

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item:

PC Staff Report
02/23/11

ITEM NO. 4B SPECIAL USE PERMIT; 4000 W 6TH ST (MKM)

SUP-12-9-10: Consider a Special Use Permit for a drive through window in a retail center located at 4000 W. 6th Street. Submitted by Allen Belot, for Monterey Partners, LLC., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of SUP-12-9-10, a Special Use Permit for a fast order food with drive-in, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Publication of an ordinance per Section 20-1306(j).
2. Applicant shall provide a revised site plan with the following changes:
 - a. Note added which limits this window for 'pick-up' only with no separate order window or speaker box.
 - b. General Note 1 revised to indicate that the current zoning for the development is PCD-[Monterey Center] and that the proposed zoning for Lot 1B is CN2.
 - c. The legal description revised to "Lot 1B, Monterey Addition No 7".
 - d. General Note 2 revised to indicate that the *current* use is *general retail sales*.
 - e. General Note 3 revised to indicate that the proposed use is *general retail sales* with a '*fast order food with drive-in*'.
 - f. Lot 1B shall be bubbled or otherwise delineated from the remainder of the development so it is clear that the SUP applies only to Lot 1B.
 - g. The plan shall be relabeled 'SUP site plan for Lot 1B, 4000 W 6th Street STE 1."
 - h. The property ownership for Lot 1B shall be added to the plan and the developer information changed, if necessary.
 - i. The plan shall show the entire property being rezoned to the CN2 District (all of Lot 1B) and include a parking summary for this lot as well as the parking requirements for the entire commercial development, both the CN2 and the remaining PCD-[Monterey Center] zoned areas.
 - j. The following note shall be added to the plan: "*The parking requirements for the Commercial Development will continue to be evaluated based on the entire commercial development, including the portion that retains the PCD-[Monterey Center] zoning and Lot 1B, which is zoned CN2.*"
3. The applicant shall provide an exhibit for recording with the previously approved Final Development Plans for the Monterey Center with the following:
 - a. Clearly delineates the property being rezoned to the CN2 District, and the area which remains in the Planned Development.
 - b. Notes that uses permitted in the PCD-1 District are permitted on the remaining portion of the Planned Development, but uses permitted in the CN2 District are permitted on Lot 1B.
 - c. Provides a parking summary for the entire development and for Lot 1B Monterey Addition.
 - d. Includes the following Note: "*The parking requirements for the Commercial Development will continue to be evaluated based on the entire commercial development, including the portion that retains the PCD-[Monterey Center] zoning and*

Lot 1B, which is zoned CN2.

Applicant's Reason for Request: *"Suite 'A' in the existing building was designed in the original PCD with a drive-up pick up window with a drive-up lane attached. The first and only tenant in this space was a dry cleaner that used the drive-up window for drop-off & pick-up. That establishment has now vacated that space and a national restaurant franchise would like to move into this space and continue to use the drive-up window for pick-ups only; no menu/order kiosk will be installed. The existing Land Development Code will not allow this new use without a change in the zoning even though the proposed use is almost identical to the previous allowed use."*

KEY POINTS

- The subject property was previously zoned PCD-1. The PCD-1 zoning designation converted to the PCD-[Monterey Center] Zoning District with the adoption of the Development Code.
- Per Section 20-1004(b)(1) of the pre-2006 Code a *restaurant with a drive-in or which provides service to automobiles* is not permitted in the PCD-1 District.
- The CN2 District permits a *fast order food with drive-in* with a Special Use Permit.
- No physical changes are being proposed to the site. The restaurant would reuse an existing pick up window which previously served a dry cleaner.

FACTORS TO CONSIDER

- Procedural requirements of Section 20-1306; Special Use Permits.

ASSOCIATED CASES/OTHER ACTION REQUIRED

On the March Planning Commission Agenda

- Rezoning Request [Z-12-19-10] from PCD-[Monterey Center] (Planned Commercial Development) District to CN2 (Neighborhood Commercial Center) District for subject property, Lot 1B Monterey Addition No 7. This rezoning is being considered by the Planning Commission concurrently with this Special Use Permit application.

Future Action

- City Commission approval of the rezoning request and publication of ordinance.
- City Commission approval of Special Use Permit and publication of ordinance.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment has been received.

GENERAL INFORMATION

Current Zoning and Land Use:

PCD-[Monterey Center] (Planned Commercial Development) District; shopping center. Rezoning request to CN2 (neighborhood Commercial Center)

District has been submitted and is being considered concurrently with this SUP.

