

Board of Adjustment
July 14, 2020
Staff Report

Application Summary –

A request by Robert Hollis (attorney), on behalf of Bucky C, LLC (owners) and Starbucks Coffee (lessor), to grant a variance to allow parking to exceed of 200% of the maximum permitted, on property addressed as 900 Vandiver Drive, which is not permitted per the standards of Section 29-4.3 of the Unified Development Code.

Site Characteristics

The subject property is the site of the former Budget Host Hotel (now demolished) at the northwest corner of Vandiver Drive and Rangeline Street (Highway 763). The requested variance is sought for the first out-parcel redevelopment (see attached site plan) on the approximate 4.14 acre site that would accommodate a proposed Starbucks Coffee House with a drive-thru. The proposed construction would be south of the existing Waffle House and will consist of a 2,121 square foot restaurant with drive-thru lane. Required on-site parking for such a structure is 11 spaces and 200% of this minimum would be 22 spaces. The applicant is seeking a variance to permit a total of 25 parking spaces.

Access to the site would come from both Vandiver Drive (full access) and southbound Rangeline Street (right-in/right-out) which connect internally within the site through the undeveloped portions of the site. Additional site development is anticipated (see attached Concept Review Plan) in the future. Such future development will be independently responsible for meeting UDC required on-site parking standards and depending on the proposed use(s) may require or seek additional relief from the Board via separate variance applications.

Relief Sought and Purpose

The applicant is seeking authorization to provide more than 200% of the required parking for a proposed Starbucks Coffee House to meet its nationally derived parking requirements. According to the application, “Starbucks business model and traffic flow do not match those of a typical drive-thru restaurant which the [City’s] parking requirements are based on. They are able to serve more customers in a smaller space and need the additional parking spaces”. The applicant seeks to have a total of 25 on-site parking spaces to accommodate its needs. The maximum number of permitted on-site parking spaces at 200% is 22 spaces.

Section 29-4.3 of the Unified Development Code establishes a parking maximum on all uses listed within Table 4.3-1. Per Section 29-4.3(e)(3) an applicant desiring to construct over 200% of the required parking for a specific use must obtain Board of Adjustment authorization. Parking up to 200% of the required is capable of being approved administratively subject to meeting specific performance standards. The concept of placing a limit on the amount of parking allowed was envisioned as a means to reduce the environmental impacts of unnecessary paving and promote alternative modes of transportation. The use of a parking maximum is not uncommon in metropolitan areas and was desired by Council as part of the new Unified Development Code.

As described above, the proposed construction of 2,121 square foot drive-thru restaurant requires a minimum of 11 on-site parking spaces. Administrative approval of up to 22 on-site parking spaces (200% of that required) would be possible and the applicant was informed of this exception. The proposed on-site parking represents a 3-space difference (a 14% increase) over the amount of parking that could be permitted administratively. The site is proposed to be parked at 227% of the minimum amount required.

In addition to the applicant's statement that the proposed parking is consistent with national standards derived by Starbucks they have further cited provisions within Section 29-1.2 of the UDC which they believe support the approval of the requested variance. The applicant cites "the purposes of the Zoning Code (per Section 29-1.2) include property development with adequate traffic and infrastructure capabilities, promoting the orderly use and layout of the land and encouraging efficient patterns of land use." No additional supporting documentation was provided to illustrate or justify that the use of the referenced "nationally-derived" parking standards are appropriate to this specific site or business location.

Variance Analysis –

Summary and Impacts –

The applicant is seeking a variance from the following regulatory requirement of the Unified Development Code:

1. **Sections 29-4.3, Table 4.3-1 and 29-4.3(e)(3)** – Permission to construction 25 parking spaces, a 3-space or 14% increase, over the maximum 22 spaces allowed per approval of the Director of Community Development subject to additional performance standards.

With the adoption of the Unified Development Code in March 2017, new provisions were adopted to restrict the maximum amount of parking on a site. These standards were designed to discourage the creation of excessive on-site parking in efforts to reduce environmental impacts and encourage the use of alternative transportation modes. Generally, speaking the parking standards of Table 4.3-1 were reduced or simplified for almost every use identified within the table.

