

TOWN OF CHAPEL HILL

ATTACHMENT 3

ORANGE COUNTY

NORTH CAROLINA

MODIFICATION OF SPECIAL USE PERMIT

KNOW ALL MEN BY THESE PRESENTS, that the undersigned property owner(s)
R. Charles Ginn

having applied to the Town of Chapel Hill for modification of the existing Special Use Permit on the property hereinafter described, said Special Use Permit recorded in Book 261, page 557 at the Office of the Register of Deeds, said modification was granted by the Town of Chapel Hill on October 26, 1981, the terms of said modification being as follows:

NAME OF PROJECT: Kroger Plaza Drive-up Teller

TYPE OF SPECIAL USE: Planned Development-Shopping Center (Community)

NAME OF DEVELOPER: R. Charles Ginn

DESCRIPTION OF PREMISES

LOCATION: at intersection of Elliott Road and East Franklin Street

TAX MAP REFERENCE: Chapel Hill Township Tax Map 46, Block B, Lot 8

DESCRIPTION OF DEVELOPMENT

GROSS LAND AREA: 312,103 square feet OPEN SPACE: 236,613 square feet

NUMBER OF BUILDINGS: 2 LIVABILITY SPACE: 30,060 sq. ft.

NUMBER OF DWELLING UNITS: NA RECREATION SPACE: NA

FLOOR AREA: 77,848 square feet NUMBER OF PARKING SPACES: 320

78,417

SPECIAL TERMS AND CONDITIONS

A. Stipulations imposed as part of the initial Kroger Shopping Center Special Use Permit approval of March 10, 1969. Refer to plans approved by the Board of Aldermen on March 10, 1969, subject to the following:

1. That detailed landscaping plans be submitted for consideration and approval by the Planning Board with the following specifically noted: a) no building or parking within 20 feet of the public right of way, b) at least 20 feet of planting along East Franklin Street with at least 50 conifers not less than 4 feet in height, c) saving, if at all possible, trees near the northeast corner of the lot, d) planting of trees and shrubs along Elliott Road, e) planting around the buildings and in the parking lot, f) planting along the east boundary fence.
2. That detailed plans be submitted to the Planning Board for consideration and approval prior to the issuance of a building permit showing the design and location of signs, lighting and trash and garbage collection points.
3. Reorientation of the second building if possible.
4. That use of the second building be restricted to a dry cleaner or night time dining establishment and if neither of these uses appears practical that the developer resubmit plans for modification of a special use permit to allow another use.
5. That paved sidewalks be constructed along Franklin Street and Elliott Road.
6. That parking must meet all requirements of the Zoning Ordinance.
7. Landscaping must be completed within six months after issuance of the certificate of occupancy.

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B. Stipulations imposed as part of the Modification of Special Use Permit approved by the Board of Aldermen on November 17, 1975:

1. That the Kroger sign be composed of white letters against an opaque background or individual letters mounted directly on the wall.
2. That a permit for the Kroger sign not be granted until... compliance with the landscape plan is achieved.

C. Stipulations imposed as part of the Modification of Special Use Permit approval of June 13, 1977. Refer to plans dated January 20, 1977 and June 13, 1977, approved by the Board of Aldermen on June 13, 1977, subject to the following:

1. That the sign plan be approved by the Appearance Commission prior to issuance of the building permit, such plan not to include the "walk-in" and "drive-in" designations.
2. That two linear islands having a minimum width of 4 feet and a minimum height of six (6) inches be constructed within the parking lot as shown on the site plan dated 1/20/77. The design and construction specifications for such islands shall be approved by the Town Manager.
3. That construction be completed by June 1, 1978.
4. That any and all planting which dies during the life of the special use permit shall be replaced with planting of the same species and approximately the same size during the next planting season.
5. That detailed building elevations, including exterior colors and materials and a landscape plan, including means of irrigation, be approved by the Appearance Commission prior to issuance of a building permit.

D. Stipulations imposed as part of the Modification of Special Use Permit approved by the Board of Aldermen on June 12, 1978:

1. That construction be completed by December 31, 1978.
2. That except as modified herein, all other special terms, conditions, and stipulations heretofore made applicable to the Special Use Permit be continued in effect, and that the Board finds that with all stipulations and conditions as modified, the use continues to meet the four requisite findings set forth in the initial Special Use Permit.

E. Stipulations imposed as part of the Modification of Special Use Permit approved by the Council on January 14, 1980. Refer to sign plan dated December 13, 1979 approved by the Council subject to the following:

That except as modified herein, all other special terms, conditions, and stipulations heretofore made applicable to the Special Use Permit be continued in effect, and that the Board find that with all stipulations and conditions as modified, the use continues to meet the four requisite findings set forth in the intial Special Use Permit.

*** F. Stipulations imposed as part of the Modification of Special Use Permit to allow the construction of a drive-in photo facility as approved by the Town Council on October 27, 1980:**

***(THIS MODIFICATION HAS BEEN SUPERSEDED BY APPROVAL OF MODIFICATION FOR DRIVE-IN TELLER OCTOBER 26, 1981. THEREFORE, THE CONSTRUCTION APPROVED AND STIPULATIONS ATTACHED ARE NO LONGER IN EFFECT.)**

