

Payson City City Council Staff Report, November 02, 2016

Request to allow a Drive-Thru facility in the S-1, Special Highway Service Zone as a Conditional Use located at 1025 W 800 S

Background

The applicants, Heather and Steve Wallentine, have submitted an application for a conditional use permit requesting that a drive-thru be allowed at 1025 W 800 S in the S-1, Special Highway Service Zone. The location is east of the Payson Fruit Growers and the Blackhawk Business Park Condominiums. The building will house a Farr's ice Cream & Dexter Gourmet Dogs restaurant. Drive-Thru facilities are allowed in the S-1 Zone, but must receive approval of a conditional use permit from the City Council, when the proposed facility is adjacent to a residential zone.

Farr's Ice Cream & Dexter Gourmet Dogs is the first phase of a larger planned development on the parcel located adjacent to the Blackhawk Business Park Condominiums. The site plan has been reviewed by staff and feedback has been provided to the architect. Feedback includes what additional items are necessary or require modifications in order to receive site plan approval. The proposed building is to be located toward the east side of the property, oriented to 800 S and a parking lot to the west.

The request for approval of a conditional use permit has been reviewed in accordance with Chapter 19.13 of the Zoning Ordinance (January 6, 2016). Although a request for a recommendation for approval of a conditional use permit does not require a public hearing before the Planning Commission, the request for approval of a conditional use permit does require a public hearing before the City Council following a recommendation from the Planning Commission.

Analysis

The applicant must appear before the City Council to discuss the proposed Conditional Use Permit in a public hearing. The applicant appeared before the Planning Commission on July 27th and August 8th, and the Planning Commission forwarded a recommendation of approval to the City Council, based on the below recommendations.

A Public Hearing was held on September 7, 2016 regarding the Conditional Use. At that meeting the City Council remanded the application back to staff, requiring the applicant to address several items. 1) A parking agreement with the Blackhawk Business Park Condominiums, including a better alignment with 1040 West, across 800 South. 2) Alignment and Stacking for the drive through lane.

In accordance with Chapter 19.13 of the Zoning Ordinance, the following factors need to be weighed and considered when determining whether a Conditional Use Permit application should be approved, approved with conditions or denied:

1. Harmony of the request with the general objectives of the General Plan, Zoning Ordinance, Subdivision Ordinance, any other City ordinance and the particular zone in which the request is located.
2. Harmony of the request with existing uses in the neighborhood.
3. Development or lack of development adjacent to the site.
4. Whether or not the request may be injurious to potential development in the vicinity.
5. Present and future requirements for transportation, traffic, water, sewer, and other utilities.
6. Suitability of the specific property for the proposed use.
7. Number of other similar conditional uses in the area and the public need for the conditional use.
8. Economic impact on the neighborhood.
9. Aesthetic impact on the neighborhood.
10. Safeguards to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor.
11. Attempts by the applicant to minimize other adverse effects on people and property in the area.
12. Impact of the proposed use on the health, safety and welfare of the City, the area, and persons owning or leasing property in the area.

A Conditional Use Permit can be approved to run with the land in perpetuity, or the City Council may place time limitations on the Conditional Use Permit.

Staff's initial comments that were addressed at the previous Public Hearing were the following;

- ❖ **Criterion #2** Harmony of the request with existing uses in the neighborhood.

Proposed Staff Conditions for Criterion #2

1. In accordance with City Code Chapter 19; Section 8.5.2.2.c - ***To maintain the existing residential environment, commercial and industrial development adjacent to residential uses shall incorporate masonry walls, landscaping, berms, building orientation and activity limitations.....*** A six (6) foot masonry wall must be constructed along the east side of the parcel.
 - a. The applicant has indicated that the east side of the parcel, adjacent to Phase I (Farr's Ice Cream) will have a 6' masonry wall, and the wall will continue the entire length of the parcel, as future phases are developed.
 - b. Conditional Use approval is related to the Drive-Thru Facility only

- ❖ **Criterion #9** Aesthetic impact on the neighborhood.

- ❖ **Criterion #10** Safeguards to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor.

- ❖ **Criterion #11** Attempts by the applicant to minimize other adverse effects on people and property in the area.

Proposed Staff Conditions for Criterion #9, 10, & 11

1. The original site plan proposed a five (5) foot sidewalk along the east side of the property. Staff recommended that in order to address criterion 9, 10, & 11, that the applicant work with staff to relocate the pedestrian sidewalk to a location within the site that will more effectively accommodate foot traffic, and that the proposed sidewalk be replaced with landscaping, including trees and shrubs, in accordance with City Code Chapter 19; Section 8.5.2.2.e. - ***In order to provide a visual barrier between commercial and residential uses, evergreen trees should be planted no further apart than thirty (30) feet on center, depending on species, to screen parking lots and large commercial building walls.*** Landscaping will help to absorb light and sound that may be emitted from the drive-thru facility and the planned ingress egress on the east side of the property.
 - a. The sidewalk has been relocated to the west side of the project, adjacent to the ingress/egress between the Farr's Ice Cream and the Blackhawk Business Park Condominiums
 - b. The east side of the parcel, along the masonry fence will be landscaped in accordance with City Ordinance.
2. The site plan indicates that the building will have no east facing windows. City Code Chapter 19; Section 8.5.2.2.d - ***Window orientation in non-residential buildings will preclude a direct line of sight into adjacent residential private yards or open spaces within one hundred (100) feet.***
 - a. The applicant has indicated that this will not change.

Following a review of the proposed Conditional Use Permit, based on previously submitted and updated plans, staff feels that the applicant has meet all twelve of the Conditions of Approval as outlined in Chapter 19.13.

In the updated site plan the applicant addressed the items requested by Council during the previous Public Hearing that pertain to a Conditional Use permit;

1. Access and parking with Blackhawk Condominiums, and alignment with 1040 West.
2. The stacking and alignment of the drive-thru lane.

19.6.14.14 states;

"In order to promote compatibility between the S-1 Zone and any other zoning district, the city staff or City Council, as the case may be, may require special conditions including but not limited to the following:

1. Limited Business hours, or hours of operation.
2. Restrictions on lighting, emissions, noise and other potential impacts.
3. Design and placement of structures and improvements on the development site.
4. Appropriate screening through fencing, landscaping or building design. (9-1-04)

Other than number 1, staff feels that all the remaining items have been addressed by the applicant.

Options

Staff has reviewed the request for approval of a conditional use permit and the proposed site plan of the Farr's Ice Cream Development. The City Council will need to determine if the proposed conditional use permit to allow Drive-thru facilities is consistent with the development goals of the City in the identified location and if any conditions are necessary to mitigate the potential negative impacts on surrounding property owners. The City Council may:

1. Remand the application for the proposed conditional use permit back to staff for further review. This action should be taken by the City Council if it is determined that there is not enough information provided by the applicant in order for the City Council to make a well-informed decision.
2. Recommend approval of the conditional use permit as proposed. If the City Council chooses to recommend approval of the conditional use as proposed and the City Council chooses to follow the recommendation of the Planning Commission, staff would suggest that an opportunity to require the applicant to satisfy the requirements of the development ordinances of Payson City will be missed.
3. Recommend approval of the conditional use permit with the conditions proposed by City Council. Staff would suggest that if with satisfaction of appropriate conditions, the requirements of the development ordinances of Payson City can be satisfied and proper development of the property will occur.
4. Recommend denial the proposed conditional use permit. This action should be taken if the City Council determines that the adverse impacts of the proposed conditional use cannot be mitigated by the applicant.