Surrounding Zoning and Land Use:

To the north, west and southeast: PCD-[Monterey Center] (Planned Commercial Development) District; property within the Monterey Center Planned Commercial Development which contains townhomes to the north, shopping center to the west, and a bank to the southeast.

To the south: RSO (Single-Dwelling Residential-Office) District; bank.

To the east: RM12 (Multi-Dwelling Residential) District; townhomes.

Summary of Special Use

A restaurant with drive-up facilities or service to automobiles is prohibited in the PCD-1 District; however, a pick-up window for other uses is permitted. This property was developed with a drive up lane and a pick up window for a dry cleaner. The dry cleaner business has been vacant for about 2 ½ years and a potential tenant is proposing a drive through window with a fast order food restaurant. This use is specifically prohibited in the current zoning; therefore, a rezoning request to the CN2 District was submitted for this property. The CN2 District permits a fast order food establishment with a drive-in but requires a Special Use Permit. The drive through area was not designed for a restaurant; therefore there is not adequate space for queuing traffic behind an order board. For this reason, the applicant is requesting a drive-up window which would be used only for order pick-up. No physical changes are being proposed with this Special Use, but the use of the pick-up window is being altered slightly to allow it to be used with a restaurant. (Figure 1)

Site Plan Review

The additional use, a drive-up window, does not require any parking spaces; therefore the amount of parking required with the commercial development is not altered. The Monterey PCD Final Development Plan notes that the retail strip center was developed as Phase II of the planned development. The plan indicates that 84 parking spaces were required for Phase II and 138 parking spaces are provided on Lot 1B. With the rezoning of this lot to CN2 it is no longer zoned as a part of the Planned Development; however, the parking was designed to be shared for the development as a whole and the parking requirements/parking provided for the center would continue to be calculated in this manner with any future land use changes.

The rezoning and Special Use Permit will affect all of Lot 1B, which is currently a portion of the Monterey Center Planned Commercial Development. If the rezoning and Special Use Permits are approved, the applicant should provide an exhibit to be recorded with the previously approved Final Development Plans which identify the area which is being removed from the Planned Development through the rezoning, notes that the uses permitted in the CN2 District are permitted on Lot 1B, provides a parking summary for Lot 1B and the other phases of the development and notes that Lot 1B will remain a portion of the commercial development for the purpose of calculating parking requirements and provided parking.

Review and Decision-Making Criteria (20-1306(i))

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Staff Finding – The site plan complies with the requirements set out in the Development Code. The proposed use is an allowed use in the proposed CN2 (Neighborhood Commercial Center) District subject to Special Use Permit approval.

2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response: *"This request is for the purpose of allowing limited expansion of approved uses for this one lease space that has an existing drive-up service window with related drive-through lane improvements already installed but to prohibit installation of a drive-through menu-order kiosk. If allowed, there should be little noticeable change from the previous use in regards to the above external impacts on the surrounding neighborhood."*

The proposed use is very similar to the use which was there previously. There will be no physical changes to the property. Without a menu board, the window will be used only for order pick-up; therefore, there will be no speaker box.

Staff Finding – The proposed use will be compatible with adjacent uses.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant's Response: *"Please see answer to No. 2."*

As the applicant pointed out in their response to Question No 2, the change in use is minor and there will be no physical changes to the site.

Staff Finding – The proposed use is not anticipated to result in any diminution of value of other property in the neighborhood.

4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

The property is currently developed with commercial uses and adequate public services are currently serving the development. No physical changes are being proposed with this Special Use Permit and the public services currently serving the development are adequate for the proposed use.

Staff Finding – The public services currently serving the development are adequate for the proposed use.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

Staff Finding – The site plan will function as the enforcement document to assure that maintenance and use of the property is consistent with the approval.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Applicant's Response: *"None since no changes are proposed from the existing pervious use which was approved as part of the original zoning/FDP."*

Staff Finding – The proposed use is the reuse of an existing facility to serve a restaurant rather than a dry cleaner. No adverse impacts are anticipated with this use.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO WHAT THAT TIME PERIOD SHOULD BE.

Time limits are established on Special Use Permits to permit a periodic review to determine if the use remains compliant with the area or if a rezoning would be appropriate. The use, with the limitation on an order board, is very similar to the previous use on the site and should have no negative impact on the area. A time limit would not be appropriate in this case.

Staff Finding – The project would be compatible with surrounding development so it would not be appropriate to place a time limit on this use.

Conclusion

The proposed use is compatible with, and appropriate for, this location and staff recommends approval of the Special Use Permit with the conditions noted.



Figure 1. The Monterey Center PCD with the subject property, Lot 1B Monterey Addition No 7, outlined. The drive-thru area is circled and an arrow marks the approximate location of the pick-up window.