



STAFF REPORT

MEETING DATE: September 11, 2023

PRESENTER: Manuel Campos, Assistant Planner

SUBJECT: Public hearing regarding Conditional Use Permit 2023-11 to allow for the operation of outdoor grilling activities and to memorialize the existing non-conforming drive-through facility for the property located at 14985 W. Whitesbridge Rd., including adopting a finding of a Categorical Exemption pursuant to Sections 15301 and 15304 of the CEQA guidelines. (MC)

RECOMMENDATION: Planning Commission conduct a public hearing, deliberate, and by motion adopt a resolution approving Conditional Use Permit 2023-11 to allow for the operation of outdoor grilling activities and to memorialize the existing non-conforming drive-through facility for the property located at 14985 W. Whitesbridge Rd., including adopting a finding of a Categorical Exemption pursuant to Sections 15301 and 15304 of the CEQA guidelines.

EXECUTIVE SUMMARY: Conditional Use Permit (CUP) 2023-11 was filed by Kerman Food Center, (applicant) on behalf of Garfield Beaen CVS (property owner) requesting approval of a conditional use permit to allow for the operation of outdoor grilling activities and to memorialize the existing non-conforming drive-through facility for the property located at 14985 W. Whitesbridge Rd., approximately 150 feet from the southeast corner of W. Whitesbridge Rd. and Madera Ave., in Kerman, CA, zoned CG (General Commercial) with an RC (Regional Commercial) General Plan land use designation (APN: 023-030-50). A Categorical Exemption pursuant to Sections 15301 and 15304 of CEQA Guidelines will be considered for the project.

APPLICABLE CODES AND PROCEDURES:

KMC 17.12 – Conditional Use Permits

KMC 17.48 – General Commercial District

KMC 17.74 – Parking

Public Resource Code – CEQA 15301 – Existing Facilities

Public Resource Code – CEQA 15304 – Minor Alterations To Land

The Kerman Municipal Code (KMC) allows the Commission to grant or deny approval of a conditional use permit provided that a public hearing is held on the proposed use to review and consider any public testimony. Prior to the public hearing, a staff report, environmental determination, and general plan finding for the use permit must be made available to the Commission, interested agencies, and the public.

The use should be denied if the Commission cannot make the appropriate findings. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered, and site improvements may be required to make the project compatible with nearby uses. In addition, the application may be subject to future review, modification, or revocation by the Commission, as deemed necessary.

ANALYSIS

Background Information

The project site is a subsequent parcel (Parcel A) of TPM 08-01, approved by the City Council on April 16, 2008. Site development was initially approved as part of Site Plan Review (SPR) 2007-19. Site development included a 71,569 square feet (sq. ft.) retail shopping center (Kerman Crossings) containing nine commercial buildings with parking and landscaping improvements. The project building was first occupied by CVS Pharmacy (CVS) which was granted final occupancy on May 24, 2010. The pharmacy was developed with a drive-through. According to City business license records, CVS ceased operations in 2020. Kerman Food Center would be the building's next tenant as it was issued a business license on June 2, 2023.

Project Proposal

The project proposal includes an application for a CUP to allow for the operation of outdoor grilling activities and the use of an existing non-conforming drive-through facility at Kerman Food Center located at 14985 W. Whitesbridge Rd. There is a bakery, butchery, and restaurant within the project building that are components of the grocery store business. The applicant is proposing to conduct outdoor grilling sales seven (7) days out of the week between the hours of 7 AM and 9 PM. The proposed outdoor grilling activities will be conducted within the parking lot as noted in Exhibit 'A-1' and will be managed by two employees. The proposed outdoor grilling area which consists of two parking stalls will be secured with warning tape, as a safety measure to protect patrons from the grill. The CUP application includes the use of the drive-through which will be managed by the business's in-house restaurant. The project does not necessitate structural alterations to the building or the parking area.

Site and Surrounding Land Uses and Setting

The project site as noted in Exhibit 'A-1' has been developed with a 13, 225 sq. ft. building and 86 parking stalls. As mentioned previously the project site is part of a community shopping center which would require the project building to adhere to the parking standards stated in KMC 17.74.030 (A). This section states that "parking shall be provided at a ratio of at least four and one-half spaces for every one thousand square feet of gross floor area." Utilizing said ratio Kerman Food Center is required to provide at least 60 parking stalls. Hence, the site has a surplus of 26 parking stalls.

The site is surrounded by developed land. As described in **Table 1.**, the site is surrounded by a public street (W. Whitesbridge Rd.) to the north, commercial buildings (AutoZone & Kerman Dialysis Center) to the east, a restaurant (Hong Kong) to the south, and a public street (S.

