

Memo

To: Planning commission
From: Bryan Myrkle, Community Development Director
Date: September 28, 2017
Re: Public Hearing – Dairy Queen Conditional Use

On your Planning Commission agenda for October 3 is the Public Hearing for the Conditional Use Permit, followed by your action on that permit.

The Planning Commission is charged with evaluating six different 'conditions' before permitting the proposed use. I have detailed the conditions below, as well as given you my evaluation of each one as it relates to this proposal. I do this not to direct you to a conclusion, but rather to assist in your deliberation.

I will also provide a resolution that includes the necessary findings you must make on these conditions if you choose to approve the use.

Necessary conditions

- *Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.*
 - The applicant has provided a site plan for this project with driveway changes that I judged to be an improvement on the existing condition, in that the driveways are wider and further apart. However, the proposed drive-through may result in an increased traffic volume that residents have identified as having a potentially adverse effect on traffic.

You as Planning Commissioners are in the position of having to determine whether you think this drive-through would cause traffic problems on South Cochran. Because the City Code does not have applicable standards for driveways, and because the street is under MDOT jurisdiction, I have advised you previously to rely on its permitting process, because it does have standards that would be applied.

Since your last meeting, local residents contacted MDOT and expressed their concerns over this project. In turn, MDOT contacted me and said they felt the project may warrant further study. Subsequently, Mr. Roberts supplied MDOT with a copy of the site plan, which the agency reviewed and determined it

would not generate the kind of traffic that requires an in-depth traffic study or assessment. The following information is from MDOT Transportation Engineer Gregory Waite:

“Based on our previous discussion, fast food restaurants with a drive-in which are smaller than 5,200 sft would not generate 100 peak hour directional trips and therefore would not require a traffic impact study.”

“Because the proposed Dairy Queen with a drive-in is smaller than 5,200 sft, no traffic impact study or traffic impact assessment will be required. Please note that this is only a preliminary response addressing the question of requiring a traffic impact study and not permit approval. The submitted driveway permit is currently under the review process and you will hear back from us regarding permit approval and/or comments within 1-2 weeks.”

Based on this communication, it seems clear that MDOT will not be going beyond its normal permitting process to evaluate the project.

- *Access to the site shall not be by way of a residential street.*
 - While there are residences along M-50, it is a state trunk-line and would not be considered residential in nature.
- *Trash receptacles shall be screened from public view and shall be covered to prevent debris from being a nuisance to abutting properties.*
 - The site plan shows a standard dumpster enclosure that would shield its view from the public. Most commercial dumpsters also include lids, as required by this condition.
- *Outdoor lighting of buildings or parking areas shall be shielded from abutting residential areas.*
 - The site plan includes downward-facing area lights with top-caps. This is a common site feature intended to direct light inward to parking areas.
- *All loading and unloading and parking shall be provided off-street.*
 - An off-street loading area is identified in the plan with the appropriate pavement markings. All parking is located off-street.
- *A 6 foot-high, completely obscuring wall shall be provided when abutting or adjacent districts are zoned for R, RT, RM, MH or OS-1 Districts. The height of the wall shall be measured from the surface of the ground. Such wall shall further meet the requireemnts of 82-451 et. Seq., general provisions.*
 - As detailed for you previously, the site plan includes a mixture of fencing and existing plant materials to accomplish the screening. I gave you extensive notes on screening walls in two previous memos.

The Planning Commission needs to make a finding that these conditions have been met in order to permit the proposed use.

In addition to these explicit conditions, the Planning Commission may also 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 and subject further to a public hearing.”* The required public hearing will take place at your meeting, and based on conversations I have had with residents, I would expect them to request additional conditions beyond those which are required and which I have detailed for you above.