



# PLANNING AND ZONING COMMUNICATION

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**DATE** January 3, 2024

**FROM:** Thad Chambers, Town Administrator

**AGENDA ITEM:** Public Hearing to receive comment and make a recommendation of an Ordinance amending the Town of Bartonville Code of Ordinances, Chapter 14, Exhibit "A," Article 14.02, Ordinance 361-05, Zoning Regulations for the Town of Bartonville, to establish a Conditional Use Permit for a restaurant with drive-through and approving an accompanying Site Plan on a 1.34-acre tract or parcel of land situated in Lot 3, Block A, of DCFWSD #7 Retail Center Addition, in the Town of Bartonville, Denton County, Texas. The subject property is located west of the intersection of Justin Road and E Jeter Road, in Bartonville, Texas. The applicant is Jennifer Gansert of Kimley-Horn and Associates, Inc. on behalf of Andy's Frozen Custard. [Town File #CUP-2023-006 and SP-2023-003].

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**Applicant:** Jennifer Gansert of Kimley-Horn and Associates, Inc.

**Zoning:** General Commercial District (GC)

**Summary:** The applicant has applied for a Conditional Use Permit (CUP) to authorize a drive through use on an approximately 1.34-acre site located within the Lantana Town Center. The specific location for the site is Lot 3, Block A, of DCFWSD #7 Retail Center Addition. The proposed development is for a 1,949 square-foot Andy's Frozen Custard restaurant with drive through.

### *Conditional Use Permit*

Bartonville Zoning Ordinance Section 16.10 lists the criteria for approval of a proposed conditional use permit:

1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
3. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhood and includes improvements either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;
4. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

5. The proposed use incorporates roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
6. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
7. The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

The CUP application is for a proposed drive-through restaurant. Bartonville Comprehensive Plan Objective 3.1 advises the Town to limit non-residential uses to nodal development targeted at appropriate intersections along the FM 407 corridor and the McMakin Road/East Jeter Road intersection. The Lantana Town Center Development is found within this location, with the proposed site being at the intersection of FM 407 and E Jeter Road. With a land use designation of General Commercial, the proposed use is in line with the Bartonville Comprehensive Plan. In addition, with a zoning classification of the subject property of General Commercial, which is described as providing “for larger scale office, retail and service uses intended to serve a regional consumer base,” the proposed use is in conformance with the current zoning. With these findings, approval criteria 1 and 2 are met.

The proposed drive-through restaurant use is to be located within a highly-confined commercial node within Lantana Town Center. Its location along FM 407 provides for a regional customer base and is complementary to the surrounding commercial development. The proposed use would not be compatible in other zoning districts or locations within the town. The northern access drive to the site contains sidewalks and crosswalks for pedestrian use. The driveway into the site is located approximately 59 feet from the intersection of the primary access drive and FM 407; the minimum spacing for driveways from an intersection is 50 feet. The required driveway spacing and maintenance internal drive aisle with two access points ensures mitigation of traffic impacts on local streets. With these findings, criteria 3 through 7 are met.

#### *Site Plan*

The Site Plan submitted with the CUP application was reviewed concurrently with the CUP in reference to the following approval criteria:

1. The plan’s compliance with all provisions of the Zoning Ordinance and other ordinances of the Town of Bartonville.
2. The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
3. The relationship of the development to adjacent uses in terms of harmonious design, facade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.
4. The provision of a safe and efficient vehicular and pedestrian circulation system.
5. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

6. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.
7. The coordination of streets so as to arrange a convenient system consistent with the Thoroughfare Plan of the Town of Bartonville, as amended.
8. The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design.
9. Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.
10. The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
11. Protection and conservation of soils from erosion by wind or water or from excavation or grading.
12. Protection and conservation of watercourses and areas that are subject to flooding.
13. Provision of the adequate capacity of public or private facilities for water, sewer, paved access to and through the development, electricity, storm drainage, and adequate traffic management.
14. Consistency with the Comprehensive Plan of the Town of Bartonville, as amended.
15. In approving a Site Plan, the Town Council may impose additional reasonable conditions necessary to protect the public interest and welfare of the community.

Conformance with approval criteria 1, 7, and 14 have already been addressed in the CUP section above. Criteria 2, 10, 11, and 12 are not applicable to this project. The building is oriented such that the drive-through is perpendicular to FM 407 and the parking is located within the site, separated by landscaped areas. These landscaped areas (see Exhibit 1) provide a dense screen of trees and shrubs from FM 407 and the primary access drive in Lantana Town Center. The site plan meets all development standards listed for the General Commercial zoning district.

The Lantana Town Center site contains an existing 30-foot fire lane that will provide sufficient coverage for the subject property. The site provides 27 parking spaces attributed to the proposed use, with two of the spaces being marked for handicapped visitors. Per BZO section 17.6, a minimum of 20 spaces are required. In addition, the site plan provides for sufficient queuing depth to meet the Town's standard of no less than five vehicle spaces.

The Lantana Town Center has been developed to provide adequate utilities for the site. The Utility Plan (Exhibit 1, sheet C-11) shows private utility services connecting to existing water and sewer services from the southwest. Storm water drainage is collected and is transmitted to an existing storm drain line that runs through the site. Driveway spacing will provide adequate traffic management for ingress and egress to the site.

**Staff Recommendation:** CUP-2023-006: Approve with conditions. SP-2023-003: Approve with conditions. The following conditions of approval are recommended:

CUP-2023-006:

1. No recommended conditions of approval.

SP-2023-003:

1. All parking area lighting shall be installed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in BZO Section 13.3.7 and Chapter 28.
2. The trash receptacle shall be screened with an eight-foot-tall screen constructed of masonry materials of like and similar materials to those of the primary structure.

**Public Comment:** None.

**Financial Information:** Approval of the conditional use permit and site plan will permit the construction of a 1,949-sf drive-through restaurant. The Town will benefit from the additional property tax and sales tax collections from the commercial use.

**Exhibits:**

1. Andy's Frozen Custard CUP & SP Application
2. Letter mailed to property owners within 200' with location map and mailing list
3. Published Legal Notice