

**Attachment to Application for Special Use Permit  
Hawley Ave., Belmont NC  
Parcel IDs: 214364-6; 221080-2  
Applicant: BNC Land Co  
Property owner: Southern Benedictine Society**

Applicant hereby answers the required questions as follows:

**A. The use meets all required principles and specifications of the Code and any adopted land use plans.**

The current zoning for the property is H-C (highway commercial). This classification does not change as a result of the development project. Development of the property as a restaurant is a permitted use under Section 5.8. Further, the proposed project meets all of the goals and criteria for highway commercial development. Specifically, Section 5.8 of the Land Development Code states that the H-C zoning classification is “coded primarily for auto dependent development” and intended “to facilitate convenient access, minimize traffic congestion, and reduce the visual impact of excessive signage and parking lots.” This project is located in the middle of Abbey Plaza, a larger highway commercial development. The site plan is designed to accommodate vehicle traffic, and the project will share entries and access roads with other commercial properties, which tends to mitigate the impact of traffic, parking and signage throughout the City.

Additionally, the proposed development is consistent with the City’s future land use plan. The subject property is located in the “Montcross Small Area Plan” located between Wilkinson Blvd. and I-85. The future land use plan provides the following vision for this area:

The long-term land use plan developed by The Monastery for its land located south of I-85 includes 750,000 square feet of retail, restaurants and banks in an area generally situated between Park Street (N.C. Highway 273) and Belmont-Mt. Holly Road north of Wilkinson Boulevard (U.S. Highway 74). The initial development of this area, known as Montcross, was begun in 2005. The Monastery’s long-range land use plan for this area is also consistent with the City’s goals of providing economic development and encouraging the revitalization of the Wilkinson Boulevard commercial corridor.

The proposal thus meets several criteria specifically identified in the future plan, including the creation of additional restaurant space, and contributing to economic development and revitalization of the Wilkinson Blvd commercial corridor by bringing a higher-end, proven franchise to the City.

An SUP is required in this case based on two provisions of the LDC:

1. Section 5.8.2 generally restricts parking to the side and rear of the building in the H-C District. However, parking may be permitted in the front yard with an SUP if

- a. There exists no practical alternative for the location of such parking because of the unique needs generated by a specific use; and
  - b. The parking in the front yard, shall be set back a minimum of 10 feet from the right-of-way and shall be screened using a Type B-Semi Opaque Screen found in Section (11.2.B)
2. Second, an SUP is required under section 9.2.1 if the proposed development exceeds 200% of the minimum ratio. In this case the site plan provides 144 seats in the restaurant. Under the LDC, restaurant parking requires a minimum of 1 space per 4 seats which means the minimum parking spaces required are 36 parking spaces. Since the site plan shows 77 parking spaces, or more than 200% of the minimum requirement, an SUP is required.

The 2.46 acre site is unique in that it sits in the southwest corner of the eastern curve on Hawley Ave., resulting in essentially two front yards with minimal space which would ordinarily qualify as “side” or “rear” parking. In fact, it would be almost a practical impossibility to develop this site without front yard parking. The site plan meets all other requirements for front yard parking, including the 10 foot setbacks and the vegetative screening requirements set out in Chapter 11.

The need for additional parking, another basis for the SUP, is consistent with franchise best practices developed over more than 20 years of operation, and the site plan also incorporates more recent impacts on drive-thru businesses generated by increased demand for take-out service resulting from the COVID-19 pandemic. Parking spaces are strategically incorporated into the site plan to minimize the visual impact and prevent the parking from overwhelming the restaurant and landscaping. The additional number of spaces also benefit the project by accommodating the anticipated average of 15 employees working at the restaurant at any given time, along with the shopping center as a whole by decreasing congestion or the potential for backups on Hawley Avenue.

Finally, the proposed building type, “flex commercial building,” is appropriate to the H-C zoning classification. Lot requirements with respect to lot width, setbacks, and building height are all met, as are all architectural requirements under section 4.7(2).

Based on these facts, the development plan presented by the Applicant is consistent with, and meets all required principles and specifications of the Land Development Code as well as the City’s Comprehensive Land Use Plan.

**B. The proposed use, if developed according to the plan submitted and approved, will be visually and functionally compatible to the surrounding area.**

The area surrounding the property site on Hawley Avenue and the Abbey Plaza shopping center is exclusively commercial and includes retail, restaurants, banks, and a hotel. All are auto dependent businesses with buildings largely surrounded by parking. The project site in this case is larger and contemplates more expansive landscaping the most of the current outparcels, and in that way will

serve as a transitional site between the shopping center and hotel and senior apartments to the west on Hawley Avenue.

Building materials consist of “Boston” and “Raleigh” Summitville brick, accented by wood cladding, metal awnings and trim. Doors, door frames, and window frames will consist of natural aluminum. Building towers add architectural details and screen rooftop equipment. The natural color scheme complements the landscaping and undeveloped areas on Hawley, including those portions of this project not impacted by the project, and the site plan includes an outdoor patio which can accommodate up to 40 patrons.

The site plan meets the requirements of the City’s Tree Save Ordinance and preserves more than two dozen existing pine and poplar trees in and around the tree save area in addition to new plantings and detailed landscaping planned for around the building.

Finally, as with all other restaurants and commercial properties located on Hawley Avenue and within Abbey Plaza, the Applicant will lease the site from the Southern Benedictine Society, which has reviewed and approved the site plan, providing further assurances of compatibility with surrounding properties.

Based on the above, the proposed use, site plan, and building design complement and enhance the surrounding commercial properties; the project is therefore visually and functionally compatible with the surrounding area.

**C. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed.**

The Applicant has completed a lengthy review process with Planning and Zoning and the technical review committee department heads to ensure that public health and safety concerns or issues are addressed. A traffic study has been completed by Kimley Horne, a traffic engineer and consultant selected by the City. The TIA recommended three minor mitigation changes: a median cut to accommodate left turn traffic into the site, a right in right out entrance on the east side of the project site, and restriping of an entrance along Park Street servicing the entire commercial development. All mitigation recommendations are included in the site plan and development proposal. The site can be accessed by police, fire, and emergency vehicles from several directions.

As previously noted, the Applicant has provided sufficient parking spaces based on calculations developed from years or decades of experience managing similar properties, and in fact the SUP is required in part by a desire to include substantially more than the City’s minimum parking requirements. Holding spaces for drive through traffic are included in the additional parking spots. The additional parking spaces developed and designed through the Applicant’s restaurant management experience will minimize any negative impacts with respect to traffic on Hawley Avenue. The site plan also includes a 5-foot sidewalk with good visibility to allow for safe pedestrian access from the hotel and other commercial areas.

As noted in the previous section, the Applicant was selected by the Southern Benedictine Society after a careful review of its services and development concept. This process helps ensure that the business model complements the existing restaurants and businesses and contributes to the healthy economic development of the shopping area as a whole. The application process and selection criteria developed by the property owner provides convincing, if not conclusive evidence that the use will not substantially injure the value of the adjoining properties.