



TOWN COUNCIL COMMUNICATION

DATE July 25, 2023

FROM: Thad Chambers, Town Administrator

AGENDA ITEM: #CUP-2023-003, SP-2023-001

Public hearing to consider an ordinance amending the Town of Bartonville Code of Ordinances, Chapter 14, Article 14.02, Exhibit "A," Ordinance 361-05, Zoning Ordinance, by amending Chapter 13, General Commercial District (GC), Article 13.2, Uses Permitted, by granting a Conditional Use Permit to authorize a drive through use on an approximately 2-acre site and approving an accompanying site plan. ***The Planning and Zoning Commission recommended approval with conditions by a vote of 5 to 0 at its July 5, 2023 meeting.***

APPLICATION ANALYSIS:

Applicant: Matthew Maly, Pape-Dawson Engineers (consultant), on behalf of A-S 114 Lantana TC Phase 2, L.P. (property owner)

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 2-acre site located within the Lantana Town Center, Phase 2. The specific location for the site is Lot 1, Block 1 of Lantana Town Center Phase II. The Town of Bartonville previously approved a CUP for the site in October 2022 via Ordinance 737-22. However, the applicant wishes to make minor changes to the previously approved site plan. In accordance with Bartonville Zoning Ordinance (BZO) Section 16.6, no conditionally permitted use shall be enlarged, extended, increased in intensity, or relocated unless an application is made for a new conditional use permit in accordance with the procedures set forth in this section. As there is no provision in the BZO for administrative approval of any amendment to the approved CUP, the Town determined that a new CUP application would be required.

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, Phase II of the development being at the intersection of FM 407 and Blanco Drive. 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 intersection of FM 407 and Blanco Drive is currently signalized and contains crosswalks for pedestrian use. The southernmost driveway to the site is located approximately 100 feet from the intersection of Blanco Drive and FM 407; the minimum spacing for driveways from an intersection is 50 feet. The driveway spacing, divided roadway at the signalized intersection, and maintenance of a 24-foot fire lane and internal drive aisle with two access points ensures mitigation of traffic impacts on local streets. With these findings, approval criteria 3 through 5 are met.

The original adopted Ordinance 737-22 included a number of conditions of approval that are herein recommended for consideration with this new CUP to maintain consistency in addressing anticipated impacts from the proposed use. They are listed in the Staff Recommendation section below. With these conditions of approval, approval criteria 6 and 7 can be 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 adjacent to Blanco Drive (separated by a landscaped area) and the parking is located interior to the site, hidden somewhat from Blanco Drive by the building. The site plan meets all development standards listed for the General Commercial zoning district. The overall site design closely matches the previously approved site plan, with minor adjustments to the building footprint and facade, the parking, and the drive-through configuration.

The site contains a 24-foot-wide fire lane to facilitate emergency access to the building. The fire lane meets all standards listed in BZO section 17.10. The site provides 42 parking spaces, with two of the spaces being marked for handicapped visitors. Per BZO section 17.6, a minimum of 33 paces 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 (sheet 9.0) shows private utility services connecting to existing water and sewer mains along FM 407. Storm water drainage is collected and is transmitted to an existing storm drain line at the southern end of the site. Driveway spacing will provide adequate traffic management for ingress and egress to the site. A stub lane along the southern edge of the site provides for future extension of access as sites develop further to the southeast. While a photometric plan was not required nor provided, the proximity of the site to the nearest residence (approximately 375 feet), the installation of landscaping around the perimeter of the site, and the application of a condition of approval (see below) will protect residential areas from impacts of site illumination.

RECOMMENDED MOTION OR ACTION:

CUP-2023-003: Planning & Zoning Commission is recommending approval with the following conditions:

1. Security personnel shall be provided by the owner/ operator of the drive -through use business at no cost to the Town of Bartonville, as follows:
 - a) If the drive-through use business is open for business from 12:00 a.m. midnight up to and including 4:00 a.m. on a Saturday and/or Sunday, then a single peace officer shall be provided to be present on-site as security during the hours the business is open from 12:00 a.m. to 4:00 a.m.;
 - b) The term "peace officer" as used herein means a person elected, appointed, or employed as a peace officer under Article 2.12, Texas Code of Criminal Procedure, or other law;
 - c) Each peace officer providing security shall be paid a standard hourly rate as agreed upon between the Chief of Police of the Bartonville Police Department and the owner/operator of the drive-through use business, with a two (2)-hour minimum payment required, and payment to each peace officer shall be made by the owner/operator of the drive-through use business at the beginning of the time the peace officer arrives on-site in sufficient monetary amount to pay said peace officer

for the minimum payment amount required hereunder, or for the entire security time period, whichever is greater; and

- d) The failure to comply with the above security personnel requirements, including the under-payment of a peace officer, will result in the closure of the drive-through use business until such time as the above security personnel requirements are satisfied.
2. The menu speakers at the drive-through locations on the property shall not exceed two feet (2') in height, and shall be located on the eastern side of the building and positioned at the area of car location number 7 as shown on the inside drive-through lane indicated on the site plan, page C 7. 0, entitled "Site and Dimension Control Plan," and shall be pointed toward the golf course and landscaping berm on the adjacent property.
3. The menu boards at the drive-through locations on the property shall not be pointed towards the direction of Blanco Drive, and shall be located on the eastern side of the building and positioned at the area of car location number 7 as shown on the inside drive-through lane indicated on the site plan, page C 7.0, entitled "Site and Dimension Control Plan," and shall be pointed toward the golf course and landscaping berm on the adjacent property.
4. Trash receptacles shall be placed at each drive-through location and at each exit drive from the property and shall be added and designated on the approved site plan.
5. No outdoor music is allowed to be broadcast on the property or from the property.

SP-2023-001: Planning & Zoning Commission is recommending approval with the following condition:

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 Chapter 28.

PUBLIC COMMENT:

As of this writing the Town has not received any public comment.

FINANCIAL INFORMATION:

Approval of the conditional use permit and site plan will permit the construction of a 3,305-sf drive-through restaurant. The Town will benefit from additional property tax and sales tax collections from the commercial use.

ATTACHMENTS:

- Whataburger CUP & SP Application
- Letter mailed to property owners within 200' with location map and mailing list
- Published Legal Notice
- Draft Ordinance
- Previous CUP Ordinance 737-22 (to be repealed and replaced by this new ordinance)