



MEMORANDUM

PUBLIC HEARING – August 10, 2022

DATE: August 3, 2022
TO: Jim Portner, AICP, Hearing Administrator
FROM: Anita McNamara, AICP, Senior Planner
SUBJECT: **P22CU00006 – TK FAMILY, LLC – E. TANQUE VERDE ROAD**
Type II Conditional Use – retail/restaurant/office/parking in the RVC zone

LOCATION:

The subject site is located on the north side of E. Tanque Verde Road, at the N. Tanque Verde Loop and E. Tanque Verde Road intersection.

SURROUNDING LAND USE OR CONTEXT:

To the west of the property is Rural Village Center zoned property developed with a restaurant, to the north is SR and CR-1 zoned residential, to the east is Rural Village Center (RVC) zoned undeveloped and CB-1 undeveloped, and across E. Tanque Verde Road to the south is CR-1 zoned property developed with a junior high school. E. Tanque Verde Road is a designated Scenic, Major Route on the Major Street and Scenic Routes Plan.

PUBLIC COMMENT:

As of the writing of this report staff has received no comments.

BACKGROUND INFORMATION

The subject property, parcel 11457080D, is a 1.65 acre parcel under common ownership with the restaurant on the parcel to the west, the Barnyard, and is currently being used as temporary overflow parking for the Barnyard. The temporary parking is allowed under a Temporary Use Permit as approved by the District 4 Board of Adjustment in August 2021. Given that the subject parcel was purchased to provide overflow parking, this demonstrates that the Barnyard's current business operation is very successful and that the additional parking is required. This request is for a Type II Conditional Use Permit to allow a combination of small scale commercial uses as yet to be determined. The applicant states these uses will provide necessary services to an area that is currently underserved. While not yet determined, the uses could be a restaurant, retail, personal service and office space that will be housed in a new building along with parking to serve the new uses and the overflow parking for the Barnyard. The proposed uses require a

Conditional Use Permit in the Rural Village Center (RVC) zoning district.

The RVC zone in this area covers approximately 40 acres around Tanque Verde Road and Tanque Verde Loop Road. The area, including the subject property, was rezoned to the RVC zone (Co9-62-97) in 1963 at the initiation of the Tanque Verde Valley Neighborhood Association. The rezoning conditions are that an acceptable development plan be submitted and that the developers comply with drainage requirements. A Certificate of Compliance (an administrative step) showing compliance with the rezoning conditions is required to obtain building permits.

The purpose of the RVC zone is to provide a mixed-use (commercial and residential) village center for the convenience and necessity of a suburban or rural area. The RVC regulations are designed to maintain a suburban character of commercial areas along a scenic route (Tanque Verde Road is a designated scenic and major route) and provide safe access to and from the village center. To ensure compatibility and mitigate any potential impacts of uses, all RVC uses, except single-family residential, are Type II conditional uses requiring notice of surrounding property owners.

The applicant's preliminary development plan depicts a maximum 12,827 square feet multi-tenant building with small-scale commercial uses with 73 parking spaces. The exact uses have yet to be determined, but could consist of a restaurant up to 3,500 square feet and additional uses on the property such as office, retail or personal services that close no later than 6:00pm. The restaurant would be permitted with hours of operation in the evening. Conditions have been proposed that would limit the size so that overflow parking for the Barnyard would still be sufficient. Another option is a combination of office, restaurant, commercial and retail, or personal service, with hours of operation between 6am and 6pm; or any combination of uses, floor areas, and hours of operation that, in the opinion of the Chief Zoning Inspector, will allow sufficient onsite parking for the property, and overflow parking for the Barnyard which is needed. Primary access to the subject parcel will be from the existing access point on E. Tanque Verde Road, at the terminus of N. Tanque Verde Loop.

Restaurant uses require ten parking spaces per 1,000 square feet of gross floor area, while general retail requires 3.5 spaces per 1,000 square feet and grocery, drug or liquor store retail requires 5 spaces per 1,000 square feet. At a building size of 12,827 square feet, with 3,500 square feet of that as restaurant space, 35 parking spaces are required for the restaurant, with the remaining 9,327 square feet used as retail requiring 33 parking spaces for a total of 68 parking spaces required. This figure does not include the overflow parking for the Barnyard. The preliminary development plan shows 73 parking spaces, leaving only 5 spaces for the Barnyard's overflow parking during the day when all uses can exist. Staff is committed to ensure that sufficient additional parking for the Barnyard exists at the times when the Barnyard would be most crowded and additional parking would be needed. To ensure that parking is available on evenings when the Barnyard restaurant can be expected to be the most crowded, the applicant has proposed to limit other uses to day time with a closing time of no later than 6:00pm. Permitting only a 3,500 square foot restaurant to remain open in the evening will allow substantial overflow parking for the Barnyard. Given the concerns to ensure that sufficient overflow parking needs to be incorporated into the plan, staff has added recommended conditions accordingly.

