



Charles County Board of Appeals Meeting of December 9, 2014

Department of Planning and Growth Management Staff Report

**Project Name & Number: SOMAR Hospitality, LLC (Sonic) –
Board of Appeals - Docket #1336**

**Type of Project: Special Exception - Use 6.02.310 – Restaurant,
fast-food, drive-in or drive-through with direct highway access
to a public road.**

**Prepared by Heather Kelley, Planning Division
For questions, contact the Planning Division at 301-645-0540**

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I. Applicant & Project Information:

Applicant: SOMAR Hospitality, LLC, 2176 Wisconsin Avenue, NW, Suite 200, Washington, D.C. 20007

Property Owners: SMO Incorporated, P.O. Box 2810, La Plata, Maryland 20646

Developer: SOMAR Hospitality, LLC, 995 N. Prince Frederick Blvd, Suite 201, Prince Frederick, Maryland 20678

Architect: SMW Architects, 6 Deep Hollow Lane, Lancaster, Pennsylvania 17603

Plans Prepared By: Bohler Engineering, 16701 Melford Blvd, Suite 310, Bowie, Maryland 20715

Agent / Attorney: Stephen H. Scott, Esq. and Scott Law Group, LLC

Specific Request: The Applicant is petitioning for a *Special Exception, pursuant to Articles XXV and XIII, and Use # 6.02.310* of the Charles County Zoning Ordinance to establish a *Restaurant, fast-food, drive-in or drive-through with direct highway access to a public road* in the form of a Sonic fast-food restaurant with drive-through. Exhibit 'G' of the Special Exception application contains conceptual architectural renderings that depict front, rear and side elevations of the requested use. Use 6.02.310 is permissible within the Central Business (CB) zone only via special exception approval from the Board of Appeals.

Subject Property: An existing .834+/- acre lot known as Tax Map 8, Parcel 621 within Grid 6 along the west/northwest side of Crain Highway in Waldorf, Maryland. The subject property is bound to the north by the existing Mattawoman Drive 60' wide public right-of-way, to the west by property owned by Waldorf Restaurant, Inc. zoned Transit Oriented Development (TOD), and to the south by property owned by McDonald's Corporation zoned Central Business (CB). A Preliminary Subdivision Plan known as "Waldorf Station, XPN #12-0010" was approved by the Planning Commission on September 22, 2014 and includes the land area noted above as being owned by Waldorf Restaurant, Inc. zoned Transit Oriented Development (TOD) to the west of the subject property.

Zoning: Central Business (CB) with Resource Protection Zone (RPZ) and Highway Corridor (HC) overlays.

Background / History of the Property: This special exception application is requested for a .834 acre +/- parcel of land zoned CB-Central Business that is adjacent to, but not included within, a 143.80 acre proposed mixed-use development known as Waldorf Station, specifically zoned Transit Oriented Development (TOD).

Structures for a gas station, canopy and car wash currently exist on the subject property but are no longer in use. These structures will be demolished and replaced with the proposed Sonic fast-food restaurant and drive-through.

Potential approval of the requested special exception use should be based upon compliance with applicable requirements of Use 6.02.310 and the special exception criteria of Chapter 297-415 H.

This special exception application is required because the proposed fast-food restaurant with drive-through is located *with direct highway access to a public road*. Alternatively, this use would be permitted within the Central Business (CB) zone without a special exception if the fast-food restaurant with drive-through were located as part of a shopping center with no direct access to a public road.

II. Environmental Characteristics:

The subject site contains a small portion of Resource Protection Zone (RPZ), encroaching upon the northwestern section of the property. While the site plan does not currently depict the location of this feature, approval of this Special Exception shall be conditioned upon future development plans including an accurate depiction of this feature. Please reference staff recommended condition #4.

Disturbance to the RPZ is permitted for limited uses, outlined in Section §297-174, Zoning Ordinance. While it does not appear that any disturbances to the RPZ are being proposed beyond what is permissible under Section §297-174, approval of this Special Exception shall be conditioned upon the applicant being required to obtain a variance from the Board of Appeals for any disturbance not permitted by the Zoning Ordinance. Please reference staff recommended condition of approval #6.

Watershed:

This project is within the Mattawoman Creek Watershed.

Forest Conservation:

The subject parcel is less than 40,000 square feet in size and, therefore, exempt from forest conservation requirements per Section 298-3, Forest Conservation Ordinance.

Habitat Protection:

A habitat protection plan is not required for this project, as the site had been developed previously, and the project is not subject to a subdivision or forest conservation plan requirement.

