



MEMORANDUM

PUBLIC WORKS - DEVELOPMENT SERVICES

P20CU00007

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FOR BOARD OF SUPERVISORS SEPTEMBER 15, 2020 PUBLIC HEARING

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Jim Portner, Hearing Administrator

DATE: August 14, 2020

DOCUMENT: P20CU00007

CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING:

Request of Secured Investments, LLC, represented by Rick Engineering Company, on property located at **12903 & 12925 N. Sabino Canyon Park**, in the RVC (Rural Village Center) Zone, for a **Type II Conditional Use Permit for a Café/Restaurant**, in accordance with Section 18.41.040.A of the Pima County Zoning Code. (District 4)

CASE BACKGROUND AND PARTICULARS

This is a request to construct a new café/restaurant (a take-out food stand) and an associated outdoor seating area, to be operated in conjunction with a new 16-unit casitas/apartment complex that was previously approved for the same property. The project is located in the Summerhaven community on Mount Lemmon and the proposed café/restaurant would serve local residents as well as Summerhaven visitors. The proposed project has strong support from the surrounding community.

SUMMARY OF THE HEARING ADMINISTRATOR MEETING

In accordance with Pima County Zoning Code Section 18.97.030.F.3 and our current Covid-19 protocols, a telephonic public hearing was held on this application on August 12, 2020. The applicant presented the case to the hearing administrator and answered all of his questions.

One (1) member of the public attended the hearing telephonically. The speaker expressed their strong and unconditional support of the proposed use, stressing that it is needed on Mt. Lemmon and that the developer's project (including the 16-unit casita complex) represents an important investment in the revitalization of the Summerhaven community. Staff also received two letters of support for the request from nearby property owners. No letters, emails, or phone calls expressing objection were received.

After hearing all of the above, the Hearing Administrator closed the public hearing.

HEARING ADMINISTRATOR’S COMMENTS

The Hearing Administrator is in full support of this application and is gratified that the surrounding property owners and the Mt. Lemmon community are supportive. The recommendation for approval presented below contains certain special conditions. The intent of same is to, in no way, apply any onerous restrictions on the proposed use. They are provided only to memorialize the use as presented in the submitted application materials, to ensure that its operation proceeds as described therein, and to establish the basic regulatory framework for the new café/restaurant should ownership of it be transferred to another operator.

HEARING ADMINISTRATOR’S RECOMMENDATION

After visiting the subject property and considering the facts and testimony presented at the public hearing, together with the written materials submitted by the applicant and neighbors, the Hearing Administrator recommends **APPROVAL** of this request for a Type II conditional use permit for a café/restaurant. The applicant is advised that this is a *recommendation* to the Board of Supervisors, who will make the ultimate and final decision on this CUP request.

Should the Board of Supervisors agree with the Hearing Administrator’s recommendation for approval, it is suggested that this approval be granted subject to the following standard and special conditions:

Standard Conditions & Requirements per the Pima County Zoning Code

1. A café/restaurant is allowed in the RVC Zone as a conditional use per Code Sections 18.41.040.A.14 & A.56.

Special Conditions – Hearing Administrator

1. This conditional use permit is for the operation of a two hundred square foot (200 SF) take-out café/restaurant building, together with an associated outdoor seating area, and a stand-alone shade structure. No other unrelated or more intensive commercial uses are authorized by this conditional use permit approval.
2. The café/restaurant and outdoor seating area shall be constructed and operated in accordance with the Development Package and accompanying narrative as submitted this conditional use permit application.
3. Any expansion of the take-out café/restaurant building or the adjacent outdoor seating area by more than twenty percent (20%) of the total area shown on the Development Package, shall require an amended conditional use permit application and associated public process.
4. Hours of operation are not considered an issue here, in that this is a comparatively small café use that presents little or no nuisance issues. There is the recognition here that hours of operation are seasonal in nature on Mt. Lemmon and that early-morning hours of operation for this use are acceptable during the late-spring, summer, and early-fall months.

REQUIRED STANDARDS AND FINDINGS

Following are the Hearing Administrator’s findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.

The Pima County Comprehensive Plan designates this site and the surrounding private properties as *Neighborhood Activity Center (NAC)*, the purpose of which is to provide designated areas for the provision of neighborhood-level goods and services for the convenience of surrounding residents.

It is the Hearing Administrator’s position that the proposed café/restaurant is wholly consistent with the purpose of the *Neighborhood Activity Center (NAC)*, especially in this particular instance where Summerhaven is in clear need of such uses toward the revitalization of the community.

2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.

It is the Hearing Administrator’s position that the proposed conditional use, if constructed in substantial conformance with the submitted Development Package and the *Special Conditions* prescribed above, will satisfactorily safeguard the adjacent properties and their permitted uses of same.

3. It has adequate accessibility to the County road network.

The site has direct access to N. Sabino Canyon Park, which is a paved, public street and the “main street” of Summerhaven. Access is found to be adequate, as long as it is controlled in accordance with the *Special Conditions* attached to this approval.

4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.

Required/proposed parking has already been reviewed by the Department of Transportation and found to be satisfactory. Final parking approval shall be verified at the time of permitting.

5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.

It is the Hearing Administrator’s finding that the new use poses no significant public threat in any of the above ways.

6. Hours of operation will not be detrimental to adjoining residents.

Hours of operation are found to not be an issue in this instance. This has been memorialized under Special Condition No. 4.

7. Landscaping will be fully in conformance with zoning code regulations.

Required landscape buffers, etc. shall be verified by staff at the time of final permitting.

SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES

Comprehensive Plan Regional Environmental Policies — Conservation Lands System

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

1. Important Riparian Areas — 95% undisturbed natural open space
2. Biological Core Management Areas — 80% undisturbed natural open space
3. Special Species Management Areas — 80% undisturbed natural open space
4. Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The subject property is **OUTSIDE OF** the MMB-CLS.

Staff Commentary on Biological Impacts

Staff has reviewed this application and finds that, as long as the site is developed in conformance with the submitted conceptual site plan, then: 1) its approval is not expected to affect any resources essential to Pima County’s biological conservation priorities; and 2) it would not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update. The property lies within a general area of Summerhaven that has already been significantly impacted; no additional material impacts will result from the approval this conditional use permit.

Facts Confirmed by the Pima County Geographic Information System (GIS)

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

Cactus Ferruginous Pygmy Owl. The subject property is located within an area that was not designated as former critical habitat and is not a part of draft recovery area. This site is not located within the Priority Conservation Area (PCA) for this species.

Western Burrowing Owl. The subject property is not located within the Priority Conservation Area for this species.

Pima Pineapple Cactus. The subject property is located within an area that is outside of the known range for the Pima Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

Needle-Spined Pineapple Cactus. The subject property is located within an area that is outside of the known range for the Needle-Spined Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

DEPT. OF TRANSPORTATION RECOMMENDATION:

The Department of Transportation has reviewed this application and its proposed parking provisions vis-à-vis the existing parking problems that commonly plague N. Sabino Canyon Park during peak usage times. DOT has found the project’s proposed parking provisions to be sufficient.

attachments

cc: Carla Blackwell, Director, Development Services
Dan Ice, Chief Building Official
Chris Poirier, Planning Official
Tom Drzazgowski, Chief Zoning Inspector
Lauren Ortega, DSD/DOT
Secured Investments, LLC, Owner
Chuck Martin, Rick Engineering, Applicant