

McCordsville

ESTD  1988

INDIANA

Board of Zoning Appeals Staff Report

Meeting Date: October 2, 2024

PETITIONER: Taco Bell of America

PETITION: BZA-24-011

REQUEST: Petitioner requests approval of four (4) Development Standard Variances, as further described herein, for a fast-food facility.

LOCATION: The property is located along the southside of W Broadway, approximately 1/10 of a mile east of Commons Drive.

ZONING: The property is zoned McCord Square PUD.

<u>Zoning</u>	<u>Land Use</u>
North: R-3	Commercial
South: PUD	Vacant
East: PUD	Vacant
West: Commercial Neighborhood	ATM

STAFF REVIEW: Taco Bell is seeking variances for a fast-food facility to be located on the westernmost out-lot of a development known as McCord Square Pavilion (Pavilion). Pavilion totals +/- 9 acres. The full 9 acres is not developable, as right-of-way for Civic Drive (the main north-south thoroughfare through McCord Square) will be dedicated to the Town along with the adjacent detention facility. Pavilion is part of the McCord Square zoning, and is within the Gateway District of the PUD, which is the only portion of the McCord Square development that was envisioned as “traditional” vehicle-oriented commercial development. Fast-food facilities with drive-thru windows were contemplated as part of the zoning and are permitted by right in Pavilion; therefore, a Special Exception is not needed for the drive-thru. The petitioner is requesting approval of four (4) Development Standards Variances, as described below.

Variance Request #1 – Section 4(B)(5) of the McCord Square PUD

The PUD requires side-yard setbacks for this property of 10’. This would apply to the west and east property lines. The petitioner is requesting a reduction of this setback, along the west property line to 4’ and along the east property line to 5’.

Variance #2 – Chapter 154.113(C)(4) of the Zoning Ordinance

The Zoning Ordinance prohibits trash receptacle enclosures from being located in front yards. The petitioner's parcel has two front-yards and therefore the petitioner is seeking a variance to allow the trash receptacle enclosure in the "secondary" front-yard.

Variance #3 – Section 4(E)(1)(g) of the McCord Square PUD

The PUD requires foundation planting beds along all facades of a commercial building. The petitioner is requesting relief from this standard along the east façade, where the drive-thru is located.

Variance #4 – Section 4(F)(8) of the McCord Square PUD

The PUD requires a minimum 8' wide foundation sidewalk along the façade commercial buildings featuring a customer entrance. The petitioner is requesting a reduction in this width from 8' to 6.5'. However, staff has determined this variance request is not necessary and finds the plans in keeping with the requirements of the Ordinance.

The lot configuration and shape creates the need for some of these variance requests. Staff has been working with the developer for some time on this site plan and believes the site plan is functional. Staff is in support of the requests as further described below:

Variance #1 – Setbacks

The setback reduction for the west property line will not be noticeable in the real-world setting. There is a significant number of utilities just to the west of this property line. This creates a de facto setback and/or separation between the improvements on this and any future improvements on the adjacent lot. The setback reduction for the east property line is necessary to create the appropriate space for the drive-thru lane, parking, drive aisle, and other on-site functions and operations.

Variance #2 – Trash Receptacle Enclosure

This lot has a double frontage, and furthermore the frontages are on opposite sides of the lot. The petitioner has located the trash receptacle enclosure in the best location possible for both aesthetics and ease of access.

Variance #3 – Foundation Planting Beds

The petitioner seeks a variance from this standard only along the east building façade, where the drive thru lane is located. Staff will be requested that plantings are located east of the drive-thru lane, along the east property line. This simply moves the plantings to a more visible location.

BZA AUTHORITY: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

2. The use and value of the area adjacent to the Property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property.

STAFF RECOMMENDATION:

Staff has reviewed the petitioner's request and while we are supportive, we do believe some conditions of approval are warranted. Those suggested conditions of approval are denoted below:

1. The drive thru lane, where adjacent to the east and south property lines east property lines, shall be landscaped in keeping with the Town's requirements for perimeter parking lot landscaping.

Approval: If the Board is inclined to approve the variance from Section 154.146(B), then the Department recommends adopting the staff's suggested conditions of approval above and the findings below.

Recommended Findings for Approval:

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The requested variances are being mitigated with staff's suggested conditions of approval.*

2) The use and value of the area adjacent to the Property included in the variance will not be affected in a substantially adverse manner: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because the use of the property is in keeping with the permitted uses of the zoning district.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The strict application of this criteria could result in the petitioner being un-able to develop this property.*

Denial: If the Board is inclined to deny the requested variances, then the Department recommends denying the variances, and tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



Overview



Legend

-  Corporate Limits
- Roads**
 -  I
 -  S
 -  U
 -  <all other values>
-  Parcels

Parcel ID	30-01-25-200-010.100-018	Alternate ID	30-01-25-200-010.100-018	Owner Address	McCords Square Pavilion LLC
Sec/Twp/Rng	n/a	Class	500 - Vacant - Platted Lot		5750 E 91st St, Ste C
Property Address	W Broadway McCordsville	Acreage	n/a		Indianapolis, IN 46250
District	MCCORDSVILLE TOWN				
Brief Tax Description	McCord Square Block A (Note: Not to be used on legal documents)				

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