III. Criteria for Approval and Findings:

The request for Special Exception #1336 was evaluated by staff based upon the standards set forth in Article XIII, §297-212, Use # 6.02.310, *Restaurant, fast-food, drive-in or drive-through with direct highway access to a public road*, and Article XXV, §297-415 of the Charles County Zoning Ordinance (procedures and minimum standards for the consideration and authorization of special exception uses).

The principal issue is whether the proposed use is appropriate to the subject site, the surrounding properties, and is consistent with the requirements of the Zoning Ordinance.

IV. Minimum Zoning Requirements: (Findings by staff have been annotated in *italics*):

Per Article XIII, §297-212, the minimum standards for the use, 6.02.310, Restaurant, fast-food, drive-in or drive-through with direct highway access to a public road are as follows:

This use is permitted by special exception in the CC, **CB**, CV, PEP, MX and TOD Zones, subject to the following standards:

A. The use at the proposed location will not create a traffic hazard or safety problem because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections or its location in relation to other buildings or proposed buildings.

Staff Finding:

Resource and Infrastructure Management (RIM) staff findings in regards to the above standard:

According to the Applicant's current traffic analyses, the use at the location should not create a traffic hazard because of its turning movements. All turning movements are of the right-in-right-out variety. Right turns to and from public roadways are among the least conflictive types of vehicle movements.

B. Materials, textures, colors and design of fences, walls and screening shall be compatible with on-site development, the adjacent properties and the neighborhood. When solid walls are required, a planting strip five feet wide shall also be provided. Such planting shall include trees or shrubs at least two feet tall at time of planting, which may be expected to form a year-round dense screen within three years.

Staff Finding:

Site Design and Architectural Review (SDAR) staff findings in regards to the above standards:

Staff finds that the applicant has produced a conceptual site development plan, and exterior architectural renderings, which illustrate their commitment to adhering to these criteria, for the purposes of receiving special exception approval of the requested use. The subject property is adjacent to a planned transit-oriented development project that will include a mix of residential and commercial projects in a close proximity. Staff will work with the applicant going forward to ensure that the selected materials, textures, colors, design of fences, walls and screening will be compatible with the existing and proposed "neighborhood". Additionally, modifications to some of the proposed landscaping species and quantities, provided within the preliminary landscaping plan, may be required going forward to ensure that proper screening is provided between the drive-thru area and the U.S. 301 frontage, and that the majority of plant species proposed are native in accordance with the requirements of Article XXI - Landscaping of Parking Facilities - within the Charles County Zoning Ordinance. Compliance with this criteria will be verified at time of future Site Development Plan (SDP) and Site Design & Architectural Review (SDAR) applications.

C. Lighting, including permitted illuminated signs, shall be arranged so as not to reflect or cause glare into any residential zone.

Staff Finding:

Site Design and Architectural Review (SDAR) staff findings in regards to the above standards:

The subject property is surrounded by zoning classifications CB, Central Business, CC, Community Commercial, and TOD, Transit Orientated Development. The TOD zoned land directly adjoining the subject property to the north and west is approved for uses including, but not limited to, residential development; therefore, this criteria is applicable to the special exception request. Compliance with this criteria will be verified at time of future Site Development Plan (SDP) application. At time of SDP application, a photometric / site lighting plan will be required to be provided by the applicant, which demonstrates compliance with this criteria and the lighting requirements and standards of Chapters 297-305 and 306 of the Charles County Zoning Ordinance. The future SDP will not be approved without it.

D. When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the point of curvature of the quadrant radius. Driveways shall not exceed 30 feet in width, provided that the street line shall be considered to be at least 60 feet from the center line of any abutting street or highway.

Staff Finding:

Resource and Infrastructure Management (RIM) staff findings in regards to the above standards:

When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the point of curvature of the quadrant radius.

This existing Right-In-Right-Out commercial driveway (at US 301 at northern site access) is proposed to be closed/removed. The closure of this access is based on the Maryland State Highway Administration's request in their letter dated August 12, 2014, and is based on the driveway's close proximity to the Mattawoman Drive @ US 301 intersection (approx. 50 feet from Mattawoman Drive edge of pavement to beginning of driveway). The closure of this driveway will bring the site access into compliance with Standard D, as the existing driveway is less than 20 feet from the quadrant radius of US 301 at Mattawoman Drive.

Driveways shall not exceed 30 feet in width, provided that the street line shall be considered to be at least 60 feet from the center line of any abutting street or highway.

