



**DEPARTMENT OF PLANNING AND ZONING
PLANNER'S REPORT**

DATE: August 8, 2019
TO: Adrienne Senter
FROM: Lynn M. Patterson
RE: **Special Exception Request – 876 Virginia Avenue**

BACKGROUND

The City of Hapeville has received a special exception application from Mr. Philip Jones to permit a drive-through window accessory to a Smoothie King restaurant at 876 Virginia Avenue. The window would be on the east side of the building, adjoining 860 Virginia Avenue. The Applicant has indicated there was a drive-through window with the same configuration previously utilized on the property by its prior occupants.

The drive-through configuration was established prior to the extension renovation of the site. The drive-through is located on the east side of the structure, facing the adjacent property (Wendy's) and away from the right-of-way along Oakridge Avenue.

An application for the same special exception, a drive-through at 876 Virginia Avenue, was denied by Mayor & City Council on July 17, 2018.

REVIEW

The following code sections are applicable to this application:

ARTICLE 11.2. - U-V ZONE (URBAN VILLAGE)

Sec. 93-11.2-1. - Intent.

The U-V district is established in order to:

- (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale;
- (2) Accommodate residents in the district with pedestrian access to services and employment typical of a live/work community;
- (3) Promote neighborhoods established near shopping and employment centers;
- (4) Encourage pedestrian and neighborhood uses in the commercial area;
- (5) Discourage land uses that are automobile or transportation related;
- (6) Exclude industrial uses such as manufacturing, processing and warehousing;
- (7) Promote retail and related commercial uses such as business offices, florists, card shops, antique

- (8) shops, new apparel shops and banks; and Encourage intensified mixed-use with commercial uses on the ground floor and dwellings above.

Sec. 93-11.2-3. - Permitted uses.

- (9) Restaurants or carry-out restaurants but not including drive-through/drive-in restaurants with a maximum size of 6,000 square feet. Such restaurants shall be allowed to operate no more than six billiard tables upon the premises. Drive-through or drive-in restaurants may be allowed through special permit. The desired configuration for a drive-through or drive-in restaurant in this district is not a stand-alone building but rather part of a larger development and the site plan specifically addresses pedestrian orientation and safety.

Sec. 93-24-10. - Special exceptions.

- (a) Special exceptions and special property use permits shall be decided by the mayor and council.
- (b) The planning commission shall review and make nonbinding recommendations to the mayor and council on special exceptions and special property use permits.
- (c) Special exceptions may be sought for:
 - (1) Reduction of the number and size of parking spaces and off-street loading space requirements;
 - (2) Location of off-street parking space and off-street loading spaces; and
 - (3) Location and number of drive-throughs.
- (d) When acting upon an application for a special exception, in addition to the requirements listed under the above references, the planning commission and the mayor and council shall give consideration to the following factors where applicable:
 - (1) The proposed design and location of the particular development;
 - (2) The possible traffic generating characteristics of the proposed development;
 - (3) The effects the proposed development will have on the present or intended character of the area in which it proposes to locate;
 - (4) The availability of public utilities, facilities and services; and
 - (5) The character, and effect of the parking demands of the proposed development.
- (e) After considering the above-listed factors and after reviewing the planning commission recommendation, the mayor and council shall take any actions or establish any reasonable conditions of approval, such as planted buffers, as will accomplish the intent and purpose of this chapter.

FINDINGS

The intent of the U-V zoning district is to encourage pedestrian and neighborhood uses in the commercial area of Hapeville while discouraging land uses that are automobile or transportation related. While the U-V district does

permit drive-through restaurants with special exception, it does so with the intention of permitting a drive-through when included as part of a larger mixed-use/retail development footprint. Such developments must address pedestrian orientation and safety in their design. It is not the intent of the U-V district to sustain the existing land use pattern of single-use, low-density drive-through restaurants.

The location of the property and the curb is in the Virginia Avenue Gateway. This Gateway is identified in the adopted LCI as a main entry corridor to Hapeville. The purpose of this node is to create a welcoming gateway into Hapeville that showcases the office, hotel and mixed-use potential along Virginia Avenue and provides a smooth transition and wayfinding into downtown Hapeville.

Concerns presented by the Planning Commission and the Mayor & Council during the last consideration the ingress and egress onto Virginia Ave, potential pedestrian conflicts, and the desire to avoid a series of adjacent drive-throughs along Virginia Ave.

The definition provided in the code for “restaurants” in U-V has changed since this special exception was last considered. At that time, the addition of a drive-through to any restaurant would have made it a non-permitted use. The code has been updated to potentially accommodate restaurants with drive-throughs, explicitly allowing them with special exception. Furthermore, the code adds a qualifier, stating that “the desired configuration for a drive-through or drive-in restaurant in this district is not a stand-alone building but rather part of a larger development and the site plan specifically addresses pedestrian orientation and safety.” Should the Planning Commission recommend approval of the special exception to the City Council, staff recommends that the property owner be willing to mitigate traffic interruptions on Virginia Avenue as well as install pedestrian-oriented design elements (such as the concrete sidewalk be continued across the driveway along Virginia Avenue) that convey the area as a priority for pedestrians rather than automobiles.