

ORDINANCE NO. 7640-20

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2020-0004 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A RESTAURANT WITH DRIVE-THROUGH SERVICE ADJACENT TO RESIDENTIAL PROPERTY IN A C1 RETAIL COMMERCIAL ZONING DISTRICT.

WHEREAS, application number CU-2020-0004 has been made by **PAR 5 DEVELOPMENT GROUP, LLC, owner and applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating a restaurant with drive-through service adjacent to residential property in a C1 Retail Commercial Zoning District; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-2020-0004 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating a restaurant with drive-through service adjacent to residential property in a C1 Retail Commercial Zoning District; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

ALL THAT certain lot, piece or parcel of land, situate in the City of Newport News, Virginia, shown and designated as Parcel 2B-1 containing 1.499 acres, more or less, on that certain plat entitled "Resubdivision of Lots 2A and 2B, Subdivision of Lot A-2, Property of Thomas T. Thompson & Elizabeth J. Thompson (D.B. 1431, PG. 149), Newport News, Virginia", made by Blakeway, dated March 27, 2018, a copy of which plat is recorded in the Clerk's Office of the Circuit Court of the City of Newport News, Virginia, in Instrument Number 180004758, to which reference is hereby made for a more particular description.

The property has a common street address of 15488 Warwick Boulevard and is assigned Real Estate Assessor's Tax I.D.# 063.00-02-96.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. The applicant shall submit a class 1 Site Plan to the Department of Planning

for review by the Site Plan Review Committee and approval by the Director of Planning. This site plan shall be in general conformance with the CUP preliminary Layout Plan prepared by Silver Core dated March 27, 2020, found in Appendix A-4, which is attached hereto and made a part hereof, and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.

2. The applicant shall submit to the Department of Planning building elevations and exterior building materials that complement the design and materials of the adjacent structures including brick, to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.
3. The applicant shall install a thirty (30) foot transitional buffer area maintaining all healthy trees and vegetation in perpetuity along the eastern property line where it abuts residentially zoned property.
4. The applicant shall install an eleven (11) foot landscape strip to be maintained in perpetuity along the property's Warwick Boulevard frontage. The landscape strip shall be planted in accordance with the Site Regulations.
5. The applicant shall submit a landscape plan, to be approved by the Director of Planning prior to conditional site plan approval. This plan shall be in general conformance with the landscape plan prepared by Silver Core dated March 27, 2020, found in Appendix A-5, which is attached hereto and made a part hereof, and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.
6. All landscaping shall be installed in accordance with the approved landscape plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
7. No more than one freestanding sign shall be installed on the property. The sign shall be a monument style not to exceed eight (8) feet in height, including the base, and the size shall be limited to eighty (80) square feet. The freestanding sign shall be in substantial conformance with the sign identified in Appendix A-7, which is attached hereto and made a part hereof. The design of the freestanding sign and all building signs shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a sign permit. No portable signs shall be permitted on the Property.

8. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
9. The applicant shall submit the proposed elevations and exterior surface materials for a masonry dumpster enclosure to the Department of Planning to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. Materials utilized on the dumpster shall complement those used on the main building. The applicant shall construct the dumpster enclosure in substantial conformance with the approved elevations and materials. The container within the enclosure shall be closed. Refuse may only be collected from the dumpster during normal daylight business hours.
10. The applicant shall screen all heating, ventilation, and air conditioning equipment from view from the public rights-of-way and adjacent properties in a manner reviewed and approved by the Director of Planning.
11. The exterior of the restaurant including the buffer area shall be patrolled by the operator at every shift change each day and all debris, litter and graffiti identified during this process must be removed immediately.
12. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time the recording is made. The Equipment shall provide surveillance coverage encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.
13. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

14. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
15. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
16. The applicant, as well as successors, assigns, and agents, if any, shall obtain all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
17. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
18. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
19. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of August 11, 2020, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON AUGUST 11, 2020