The existing site driveway on Mattawoman Drive measures 30 feet, meeting this standard. The US 301 southern entrance measures approximately 35 feet. As a state of Maryland controlled access point, the county defers to the Maryland SHA for their state standards for entrance widths and designs for function and safety.

Per Article XXV, §297-415, H, the Board of Appeals shall grant a special exception when, from a preponderance of the evidence of record, the proposed use:

Please note that only staff's findings are provided for the criteria below. The Applicant's responses to these criteria are provided within the associated Supplement to Special Exception Application and letter dated October 10, 2014, which are attached for your review and consideration.

(1) Will not be detrimental to or endanger the public health, safety and general welfare.

Staff finds that based upon the application materials submitted for review the proposed use will not be detrimental to or endanger the public health, safety and general welfare. The use will be subject to compliance with all applicable County, State, and Federal regulations, including, but not limited to, the following local regulations: Charles County Zoning Ordinance, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.

(2) Is a permissible special exception in the zone.

Staff finds that Use 6.02.310, Restaurant, fast-food, drive-in or drive-through with direct highway access to a public road, is a permissible use within the Central Business (CB) zone via special exception approval from the Charles County Board of Appeals.

(3) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

Staff finds that based upon the application materials submitted for review the proposed use will not be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding properties or the general neighborhood. It is located adjacent to an existing fast-food restaurant in an area generally developed with commercial uses and not adjacent to any existing residential neighborhood. The overall area of the Transit Oriented Development (TOD) zoned land directly adjoining the subject property to the north and west is approved for uses including, but not limited to, residential development; however, areas immediately adjacent to the subject site are currently designated for commercial uses. Impacts of the subject use will be mitigated accordingly at future development stages.

(4) Complies with the standards and requirements set forth in Article XIII.

Staff finds that based upon the application materials submitted for review the proposed use complies with the standards and requirements set forth in Article XIII.

(5) Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare.

Resource and Infrastructure Management (RIM) staff findings in regards to objectionable impact from traffic:

Based upon the Applicant's current traffic analyses, the re-development of the site should not cause objectionable impact from traffic.

Staff additionally finds that based upon the application materials submitted for review the use will not cause objectionable impact from noise, type of physical activity, fumes, odors, dust or glare. The proposed use will be located within a neighborhood dominated by intense commercial development along both sides of US Route 301.

(6) Will provide adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements. If a use requires an adequate public facilities review by the Planning Commission, such review shall be made a condition of the granting of the special exception by the Board.

Resource and Infrastructure Management (RIM) staff findings in regards to "access roads" and improvements related to access roads:

The application shows that the Sonic restaurant will continue to utilize the existing US 301 southern entrance, and the existing Mattawoman Drive restricted Right-In-Right-Out Only entrance. The applicant proposes to close the northern US 301 entrance, in order to comply with the State Highway Administration's request.

The applicant's current traffic analyses of these two(2) entrances indicate that adequate access to the site is available, and therefore it can be said that adequate "access roads" are available.

The project requires an adequate public facilities (APF) review by the Planning and Growth Management Department, as part of a Site Development Plan (SDP) Application. Please see condition #7 below.

Staff additionally finds that based upon the application materials submitted for review the use will be required to provide for adequate utilities, water, sewer, and storm drainage at the time of future site development.

(7) Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets.

Resource and Infrastructure Management (RIM) staff finds that the Applicant submitted a traffic study and performed traffic analyses similar to what will be required at time of Site Development Plan (SDP) Application.

The Applicant analyzed the future function of two (2) Site entrances, plus the nearby signalized intersection of Mattawoman Rd at US Route 301.

(A) US Route 301 at the southern Site Access

A Right-In-Right-Out commercial driveway (existing) which is proposed to remain. Current traffic analyses show that this intersection will function adequately under future conditions.

(B) Mattawoman Drive at Site Access

A right-in-right-out intersection with a 6 foot wide median which prevents left turns into or out of site.

According to SHA permit #10APCH001XX "Road Improvement and Access Permit Plans", Mattawoman Drive is planned to expand to five (5) lanes with no median, and adds a US 301 northbound new double-left turn onto Mattawoman Drive.

Applicant's traffic engineer informs us that "even without the median, left turns would continue to be restricted (through signage) at this location", and that due to the availability of the site's US 301 entrance, he expects left turn demand into the Mattawoman Dr. entrance to be minimal or eliminated.

Although the entrance is existing, re-design of the entrance to better restrict left-turn movements to and from the site will be discussed during the future Site Development Plan (SDP) review. Two different scenarios (Sonic opening under existing road conditions, and opening after Mattawoman Drive widening) can be discussed and planned for during SDP review.