Madera Ave.) to the west. Uses in the surrounding vicinity will be negligibly affected by the operation of outdoor grilling activities and a drive-through facility.

Table 1. Existing Uses, General Plan Designations, and Zone Districts of Surrounding Properties

Location	Existing Land Use	General Plan Designation	Zone District
North	Public Street	N/A	N/A
East	Commercial Buildings	RC – Regional Commercial	CG – General Commercial
South	Restaurant	RC – Regional Commercial	R-3 – Multi-Family Res.
West	Public Street	N/A	N/A

Zoning & General Plan

The site is zoned CG (General Commercial) with an RC (Regional Commercial) General Plan land use designation. The CG zone district is intended to allow for a wide range of commercial and office uses which are diverse, visually pleasing, convenient in terms of parking and access, attractive, and used by citizens of Kerman as well as visitors to the area. A grocery store is permitted by right use, however, both outdoor grilling activities and a drive-through facility are subject to conditional approval. Approval of the outdoor grilling activities and drive-through facility will be consistent with the zone district and the General Plan land use designation. Approval of CUP 2023-11 will allow the business to operate with outdoor grilling sales and will bring the existing drive-through facility into conformance with Ordinance No. 23-01. However, denial of the CUP will prohibit outdoor grilling activities and would not allow the expansion or intensification of the existing drive-through facility. Staff is recommending approval of the CUP with conditions for both the outdoor grilling and the drive-through facility that will minimize impacts on the site and surrounding land uses.

Other Department Comments

The project proposal was reviewed by various other City Departments and affected outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report. If approved, the project site will be subject to additional review by the North Central Fire Prevention District (NCFPD) and the Fresno County Department of Public Health, Environmental Division.

Conclusion

Outdoor grilling activities and drive-through facilities are permitted uses subject to a CUP. No evidence suggests approval of the CUP would be detrimental to the public, health, safety, and welfare of those residing or working nearby. Additionally, the business will not be losing any required parking stalls as a result of the outdoor grilling activities. In order to ensure the continued compatibility of the site with surrounding uses, conditions of approval have been incorporated that address typical concerns associated with establishments that provide outdoor grilling sales and have drive-through facilities.

APPLICABLE GENERAL PLAN POLICIES

The 2040 General Plan includes policy recommendations related to the various physical development aspects of the community. The policies are supported by a set of goals and objectives. The Planning Commission shall refer to the General Plan's policies, goals, and objectives when making a decision regarding this particular request.

Through the project and development review process and in collaboration with other City departments and outside agencies, the project has been designed to comply by-in-large with the City's General Plan goals, policies, and objectives. The operation of outdoor grilling activities and a drive-through facility will directly or indirectly provide compliance with the General Plan. Below is an excerpt from the General Plan that is germane to this conditional use permit request:

ED-1.1 Increase Business: *The City shall strive to increase the number of businesses operating in Kerman to satisfy the routine needs and dining, services, and retail desires of residents while also increasing sales, property, business, and potential transient-occupancy taxes.*

ED-1.4 Downtown Shopping and Entertainment: *The City shall work with Downtown businesses, property owners, and other agencies to improve circulation, parking, pedestrian facilities, and food service options to help promote increased shopping and entertainment opportunities.*

ENVIRONMENTAL REVIEW:

Staff performed a preliminary environmental assessment of this project under the California Environmental Quality Act (CEQA) and has determined that it falls within Class 1 Categorical Exemption (Existing Facilities) and within Class 4 Categorical Exemption (Minor Alterations To Land) set forth in CEQA Guidelines. Section 15301 applies to the drive-through facility as it consists of the use of an existing private facility on an existing site. Section 15304 applies to outdoor grilling activities as it consists of the minor temporary use of land that will have no permanent effect on the environment. Additionally, no expansion of the building is proposed, and any maintenance or minor alterations of the building would be negligible, and would not result in a significant, adverse impact on the environment. Furthermore, none of the exceptions set forth in CEQA Guidelines Section 15300.2 apply to this Project.

PLANNING COMMISSION FINDINGS:

Due to operational characteristics, conditional use permits are required for certain uses within each zone district in order to minimize impacts upon surrounding uses. In considering a conditional use permit, the Planning Commission must make certain findings pursuant to Section 17.12.040 (C) of the KMC.

- A. That the proposed establishment, maintenance, and operations of the use applied for will not be detrimental to the public health, safety, and welfare of the persons residing

or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the city.

