

AGENDA ITEM # \_\_\_\_\_

DATE: February 8, 2016

COAC NUMBER: 16-5749

**CITY OF GOODYEAR  
CITY COUNCIL ACTION FORM**

<b>SUBJECT: Use Permit to allow a Convenience Use (Dairy Queen drive-through restaurant) within the Palm Valley Cornerstone Commercial Center</b>	<b>STAFF PRESENTER:</b> Steve Careccia, Planner III  <b>APPLICANT:</b> Brian Johns, Associated Architects  <b>CASE NUMBER:</b> 15-300-00005
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**RECOMMENDATION:**

1. Conduct a public hearing to consider a request for a Use Permit for a convenience use (Dairy Queen drive-through restaurant) on a 0.75-acre parcel in the Palm Valley Cornerstone commercial center located at the southwest corner of McDowell Road and Dysart Road in the Palm Valley Planned Area Development (PAD).
  - a. Open public hearing
  - b. Staff presentation
  - c. Receive public comment
  - d. Close public hearing
2. Approve a request for a Use Permit for a convenience use (Dairy Queen drive-through restaurant) to be constructed within the Palm Valley Cornerstone commercial center located at the southwest corner of McDowell Road and Dysart Road, subject to the following stipulations:
  - a. The development of the parcel shall be in conformance with the development plan for the Dairy Queen drive-through restaurant submitted with the Use Permit application dated December 15, 2015;
  - b. No exposed LED light bands shall be placed on the Dairy Queen restaurant building;
  - c. In accordance with Section 5-1-2, Property Owner Maintenance, of the City of Goodyear Zoning Ordinance, trees and other plant material onsite and within the adjacent landscape buffers shall not be overly pruned such that either the natural growth pattern or characteristic form of the vegetation are altered; and,
  - d. In accordance with Section 1-3-2, Use Permits, of the City of Goodyear Zoning Ordinance, the use shall be established onsite within two years of the date of Use Permit approval by the City Council. The Use Permit approval shall become null and void if the use is not established within the designated two-year time period.

## **PURPOSE:**

The applicant is requesting approval of a Use Permit to facilitate the development of a Dairy Queen drive-through restaurant on property zoned PAD/Mixed Use Commercial. The subject property consists of an undeveloped 0.75-acre parcel located within the Palm Valley Cornerstone commercial center. Staff finds this Use Permit application for a convenience use to allow the development of a Dairy Queen drive-through restaurant meets the conditions and required findings for a use permit and satisfies the additional evaluation criteria required for convenience uses as contained within the Zoning Ordinance. At their regular meeting of January 20, 2016, the Planning and Zoning Commission unanimously voted (7-0) to forward a recommendation of approval to the City Council. (Steve Careccia, Planner III)

## **BACKGROUND AND COMMUNITY BENEFIT:**

### **Current Policy:**

The Zoning Ordinance defines an establishment where the primary business is the sale of food or drink for consumption from an outdoor service window or automobile service window as a "Convenience Use." A convenience use proposed in the General Commercial (C-2) zoning district is required to obtain a Use Permit, which is to be reviewed by the Planning and Zoning Commission and approved by the City Council. Convenience uses are also subject to the provisions of Article 4-2 (Uses Requiring Additional Evaluation), which require an additional assessment regarding the appropriate location and conditions of the use or operation.

Section 1-3-2 (Use Permits) of the Zoning Ordinance provides that the Planning and Zoning Commission and City Council must determine that the proposed use meets the following two findings prior to granting a Use Permit:

1. The Use Permit will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare; and,
2. The proposed use is reasonably compatible with uses permitted in the surrounding area. This section further states that should a Use Permit not be established within two years, then that Use Permit approval shall become null and void.

