

**CITY OF GOODYEAR
COUNCIL ACTION REPORT**

SUBJECT: Use permit request for a convenience use (drive-through restaurant) on property zoned Planned Area Development/General Commercial	STAFF PRESENTER: Karen Craver, AICP Planner III CASE NUMBER: 18-300-00006 OTHER PRESENTER: Scott Ody, HilgartWilson, on behalf of Culver's
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PROPOSED ACTION:

1. Conduct a public hearing to consider a request for a use permit for a convenience use (drive-through restaurant) on a 1.67-acre parcel on the west side of Estrella Parkway, south of Van Buren Street, within the approved Hudson Commons Planned Area Development (PAD).
 - a. Open the Public Hearing
 - b. Staff Presentation
 - c. Applicant Presentation
 - d. Receive Public Comment
 - e. Close the Public Hearing
2. Approve a request for a use permit for a convenience use (drive-through restaurant) on the west side of Estrella Parkway, south of Van Buren Street, within the Hudson Commons PAD, subject to the following stipulations:
 1. A private water and sewer easement is required to be recorded prior to obtaining civil construction permits for all private water and sewer lines shared with adjacent properties;
 2. All offsite infrastructure improvements required by the approved commercial pad site plan, which shall include all improvements required by the Engineering Standards, including access to Estrella Parkway and water and sewer infrastructure, shall be completed prior to the issuance of a certificate of occupancy for Culver's. Any deviation from the offsite improvements as shown on the approved construction drawings requires approval from the city of Goodyear;
 3. Owner shall comply with the terms of the Hudson Commons Development Agreement (recorded document 2017-0742078) as it may be amended from time to time, which currently requires a building permit for vertical construction shall not be issued until the owner of any portion of Parcel 1, as defined in the Hudson Commons Development Agreement, has paid 40% of the reimbursement obligation for the costs of the Hudson Commons Van Buren Improvements as set forth in paragraph 11 of the Development Agreement and the at least one of the following conditions exist: (i) the Hudson Commons Van Buren Improvements have been completed: (ii) work on the Hudson

Commons Van Buren Improvements has commenced by Owner and Owner has provided the City financial assurances in a form acceptable to the City to ensure the completion of the Hudson Commons Van Buren Improvements; or (iii) the City has commenced construction of the Hudson Commons Van Buren Improvements;

4. Owner shall comply with the terms of the Hudson Commons Development Agreement (recorded document 2017-0742078) as it may be amended from time to time, which currently provides that no certificates of occupancy shall be issued for any buildings, including the building(s) developed pursuant to this Use Permit, until the Hudson Commons Van Buren Improvements have been completed and accepted by the City Engineer;
5. Owner shall comply with the terms of the Hudson Commons Development Agreement (recorded document 2017-0742078) as it may be amended from time to time, which currently requires the owner any portion of the Hudson Commons Property, which includes the property upon which the building(s) being developed pursuant to this Use Permit, that pulls the first building permit within the Hudson Commons Property is responsible for constructing the half street landscaping along the entire Hudson Commons frontage on Van Buren Street. No certificates of occupancy for any building within the Hudson Commons Property shall be issued before the landscaping is completed unless the owner installing the landscaping has provided financial assurances, in a form acceptable to the City Engineer, to ensure the completion of the landscaping;
6. Fire lane signage locations shall be shown on the commercial pad site plan;
7. Construction type and occupancy classification shall be called out on the commercial pad site plan;
8. Approval of the use permit does not constitute approval of a commercial pad site plan. All future development will be subject to commercial pad site plan review and approval by city staff, at which time all elements of site development will be reviewed, including, but not limited to, architecture, landscaping, grading and drainage, lighting, infrastructure, parking, access and circulation;
9. The proposed drive-through window shown on the conceptual site plan shall remain and be constructed on the north side of the proposed building. The traffic patterns and drive through lane shall be in substantial conformance with the conceptual site plan submitted with the use permit; and,
10. All signage shall require separate review and approval. No signage is approved as part of the use permit approval.

BACKGROUND AND PREVIOUS ACTIONS:

The subject parcel is part of the approved Hudson Commons PAD. The PAD consists of 103 acres designated for commercial, multi-family, and single family development and was approved

by the City Council on January 11, 2016, with the adoption of Ordinance No. 16-1326. A site plan has been approved for a single-story leased product on the multi-family parcel. This use permit request for a drive-through restaurant within the commercial parcel has not previously been presented to the City Council.

STAFF ANALYSIS:

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, or a PAD based on 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.

Details of the Request:

- The request for approval of a use permit is to facilitate the development of a Culver’s restaurant with a drive-through lane on property zoned Planned Area Development (PAD)/General Commercial.
- The proposed 6,314 sq. ft. building includes interior dining and a drive-through window component, as well as district office space. A 1,049 sq. ft. outdoor dining patio is also proposed.
- The configuration of the drive-through lane provides for a single drive-through lane with a menu board and an order speaker, as well as an escape lane. The drive-through lane should accommodate up to 10 vehicles prior to the pick-up window on the north side of the building, and shall be screened from Estrella Parkway by a 3-foot screen wall and significant landscaping.
- The menu board & speaker will be placed at the northeast corner of the building, and the front of the menu board shall be screened from Estrella Parkway by a 3-foot screen wall and significant landscaping.
- Vehicular access to the restaurant will be provided from internal Hudson Commons access drives to be constructed with the restaurant. No direct access will be provided from Estrella Parkway.
- 64 parking spaces are required for the drive-through restaurant.
- The restaurant and drive-through window are proposed to be open 7 days a week, from 10 a.m. until 11 p.m.