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- * 1. That detailed architectural elevations be submitted to and approved by the Appearance Commission prior to issuance of a building permit.
- * 2. That a detailed landscape/planting plan including detailed sign and lighting plans be submitted to and approved by the Appearance Commission prior to issuance of a certificate of occupancy.
- * 3. That any and all planting which dies during the life of the special use permit be replaced with planting of the same species and approximately the same size by the end of the next planting season.
- * 4. That construction begin by November 30, 1981, and be completed by November 30, 1982.
- * 5. That two linear islands having a minimum width of four feet and a minimum height of six (6) inches be constructed within the parking lot as shown on the site plan dated 8/28/79. The design and construction specifications for such islands shall be approved by the Town Manager.
- * 6. That the site plan be modified to delete the vehicular drive-in aisle furthest from Elliott Road. Such vehicular drive-in shall be replaced with a landscaped pedestrian access to the facility which shall be created by joining the proposed landscaped islands. As an alternative to providing the walk-up window for pedestrians, the pedestrian window may be permanently closed and service to pedestrians shall be provided within the booth as proposed. In either case, service to pedestrians shall be provided within the building as shown on the submitted plans.
- * 7. That all parking within the parking bay closest to East Franklin Street be deleted for a distance of 40 feet east of the photo booth.
- * 8. That except as modified herein, all other special terms, conditions, and stipulations heretofore made applicable to the Special Use Permit be continued in effect, and that the Council finds that with all stipulations and conditions as modified, the use continues to meet the four requisite findings set forth in the initial Special Use Permit.

G. Stipulations imposed as part of the Modification of the Special Use Permit to allow a change in the front elevation of the Kroger Store as approved by the Town Council on October 27, 1980:

- 1. That detailed architectural design of the front elevation of the Kroger Store be submitted to and approved by the Appearance Commission prior to issuance of a building permit.
- 2. That no poster signs or other forms of advertising be allowed on the paneling on the front elevation.
- 3. That except as modified herein, all other special terms, conditions, and stipulations heretofore made applicable to the Special Use Permit be continued in effect, and that the Council finds that with all stipulations and conditions as modified, the use continues to meet the four requisite findings set forth in the initial Special Use permit.

H. Stipulations imposed as part of the Modification of the Special Use Permit to allow the addition of 7,200 square feet of enclosed floor area. Refer to plans approved by the Council on February 9, 1981, subject to the following:

- 1. That detailed architectural elevations, and a site plan showing the location of landscaped areas, signs, lighting and other site elements be submitted to and approved by the Appearance Commission prior to issuance of a building permit.
- 2. That a detailed landscape/planting plan including detailed sign and lighting plans be submitted to and approved by the Appearance Commission prior to issuance of a certificate of occupancy. Such plan shall show adequate mechanical means for watering landscaped areas.
- 3. That any and all planting which dies during the life of the special use permit be replaced with planting of the same species and approximately the same size by the end of the next planting season.

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- 4. That provisions for garbage collection be approved by the Town Manager. Pads for bulk trash containers shall be constructed to Town standards.
- 5. That the screening of all exterior mechanical equipment be reviewed and approved by the Appearance Commission prior to issuance of a certificate of occupancy.
- 6. That all utilities be placed underground.
- 7. That the applicant be permitted to reduce the number of required parking spaces by up to 12% as provided for in Section 4-C-21-d of the Zoning Ordinance on the findings that such a reduction is justified on the basis of the type of use, that the development is not expected to need parking in the normally required ratio, no adverse increase in traffic congestion is expected because of the reduction, and the area to be freed from parking has been used for additional landscaping. This is based upon giving credit for the 20 foot wide landscape strip along Franklin Street, the planters along the front of the proposed addition, and the proposed landscape islands in the parking lot facing the addition.
- 8. That a revised site plan incorporating all the above stipulations be submitted to the Building Inspector prior to issuance of a building permit.
- 9. That construction begin by March 31, 1982 and be completed by March 31, 1984.
- 10. That all improvements, as shown on the approved plans or required as part of the granting of the special use permit, shall be completed prior to issuance of the certificate of occupancy.
- 11. That there be no parking of any kind along the side of the building fronting on Elliott Road for a distance measuring 35 feet either side of the centerline of the principal access drive (i.e. the access drive located closest to the intersection of Franklin Street and Elliott Road.)
- 12. That a turn lane be added within the principal access drive located directly in front of the Kroger Store. The detailed plans shall be approved by the Town Manager prior to construction. Such turn lane shall be installed prior to issuance of a certificate of occupancy for the proposed addition.
- 13. That except as modified herein, all other special terms, conditions, and stipulations heretofore made applicable to the special use permit be continued in effect, and that the Council finds that with all stipulations and conditions as modified, the use continues to meet the four requisite findings set forth in the initial special use permit.

I. Stipulations imposed as part of the Modification of Special Use Permit to allow construction of a drive-up teller. Refer to plans approved by Council on October 26, 1981 subject to the following:

- 1. That the islands containing the teller unit be constructed with concrete curb and be landscaped to Town standards including shading of 35% of the portion of the parking lot bounded by the islands. That a shading plan, landscape plan, and design of curbing be submitted to the Town Manager for approval prior to issuance of a Zoning Compliance Permit.
- 2. That a stop sign be provided at the outlet point from the remote teller.
- 3. That a vehicle clearance sign be provided on the canopy to the remote teller.
- 4. That except as modified herein all other special terms, conditions and stipulations heretofore made applicable to the Special Use Permit be continued in effect.
- 5. That the regulations set forth in Article 6 of the Zoning Ordinance apply only to that portion of the development subject to modification for the drive-in teller. That remaining portions of the development be brought into compliance with the requirements of Article 6 as future modifications are made to the shopping center or as set forth in Article 14.
- 6. That detailed elevations for the teller unit be approved by the Appearance Commission prior to issuance of a Zoning Compliance Permit.
- 7. That construction begin by October 12, 1983 and be completed by October 12, 1986.