Section 4-2-2 (Convenience Uses) of the Zoning Ordinance provides the following additional evaluation criteria for convenience uses regarding their potential impact on traffic congestion, the neighborhood in general, and their appropriateness for the site:

1. Adequacy of the parcel size and configuration to provide for proper access and internal circulation.
2. Compatibility of the proposed hours of operation with adjacent residential areas.
3. Required traffic mitigation measures, if any, which may include:

- a. Additional right-of-way;
  - b. Off-site traffic mitigation measures;
  - c. Restriction of some traffic movements through signs or other measures;
  - d. Segregation of queuing lanes, vehicle access, and pedestrian circulation areas;
  - e. Cross-access easements; and,
  - f. Driveway locations.
4. Other concerns, which may place the advisability of the proposed convenience use in question.

**Historical Information:**

The subject property is located within Phase I of the Palm Valley PAD. The original zoning for Palm Valley Phase I was approved in 1989. The subject property was part of a rezoning from PAD High Density Residential to PAD Mixed Use Commercial approved by the City Council on May 29, 2001 with the adoption of Ordinance No. 01-759.

**Surrounding Properties:**

Surrounding land uses and zoning include:

- North – Existing single family residential development within the Palm Valley PAD.
- South – Existing commercial development within the Palm Valley PAD.
- East – Existing commercial development within the Palm Valley PAD.
- West – Existing commercial development within the Palm Valley PAD.

**Details of the Request:**

The applicant is requesting approval of a Use Permit to facilitate the development of a Dairy Queen drive-through restaurant on property zoned PAD/Mixed Use Commercial. The subject property consists of an undeveloped 0.75-acre parcel located within the Palm Valley Cornerstone commercial center.

The proposed 3,420 square-foot restaurant building includes interior dining and a drive-through window component. A 781 square-foot covered patio area will also be provided.

The basic configuration of the drive-through lane provides for a single queuing lane with a menu board and speaker box. The lane should accommodate up to six vehicles prior to the menu/ordering board. The speaker box is located at the southeast corner of the building.

The drive-through window faces north towards McDowell Road. In accordance with City standards, drive-through windows may not face a public street unless the window is screened from public view and covered with an enhanced canopy element. Accordingly, an enhanced architectural canopy is proposed over that portion of the drive-through lane at the drive-through window. The canopy will utilize stucco and metal accents and will incorporate a green screen to provide an additional visual buffer from the street.

Vehicular access to the parcel will be provided by internal drive aisles within the center. These internal drives provide access to other commercial uses within the center and to the surrounding public streets of McDowell Road, Dysart Road, Palm Valley Boulevard and Cornerstone Boulevard through cross access easements that were established for the overall center in 2001.

A total of 41 parking spaces are required for this drive-through restaurant. The conceptual site plan shows six parking spaces within the confines of the subject property. The remainder of the required parking spaces will be provided through a shared parking agreement that was established for the overall center in 2001.

For the overall Palm Valley Cornerstone development, a total of 2,951 parking spaces are required. A total of 3,095 spaces have been provided.

The restaurant and drive-through window are proposed to be open from 10 AM to 12 AM, seven days a week.

The proposed building incorporates Dairy Queen corporate elements, such as the metal panels and red awnings, along with elements of the overall center, including use of approved colors and materials and architectural features such as the metal canopies.

The property manager for Palm Valley Cornerstone has reviewed the parking, access, building architecture and site design proposed with this development, and has determined that the development meets the design guidelines and CC&Rs established for the center.

**Staff Analysis:**

An application for a use permit must demonstrate that the proposed use will not be materially detrimental to persons residing or working within the vicinity of the property, to the neighborhood, or to the public welfare, and that it will be reasonably compatible with uses permitted in the surrounding area. The burden of demonstrating that these criteria are met rests with the applicant. Convenience uses are also required to meet specific evaluation criteria as set forth in the Zoning Ordinance.

Staff finds that the proposed use is compatible with the existing and planned land uses within the area and will not be a detriment to surrounding properties or persons. The proposed use will be on a parcel zoned for commercial use adjacent to other commercially zoned parcels all within a master planned commercial center. These commercial uses will be similar in nature and are generally considered compatible with each other. Existing single family residential development within Palm Valley is located to the north of the proposed use. These residences will be separated from the proposed restaurant by McDowell Road (130 feet of ROW), a 40-foot landscape buffer and yards for a separation distance of approximately 185 feet. The proposed use will not be a detriment to the existing residential area given the separation distance between the two uses; the configuration of the drive-through lane, which orients the speaker box away from the residential area; and the developer's commitment to forgo exposed LED lighting on the building.

