



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department

REPORT TO THE MAYOR AND CITY COUNCIL

From: Heather Shank, City Planner
Date: 6/26/2020
Subject: Request to amend Article 28-5-17, Certain Uses in the Opportunity Corridor Performance (OCP) District by Brixmor Capital

Recommendation

Accept this report and set a public hearing for an amendment proposed by staff, with direction from the Planning Board, to:

- allow drive-through restaurants in the Opportunity Corridor Performance (OCP) District; and
- allow a reduction in the number of required stacking spaces through a Conditional Use Permit.

Request

A request has been made by the law firm Hinckley Allen, on behalf of Brixmor Capital to amend Section 28-5-17 of the zoning ordinance to allow drive-through restaurants in the OCP District between Loudon Road and Water Street, and reduce the number of stacking spaces required for drive throughs. As part of that request, the petitioner submitted a proposed ordinance.

Background

The petitioner is working with a developer proposing a 6,000 sf building for a traditional restaurant and a 9,300 sf building for a retail space and cafe with drive through. The development is proposed at the corner of Storrs Street and the Pleasant Street Extension on the property of the Capital Shopping Center. The proposed site plan is attached. Since drive throughs are not permitted in the OCP District, and current codes require more stacking spaces than what is shown, the proposal would not be permitted under the current ordinance.

A request was originally made by Mayor Bouley to amend the OCP District to allow the drive-through use along with several other ordinance changes that would allow implementation of the concept plan. After receiving several variances at the March 11, 2020 Zoning Board of Adjustment meeting, the request was revised by Hinckley Allen, as the original series of amendments were no longer needed. The original and amended requests are attached. This report reviews only the recent amended request.

As the report describes, it is staff’s opinion that single story drive-through restaurants are not consistent with the vision for the OCP District as presented in several City of Concord Master Plans. However, at the June 15th, 2020 Planning Board meeting, in an effort to facilitate the petitioner’s request while maintaining more consistency with the master plan, Staff recommended an alternative proposal to allow drive throughs with an additional requirement that new buildings in the OCP District be a minimum of two stories. In response to the petitioner’s testimony and the Board’s recommendation, Staff further revised the proposal to eliminate the two story requirements and allow a reduction in required stacking spaces through a Conditional Use Permit (CUP), as represented in the attached.

Consistency with Master Plans

Staff reviewed four Master Plans that address the community’s vision for the OCP District. These include the Downtown Master Plan adopted in 1997, the Concord 20/20 Vision Plan adopted in 2001, the Opportunity Corridor Master Plan adopted in 2005, and the City’s primary planning document, the Master Plan 2030, adopted in 2008. Staff also reviewed the results of a design charrette conducted by the City in 2016 specific to this site, in response to general inquiries by the owner with regard to ideas for future development.

The vision for the Central Corridor of the OCP District is consistent across the planning documents, describing dense, walkable, urban development with a mix of uses, public space, and a connection to the Merrimack River. The Pleasant/Storrs Street intersection is described as the gateway to a redeveloped corridor, intended to take an urban form similar to that of Main Street.



The image to the left depicts the petitioner’s property, as envisioned in the 20/20 Vision Plan, adopted in 2001. This is the intersection of Storrs and Pleasant Street, looking south down Storrs Street.

It shows multi-story buildings, entrances directly accessible by the sidewalk, extension of the urban street grid, and a vibrant pedestrian streetscape.

The 2030 Master Plan at Section III, Land Use, identifies the OCP District as “the City’s highest priority economic development effort” and recommends the district be maximized to provide the highest intensity of uses in the City. The Land Use Policy recommendations also state that the City should implement standards to encourage high intensity mixed use development in this district. Staff is currently working on a City-wide zoning code update to accomplish these recommendations.

The Land Use section also states that high trip generation uses are not desirable in the OCP District. Staff notes that drive-throughs generate some of the highest traffic volumes of any nonresidential use. Drive-through restaurants are typical hallmarks of low-density, vehicular oriented commercial strip development. They are usually one story buildings with much of the surrounding space devoted to parking and stacking spaces. Concern over negative impacts regarding safety and access for pedestrians is another reason drive throughs are often excluded from downtown urban districts. For these reasons, best planning practice is to locate drive throughs in low-density corridors or off highway interchanges, and discourage or prohibit them in urban locations.

The 2030 Master Plan at Section V, Economic Development, states that the OCP District should be the City's highest focus for redevelopment to grow the tax base. Staff notes that the tax base generation of the high density development envisioned by the master plans is likely much greater than a one-story drive through. While the petitioner's concept is a positive improvement over the parking area that exists today, Staff has concerns that the precedent of this development type will encourage additional low density development in this area, limiting the long term economic development potential of the corridor. For this reason, staff originally proposed to permit drive throughs but require new structures to be a minimum of two stories, in an effort to get closer to the master plan vision for the corridor.

However, the petitioner has stated that no development of higher density than what is currently conceived could be built on the site for a minimum of 15 years due to lease agreements with existing tenants. Considering this restriction and time frame, developing the site with less intensity in the near term over the next two decades could be an effective phased approach to reaching the long term economic development and density goals of the City.

In summary, Staff's primary concern with consistency with the master plan pertains to the potential loss of urban form, as well as the likelihood of future density and urban development on the subject property. If one story structures and a drive through are located at this corner, staff is uncertain whether it will lead to greater density and realization of master plan goals, or whether development will continue in a low density pattern along the corridor.

Consistency with Existing Zoning Code

The City's current zoning ordinance states that the OCP District was established to encourage the economic revitalization of underutilized urban properties through the development of high-density residential uses in conjunction with commercial and cultural offerings. The zoning ordinance also allows the highest residential density in the OCP of any district in the City, an incentive to encourage developers to construct multi-story buildings and provide housing.

