

## GENERAL INFORMATION

Applicant: Osborne Properties (Owner)

Location: 10520 France Avenue

Request: Conditional Use Permit for a drive-through restaurant with outdoor seating

Existing Land Use and Zoning: Valley West Shopping Center; zoned B-2(PD)

Surrounding Land Use and Zoning: North – Railroad and retail; zoned B-2  
East – Retail and single family residential; zoned B-4(PD) and R-1  
South – Multiple family residential, financial institution and retail; zoned R-4, B-2 and B-4 (PD)  
West – Offices; zoned B-2 (PD)

Comprehensive Plan Designation: Community Commercial

## CHRONOLOGY

Planning Commission 11/19/2020 – Public hearing scheduled

## DEADLINE FOR AGENCY ACTION

Application Date: 10/09/2020  
60 Days: 12/08/2020  
120 Days: 02/06/2021  
**Applicable Deadline: 12/8/2020**  
Newspaper Notification: Confirmed (11/05/2020 Sun Current – 10 day notice)  
Direct Mail Notification: Confirmed (500-foot buffer – 10 day notice)

## STAFF CONTACT

Nick Johnson, Planner  
Phone: (952) 563-8925  
E-mail: [nmjohnson@bloomingtonmn.gov](mailto:nmjohnson@bloomingtonmn.gov)

## PROPOSAL

The applicant proposes a drive through coffee shop/restaurant (Dunkin Donuts) with outdoor seating. The drive-through would be located along the west side of a newly renovated three to five tenant structure located within the existing Valley West retail shopping center. The 12 seat outdoor dining area would be located at the southwest corner of the renovated building. The renovated space was recently occupied by Planet Fitness, which relocated to a larger tenant space in the shopping center (see Case #PL2019-60 for health club CUP). The majority of the newly created tenant spaces would face southward towards a newly created surface parking lot and West Old Shakopee Road. The Goodyear auto repair tenant space on the south end of the shopping center was recently demolished through a valid demolition permit. In total, 8,128 square feet of building floor area is being removed from the existing shopping center.

## ANALYSIS

A restaurant is a permitted use in the B-2 zoning district. However, if a restaurant requests outdoor seating or a drive through, a Conditional Use Permit is required to ensure compliance with the City's performance standards for such uses and assess the proposed locations and potential impacts on adjacent properties. As a result, the subject review is solely focused on the drive-through and outdoor seating area. Should the Planning Commission approve the Conditional Use Permit, Final Development Plans must be reviewed by the Planning Manager to accommodate the proposed drive-through and parking lot changes shown in the submitted site plan.

### Code Compliance

Performance standards for drive-throughs and outdoor seating areas are found in Sections 21.301.05 and 21.302.19 of the City Code. In addition to those standards, compliance with general performance standards such as off-street parking is also required, as new use designations are subject to minimum parking and stacking requirements. Other specific Zoning Code performance standards are also noted to evaluate the overall compliance of the development plans submitted with the Conditional Use Permit application. Formal review of the site and other plans would be completed in conjunction with the administrative review of Final Development Plans, which would involve only parking lot, drive-through and landscaping improvements. Table 1 provides an analysis of City Code compliance.

**Table 1 – City Code Compliance Analysis**

| Standard and Code Section                                 | Proposed            | Meets Standard? |
|-----------------------------------------------------------|---------------------|-----------------|
| Minimum Site Area – 25,000 sq. ft.<br>(Sec. 21.301.01(d)) | 817,719 square feet | Yes             |

