

GENERAL INFORMATION

Applicant: Falafel King, Inc. (User)
SCL Holdings – The Point, LLC (Owner)

Location: 3800 West Old Shakopee Road (3806 Tenant Address)

Request: Conditional Use Permit for a 32-seat restaurant in an existing shopping center

Existing Land Use and Zoning: Vacant restaurant in existing retail shopping center; zoned Neighborhood Commercial Center (B-4)

Surrounding Land Use and Zoning: North – Single-family dwellings; zoned R-1
South – Retail; zoned B-2(PD) and B-4(PD)
East – Single-family dwelling; zoned R-1 and B-1
West – Retail; zoned B-4 and B-2(PD)

Comprehensive Plan Designation: General Business

HISTORY

City Council Action: 01/03/2006 – Approved Rezoning, Preliminary Development Plan and Final Development Plan for a retail and office development (Case #10713ABC-05)

01/14/2008 – Approved a Conditional Use Permit for a 35-seat restaurant (Case #10713E-07)

CHRONOLOGY

Planning Commission 11/16/2017 - Public Hearing Scheduled

PROPOSAL

Falafel King, Inc. proposes a 32-seat Mediterranean restaurant located at 3800 West Old Shakopee Road within The Point retail development. The restaurant, Falafel King, would occupy a tenant space previously occupied by a 35-seat restaurant, Nick-N-Willy’s Pizza. The previous tenant obtained a Conditional Use Permit in 2008. The tenant space has been vacant for more than a year. As a result, a new Conditional Use Permit for a restaurant in the B-4 zoning district must be approved. The tenant space is approximately 1,600 square feet in size and is located on the east end of an approximately 8,000 square foot retail building.

The proposed restaurant improvements are minor. The space will be painted and furnished according to the new restaurant theme and menu. The restaurant floor area will remain relatively unchanged. A limited amount of new kitchen equipment is proposed. The largest change proposed is to install an odor control air scrubber system on the roof of the building.

ANALYSIS

The Point development was approved in 2006. As part of the approval, maximum areas for restaurant, retail and office space were established in order to ensure adequate parking was provided. The Conditional Use Permit (CUP) for the previous restaurant, Nick-N-Willy's Pizza, was approved in 2008, occupying the subject tenant space. Nick-N-Willy's, containing 35 seats, was the third restaurant approved in The Point. The previous CUP is no longer valid, as the space has been vacant for more than a year.

City Code requires 13 customer parking spaces based on the proposed seating count (32 seats). The previous restaurant (35 seats) required 14 customer parking stalls be dedicated to the use. The proposed restaurant represents a decrease in the required quantity of parking. Adequate parking levels have been provided through the construction of The Point development. It has previously been reported to the City that there have been shortages of convenient parking during periods of peak demand. However, the proposed restaurant would represent an overall decrease of Code required parking by one space and be in compliance with the approved Final Development Plan. The site is currently in conformance with the lighting and landscape plans that were approved with The Point development.

In terms of building design, the subject tenant space faces West Old Shakopee Road, with a large portion of the façade being comprised of windows. In the B-4 zoning district, no more than 25% of windows facing public streets may be obscured by signs, product displays or similar coverings. Continued compliance with this structure design performance standard (Sec. 21.301.03) is required.

Regarding other requirements pertaining to restaurants, the applicant must have all proposed equipment approved by the Environmental Health Division prior to the issuance of building permits for the site. The applicant is required to utilize existing indoor trash facilities dedicated to commercial uses within the building in order to comply with the City's refuse requirements (Sec. 19.51 of the City Code). Finally, due to the proximity of residential dwelling to the east, the applicant must provide odor control devices that will treat the odor emissions of the restaurant. It should be noted that City Code requires that roof-mounted equipment be screened according to Section 19.52.01 of the City Code. Recommended conditions are attached to the staff report in order to address the requirements for restaurants.

Traffic Analysis

No significant impacts to the adjacent traffic patterns due to this conditional use permit application have been identified.

Utilities

The applicant must install a point-source grease interceptor to capture wastes containing fats, wax, grease, or oils. The restaurant must comply with Section 11.31 of the City Code with respect to the discharge of grease to public sanitary sewers.

Fire Preventions and Public Safety

The applicant is currently working with the Fire Prevention Division to design a fire protection system that is adequate for the new restaurant equipment and odor control system. Prior to the issuance of the Certificate of Occupancy, the life safety requirements must be reviewed and approved by the Fire Marshal. Staff has include a condition stating as such.

Status of Enforcement Orders

The subject property is not subject to any open enforcement orders.

FINDINGS

Required Conditional Use Permit Findings - Section 21.501.04(e)(1)-(5)

Required Finding	Finding Outcome/Discussion
(1) The proposed use is not in conflict with the Comprehensive Plan.	Finding Made – The site is guided General Business. The proposed restaurant use in the retail shopping center is not in conflict with the Comprehensive Plan.
(2) The proposed use is not in conflict with any adopted District Plan for the area.	Finding Made – The subject property is not located within an area with an adopted District Plan.
(3) The proposed use is not in conflict with City Code provisions.	Finding Made – The proposed restaurant use in a retail shopping center is not in conflict with any Code provisions, subject to compliance with the proposed conditions of approval.
(4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding Made – The proposed restaurant use in a retail shopping center would not create a greater demand on parks, schools, streets or other public facilities or utilities serving the property.
(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	Finding Made – With adherence to the recommended conditions of approval, the proposed restaurant use in a retail shopping center will not create a situation which would be injurious to the surrounding neighborhood or otherwise harm public health, safety and welfare.

RECOMMENDATION

Note the Planning Commission has final approval authority on this Conditional Use Permit application unless an appeal to the City Council is received by 4:30 p.m. on November 21st.

Staff recommends the following motion:

In Case PL2017-222, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit for a 32-seat restaurant in an existing retail shopping center located at 3800 West Old Shakopee Road, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL201700222

Project Description: Conditional Use Permit for a 32-seat restaurant in an existing shopping center.

Address: 3800 West Old Shakopee Road

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit A building permit for all required changes to accommodate the proposed use be obtained.
2. Prior to Permit Food service plans must be approved by the Environmental Health Division (City Code Sec. 14.360).
3. Prior to Permit An odor control system meeting the approval of the Environmental Health Division must be provided.
4. Prior to Permit Sewer Availability Charges (SAC) must be satisfied, if necessary.
5. Prior to Permit Bicycle parking must be documented and provided throughout the site as approved by the City Engineer.
6. Prior to C/O Prior to occupancy, life safety requirements must be reviewed and approved by the Fire Marshal.
7. Prior to C/O A point-source grease interceptor must be installed. Ongoing compliance with Section 11.31 of the City Code is required.
8. Ongoing The Conditional Use Permit is limited to a 32-seat restaurant as approved in Case File #PL201700222.
9. Ongoing All rooftop equipment must be fully screened (Sec. 19.52.01).
10. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
11. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan (USD #144).
12. Ongoing Along public streets, no more than 25 percent of the total window area and no more than 25 percent of linear eye-level window width may be obscured by signs, product displays or similar covering. (Section 21.301.03(a)(4))
13. Ongoing Development must comply with the Minnesota State Accessibility Code.
14. Ongoing All construction related loading, unloading, drop-off, pick-up, staging and parking must occur on-site and off public streets.