



TO: Fruita City Council and Mayor

FROM: Planning & Development Department

DATE: February 20, 2024

AGENDA TEXT: APPEAL – This is an appeal of the Fruita Planning Commissions decision on a request for a Conditional Use Permit for a drive-thru facility for a retail fueling station.

BACKGROUND

This is an appeal of the Fruita Planning Commission’s decision at its regular meeting on December 12, 2023, to deny a Conditional Use Permit application. Section 17.25.030 (A) states that, “*Any person aggrieved by a decision by the Community Development Director, Planning Commission, Historic Preservation Board, or Board of Adjustment may appeal such decision as outlined herein*” and that any application for appeal must be filed in writing with the Community Development Department within thirty (30) days of the decision.

The applicant submitted its application for appeal to the Community Development Department on January 11, 2024, and Staff deemed the application to be complete in accordance with Section 17.25.040 (A) on January 12, 2024.

Because this is an appeal of a decision made by the Planning Commission, Section 17.25.020 (B) states, “*The City Council shall have the authority to hear and decide all other appeals of decisions made by the Community Development Director, Planning Commission, Historic Preservation Board, or Board of Adjustment.*”

Section 17.25.040 (B) states, “*The party making the appeal (the appellant) shall have the burden of proving the necessary facts to warrant reversal or amendment of the decision being appealed. Such proof shall include applicable specific section references within this Code and shall be provided with the application. The application shall be based on the record established in the decision-making process.*”

Attachments with this Coversheet:

1. Staff Report on appeal submission dated February 20, 2024.
2. Staff Report dated December 12, 2023, for Item 2023-35.
3. Application to Planning Commission for Conditional Use Permit.
4. Minutes of Planning Commission Meeting from December 12, 2023, pertaining to Item 2023-35.
5. Appeal Submission Documents dated January 11, 2024.
6. Letter of Completeness dated January 12, 2024.
7. Supplemental Legal Notice for Appeal Application.

OPTIONS AVAILABLE TO THE CITY COUNCIL:

1. Affirm the Planning Commission's decision to deny.
 - a. This would keep the denial in place.
 - b. Must state finding of fact to affirm the denial based upon applicant's failure to meet all of the Conditional Use Permit criteria.

2. Reverse the Planning Commission's decision to deny.
 - a. This would approve the Conditional Use Permit application.
 - b. Must state findings of fact to support reversing the Planning Commission's decision based upon applicant's compliance with all of the Conditional Use Permit Criteria.
 - c. May attach conditions of approval on any appeal to ensure the health, safety, and welfare of the City.