| Standard and Code Section                                                                                                                               | Proposed                                                     | Meets Standard? |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-----------------|
| <b>Minimum Site Width</b> – 100 feet<br>(Sec. 21.301.01(d))                                                                                             | 610 feet                                                     | Yes             |
| <b>Minimum Drive-Through Stacking</b><br>Six spaces (Sec. 21.301.05(a))                                                                                 | Seven                                                        | Yes             |
| <b>Minimum Stacking Space Dimensions</b><br>10 feet x 20 feet (Sec. 21.301.05(b))                                                                       | 10 feet x 20 feet                                            | Yes             |
| <b>Drive-Through Design</b> – Each lane must be clearly defined to not conflict with vehicular and pedestrian traffic<br>(Sec. 21.301.05(c))            | Drive-through lane separated by curbed and landscaped island | Yes             |
| <b>Outdoor Dining Setbacks</b><br>Front – 20 feet<br>Side – 10 feet<br>(Sec 21.302.19(d)(1))                                                            | Front – 147 feet<br>Side – 100 feet                          | Yes             |
| <b>Outdoor Dining Vehicle Barriers</b><br>Outdoor dining areas adjacent to parking or driving areas must have protective barriers (Sec 21.302.19(d)(5)) | Patio wall barrier provided                                  | Yes             |
| <b>Minimum Trash and Recycling Storage</b> – 65 square feet w/minimum finish requirements for food uses (for full renovated space) (Sec. 21.301.17)     | 280 square feet                                              | Yes             |

### **Building and Drive-Through Design**

Modifications to the exterior of the renovated building will be limited to adding a drive-through to the western building elevation, as well as new storefront elevations and materials to the southern and eastern elevations. Any changes to the building's exterior materials would be reviewed administratively as part of a Minor Revision to Final Development Plans application that would follow the CUP application. Exterior building materials must comply with Section 19.63.08(c) of the City Code.

The proposed coffee shop floor plan includes 20 indoor seats, including lounge seating. A trash and recycling room is provided in the northern portion of the coffee shop space, with a common hallway to other tenant spaces. A retail use and another restaurant are shown in other unoccupied tenant spaces for project uses, both are permitted uses in the B-2 zoning district. The applicant could obtain building permits for those spaces at any time, with a parking analysis being completed at the time of permit review. For the purposes of parking analysis, as well as for trash and recycling storage requirements, it is assumed that the full 11,144 square feet remaining outside of the

proposed drive-through coffee shop would be a retail use, as the future occupancies are currently undetermined. The proposed parking supply would also be able to accommodate a future restaurant, as shown in the prospective future floor plan. The trash and recycling room finish schedule is not currently known, which would be reviewed prior to the issuance of a building permit for internal improvements.

As noted in Table 1, the proposed drive-through and outdoor seating area comply with all of the required performance standards for such uses. The drive-through lane has the minimum required stacking spaces and does not conflict with nearby vehicular or pedestrian traffic. The drive-through is located far enough away from adjacent residential uses to not be subject to hours of operation restrictions or screening requirements. The outdoor dining area meets all minimum setback requirements and has the necessary vehicular barriers for safety purposes. Additional information about the height of the patio wall would be reviewed as part of the Final Development Plans review.

### **Access, Circulation, and Parking**

Access to the Valley West shopping center is not proposed to change. Site circulation would be reviewed in greater detail through the administrative review of Final Site and Building Plans. However, upon cursory review, the proposed drive aisles to the south and west of the subject tenant space meet minimum dimensional requirements for 90-degree parking areas. A ladder truck turning exhibit was also provided, demonstrating compliance with emergency vehicle access requirements.

The proposed site work associated with a future Final Development Plans application includes removing 25 parking spaces west of the subject tenant space. The proposed site plan would include 46 new parking spaces, representing a net increase of 21 parking stalls. Tables 2 and 3 provide an overview of the parking compliance analysis associated with the proposed change in uses.

According to City Code, the existing or previous uses, health club and auto repair, required a parking supply of 85 parking stalls. The future or proposed condition, reflecting building area reduction and use changes to restaurant and retail, would require 56 parking spaces. The proposed condition requires 29 fewer parking stalls than the existing or previous condition. Given that the parking supply is proposed to be increased by 21 net parking stalls, and the parking requirement would decrease by 29 parking stalls, the proposed parking supply exceeds the City Code requirement. If there are any additional or future changes in use at the shopping center, the surplus parking supply may be useful in accommodating future tenants or uses that would include a higher parking demand or requirement than standard retail uses.