The proposed development of the Starbucks Coffee House on the subject site is the first redevelopment of the former hotel site. Given the remaining undeveloped acreage the ability to accommodate shared parking between this initial user and future users is believed to be a more environmentally sound manner in which to address the apparent parking deficiency. Staff has been provided no compelling evidence that the specific site or for that matter the overall development site is challenged topographically or otherwise making compliance with the UDC not possible. It would appear that this request is solely based upon the applicant's desire to have more parking than is otherwise permitted for similar business uses.

While the applicant states that the proposed parking is based upon a "national" standard derived by Starbucks experience, no documentation has been provided to verify that this specific location is comparable to those used to arrive at their "national" standard. Furthermore, while reference has been made to Section 29-1.2 of the UDC relating to the purpose of the Zoning Code, several other related purposes have been omitted such as providing adequate open spaces for traffic, recreation, light and air,

controlling storm water drainage and sediments from rainfall on graded areas, and promoting efficient administration of land use controls. The UDC in certain instances has competing objectives as it relates to the built environment. The Board's role in considering approval or denial of a variance is to not evaluate these objectives, but rather to render decisions based upon facts and hardships unique to the subject site when compared to other similar sites throughout the City.

Parking is a critical aspect for any business and is often a direct representation of that businesses success. However, without limits parking areas may become excessive wastelands of unsightly, under-utilized paving that pose greater impacts upon the environment and create opportunities to attract nuisances for adjoining land uses. "Right-sizing" parking to ensure it meets the daily peak of its user while not providing so much that it lies underutilized throughout the day is critical. The parking standards contained within the UDC are based upon national standards for a broad range of users within the restaurant category not a specific niche user such as the proposed Starbucks.

While variations in parking are always possible between users within the same land use category the UDC attempted to address this by allowing parking to be adjusted administratively up to 200% of the accepted parking standards based on a review parking requirements throughout the country. Assigning parking ratios based upon private assessments can establish a moving target for future users of similar businesses and creates greater uncertainty in the administration of the development code. Without compelling supporting documentation staff does not believe this is in the best interest of the public.

To address the parking deficiency, it is recommended the applicant work with the property owner to secure the three (3) additional parking spaces from one of the adjoining undeveloped pad site. These additional spaces could be utilized by employees thereby making on-site parking spaces available for patrons.

Compliance with Variance Criteria -

Staff has reviewed the "General Criteria" for the approval of a variance as articulated in Section 29-6.4(d)(3)(i) of the UDC. In relation to these criteria, staff finds that:

1. The subject property is located within an area of the City that has recently or is in the process of redevelopment and is served by significant infrastructure investments. There are no known or expressed hardships relating to the sites topographic features preventing its compliance with the UDC's parking provisions. The size, shape, and terrain are not significantly different from other development sites recently cleared to make way for new development construction.
2. Approval of the requested variance would not result in permitting the construction of a building not otherwise allowed in the M-C (Mixed-use Corridor) district or modify a standard contained within the definition of "Restaurant" or "Drive-up Facility"; however, would grant a privilege to this applicant to exceed the parking requirement otherwise imposed upon individuals operating similar uses.
3. Approval of the requested variance would not result in permitting development inconsistent with the Comprehensive Plan. The subject site is located within a "Commercial" district and the proposed use is consistent with that designation. However, it should be noted that the Plan includes provisions directed

at environmental protection and the provisions pertaining to a maximum parking ratio are a result of Plan's edict in this area.

4. The proposed variance is not the least change from the requirements necessary to address the applicant's hardship given the site's location. Opportunity exists to accommodate the desired three (3) parking spaces via a shared parking arrangement on one of the adjoining undeveloped pad sites.
5. Approval of the variance may promote better public safety by reducing pedestrian travel between adjoining sites; however, the increase in paved surfaces will likely decrease public health through elimination of additional greenspace and permeable surfaces to address run-off and storm water management/water quality.

Recommendation Action –

Staff recommends disapproval for the requested variance. Insufficient evidence has been provided to support the standard criteria listed above have been met.

Alternatively should the Board determine that compelling testimony has been provided and desire to approve the requested variance, staff recommends that such approval be conditioned upon revision of the submitted site plan such that:

- 1) The required site landscape area for the Starbucks Coffee House development shall not be reduced below the required minimum 15%; and**
- 2) Interior parking lot landscaping be installed that is equal to 20% of the paved area.**