



Charles County Commissioners Meeting of January 14, 2025

Department of Planning and Growth Management Staff Report

**Project Name: Restaurant, Fast Food Drive in and Drive Through with
Direct Access to a Public Road in the Core Employment/Residential (CER)
Zone**

ZTA #23-181

Type of Project: Zoning Text Amendment

Applicant: Bryans Road Development, LLC

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BACKGROUND

§ 297-447 of the Charles County Zoning Ordinance requires the Planning Commission to first consider the proposed amendments and provide a recommendation to the Board of County Commissioners as to whether the requested Zoning Text Amendment should be granted. In your examination of this proposed Zoning Text Amendment application, which seeks to permit use code 6.02.310 Restaurant, fast-food drive-in, and drive-through and mobile food service facilities with direct access to a public road within the Core Employment/Residential (CER) Zone by Special Exception, please consider the following:

The Core Employment/Residential (CER) Zoning District currently encompasses approximately 101.14 acres, all within the Bryans Road Area. Locations of CER zoned property in Charles County is as illustrated on the map attached to this report as Appendix item 3. The objectives of this core mixed use zone are as specified in § 297-95 A. of the Charles County Zoning Ordinance:

“It is the objective of the Core Mixed-Use Zones to create mixed-use areas that are consistent with County plans and enhance existing communities by: promoting new development that is safe, comfortable, and attractive to pedestrians; encouraging infill and redevelopment where applicable; reinforcing streets as public places that encourage pedestrian and bicycle travel; providing roadway and pedestrian connections to residential areas; designing and scaling buildings that will be compatible with existing or planned development in the area; providing efficient land use by facilitating compact, moderate- to high-density development and minimizing the amount of land that is needed for surface parking; facilitating development (land use mix, density and design) that supports public transit and maintaining mobility along traffic corridors and state highways.”

Further, the specific objectives of the CER Zone are specified in § 297-95. B, as follows:

“This zone provides for development which will successfully integrate a mixture of complementary land uses that are primarily employment and residential but may also include retail, commercial services, and civic uses, to create economic and social vitality and encourage the linking of transportation and land use.”

REQUESTED AMENDMENT

General Description of the Request: A Zoning Text Amendment (ZTA) application was filed by Bryans Road Development, LLC for the purpose of amending certain provisions of the Zoning Ordinance of Charles County to permit use code 6.02.310 Restaurant, fast-food drive-in, and drive-through and mobile food service facilities with direct access to a public road within the Core Employment/Residential (CER) Zone by Special Exception. If approved, the use would be subject to four conditions that currently exist in the Zoning Ordinance, as follows:

- 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.

- B) Materials, textures, colors, and design of the restaurant building, fences, walls, and screening shall be compatible with the adjacent property and the neighborhood.
- C) Lighting, including permitted illuminated signs, shall be arranged and directed so as not to reflect or cause glare into any residential zone.
- 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.

The Application was filed consistent with the enabling procedural requirements, as stipulated within § 297-447 of the Charles County Zoning Ordinance.

The proposed text amendments to the Charles County Zoning Ordinance, if approved by the Charles County Commissioners, would revise the following Articles, Sections, and Figures as referenced below:

- Article IV, Permissible Uses, §297-63, Figure IV-1, Table of Permissible Uses.
- Article XIII, Minimum Standards for Special Exceptions and Uses Permitted with Conditions, §297-212, Uses Corresponding with Table of Permissible Uses.

APPLICANT JUSTIFICATION

A justification letter summarizing the proposed amendments has been supplied by the Applicant, Bryans Road Development, LLC. Within this letter, the Applicant asserts that there are parcels of land that are too small to be comprehensively redeveloped with the type of mixed-use development envisioned by the Bryans Road Subarea Plan. At the same time, the Plan specifically provides and acknowledges that some allowance should be made for the small-scale commercial development integrated into a subdivision area provided that the use is appropriate, that there is no additional parking required, and the character of the area is maintained.

The Applicant asserts that the proposed amendments, if approved, would be a substantial benefit to the community by providing options to encourage redevelopment along the portion of the CER Zone fronting MD 210.

SUMMARY OF PUBLIC HEARING

On November 4, 2024, the Planning Commission held a Public Hearing on the proposed Zoning Text Amendment, Bill 2024-18, (ZTA) 23-181, Restaurant, Fast Food Drive In and Drive Through with Direct Access to a Public Road in the Core Employment/Residential (CER) Zone. There were no public speakers at the hearing and the Planning Commission did not receive any

written statements provided by members of the public in advance of the hearing. At the conclusion of the Public Hearing, the record was closed and the Planning Commission moved directly into a work session.

PLANNING COMMISSION RECOMMENDATION

After the conclusion of the work session, the Planning Commission voted unanimously to recommend approval of Zoning Text Amendment, Bill 2024-18, (ZTA) 23-181, Restaurant, Fast Food Drive In and Drive Through with Direct Access to a Public Road in the Core Employment/Residential (CER) Zone.