(D) US 301 at Mattawoman Drive (signalized-just north of site)

Current traffic analyses project satisfactory levels of service.

Given the above, it is found that adequate ingress and egress are provided for the Sonic site, and that the ingress and egress is designed to minimize traffic congestion in the public streets. However, this finding does not preclude Site Development Plan ingress and egress review for safety.

(8) Is in accordance with the objectives of the Charles County Comprehensive Plan.

Staff finds that based upon the application materials submitted for review:

Per the 2006 Charles County Comprehensive Plan, Chapter 3, Growth Management and Land Use, Figure 3-2, Land Use Concept Plan, the subject Special Exception use is located in the Development District of the County, and more specifically, the Urban Core of this Development District.

Per the above-referenced Chapter 3, it is the goal of the Urban Core to be developed as an "integrated mix of medium to high density residential, business, and employment uses..." (page 3-10)

Further, the subject Special Exception use is located in an area designated as Mixed Use District in the 2006 Comprehensive Plan. The intent of the Mixed Use Districts is “to encourage a mix of medium to high density residential, business and employment uses in a compact, well-designed, pedestrian-friendly environment” (page 3-12). The proposed Special Exception use is adjacent to a larger mixed use TOD development and, while a site plan layout (including pedestrian facilities) is not approved during the special exception process, there will need to be future coordination, per the below Condition # 2, with the proposed adjacent Mattawoman Drive extension road and sidewalk improvements as well as the Waldorf Station preliminary plan improvements. A private pedestrian travel way easement is likely to be required along Mattawoman Drive.

(9) Conforms to the applicable regulations of the zone in which it is located and to the special requirements established for the specific use.

Staff finds that based upon the special exception application materials submitted for review the proposed use conforms to the applicable regulations of the zone in which it is located (Central Business – CB) and to the special requirements established for the specific use (per Article XIII, §297-212, the minimum standards for the use, 6.02.310, Restaurant, fast-food, drive-in or drive-through with direct highway access to a public road, Items A.-D. above). Continued compliance will be verified at time of future Site Development Plan (SDP) stage.

V. Recommendation & Proposed Conditions of Approval:

As documented within the staff report, staff finds that the requested special exception application for use 6.02.310, *Restaurant, fast-food, drive-in or drive-through with direct highway access to a public road*, complies with the criteria as outlined and therefore we recommend approval with the following **Conditions of Approval** for the purposes of adequately and completely addressing requirements of the Zoning Ordinance:

1. The Applicant must submit a Site Development Plan (SDP) application for review and approval by all appropriate County and State agencies in accordance with all applicable regulations.
2. Coordination will be required during site planning to include proposed Mattawoman Drive road and sidewalk improvements as well as the Waldorf Station preliminary plan improvements.
3. Special exception approval of Use 6.02.310, Restaurant, fast-food, drive-in or drive-through with direct highway access to a public road, by the Board of Appeals does not constitute final approval by Charles County Site Design & Architectural Review (SDAR). The conceptual exterior architectural renderings of the proposed Sonic building, provided for reference in Exhibits E and G, must be formally submitted for SDAR review and approval at time of future Site Development Plan (SDP) application, in accordance with the Charles County Architectural and Site Design Guidelines and Standards (A.S.D.G.S), for commercial development. The subject property is located within the

highway corridor overlay zone of U.S. Route 301 and will be subject to high visibility architectural standards. Additionally, any proposed signage for the business must obtain separate signage permits in accordance with Article XIX of the Charles County Zoning Ordinance, at the appropriate future development stage.

4. All subsequent site plans, plats, and permit drawings shall include the location of the Resource Protection Zone (RPZ) where the limits of disturbance are within 200 feet of these features per Appendix A(#27) of the Charles County Zoning Ordinance.
5. This project shall meet the requirements of the Parking and Landscaping Ordinances, Articles XX and XXI, Zoning Ordinance. The site plan included in the special exception application will need to be revised for consistency with these regulations at the time of Site Development Plan (SDP) approval.
6. A variance from the Board of Appeals will be required for any disturbance to the Resource Protection Zone (RPZ) that is not permitted under Section §297-174, Zoning Ordinance.
7. The project requires an Adequate Public Facilities (APF) review. This review will take place during the site development plan (SDP) review. The SDP APF review will address surrounding roads and intersections affected by pending development applications in the area.
8. The approval and continued effect of this Special Exception is contingent upon compliance with all applicable County, State, and Federal regulations, including, but not limited to, the following local regulations: Charles County Zoning Ordinance, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.

VI. Appendices: Attached.