

Case Number: 17-BZA-008

Type of Appeal: Conditional Use Permit Request

Applicant: N & G Takhar Oil Co, agent for PAP Oil Co.

Staff Report: Completed by Jeff Palmer Director of Planning & Zoning

Report Date: September 21, 2017

Hearing Date: October 10, 2017

Current Zoning of Property: Neighborhood Business Zone "B-1"

Description of Property:

The property is identified by parcel id 08-15-401-017 and account number 0603799. The parcel is located in Section 15, Town 3 and Range 4 in Clearcreek Township. The property is .709 acres in size. (See Exhibits 1A-D)

Nature of the Request:

The applicant states the purpose of the application: "Adding the ability to include a customer drive up window similar to what currently exists on the existing business structure as seen in the attached site plan."

Background on the Nature of the Request:

On May 10, 2017 case 17-BZA-004, a request for a variance to allow a gas pump canopy on the property was approved. (See Exhibits 2A-B) On June 23, 2017 the applicant submitted the required plans to be issued a zoning permit. During the review, staff noted that a drive through facility (pick up window) appeared to be incorporated into the building design. (See Exhibits 3A-B, 4A-E) Staff spoke with the agent for the applicant and the owner and outlined that drive through facility is only allowed if it received approval of a conditional use permit. The agent for the applicant stated that the drive through would not be built unless the owner received a conditional use permit for the use. According to Section 9.025(A) a drive through facility is a conditional use permit in the Neighborhood Business Zone "B-1". Sections 16.07 provide standards for drive through facilities, Sections 21.01(F)(1) and 21.01(F)(4) establish the guidelines for reviewing this request.

SEC. 16.07 Drive Through Facility

- A. A drive through facility shall be designed and located to minimize visual, traffic and noise impacts to adjoining properties. In addition to the applicable provisions of this chapter, this use shall be regulated as a conditional use.
- B. All drive through facilities (teller machines, service windows, pickup windows, kiosks, drop boxes or similar facilities):
 - 1. The front of the building shall be oriented to the street.
 - 2. Audible communication devices shall be a minimum of 100 feet from a residentially zoned property line and/or a suitable acoustical barrier shall be installed.
- C. Stacking spaces:
 - 1. Minimum required:

- i. Restaurants shall have a minimum of 8 stacking spaces per lane, measured from the pickup window.
 - ii. Non-restaurants shall have a minimum of 4 stacking spaces per lane measured from the teller or pickup window.
2. Size of stacking spaces shall be a minimum of 180 sq. Ft.
3. Stacking spaces shall not impede on or off site traffic movements or movements in or out of off street parking spaces.
4. Stacking spaces shall be separated from other internal driveways by surface marking or raised medians.
5. Stacking spaces shall be designed so that vehicles do not obstruct a driveway, fire access lane, walk way or public road right-of-way.
6. Stacking space requirements shall be in addition to the off street parking space requirements.

Review of Application:

Completeness of the Site Plan and Project Narrative

The site plan shall show on one or more sheets:

- (a) **a metes and bounds drawing of the area for the proposed conditional uses;**
The applicant has provided this information. (See Exhibits 3B, 5, 6, 7)
- (b) **topography of the area with intervals of not more than five(5) feet of elevation;**
The applicant has provided this information at a 1' interval. (See Exhibits 3B, 5)
- (c) **existing water courses, all flood prone areas using the one hundred (100) year flood plain as a standard along with proposed surface water drainage plans;**
Staff Comments: See the Federal Emergency Management Agency, National Flood Insurance Program Flood Insurance Rate Map, panel 30 of 10, community panel number 390757 0030 B, dated April 15, 1981 which identifies the property. It is outside of the flood plain. (See Exhibit 8)
- (d) **all existing and proposed roads and driveways in the proposed conditional use area and within 200 feet of the boundaries;**
Staff Comments: See Aerial map of property. (See Exhibit 9)
- (e) **all required parking and loading area pursuant to Chapter 16 of the Clearcreek Township Zoning Resolution;**
The applicant has provided this information. (See Exhibits 3B, 5, 6, 7)

Additional Information to Consider:

- Per Section 16.02 a minimum of 14 parking spaces are required. The site has total of 24 parking spaces, 12 spaces with the gas pumps and 12 spaces independent of the gas pumps.
- **SEC. 16.07 Drive Through Facility**
 - A. A drive through facility shall be designed and located to minimize visual, traffic and noise impacts to adjoining properties. In addition to the applicable provisions of this chapter, this use shall be regulated as a conditional use.
Staff Comments: The former will determined during the CUP process.
 - B. All drive through facilities (teller machines, service windows, pickup windows, kiosks, drop boxes or similar facilities):
 - 1. The front of the building shall be oriented to the street.
Staff Comments: The drive through facility is located parallel to State Route 741(See Exhibits 3B, 4A-E, 5, 6, 7)
 - 2. Audible communication devices shall be a minimum of 100 feet from a residentially zoned property line and/or a suitable acoustical barrier shall be installed.
Staff Comments: Site is not proposed to have a communication device. It is unclear how the clerk is notified a vehicle is waiting and how the clerk communicates with the driver for an order.
 - C. Stacking spaces:
 - 1. Minimum required:
 - i. Restaurants shall have a minimum of 8 stacking spaces per lane, measured from the pickup window.
Staff Comments: Not Applicable.
 - ii. Non-restaurants shall have a minimum of 4 stacking spaces per lane measured from the teller or pickup window.
Staff Comments: Seven stacking spaces have been illustrated on the site plan. (See Exhibits 6, 7)
 - 2. Size of stacking spaces shall be a minimum of 180 sq. Ft.
Staff Comments: The minimum width of the drive through lane marking is 10' and the vehicle is depicted at an 18' length. (See Exhibits 6, 7)
 - 3. Stacking spaces shall not impede on or off site traffic movements or movements in or out of off street parking spaces.
Staff Comments: The stacking spaces are not impeding parking or most traffic movements. The only movement impacted is the emptying of the dumpster. (See Exhibits 6, 7, 10)
 - 4. Stacking spaces shall be separated from other internal driveways by surface marking or raised medians.

Staff Comments: The stacking lane is proposed to be marked.
(See Exhibits 6, 7)

5. Stacking spaces shall be designed so that vehicles do not obstruct a driveway, fire access lane, walk way or public road right-of-way.

Staff Comments: The stacking spaces doesn't obstruct the former.

6. Stacking space requirements shall be in addition to the off street parking space requirements.

Staff Comments: The stacking spaces are not counted toward the minimum number of parking spaces required for the site. (See Exhibits 3B, 5, 6, 7)

(f) the shape, size and floor area of all existing structures;

Staff Comments: The drawings depict the location of the existing building and canopy that have will be removed in order for the new building and canopy to be established. (See Exhibits 3B, 5, 9)

(g) front, rear and side elevations of each proposed structure or for proposals consisting of multiple similar structures, typical elevations with sufficient detail to establish the concept presented:

Staff Comments: Zoning permit 9290 was issued for the gas station/convenience store. At the time of issuance, the agent for the applicant and the owner declared that they would be pursuing a conditional use permit for the drive through facility. The permit was issued with the understanding that if a CUP was not issued, the pickup window wouldn't be built. (See Exhibits 3A-B)

(h) existing vegetation and tree coverage along with the location, dimensions and other relevant data for all proposed landscaping, fences, walls or similar structures;

Staff Comments: The site doesn't have any existing vegetation that could serve as credit for the site. Zoning permit 9290 was issued for the gas station/convenience store. At the time of issuance, the applicant submitted a landscape plan that met the expectations of the streetscape and parking lot buffer requirements. (See Exhibits 3B, 5, 6, 7, 9)

(i) any additional information that may be deemed necessary for a complete review of the proposed conditional use.

Staff Comments: See dumpster diagram for an understanding of how the gates would open adjacent to the stacking lanes. (See Exhibits 3B, 5, 6, 7, 10, 14A-E)

Completeness of the Standards for Conditional Use Permits Items:

A. The proposed use shall mitigate the impact of noise generated by the use:

Applicant states: "Visual screens are already included in the previously submitted site plan. The drive up window will not create additional traffic flow, however will merely promote convenience." (See Exhibits 3B, 5, 6, 7)

B. The proposed use shall mitigate the impact of light pollution generated by the use:

Applicant states: "Visual screens/Site fencing." (See Exhibits 3B, 5, 6, 7)

Other issues to consider:

- Per the site plan, an existing fence is identified along the northern boundary of the property. This fence is a chain link security fence. Staff is unsure what other visual screens and site fencing is being referenced. (See Exhibits 3B, 5, 6, 7, 14A-E)
- Zoning permit 9290 was issued for the gas station/convenience store. At the time of issuance, the applicant submitted a lighting plan that met the expectations of the zoning resolution. (See Exhibit 11)

C. The proposed building materials shall be compatible to the existing structures on the property and blend into the context of the neighborhood:

Applicant states: "The proposed use is included inside the already permitted structure." (See Exhibits 4A-E)

Other issues to consider:

- Zoning permit 9290 was issued for the gas station/convenience store. The building will be constructed with brick veneer and a fiberglass shingles. (See Exhibits 4A-E)
- The western boundary is coincident with State Route 741. On the western side of State Route 741 the properties are zoned commercial (B-1 & B-2) as well as Residence zone R-1. The properties to the north and east are zoned commercial (B-1). The properties to the south are zoned commercial (B-1 & B-2). (See Location Map, 14A-E)

D. The proposed uses shall be physically suitable for the parcel on which it is proposed:

Applicant states: "The site plan already allows for this drive up window." (See Exhibits 3B, 5, 6, 7)