The development plan shows that queuing cars will not obstruct any public street given the location of the restaurant and configuration of the center. While the number of parking spaces provided onsite does not meet the required number of spaces, the proposed use has legal access to other spaces within the center through a shared parking agreement.

The proposal to have a canopy over the drive-through lane and pick-up window will address the issue of having the pick-up window facing the street. The canopy element has been designed to utilize the architectural elements of the overall building. Additionally, the drive-through window will be located at least 65 feet from the McDowell Road right-of-way. As such, there should be no adverse visual impact to the surrounding area given the building's location and design, drive-through canopy, screen walls and landscaping.

The approval of a use permit does not constitute approval of a site plan. The proposed drive-through restaurant will be required to proceed through the site plan review process to ensure the development meets the Palm Valley Cornerstone Design Guidelines as well as the City's adopted Design Guidelines, development standards, codes, and ordinances. If the site plan is found to comply with the above standards, then it will be administratively approved by City staff.

As outlined above, staff finds this use permit application for a convenience use to allow the development of a Dairy Queen drive-through restaurant meets the conditions and required findings for a use permit and satisfies the additional evaluation criteria required for convenience uses as contained within the Zoning Ordinance.

### **DEPARTMENT/FUNCTIONAL IMPACTS:**

#### **Luke Air Force Base:**

The subject property is located within the vicinity of a military airport. Given the location of the property and the commercial nature of the proposed use, base operations will not be adversely impacted.

#### **Phoenix-Goodyear Airport:**

The subject property is located within the Phoenix-Goodyear Traffic Pattern Airspace. Given the location of the property and the commercial nature of the proposed use, airport operations will not be adversely impacted.

#### **Fire and Police Response:**

The subject property is an undeveloped pad located with an existing commercial center. The current level of service can accommodate development of the property.

#### **Solid Waste:**

Solid waste collection for the proposed use will be provided by a private service. Per a stipulation of zoning approval, trash pickup is to only occur between the hours of 9 AM and 9 PM.

**Streets/Transportation:**

All public streets adjacent to the subject property are improved. No additional street improvements are required as a result of this proposed use.

**Water/Wastewater/Reclaimed Water:**

The subject project is located within the service area of Liberty Utilities. The project will connect to existing water and sewer infrastructure within the commercial center.

**PREVIOUS ACTIONS AND DISCUSSION:****Citizen Review Notification:**

In accordance with the City's Citizen Review Ordinance, a neighborhood meeting was held on Tuesday, January 5, 2016. Notices for the meeting were distributed to property owners within 500 feet of the subject property (including the Palm Valley HOA and Palm Valley Cornerstone commercial POA) and a public notice was published in the newspaper.

Attendees at the neighborhood meeting included four residents representing three households from the neighborhood to the north. The residents had questions regarding lighting and noise that would be emitted from the property. The applicant provided information showing the lighted sign would not intrude on their properties given the distance between the restaurant and their homes. The applicant also indicated that they would not utilize exposed LED lighting around the building to minimize light trespass. It was further noted that the existing, mature trees along McDowell Road would remain and therefore continue to provide an effective visual screen. Regarding noise, the applicant indicated the speaker box would be located at the southeast corner of the building and would not face the residential neighborhood. At the conclusion of the meeting, the residents did not voice any opposition to the proposed Dairy Queen restaurant as long as the property was developed in accordance with the plan presented at the neighborhood meeting.

**Planning and Zoning Commission Meeting:**

The Planning and Zoning Commission considered this item at their regular meeting of January 20, 2016. No one spoke in opposition to the project. The Commission unanimously voted (7-0) to forward a recommendation of approval to the City Council.

**FISCAL ANALYSIS:**

A fiscal impact analysis was not conducted for this item.

**ATTACHMENTS:**

1. Vicinity Map
2. Project Narrative
3. Conceptual Site Plan
4. Conceptual Building Elevations
5. Sight Line Drawing