While the new development would revitalize an underutilized property, the use is not in line with the purpose of the district to encourage the highest density permitted in the City. As noted above, if viewed as a phased approach, the current proposal could be an effective strategy to realizing this purpose when development constraints are lifted in the future.

Consistency with Proposed Zoning Code

The current zoning code needs revision to fully support implementation of the master plan goals. This is why the petitioner needed multiple variances to permit their concept. Reducing the need for these variances is part of the intent of the ConcordNEXT zoning update project. The proposed district in the Central Corridor would allow building heights of 80 feet, zero building

setbacks, zero parking requirements, and currently includes the requirement that new buildings be a minimum of two stories.

These standards are intended to encourage implementation of the master plan visions, maximize the economic potential of the corridor, increase opportunities for housing, and encourage urban, pedestrian-oriented development.

While the petitioner may be unable to construct additional stories at this time, during their public testimony at the Planning Board hearing, they stated their understanding of and desire to implement this vision when existing leases expire. The petitioner also indicated a willingness to construct proposed buildings to allow additional stories in the future.



If this is the case, it indicates a willingness and investment on their part to pursue development in the future more in line with master plan goals. The graphic to the left indicates a two-story model of a Starbucks recently built in Charlotte, NC that better achieves those goals.

As note earlier, the variances the petitioner received are consistent with the intent of the proposed code. While a single story development is not consistent with the current draft, the petitioner's stated intention to build the site out in the future could be considered a phased approach to implementation of the master plan, and may be a more effective approach to reaching that goal in the interim.

Fiscal Impact

As noted above, the Master Plan envisions the Central Opportunity Corridor to be the highest priority for redevelopment to increase the City's tax base. It is staff's opinion that a single story building with a drive through would not maximize tax base tax to as great a degree as the intensity of development envisioned in the Master Plan. Further, staff has concerns about the precedent set for future development of the corridor and long term economic development potential.

However, if the petitioner is precluded from higher density development due to lease agreements for 15 years, allowing the single story development would be better from a fiscal standpoint than no development in the interim.

Proposed Amendment

The majority of this report has focused on the drive through use, as this is the most significant aspect of the petitioner's request. The following section evaluates other aspects of the request.

Under the current ordinance, the petitioner is required to have 11 stacking spaces for the concept plan. The petitioner requested to reduce the requirement for stacking spaces. After research into typical standards for drive through stacking spaces, and review of past projects in the City, staff does not find a basis to support this request. Typical requirements are actually higher than the current City standard. However, staff supports allowing a reduction in spaces through a

Conditional Use Permit from the Board if an applicant can demonstrate that the required number of spaces is not needed. This has been incorporated into the attached amendment proposal.

The petitioner has also proposed limiting drive-through facilities to OCP District tracts of 10 acres or more. Staff does not support this amendment. This would essentially prohibit possible subdivision of the property, which is not desirable with regard to future development desired for the area. Moreover, if a use is appropriate for a district, it should be allowed everywhere in that district where meaningful minimum standards are met. Drive throughs would be permitted everywhere in the OCP District based on the current proposal.

Design standards included in the amendment are intended to mitigate typical aesthetic and safety concerns associated with drive throughs. Staff notes that the petitioner has included several best practices into their design to mitigate some of these concerns. These include limiting curb cuts such that pedestrians do not cross any vehicular way to reach the front door from the Storrs Street sidewalk, including attractive outdoor spaces and seating areas to create a pedestrian friendly environment, the use of landscaping to buffer vehicular ways and enhance aesthetics and perceptions of safety, and including attractive facades that activate the street with window, doors, and architectural features.

Discussion

Section 28-10-4 of the Zoning Ordinance outlines the following criteria for the Planning Board to evaluate in considering an amendment to the Zoning Ordinance or to the Zoning Map:

- (a) The consistency of the proposed amendment with the Master Plan;
- (b) The consistency of the proposed amendment with other plans, studies, or technical reports prepared by or for the Board and the City;
- (c) The effect of the proposed amendment on the City's municipal services, capital facilities, and planned facilities as described in the Capital Improvements Program;
- (d) The effect of the proposed amendment on the natural, environmental, and historic resources of the City;
- (e) The effect of the proposed amendment on neighborhoods including the extent to which nonconformities will be created or eliminated;
- (f) The effect of the proposed amendment on the City's economy and fiscal resources; and
- (g) The recommendation of the Planning Board relative to whether the proposed amendment should be adopted or rejected, and any recommendations for conditions of adoption or modifications to the proposed amendment.

As this report demonstrates, the amendment proposed by staff is not generally consistent with the four master plans recommendations for density, though considering the petitioners constraints, may be seen as a phased approach to accomplishing those goals. The proposal would not likely have a significant effect on the City's municipal services, capital facilities, or the environmental or historic resources. It is staff's opinion that the proposed ordinance could negatively affect downtown neighborhoods with regard to traffic generation and possibly pedestrian safety. Finally, while the proposed development would bring additional tax revenue to the City, this may be at the expense of greater revenues generated by more intense redevelopment, as envisioned by City master plans.

At the June 17, 2020 meeting of the Planning Board, the petitioner presented their concept plan for the site. They noted that lease agreements in place until 2035 prevented them from implementation of density in this location, but stated that Brixmor would be open to constructing the buildings to accommodate additional stories in the future. The Board was sensitive to the lease constraints and felt that waiting until 2035 to develop the site would not be in the best interest of the City.

The Board voted unanimously to recommend amendments to permit drive-through restaurants in the OCP District without the constraint of providing a two-story structure, and allow a reduction in stacking spaces with a Conditional Use Permit.

The attached amendment represents this recommendation, and was drafted with review by the petitioner. It is staff's understanding that the petitioner is in support of the proposed draft.