STAFF ANALYSIS

County staff have reviewed the proposed amendment and offer the following findings for the Commissioner's consideration:

Analysis of Proposed Amendments:

The cornerstone of the original Bryans Road Sub Area Plan is the creation of a higher-density, mixed use, compact, and walkable town center. The CER zone was one of the three Core Mixed-Use zones subsequently adopted to implement this town center concept in Bryans Road.

The specific objective for the CER Zone, as codified in Section 297-95. A.1., states: "this zone provides for development which will successfully integrate a mixture of complementary land uses that are primarily employment and residential but may also include retail, commercial services, and civic uses, to create economic and social vitality and encourage the linking of transportation and land use."

Currently a restaurant, fast-food drive-in, and drive-through as part of a business park or shopping center with no direct access to a public road is permitted in the CER zone but not with direct highway access to a public road. A drive through restaurant that directly accesses a public road would encourage a very suburban, auto-oriented development pattern that is not consistent with either the Sub Area Plan's nor the CER Zone's purpose and intent for the Bryans Road Town center. Furthermore, the CER Zone is specifically intended to target employment uses; drive-through restaurants would consume land that could be used for this purpose. While the restaurant would generate jobs, they would not be the type of "employment uses" that the plan envisions.

In October 2023, the County Commissioners approved a new Bryans Road Sub Area Plan. The new Plan creates four new neighborhoods in Bryans Road and also divides these neighborhoods into several new land use categories of varying density and development character. The majority of CER zoned land is located in the Plan's Mixed-Use category, with one CER zoned parcel being located in the Town Center category.

The Plan's intent for the Mixed-Use category as follows: "Should be targeted 16–20 units per net buildable acre with a target open space requirement of 20%. Some allowance should be made for small-scale commercial development integrated into a subdivision area provided that the

use is appropriate, that there is no additional parking required, and the character of the area is maintained.”

The Plan’s intent for the Town Center category is as follows: “The target for residential development in the town center should be 20 units per acre, allow a mix of commercial and public facility uses. The intended mix of commercial uses should orient towards sit-down restaurants, personal, medical, and professional services, etc. Automotive stores and facilities, drive through restaurants, gas stations, and convenience-type stores should not be permitted in the Town Center.”

Thus, these areas overall are targeted for mixed use development with small scale commercial development that is of a compact, smaller, neighborhood serving scale rather than auto-oriented strip commercial. A drive through restaurant use that directly accesses a public road would not be consistent with this intent and is expressly discouraged in the Plan.

Furthermore, the majority of CER zoned land is located in the Billingsley-Livingston neighborhood in the new Sub Area Plan. For this neighborhood, the plan states the following: “Most development should be oriented towards the Billingsley Road extension to MD 210 and the proposed roundabout which are recommended to be constructed independent of any new development in the area. The extension will relieve existing traffic pressure on the intersection of MD 210 and MD 227. No other new access points should [be] allowed to MD 210.”

Thus, the new Sub Area Plan expressly recommends no new access points be allowed to MD 210 beyond a recommended Billingsley Road extension to MD 210. Since many of the CER zoned parcels front on MD 210, it is not advised that the CER zone be changed to allow drive through restaurants that directly access a public road. The applicant has offered to add a condition that would permit the proposed use only when fronting on an Arterial roadway, however this would be inconsistent with the Plan’s recommendations that no other new access points be allowed to MD 210, which is an Arterial roadway.

CONCLUSIONS & RECOMMENDATIONS

In summary, County staff have reviewed the merits and rationale for Bill 2024-18, ZTA #23-181 and the vision for development outlined in the Bryans Road Sub Area Plan as well as the County’s 2016 Comprehensive Plan. Allowing this use within the CER Zone is contrary to the desire to integrate small-scale commercial development into residential areas that are less auto oriented, such as sit-down restaurants, personal, medical, and professional services. However, the need for additional amenities in Bryans Road is recognized, and successful uses of this nature could serve as a catalyst to encourage other commercial uses that would be more consistent with the vision. Since the use is allowed only by Special Exception, each application would be reviewed for compliance with the four conditions that currently exist in the Zoning Ordinance regarding traffic impacts, building materials and screening, lighting, and considerations for ingress and egress. Additionally, the Special Exception process would allow for public input, and for each application to be evaluated on the unique characteristics of the parcel to be developed, and its specific impacts. As such, staff does not object to the proposed text amendment.

Appendices

1. Application for Zoning Text Amendment (ZTA #23-181), including the background and purpose of the proposed amendment – Submitted by Bryans Road Development, LLC
2. Draft Zoning Text Amendment, ZTA 23-181, Restaurant, Fast Food Drive in and Drive Through with Direct Access to a Public Road in the Core Employment/Residential (CER) Zone- Submitted by Bryans Road Development, LLC.
3. Zoning Map – Locations of CER Zoned Property in Charles County.