- The proposed building, as well as the menu board and order speaker, incorporates a corporate design and colors desired by the applicant for branding purposes.

Evaluation Criteria:

The Zoning Ordinance, Section 1-3-2 (Use Permits), provides that the Planning and Zoning Commission and City Council must determine that the proposed use meets the following 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.*
The nearest residential development to the proposed convenience use will be the approved Hudson Commons multi-family development which will be located approximately 350 feet to the south. The property is already zoned commercial and the proposed convenience use is anticipated to be a benefit to the residents of the multi-family development. In fact, the multi-family developer found the proximity of the Hudson Commons commercial parcel to be a draw for future residents. As such, the proposed use permit will not be materially detrimental to any persons residing in the surrounding vicinity or to any neighborhoods.
2. *The proposed use is reasonably compatible with uses permitted in the surrounding area.*
The requested use permit is proposed within a commercial parcel intended for such uses as hotels, restaurants, and retail businesses. The proposed use will be surrounded on three sides by other commercial uses within Hudson Commons. And, as previously mentioned, the multi-family developer found the proximity of the Hudson Commons commercial parcel to be a draw for future residents. As such, the proposed use will be reasonably compatible with surrounding uses.

The Zoning Ordinance, Section 4-2-2 (Convenience Uses), 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.*
The site is configured to align with approved drive aisles within Hudson Commons, and all of the proposed improvements associated with the convenience use will be adequately contained within the development pad.
2. *Compatibility of the proposed hours of operation with adjacent residential areas.*
The proposed convenience use is located within an approved development intended for a mix of uses. As such, no restrictions on the proposed 7-day a week, 10 a.m. to 11 p.m. operation of the use are recommended.
3. *Required traffic mitigation measures, if any.*
The traffic report for the convenience use was reviewed and approved by the Engineering Department. No additional traffic mitigation measures specific to the use are required or necessary.

4. *Other concerns, which may place the advisability of the proposed convenience use in question.*

Staff finds no other concerns with the project. To date, no one from the public has expressed opposition to the proposed convenience use.

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 by the convenience use.

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 by the convenience use.

Fire Response:

The subject property will be served by Fire Station No. 184/181 located at 16161 West Yuma Road, or by Fire Station No. 185 at PebbleCreek Parkway and Clubhouse Drive.

Nearest Fire Station	Shortest path		Longest path	
	Mins	Miles	Mins	Miles
#184/181	2.81	1.41	4.37	2.19

2nd nearest Fire Station	Shortest path		Longest path	
	Mins	Miles	Mins	Miles
Station #185	6.21	3.10	6.46	3.23

Police Response:

The subject property is located within an existing patrol beat and the current level of service within the beat can accommodate development of the property.

Solid Waste:

Solid waste service will be provided by a private commercial hauler.

Streets/Transportation:

The proposed drive-through restaurant will not adversely impact any public street given the location of the restaurant within the overall mixed use center, and as such, customer vehicles will not queue into the public street.

Water/Wastewater:

Water and wastewater service will be provided by the city of Goodyear.

PUBLIC PARTICIPATION:

In accordance with the city's Citizen Review process, a written notice of the use permit request was mailed to the owners of all property within 500 feet of the subject property. To date, staff has not received any inquiries as a result of the written notice.

Notice of the public hearings scheduled before the Planning and Zoning Commission and City Council included a postcard mailed to the owners of all property within 500 feet of the subject property; a legal notice published in the Arizona Republic; and a notice of public hearings sign posted on the subject property. To date, staff has not received any inquiries on the use permit request.

Planning and Zoning Commission:

At the Planning and Zoning Commission meeting held on October 10, 2018, following a presentation by staff, the Commission voted 7 to 0 to recommend approval of the use permit. The Commission had no questions of staff or the applicant, and no members of the public attended the Commission meeting.

FISCAL ANALYSIS:

Although a fiscal impact analysis has not been conducted on use permit request, all new development will have an ongoing fiscal impact on the city. The development is responsible for construction of all infrastructure necessary to serve the site and will generate one-time revenue for the city through payment of permit fees, construction sales tax and development impact fees. Longer term fiscal impacts include increased demands for municipal services, the costs of which may or may not be offset by increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development. The proposed use permit will not have any direct fiscal impact on the city's budget.

RECOMMENDATION:

Staff, and the Planning and Zoning Commission, find that the proposed convenience 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 drive-through restaurant is proposed on a parcel zoned for commercial use, within an approved mixed use center intended for such uses. The mix of uses are considered reasonably compatible with each other.

As outlined above, staff and the Commission find that the use permit request meets the conditions and required findings for approval of a use permit, and satisfies the additional evaluation criteria required for convenience uses as established in the Zoning Ordinance.

ATTACHMENTS:

1. Aerial Photo
2. Hudson Commons Development Plan
3. Project Narrative
4. Conceptual Site Plan
5. Conceptual Landscape Plan
6. Conceptual Building Elevations