There are two residential properties immediately to the north of the subject parcel. The

preliminary development plan shows an existing rustic metal fence 10 feet south of the northern property boundary, with a ten foot landscape bufferyard to be installed between the fence and this northern boundary. South of the existing fence and bufferyard and behind the proposed building is the back of house area containing a walkway, drive aisle, parking and a dumpster. Staff is concerned about the proximity of the dumpster to these residences and has added a condition requesting it be relocated on-site further away from the residences.

The subject parcel itself has no previously approved Conditional Use Permits. The property to the west (Barnyard), under common ownership with the subject parcel, has previously approved conditional use permits. These include a 2012 Conditional Use Permit to allow the property to be used as a plant nursery and retail store and a 2017 Conditional Use Permit to allow a restaurant (The Barnyard) serving alcohol with seating for approximately 125-150 persons.

The subject parcel is not in the Maeveen Marie Behan Conservation Lands System.

DEPARTMENT OF TRANSPORTATION

The site is located north of the Tanque Verde Road and Tanque Verde Loop Road intersection. The intersection was improved and completed in 2020 per capital improvement plan project (CIP) No. 4TVTVL. Improvements included the addition of a traffic signal at the intersection, separate right and left-turn lanes, crosswalks, ADA accessible curb ramps, bicycle lanes/roadway shoulders, lighting and driveways for private property access.

Tanque Verde Road and Tanque Verde Loop Road are both classified as an Urban Major Collector by its federal functional classification. The most recent traffic count for Tanque Verde Road is 9,439 average daily trips (ADT) with an approximate capacity of 12,390 ADT. The most recent traffic count for Tanque Verde Loop Road is 2,418 ADT with an approximate capacity of 10,360 ADT.

The Tanque Verde Road and Tanque Verde Loop Road intersection is signalized for northbound, eastbound and westbound traffic. Primary access to the site is located at the existing northern leg of the intersection. A secondary access point is proposed along the western property boundary. Access to the second driveway from Tanque Verde Road is an access easement. Improvement to the easement shall meet Pima County standards. Sidewalk will be required along the project frontage and west of the primary access providing connectivity with the existing commercial uses to the west.

A traffic impact study (TIS) will be required. The TIS shall incorporate trip generation from the proposed uses. The traffic signal will be required to be modified incorporating all movements to and from the site including but not limited to adjusting the signal timing for existing legs of the intersection, signal heads, turn lanes, and signage as determined by the traffic impact study.

The Department of Transportation has no objection to the request for a conditional use permit subject to condition #14A-E.

PIMA COUNTY REGIONAL WASTEWATER RECLAMATION DISTRICT

The Planning Unit of the Pima County Regional Wastewater Reclamation Department

(PCRWRD) has reviewed the request and offers the following comments for your use. The proposed project consists of a small-scale commercial/retail/office development located adjacent to the intersection of Tanque Verde Rd and Tanque Verde Loop Rd. The subject property is located within the Rural Village Center (RVC) Zone and is subject to a conditional use permit approval. The property is within the PCRWRD service area.

The existing public sewer system consists of an 8" sewer located within the eastern property area, within a dedicated sewer easement. Please call out the existing public sewer easement on the preliminary development plan. The PDP shows a new fence along the eastern property line. No permits will be issued for any structure (walls, fences, etc.) within a sewer easement unless written permission is granted by PCRWRD.

Please submit a Type I request for capacity evaluation to confirm that capacity is available for the proposed development. Allocation of capacity is made by the Type III Response.

PCRWRD has no objection to the conditional use subject to condition #13A-F.

DEPARTMENT OF ENVIRONMENTAL QUALITY

The Department of Environmental Quality has no objection subject to condition #12A-B.

REGIONAL FLOOD CONTROL DISTRICT

The District has no objection to the request subject to condition #10A-C.

This project is not impacted by a local floodplain or Regulated Riparian Habitat.