Finding A (1). The project will not be detrimental to public health, safety, or welfare. It is located in a designated general commercial area with hours of operation and conditions of approval which minimize any potential negative impacts to adjacent land uses. The conditions of approval (Exhibit 'A') limit types of uses that may be objectionable or detrimental to other permitted uses or adverse to the public interest health, safety, convenience, or welfare of the City.

- B. That the proposed use is consistent with the Kerman General Plan.

Finding B (1). Outdoor grilling activities and drive-through facilities are permitted uses subject to a conditional use permit in the General Commercial (CG) zone district, which is a consistent zone with the General Plan RC (Regional Commercial) land use designation. The project is consistent with the General Plan, including General Plan objectives ED-1.1 and ED-1.4.

Finding B (2). The Project is located along a general commercial corridor suitable for many retail, business professional, service commercial, and other similar activities and uses.

Finding B (3). The conditions of approval preserve the integrity and character of the zone district and ensure compliance with the General Plan and Zoning Ordinance.

- C. That the environmental document is prepared as per the California Environmental Quality Act.

Finding C (1). As described in greater detail, above, a preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The project falls within Categorical Exemption per CEQA Guidelines Section 15301 (Existing Facilities) as the project is characterized as a use occupying an existing structure within a developed site and meets the required conditions described in said section. The project also falls within Categorical Exemption per CEQA Guidelines Section 15304 (Minor Alterations To Land) as the project is characterized as a private alteration in the condition of land that meets the required conditions described in said section. There are no project-specific significant effects on the project or the site which would require additional environmental review.

- D. That the site for the proposed use is adequate in size, shape, and location to accommodate the use as it relates to the district for which the use is proposed.

Finding D (1). The location of the Project is within the CG - General Commercial zone district which is located along a commercial corridor suited for retail, office, commercial services, and other similar activities and uses along the Madera Avenue corridor in a developed parcel of land. The proposed uses will have a negligible impact on the existing surrounding developments.

Planning Commission Action:

The Commission will be acting on CUP 2023-11 and determine to either:

Motion 1: Adopt a resolution approving Conditional Use Permit 2023-11 to allow for the operation of outdoor grilling activities and to memorialize the existing non-conforming drive-through facility for the property located at 14985 W. Whitesbridge Rd., including adopting a finding of a Categorical Exemption pursuant to Sections 15301 and 15304 of the CEQA guidelines

Motion 2: Move to continue the public hearing on CUP 2023-11 to a later meeting; or

Motion 3: Move to continue applications for CUP 2023-11 to a later meeting, with direction to staff to return with an updated resolution with appropriate findings for denial of the application(s).

Any action taken by the Commission approving or denying the application(s) is subject to appeal to the City Council no later than ten (10) working days after the day on which the decision was made.

Attachments

A. Resolution w/ Exhibits

Attachment 'A'
Resolution No. 2023-__

**A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION APPROVING CONDITIONAL USE
PERMIT 2023-11, TO ALLOW FOR OUTDOOR GRILLING ACTIVITIES AND TO MEMORIALIZE THE
EXISTING NON-CONFORMING DRIVE-THROUGH FACILITY FOR THE PROPERTY LOCATED AT 14985
WEST WHITESBRIDGE ROAD IN KERMAN, CA (APN:023-030-50)**

WHEREAS, the Planning Commission considered a request for a conditional use permit filed by Kerman Food Center (Applicant) on behalf of Garfield Beaen CVS (Property Owner) requesting approval of a conditional use permit to allow for outdooring grilling activities and to memorize the existing non-conforming drive-through facility for the property located at 14985 W. Whitesbridge Rd., in Kerman, CA (APN: 023-030-50)

WHEREAS, a public notice was circulated to adjacent properties within a 300-foot radius of the project site and published in the local newspaper at least 10 days prior to the meeting as required by law; and

WHEREAS, a written report was prepared by staff which included a recommendation for approval of a modification to Conditional Use Permit 2023-11 and was made available for public review at least 72 hours prior to the public hearing; and

WHEREAS, the project was assessed under the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission, after hearing public testimony and deliberating, now desires to approve Conditional Use Permit 2023-10 subject to findings and conditions of approval and adopt a finding of a Class 1 Categorical Exemption (Existing Facilities) pursuant to CEQA Guidelines Section 15301 and a Class 4 Categorical Exemption (Minor Alterations To Land) pursuant to CEQA Guidelines Section 15304.

