

Started: 5:47 p.m.

Ended: 5:52 p.m.

Item #1.5

Conditional Use Permit:

Drive-Thru Service Windows

Snowball Express #2

3124 N. Mayberry Road

Being a tract of land out of the Northwest

**1.0 acres of West 5.18 acres of the North 11.03
acres of Lot 28-9, West Addition to Sharyland**

C-2

Elgin Xavier

Ms. Dimas went over the write-up stating the subject site is located at the SE corner of Mayberry Road and E. Mile 2 Road. The applicant has a 1400 sq.ft. building for his snack shop and is requesting a conditional use permit for the use of the 4 drive-thru service windows at this location. The building has two windows on each side 2 to place an order and 2 to deliver the order. Entrance to the site is derived from a driveway cut along Mayberry Road. The drive-thru lane allows for stacking of approximately 9 vehicles.

- **Days/Hours of Operation:** Everyday from 11:00 a.m. to 1:30 a.m.
- **Number of Employees:** 4
- **Parking:** There is a total of 34 seating spaces in the patio area, which would require 11 parking spaces ($34 \text{ seats} / 3 = 11.3 \text{ spaces}$). Currently, there is a total of 20 striped parking spaces and a drive-thru lane that allows for the stacking of 9 vehicles for a total of 29 parking spaces.
- **Landscaping:** The landscaping requirement is meeting code, except it needs to be maintained.
- Must continue to comply with all City Codes. (Fenced must be repaired, and potholes on parking lot need to be fixed).

REVIEW COMMENTS: Staff notes that this business has been in operation since 2017. Staff has received several concerns regarding the hours of operations staying open until 2:00 a.m., customers using the drive-thru windows will idle waiting for their orders with load exhaust mufflers and loud music playing from their vehicles. Staff supports this local business and would like the applicant to continue his use of drive-thru windows. However, staff also recommends keeping the hours of the drive-thru windows until 10:00 p.m. on weekdays and until midnight on weekends. The long-established residential community directly south and residential lot just east of this business is being impacted by the noise being created by the late hour traffic. The city has a noise ordinance and an obligation to protect these citizens, who have been there long before the business.

Staff has suggested for them to hire off-duty police officers to address the noise and traffic concerns but suggestions have been ignored. Staff notes that the applicant had applied for a conditional use permit back in 2019 and was denied due to noncompliance. Staff mailed out 17 notices to property owners within 200' radius and staff has not received any comments in favor or against this request.

RECOMMENDATION: Staff recommends denial of the extended hours past 10:00 p.m. Staff is also requesting that the fence, potholes be repaired within 30 days to be in compliance with all city ordinances.

Note: If the P&Z Board is incline to approve the request, staff would recommend the following: 1) 6-month re-evaluation in order to assess compliance, 2) Must comply with all City Codes (repair fence, potholes within 30 days), and 3) hire off-duty police officers to help address the traffic and noise concerns.

Chairwoman Izaguirre asked if there was any input in favor or against the request.

There was none.

Chairwoman Izaguirre entertained a motion to close the public hearing. Mr. Sanchez moved to close the hearing. Mr. Barrera seconded the motion. Upon a vote, the motion passed unanimously.

Chairwoman Izaguirre asked if the board had any questions.

Mrs. Garza asked how does the traffic flow?

Ms. Dimas stated that it was the same entrance and exit.

Mrs. Austin asked that if more complaints had been made?

Ms. Dimas stated that only in regards to the loud music.

There being no further discussion, Chairwoman Izaguirre entertained a motion. Mr. Sanchez moved to the approve the conditional use permit as per staff recommendation. Mrs. Austin seconded the motion. Upon a vote, the motion passed unanimously.

City Attorney Victor Flores stated to go back to item 1.4., and clarify the motion if it was approved for life of use.