

# Memo

**To:** Planning Commission  
**From:** Bryan Myrkle, Community Development Director  
**Date:** August 30, 2017  
**Re:** Dairy Queen expansion proposal

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As you know, the Charlotte City Council recently approved a rezoning request from the owners of Dairy Queen, located on South Cochran Avenue. The purpose of this was to allow for the expansion of that business onto the three parcels included in the rezoning.

Two of the items on your September agenda were postponed until the City Council took action on the rezoning – the site plan review and request for conditional use permit. A restaurant is a use subject to condition under the B-1 zoning classification.

Because these issues were not taken up in September, and because it's possible they could result in changes to the proposed expansion plan, this work session will allow the public to offer feedback on these issues, and the Planning Commission to discuss them.

This will give the property owner time to make any adjustments to the plan that may be necessary prior to your next regular Planning Commission meeting. ***It is expected the two issues will be on the October 3 agenda for formal review and action.***

***Most of the following information was given to you in the September meeting packet. The plans remain available at City Hall for your reference and review.***

## Item 1 -- Conditional Use Permit

Restaurants are a Conditional Use under the B-1 Local Business District zoning classification. This means that, according to our ordinance, the Planning Commission must determine the following:

- Access shall be provided so as not to conflict with adjacent businesses or adversely affect traffic flow on a major thoroughfare.
- Access to the site is not from a primarily residential street.
- Trash receptacle shall be screened from public view and covered.

- Outdoor lighting of buildings and parking lots shall be shielded from abutting residential.
- Accommodations shall be made for off-street loading and unloading.
- A 6-foot obscuring wall shall be provided to screen site from adjacent districts.\*

*(\*A note on walls: We have paid particular attention to the matter of the requirement for an obscuring wall. In this proposal, you will see that the screening requirement is proposed to be met through the use of fencing, trees and plants. While everyone likely has in their mind an idea of what constitutes a wall, the zoning ordinance does not necessarily conform to those ideas. There are several sections of the code that apply here. **First, and perhaps most importantly, is the actual definition of an obscuring wall contained in the code.** It states that obscuring wall is “a structure of definite height and location to serve as an obscuring screen carrying out the requirements of this chapter.” This is a broad definition that would allow nearly anything to serve as an obscuring wall. Other relevant sections state that landscape screening between land uses can be accomplished through the use of “a wall or fence” with a minimum height of 6 feet, or a hedge, berm, or combination thereof. Similarly, the section of the code dedicated specifically to walls state the Planning Commission may, in its review of a site plan, allow or require the provision of an earth berm and/or a greenbelt planning consisting of trees and shrubs to serve as an obscuring wall. Furthermore, the Planning Commission “may approve a reduction in height requirements, or may approve an alternate location for the wall, or may waive the wall requirement . . .” The most affirmative statement in the code regarding walls simply states that obscuring walls shall be constructed of materials approved by the Building Official to be durable, weather resistant and rustproof, and shall be maintained by the property owner at all times in equal condition to the completed structure at the time of initial installation.)*

In addition to the above conditions, the zoning code authorizes the Planning Commission to impose “**such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties . . .**” This provides the Planning Commission discretion to impose additional conditions it deems appropriate.

## **Item 2 -- Site Plan Review**

The city has worked with the owner of Dairy Queen and the engineering firm LSG to create a site plan that we believe is appropriate and approvable for this type of use in a B-1 zoning district.

As in most cases of redevelopment or in-fill construction in a fully-developed block, there are aspects to this site plan that differ from what would be proposed in a completely new setting. In some cases, where strict application of our code seems unreasonable to require, we evaluate whether the changes represent significant improvements over existing conditions, or make reasonable sense when considering the balance of the proposal.

Specifics I would like to highlight about this site plan as you consider its approval:

- The parking provided for in this site plan meets and exceeds the minimum number of spaces required by our ordinance.

- The plan documents include on-site management of storm water through the use of curb and guttering that directs run-off to a retention pond at the rear of the interior lot.
- The proposal includes the required screening structures to protect neighboring properties. This plan makes use of new privacy fencing and existing trees and plants to accomplish this screening.
- The proposal adequately addresses local drive-through design standards.
- A loading zone is provided, as required in the ordinance; and adequate ingress and egress for trucks is also accommodated by this plan.
- Internal traffic controls appear to be appropriate for anticipated volume.
- Parking lot lighting and landscaping is adequately addressed.
- Setbacks are adequate and meet our requirements for the new-build portion of this project. An existing garage on the site, which is being retained in this plan, may be slightly too close to the property line, but does not represent any change from the existing condition.
- Driveway spacing on Cochran is narrower than our ordinance would normally require for a new development, however what is shown on the plan is a significant improvement over the existing driveway configuration. Furthermore, this driveway plan will need to be evaluated and approved by the Michigan Department of Transportation, because Cochran is a state highway over which MDOT has jurisdiction.
- The landscaping required at the front of the property is included in this plan, but is slightly reduced in scope (6' of greenbelt vs. 10', 1 tree vs. 2 trees) in order to make space for outdoor seating.
- A screened dumpster enclosure is included.
- The signage plan is in accordance with our local code requirements.

Again, it is our determination that this site plan is appropriate for the project as proposed, with only minor deviations from our local code.