

## § 25-5-145 EVALUATION OF CONDITIONAL USE SITE PLAN. [PANDA EXPRESS]

(A) The Land Use Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section.

(B) A conditional use site plan must:

(1) comply with the requirements of this title;

**The proposed plan complies with all applicable requirements of this title and no variances are requested.**

(2) comply with the objectives and purposes of the zoning district;

**Neighborhood commercial (LR) district is the designation for a commercial use that provides business service and office facilities for the residents of a neighborhood. Site development regulations and performance standards applicable to a LR district use are designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment.**

**As required by the standards, a Restaurant (Limited) use is a Conditional Use if it incorporates a drive-through and is 3,000 square feet or less and meets all other conditions of 2-5-145. The proposed use is meeting these requirements for the LR district and the conditions noted below.**

(3) have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that is compatible with the use of an abutting site;

**Height/Bulk/Scale/Setback: The proposed building is a 1-story (23-foot) building that is approximately 80 feet from the residential property boundary to the west and approximately 125 feet from the residential property boundary to the south at the closest point. The proposed setbacks exceed the required minimum compatibility setback of 50 feet for a building height of 40 feet and even the 75-foot compatibility setback of 75 feet for buildings that are 60 feet or more in height.**

**Open Space/Landscaping/Drainage: Required open space and landscaping and appropriate drainage is provided. This site qualifies for RSMP participation so only water quality improvements are required to be provided onsite. Biofiltration is proposed at the western portion of the site. The Biofiltration and Landscape Plan sheet of the Construction Plan set proposes 51 plants from 9 different plant species for the sedimentation portion of the pond and 113 plants from 8 different plant species for the filtration portion of the pond. These planting materials are in addition to the proposed buffering and site landscaping to satisfy the landscaping requirements of the Code.**

**Access/Traffic Circulation: Vehicular access is prohibited to William Cannon. For corner properties, the TCM states that access shall be provided along the intersecting street with the lower street classification unless property frontage on the higher-level street exceeds 200 feet. Lot frontage does not allow for the minimum driveway distance from the intersection to be satisfied, and since an alternative access point is viable the one point of vehicular access allowed is from Springfield Drive.**

**Access to and from other modes of transportation are available via connections to William Cannon Drive, Springfield Drive, and Ondantra Bend. The site will have multi-modal access via vehicular, future bus rapid transit, bicycle and pedestrian. The dual lane drive-through offers a more compact site and improves traffic circulation for the drive-through and complies with the design standards of the TCM.**

**Use: As noted above, the proposed use fits within the LR zoning district and provides for healthy and convenient food options in an area that has struggled as a food desert.**

**Therefore, the site is compatible with abutting sites.**

- (4) provide adequate and convenient off-street loading facilities;

**Adequate parking and loading facilities have been provided. The proposed site plan provides for 42 parking spaces, which is only 5 spaces more than the number of spaces required prior to the Code change that eliminated parking minimums. The current Code requires a minimum of 3 bicycle spaces, and the site is exceeding this requirement by providing a total of 6 exterior bicycle spaces.**

- (5) reasonably protect persons and property from erosion, flood, fire, noise, glare, and similar adverse effects; and

**The project reasonably protects persons and property from:**

**Erosion and Flood: The proposed project will participate in the regional detention pond as planned for since the preliminary plan was approved in 2011.**

**Fire: Meeting Code standards with a building that is approximately 26 feet from the north property line, approximately 108 feet from the east property line, approximately 125 feet from the south property line, and approximately 80 feet from the west property line.**

**Noise: Enhanced landscaping in layered, multi height plantings of evergreen trees, evergreen ornamental trees, and evergreen shrubs are proposed along the southern property line adjoining the single family residential to provide additional buffering for sound and light.**

**Glare: Single Family residential is protected from glare by downward shielded lighting as required by Subchapter E.**

**Similar Adverse Effects: The building is equipped with an enhanced scrubber system that eliminates food odors from escaping the building.**

- (6) for a conditional use located within the East Austin Overlay district, comply with the goals and objectives of a neighborhood plan adopted by the city council for the area in which the use is proposed. **N/A**

- (C) A conditional use site plan may not:

- (1) more adversely affect an adjoining site than would a permitted use;

**The proposed Restaurant (Limited) use with a drive-through would not more adversely affect an adjoining site because permitted uses such as banks and pharmacies are permitted uses with drive-throughs that have longer operating hours. Other permitted uses that may not be as desirable and/or would generate more vehicle trips such as a convenience store.**

- (2) adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;

**The proposed conditional use plan safely lays out circulation for vehicles while providing for striped access points and sidewalks for pedestrians to traverse the site to the front door and to bicycle parking. The proposed drive-through lane meets or exceeds the required throat length from Springfield and double stacks, which prevents overflow traffic onto Springfield Drive and in no way would impact William Cannon Drive. Improvements to William Cannon Drive are in process, and once complete will greatly improve the interconnectivity of retail land uses along the corridor with the surrounding residential neighborhoods.**

- (3) adversely affect an adjacent property or traffic control through the location, lighting, or type of a sign; or

**Proposed lighting and signage are not near, nor does it affect adjacent property or traffic controls.**

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(4) for a large retail use described in Section 25-2-815 (*Large Retail Uses*), adversely affect the future redevelopment of the site. **N/A**

(D) A site plan may not adversely affect the public health, safety, or welfare, or materially injure property. If the Land Use Commission determines that a site plan has an adverse effect or causes a material injury under this subsection, the Land Use Commission shall identify the adverse effect or material injury.

**Based upon the information above, the proposed conditional use plan does not adversely affect the public health, safety, or welfare, or materially injure property.**

Source: Section 13-1-663(a); Ord. 990225-70; Ord. 990520-70; Ord. 010607-8; Ord. 031211-11; Ord. 20070215-072; Ord. 20110804-008; Ord. No. 20231102-028, Pt. 38, 11-13-23.

### **§ 25-5-146 CONDITIONS OF APPROVAL.**

(A) To make a determination required for approval under Section 25-5-145 (*Evaluation of Conditional Use Site Plan*), the Land Use Commission may require that a conditional use site plan comply with a condition of approval that includes a requirement for:

- (1) a special yard, open space, buffer, fence, wall, or screen;
- (2) landscaping or erosion;
- (3) a street improvement or dedication, vehicular ingress and egress, or traffic circulation;
- (4) signs;
- (5) characteristics of operation, including hours;
- (6) a development schedule; or
- (7) other measures that the Land Use Commission determines are required for compatibility with surrounding uses or the preservation of public health, safety, or welfare.

Source: Section 13-1-665; Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.