1. A small portion (0.08 acres) of the parcel on the northwest property boundary is impacted by Federal Emergency Management Agency Special Flood Hazard Area (SFHA) Zone AE. The floodplain limit is not shown on the site plan submitted with the application. When development modifies a SFHA, a Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) are required. Development that modifies the SFHA should be precluded to avoid this requirement. Any development, including grade changes, improved drainage crossings and fencing may be minor enough not to effect the entire SFHA but can impact immediate neighbors. The District is aware of numerous drainage complaints from neighbors in vicinity.
2. The proposed commercial project has a significant amount of impervious surface due to the structure, parking and parking area access lane. It is recommended that the project utilize Low Impact Development Practices distributed throughout the site to retain runoff and maximize stormwater for supplemental irrigation for the required landscaping. A recommended supporting condition below is provided.

CULTURAL RESOURCES

Cultural Resources has no objection to the request subject to condition #11A.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the conditional use request subject to the following standard and special conditions:

1. Adherence to all requirements of Pima County Zoning Code section 18.41.040.A. and section 18.43.030.G. for the restaurant use.
2. The property shall be developed as presented in the application and on the preliminary development plan except as modified by the following conditions.
3. Development Plan Standards shall be implemented consistent with the requirements of Pima County Zoning Code section 18.71.060.

4. All 73 parking spaces shall be constructed prior to any restaurant use being permitted on the property.
5. To ensure there will be sufficient excess parking on the subject property to accommodate overflow parking for the adjacent restaurant, the following scenarios shall be allowed:
 - A. Any combination of office, commercial, retail, personal service and/or food service uses operating between 6:00am and 6:00pm, that meets the required Pima County parking standards; or
 - B. A restaurant up to 3,500 sq. ft. in floor area (including outdoor patio) with hours of operation between 6:00am and 10:00pm, in combination with other office, commercial, retail, or personal service uses with operating hours of 6:00am to 6:00pm; or
 - C. Any combination of uses, floor areas, and hours of operation that, in the opinion of the Chief Zoning Inspector, will allow sufficient onsite parking, and provide the required offsite parking needed for the adjacent restaurant to the west during peak times.
6. To ensure adequate overflow parking for the adjacent restaurant to the west is provided, the applicant shall provide parking/traffic counts for the adjacent restaurant to the west during peak times and seasons.
7. Primary access shall be from E. Tanque Verde Road.
8. A cross-access easement shall be provided for overflow parking from the restaurant property to the west. This shall be completed prior to the approval of a development plan.
9. The location for the dumpster shall be relocated between the north wall of the building and the drive aisle to the north of the building.
10. The Flood Control District has no objection subject to the following:
 - A. Regional Flood Control District review and approval are required at the time of development.
 - B. Diversions or obstructions to flow within the Federal Emergency Management Agency (FEMA) floodplain are prohibited.
 - C. In addition the detention requirement, first flush retention shall be provided in Low Impact Development practices distributed throughout the site.
11. Cultural Resources has no objection subject to the following:
 - A. Prior to ground modifying activities, an on-the-ground archaeological and historic sites survey shall be conducted on the subject property and submitted to OSC for review.
12. The Department of Environmental Quality has no objection subject to the following:
 - A. The property owner shall connect to the public sewer system at the location and in the manner as specified by RWRD. On-site wastewater disposal shall not be allowed.
 - B. The subject property is located within Tucson Water's service area. Property owners shall provide written approval from Tucson Water indicating water service will be provided.
13. PCRWRD has no objection to the request for a conditional use permit and offers the following standard wastewater requirements:
 - A. The owner(s) shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the subject property until Pima County executes an agreement with the owner(s) to that effect.
 - B. The owner(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) stating that

treatment and conveyance capacity is available for any new development within the subject property, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner(s) shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.

- C. The owner(s) shall time all new development within the subject property to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner(s) shall connect all development within the subject property to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
 - E. The owner(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the subject property, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
 - F. The owner(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system is permanently committed for any new development within the subject property.
14. The Department of Transportation has no objection to this conditional use permit subject to the following:
- A. A Traffic Impact Study (TIS) shall be submitted for review and approval by the Department of Transportation with the Development Plan submittal. Offsite improvements determined necessary as a result of the traffic impact study shall be provided by the property owner/developer.
 - B. The Tanque Verde Road and Tanque Verde Loop Road intersection traffic signal shall be modified as determined by TIS, including but not limited to adjusting the signal timing for existing legs of the intersection, signal heads, turn lanes, and signage. Coordination will be required with the Department of Transportation prior to development plan approval.
 - C. The access easement from Tanque Verde Road to the second driveway along the west property boundary shall be improved to Pima County standards.
 - D. The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, drives, physical barriers, drainageways and easements.
 - E. Sidewalk and ADA ramp improvements shall be constructed along the site frontage on Tanque Verde Road between the site's access on Tanque Verde Road and the access easement.

c: Tom Drzazgowski – Chief Zoning Inspector
Rory Juneman – Applicant