NOW, THEREFORE, BE IT RESOLVED by the City of Kerman Planning Commission as follows:

- 1) **Recitals:** The above recitals are true and correct and are incorporated herein:
- 2) **CEQA:** The Planning Commission finds and determines that a Class 1 Categorical Exemption (Existing Facilities) and within Class 4 Categorical Exemption (Minor Alterations To Land) set forth in CEQA Guidelines. Section 15301 applies to the drive-through facility as it consists of the use of an existing private facility on an existing site. Section 15304 applies to outdoor grilling activities as it consists of the minor temporary use of land that will have no permanent effect on the environment. Additionally, no expansion of the building is proposed, and any maintenance or minor alterations of the building would be negligible, and would not result in a significant, adverse impact on the environment. Furthermore, none of the exceptions set forth in CEQA Guidelines Section 15300.2 apply to this Project.
- 3) **Conditional Use Permit:** The Planning Commission has determined to approve Conditional Use Permit 2023-11 as permissible under Kerman Municipal Code Section 17.24.020 and determined that all findings required for approval of Conditional Use Permit 2023-10 with modifications can

be made, including those required by the City of Kerman Municipal Code Section 17.12.040 (C) as follows:

- A. That the proposed establishment, maintenance, and operations of the use applied for will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the city.

Finding A (1). The project will not be detrimental to public health, safety, or welfare. It is located in a designated general commercial area with hours of operation and conditions of approval which minimize any potential negative impacts to adjacent land uses. The conditions of approval (Exhibit 'A') limit types of uses that may be objectionable or detrimental to other permitted uses or adverse to the public interest health, safety, convenience, or welfare of the City.

- B. That the proposed use is consistent with the Kerman General Plan.

Finding B (1). Outdoor grilling activities and drive-through facilities are permitted uses subject to a conditional use permit in the General Commercial (CG) zone district, which is a consistent zone with the General Plan RC (Regional Commercial) land use designation. The project is consistent with the General Plan, including General Plan objectives ED-1.1 and ED-1.4.

Finding B (2). The Project is located along a general commercial corridor suitable for many retail, business professional, service commercial, and other similar activities and uses.

Finding B (3). The conditions of approval preserve the integrity and character of the zone district and ensure compliance with the General Plan and Zoning Ordinance.

- C. That the environmental document is prepared as per the California Environmental Quality Act.

Finding C (1). As described in greater detail, above, a preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The project falls within Categorical Exemption per CEQA Guidelines Section 15301 (Existing Facilities) as the project is characterized as a use occupying an existing structure within a developed site and meets the required conditions described in said section. The project also falls within Categorical Exemption per CEQA Guidelines Section 15304 (Minor Alterations To Land) as the project is characterized as a private alteration in the condition of land that meets the required conditions described in said section. There are no project-specific significant effects on the project or the site which would require additional environmental review.

- D. That the site for the proposed use is adequate in size, shape, and location to accommodate the use as it relates to the district for which the use is proposed.

Finding D (1). The location of the Project is within the CG - General Commercial zone district which is located along a commercial corridor suited for retail, office, commercial services, and other

similar activities and uses along the Madera Avenue corridor in a developed parcel of land. The proposed uses will have a negligible impact on the existing surrounding developments.

4. **Conditions of Approval:** Given the foregoing, the Planning Commission approves a modification to Conditional Use Permit 2023-11, subject to the conditions of approval attached herein as **Exhibit 'A'**.
5. **Effective Date:** This Resolution shall take into effect immediately.

I HEREBY CERTIFY that the foregoing Resolution was approved at a regular meeting of the Planning Commission of the City of Kerman on the 11th day of September 2023, and was fully adopted at the said meeting by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing resolution is hereby approved.

Scott Bishop
Chairperson

ATTEST:

Jesus R. Orozco
Planning Commission Secretary

Exhibit 'A'

Conditions of Approval
Kerman Food Center – CUP 2023-11
September 11, 2023

Notice To Applicant

Pursuant to Government Codes Section 66020(d)(1) and/or Section 66499.37, any protest related to the imposition of fees, dedications, reservations, or exactions for this project or any proceedings undertaken regarding the City's actions taken or determinations made regarding the project, including but not limited to the validity of conditions of approval must occur within ninety (90) calendar days after the date of this decision. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

Important: Please Read Carefully

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through conditional use permit review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would, on the whole, enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval for CUP 2023-11 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) working days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval for this entitlement, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed (including its identification number) and specific reasons why you believe the decision or action appealed should not be upheld, and the identity of the appellant.

Approval of this conditional use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this conditional use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the zoning ordinance, and all City standards and specifications. This use permit and site plan review is granted, and the conditions imposed, are based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this use permit. Unless the conditions of approval specifically require an operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result

in revocation of the use permit, or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process, or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit as delineated herein and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

These conditions are applicable to any person or entity making use of this use permit, and references to "developer" or "applicant" herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this use permit.

