



Office of the Town Manager
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STAFF REPORT

Council Meeting Date:	November 9, 2022
Agenda Title:	ZMA/SUP 2021-01 Harris Teeter Service Station
Requested Action:	Public Hearing
Department / Agency Lead:	Community Development
Staff Lead:	Denise Harris

EXECUTIVE SUMMARY

The Applicant, Harris Teeter/North Rock Center, LLC, is proposing a revision to the North Rock Planned Unit Development (PUD) Master Plan and a Special Use Permit (SUP) to allow for the construction of an eight-pump service station for Harris Teeter. The application was accepted April 8, 2021 and was deferred by the Applicant several times throughout the process resulting in 12 additional months to the decision deadline. The existing PUD was granted in 1999 and proffered that the site would be developed per the Master Development Plan and ties all permitted/permissible uses to those listed under the 1991 Zoning Ordinance PUD District, as amended. The 1991 Zoning Ordinance allowed all uses in the Commercial Limited (CL) District within the PUD District upon issuance of a Special Use Permit, which includes service stations. While the CL District was repealed/replaced with the Commercial District in the 2006 Zoning Ordinance, the uses on site remain tied to the PUD proffers, which included a 3,500 square foot bank with drive thru. The proposed service station would replace the bank pad on the Master Development Plan. The site is located at 530 Fletcher Drive in the existing North Rock Shopping Center, in the existing undeveloped pad site (GPIN 6984-38-9605). The site is designated New Town Character District. The site is zoned Planned Unit Development. Planning Commission recommended approval per draft Conditions of Approval and submitted proffers with the exception that the Planning Commission does not recommend the Town accept proffer 1.3.2 related to canopy signage. The Town Council held a public hearing on October 11, 2022 in which several citizens spoke to the project. The Town Council motioned to hold the public hearing open until the November 9, 2022 meeting. On October 17, 2022 the Applicant executed a new set of proffers removing the canopy clause for signage under 1.3.2 that neither staff nor the Planning Commission supported.

BACKGROUND

The Planning Commission held a Public Hearing on July 19, 2022. Several members of the public spoke in opposition to the proposal. Concerns over transportation, parking, blasting, fumes, noise, emergency spillage, pedestrian safety, light pollution, and impacts on existing businesses were among the issues raised. In addition, at that time the Applicant did not agree with several of the draft Conditions of Approval related

to prohibiting blasting, requiring the pedestrian improvements be built first, where signage is located, and the requirement to maintain 85% of required parking during construction. The Planning Commission was concerned about the phasing of the construction, pedestrian movements, potential unattended fuel spills due to no employee on site after hours, lighting, conformance with the Comprehensive Plan, access, and a variety of other topics. The issue around signage related to the desire for the Applicant to utilize one of the existing North Rock monument signs near the proposed use and not construct a fourth monument sign on Lee Highway.

The Planning Commission proceeded to make a motion that resulted in an unsuccessful vote to recommend denial of the application (1-5-0 Helander, Lawrence, Stewart, Johnston, Ainsworth Against). At that point the Applicant requested additional time to work on the outstanding issues. The Planning Commission moved to hold the Public Hearing open until the August meeting (5-1-0 Zarabi Against). The Applicant requested a further postponement until the September meeting which was granted at the August Regular Meeting of the Planning Commission.

The Applicant worked further with staff to come to an agreement on the draft Conditions of Approval. The requirements for no blasting, pedestrian improvements, minimum parking during construction were all addressed, including additional requests for a lighting study by the Planning Commission. The Applicant proposed to address the signage in a two-fold manner by adjusting the Conditions of Approval to state no single user monument sign will be built on Lee Highway and amend the proffers to allow for either a sign at the entrance of the use off Fletcher Drive or a canopy sign. Neither of the proposed signs in the proffer are allowed under the Zoning Ordinance. However, the Virginia Supreme Court ruled localities have the authority to accept proffers that depart from the requirements of the Zoning ordinance for a specific property as part of a conditional rezoning process. By accepting the proffers, it is a functional equivalent of an amendment to the Zoning Ordinance. In essence, the Applicant worked to suggest a solution that would allow signage in a location closer to the use as desired.

The Planning Commission held a Public Hearing on ZMA 2021-01 and SUP 2021-01 Harris Teeter Fuel Station September 20, 2022. In a 3-2 vote (Zarabi and Johnston against, Stewart absent), the Planning Commission passed the vote to recommend approval of the Harris Teeter Service Station contingent on the draft Conditions of Approval dated September 14, 2022 and Proffers, minus the language in 1.3.2, revised September 15, 2022. The Planning Commission accepted the Applicant's proposed solution to allow for signage near the entrance off Fletcher Drive but maintained there should not be any additional canopy signage allowed.

The Applicant submitted signed proffers dated October 17, 2022 that removed the language in 1.3.2 related to the canopy signage that was not recommended by the Planning Commission, nor staff.

STAFF RECOMMENDATION

Conclude the public hearing and support or modify the Planning Commission recommendation.

Service Level / Policy Impact

Proposal is located within the New Town Character District of Plan Warrenton 2040 that states in L-3 that the New Town Character District will support the revitalization of the commercial shopping malls with a walkable development pattern that includes a mix of uses, green space and public amenities, as well as provide a location for a major employer.

Fiscal Impact

Allows for the final undeveloped pad in the North Rock Shopping Center to develop with a commercial use service station.

Legal Impact

Revises the 1999 North Rock PUD proffers and Master Development Plan to include a service station and modifies the applicable zoning to allow for signage regulations unique to the site.

ATTACHMENTS

1. Attachment A – Maps
2. Attachment B – Staff Analysis
3. Attachment C – Conditions of Approval
4. Attachment D – Executed Proffers
5. Attachment E – ZMAP Plans
6. Attachment F – SUP Plans
7. Attachment G – Illustrative Signs
8. Attachment H – Illustrative Elevations
9. Attachment I – Statement of Justification
10. Attachment J – TIA
11. Attachment K – Geotech Report
12. Attachment L – Geotech Peer Review
13. Attachment M – TIA Review 2nd Review
14. Attachment N – TIA Review 1st Review
15. Attachment O – Draft Resolutions