Other issues to consider:

- See building elevations regarding the location of the drive through facility. (See Exhibits 4A-E)
- Drive Through Facility (Pick Up Window) is:
 - Approximately 100' from the northern property line
 - Approximately 60' from the western property line
 - Approximately 115' from the road right of way (southern property line)
 - Approximately 70' from the eastern property line
 - See Exhibits 3B, 5, 6, 7

E. The proposed use shall be of a size and/or number of structures that may be completed in a reasonable time:

Applicant states: "As seen on attached site plan." (See Exhibits 3B, 5, 6, 7)

Other issues to consider:

- Zoning permit 9290 was issued for the gas station/convenience store on June 23, 2017. The applicant has until June 23, 2018 to establish the store on the site. (See Exhibits 3A-B)
- A timeline other than the one year zoning permit timeline has not been specified.
- At a minimum the BZA will need to determine if Section 21.01 (F)(5) will be applied or if an extension needs to be granted beyond the specified timeline. Section 21.01(F) (5) Conditional use permits shall expire after twelve (12) months from the date of approval if in the opinion of the Zoning Inspector the proposed project has not been substantially initiated. Projects substantially initiated shall be completed within the time period approved as a part of the conditional use permit, provided the Zoning Inspector may, at his discretion, extend the time for completion for not more than six (6) months.

F. The proposed use shall locate structures in an area that limits the impact to adjoining properties:

Applicant states: "Yes."

Other issues to consider:

- This property was issued a variance for the location of the gas canopy in 2017 via case 17-BZA-004. (See Exhibits 2A-B)

G. The proposed use shall locate outdoor gathering places in an area that limits the impact to adjoining properties:

Applicant states: "The drive up window is on the street side of the proposed building/structure."

Other issues to consider:

- See Exhibits 6 and 7 to see the illustrated path a vehicle would use to access the drive through facility.

H. Buffer space, plantings and mounding shall be used on the periphery of the proposed use or property to maximize compatibility with adjoining properties:

Applicant states: "Yes."

Other issues to consider:

- The site doesn't have any existing vegetation that could serve as credit for the site. Zoning permit 9290 was issued for the gas station/convenience store. At the time of issuance, the applicant submitted a landscape plan that met the expectations of the streetscape and parking lot buffer requirements. (See Exhibits 3B, 5, 6, 7)

- I. When a proposed use includes common or jointly owned space an owners association or similar organization shall be formed with the authority and responsibility to maintain and manage such common or jointly owned space in perpetuity:**

Applicant states: "N/A."

- J. The proposed use shall be supported by adequate public infrastructure and/or services. The proposed use shall not adversely affect public infrastructure and/or public services to the surrounding area or conditions shall be established to mitigate adverse impacts on such written comments from the following departments as applicable: Clearcreek Township Fire District, Clearcreek Township Police Department, Ohio Environmental Protection Agency, Ohio Department of Transportation, Warren County Auditor, Warren County Building Department, Warren County Engineer's Office, Warren County Health Department, Warren County Soil and Water Conservation District, Warren County Water Department:**

Applicant states: "N/A The site plan has already been approved by Clearcreek and Warren County."

Other issues to consider:

- The CUP is for the drive through facility only. The structures have already received zoning approval for location and use. (See Exhibits 3A-B)
- Staff met with the Clearcreek Township Police Department and no issues were noted with the proposed site layout and drive through facility.
- Staff sent a copy of the site plan to the Clearcreek Fire District. The Clearcreek Fire District has no issues with the site plan or drive through facility. (See Exhibit 12)
- Staff sent a copy of the site plan to ODOT. At the time of his email Tom Makris had not reviewed the request. (See Exhibit 13)

- K. The proposed use shall provide for access by public emergency equipment such as: fire, ambulance and police vehicles:**

Applicant states: "Yes."

Other issues to consider:

See "J" above.

- L. The proposed use shall provide for adequate pedestrian circulation, vehicle traffic movement and off-street parking:**

Applicant states: "Yes."

Other issues to consider:

- The site plan identifies 24 parking spaces. (See Exhibits 3B, 5, 6, 7)
- The stacking lane can accommodate 7 vehicles. (See Exhibits 6, 7)

- The dumpster is accessed through the eastern access to the drive through facility. There would be a conflict only during the dumpster pick up times. (See Exhibits 3B, 5, 6, 7)
- Staff photos 14A-E have been provided to help understand the site plan.

M. If the proposed conditional use will generate estimated off-site traffic in excess of the estimated off-site traffic generated by the most intensive by-right permitted use for the class of zone, off-site road improvements or fees for off-site road improvements shall be required to accommodate the excess traffic attributed to the proposed use of the property, based on a traffic engineering study. (Examples of off-site road improvements shall include but are not limited to: turn lanes, deceleration lanes, pavement widening and traffic control devices.):

Applicant states: "N/A"