Mabel Washington Jenkins, MMC  
City Clerk

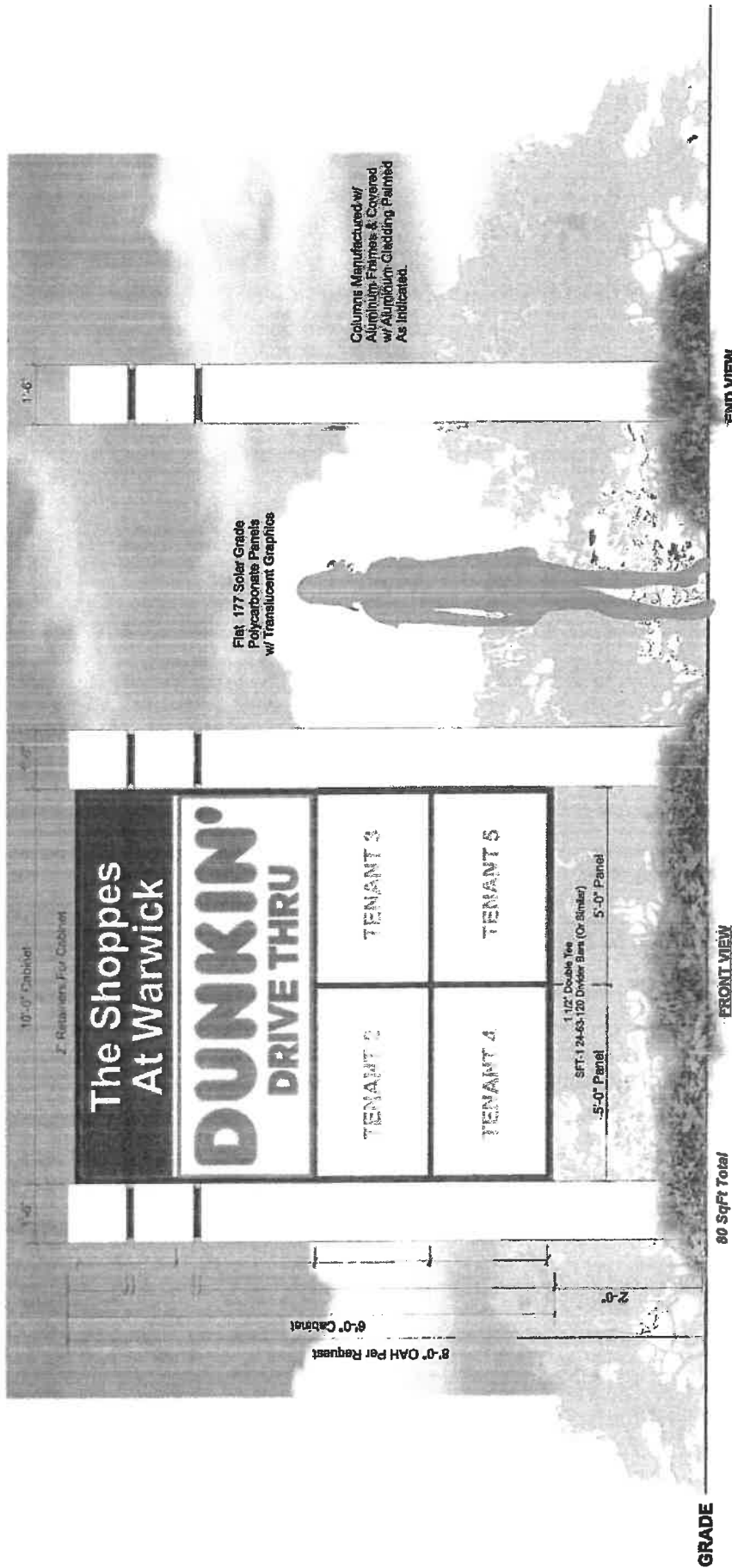
McKinley L. Price, DDS  
Mayor

A true copy, teste:

City Clerk







**GENERAL SPECIFICATIONS**  
 DIF Pylon Cabinet Aluminum Fabricated.  
 18" Deep, 2" Retainers All Around.  
 Flat 177 Solar Grade Polycarbonate w/ Second Surface Translucent Graphics. Illumination Provided By GE HO LEDs

**COLOR SPECIFICATIONS**  
 DD Orange 3M #3530-3123  
 DD Magenta 3M #3530-1379  
 Skin White For Alum. Cladding  
 Skin Black For Reveals, Cabinet, Retainers, & Divider Bars

**NOTE: FOR ILLUSTRATION ONLY. SUBJECT TO CHANGE PENDING VERIFICATION OF ALL SIZES, REVIEW, & FINAL APPROVAL PRIOR TO PRODUCTION.**

**Note: Steel Size & Foundation TBD Per Engineering Analysis Prior To Production.**