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the receipt in the Planning Division of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within 30 days of the date of approval. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the receipt in the Planning Division of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within 30 days of the date of approval.
2. Any intensification or expansion of the use beyond its approval shall be cause for review and modification of the use permit to be approved by the Commission.
3. Any proposed future modifications to the site not specifically contemplated by CUP 2023-11, including but not limited to; the building exterior, parking/loading areas, fences/walls, new buildings, or landscaping shall require an amendment to CUP 2023-11.
4. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or mandated by statute.
5. It shall be the responsibility of the property owner and/or applicant to ensure that any required permits, inspections, and approval from any regulatory agency are obtained from the concerned agency prior to the issuance of a business license or final occupancy issuance.
6. Failure to comply with the conditions of approval contained herein shall be cause for review and possibly modification or revocation to CUP 2023-11.
7. Approval of CUP 2023-11 is for the benefit of the applicant. The submittal of application(s) by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Kerman and its agents, officers, consultants, independent contractors, and employees ("City") from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorney's fees, and damages arising therefrom (collectively "claim"). The City shall promptly notify the applicant of any claim.

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

Building Division

8. A building permit shall be required for all proposed or future tenant and site improvements as required by the California Building Code, California Fire Code, and Americans with Disability Act (ADA) prior to occupancy.
9. The developer and/or property owner shall submit plans consistent with the California Building Standards Code, including site development and ADA accessibility based upon the codes in effect at the time of plan check submittal.

Fresno County Department of Public Health

10. The applicant shall be responsible for contacting Catherine Duran with the Environmental Health Division by email at cduran@fresnocoountyc.ca.gov to receive the specific requirements for CUP 2023-11. Failure to schedule an appointment with Environmental Health will affect your ability to obtain final approval for your project.

North Central Fire Protection District

11. The applicant shall be responsible for contacting the NCFPD by email at Fire.Prevention@NorthCentralFire.org or by phone at (559) 878-4560 to schedule an over-the-counter meeting to receive your specific requirements for your project. Failure to schedule an appointment with the NCFPD will affect your ability to obtain final approval for your project.

Planning Division

General

12. On-site litter and graffiti shall be corrected per Kerman Municipal Code Chapter 9.09 – Abatement of Graffiti Nuisance.
13. The business and/or property owner shall keep the property clear of all trash, rubbish, and debris at all times. Dumping of refuse shall be restricted to the refuse containers scheduled to service the site.
14. The business and/or property owner shall comply with all applicable federal, state, or local laws, rules, and regulations. Material violations of said laws, rules, and regulations may be cause for review and possible revocation of the use permit.

15. Business owner(s) shall be responsible for securing a business license from the Finance Department before the commencement of any commercial activity.

16. The applicant and/or business owner shall be responsible for maintaining on-site landscaping shall be maintained in a healthy and manicured manner at all times

Conditional Use Permit 2023-11

17. Conditional Use Permit 2023-11 shall allow for outdoor grilling activities and memorialize the existing non-conforming drive-through facility for the property located at 14985 W. Whitesbridge Rd.

18. Outdoor grilling activities shall occur only four (4) days out of the week, between the hours of 6 AM to 8 PM. All associated grilling equipment shall be removed and relocated to the interior of the building or properly stored in a manner that is not visible and accessible to the public after each grilling operation.

19. Outdoor grilling activities shall be permitted to occur in the parking lot as noted in Exhibit 'A-1'. These activities shall take up no more than two (2) parking stalls or as deemed necessary by the Planning Division. The boundary of the outdoor grilling area shall be isolated from the public by warning tape. Not outdoor cooking or part thereof shall encroach into the adjacent drive aisles.

20. Outdoor cooking activities shall not impede any ADA access on the site.

21. No outdoor storage of equipment or materials shall be permitted as part of this CUP approval.

22. In the event that the drive-through use creates nuisance vehicle queuing or stacking, the applicant may be required to provide a traffic queuing study, at their own expense, to confirm the drive-through use is sustainable on the site.

23. The applicant shall provide and maintain the necessary directional signage for the drive-through window.

24. The drive-through shall be allowed to operate consistent with standard business hours.

Signage

25. Proposed and future permanent signage shall comply with KMC 17.76.050.

26. No sign shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety or interfere with the safe operation of a motor vehicle on public streets. This includes, but is not limited to, the driver's view of approaching, merging, or intersecting traffic.

27. Temporary signage shall be permitted for special events (i.e. grand opening, local, State, or Federal recognized holidays), to be displayed for thirty (30) days or less per year and a promotional period.

End of Conditions

Exhibit 'A-1'

Aerial Photo

