinance, is a development in a B-2 district permitted to only have one access point to a public road?

32. May a "restricted access entrance" be installed and operated in a commercial development accessed by a public road, without first performing a traffic impact analysis ("TIA")?
33. May a "restricted access entrance" be installed and operated in a commercial development accessed by a public road?
34. May a "restricted access entrance," accessed by a public road, be installed and operated in a B-2 district, without first performing a TIA?
35. May an applicant rely upon an older completed TIA, if that TIA is based upon a proposed use at the Project site having a different Institute of Transportation Engineers ("ITE") category of use, and now the Project, per the Zoning Applications, has a different ITE category of use with a higher trip generation rate?
36. May an applicant rely upon an older completed TIA, if that TIA is based upon a proposed use at the Project site having a "Medical Office" use under the ITE, and now the Project, per the Zoning Applications, will consist of a "Medical Clinic" use, with a higher trip generation rate?
37. When calculating "trip generation rates" or "vehicle trip ends" to determine whether a Project will require a TIA, if the Project involves multiple ITE categories of use, then must the applicant's calculation of its "trip generation rates" or "vehicle trip ends" include all ITE categories applicable to the Project?
38. When calculating "trip generation rates" or "vehicle trip ends" to determine whether the Project will require a TIA, if the Project involves a "Medical Clinic" and a "Pharmacy with Drive-Through Window," which are distinct ITE categories of use, then must the applicant's calculation of its "trip generation rates" or "vehicle trip ends" include both the "Medical Clinic" and the "Pharmacy with Drive-Through Window"?

Thank you for your time and consideration. If you have any questions or would like to discuss this matter, please feel free to contact me. I am available for a telephone conference or a meeting at your office.

Very truly yours,



Roy R. Shannon, Jr.