**Table 2 – Previous/Existing Condition Parking Analysis**

| Use                                                    | Standard                                                                           | Unit/Area                                             | Spaces Required |
|--------------------------------------------------------|------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------|
| Health Club                                            | One space per 250 sq. ft.                                                          | 13,014 sq. ft.                                        | 52.1            |
| Auto Repair (Minor)                                    | Two spaces per repair bay and one space per 300 square feet outside of repair bays | 8 repair bays<br>4,909 sq. ft. outside of repair bays | 32.4            |
| <b>Previous/Existing Condition Parking Requirement</b> |                                                                                    |                                                       | <b>85</b>       |

**Table 3 – Future/Proposed Condition Parking Analysis**

| Use                                                  | Standard                                                                                                                                    | Unit/Area                           | Spaces Required |
|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------------|
| Restaurant                                           | One space per three indoor seats and one spaces per five outdoor seats (with one space per two outdoor seats exceeding 20% of indoor seats) | 20 indoor seats<br>12 outdoor seats | 11              |
| Retail<br>(Maximum Area)                             | One spaces per 250 sq. ft.<br>(Based on Valley West parking requirement)                                                                    | 11,144 sq. ft.                      | 44.6            |
| <b>Future/Proposed Condition Parking Requirement</b> |                                                                                                                                             |                                     | <b>56</b>       |

**Landscaping, Screening and Lighting**

The total proposed site disturbance associated with the project would be 36,875 square feet. The existing shopping center is legally nonconforming for landscaping quantities. City Code requires that landscaping be provided based upon the site disturbance proposed at a rate of one tree per 2,500 square feet and one shrub per 1,000 square feet. As a result, 17 trees and 37 shrubs must be provided. The application includes a landscape plan adding 17 trees and 38 shrubs, thereby demonstrating compliance with the minimum quantity required by City Code. Trees are proposed within and adjacent to all newly created parking lot islands. The final review of the landscaping plan would be completed as part of the associated administrative Final Development Plans review.

As noted in the staff report's Code compliance section, drive-throughs must be screened to residential uses when located within 300 feet. The closest residentially used property to the proposed drive-through is 314 feet away (to the south) from the closest point of contact. As a result, the screening requirement is not applicable in this case.

All newly created parking spaces and building entrances are required to have exterior lighting that complies with Section 21.301.07 of the City Code. The formal review of a lighting plan would occur as part of any action on administrative Final Development Plans. Staff has not reviewed a photometric lighting plan yet as part of this case.

### **Stormwater Management**

Stormwater will be managed to meet the City's and Watershed District's requirements for stormwater rate control (quantity), stormwater quality and volume. The Stormwater Management plan calculations and narrative have been reviewed and appear to meet the City of Bloomington Comprehensive Surface Water Management Plan requirements. The formal review and approval of a stormwater management plan would occur as part of the Final Development Plans application. A maintenance plan would need to be provided, signed and filed at Hennepin County. The property is located in the Nine Mile Creek Watershed District Permit. Prior to any site construction or issuance of permits, the applicant must obtain a watershed district permit and submit a copy to Engineering depending on the scope of work included in the applicable permit.

### **Utilities**

New storm sewer and watermain taps and installs are proposed in the submitted development plans. The formal review of the utility upgrades would be performed as part of the administrative Final Development Plans review. The utility plans would need to be approved by the City Engineer prior to grading or other permit issuance. The applicant is responsible to obtain a Sewer Access Charge (SAC) Determination from the Metropolitan Council prior to the issuance of an internal building permits. Exterior grease interceptor must be provided for food uses, as reflected in the conditions of approval.

### **Traffic Analysis**

No significant impacts to the adjacent traffic patterns due to this building addition have been identified. The estimated trips per day being added by the Dunkin Donuts drive-through are considered suitable for this site. Any increased stacking would extend north along the shopping center and not restrict primary traffic flows. Formal review of the signing and striping plan for site circulation would be performed as part of the administrative Final Development Plans review. The plan would need to be approved by the City Engineer prior to permit issuance.

### **Fire Prevention and Public Safety**

Emergency vehicle access and circulation must be maintained throughout the shopping center. The access road shall be maintained in accordance to the approved plan including a surface to provide all weather driving capabilities. Apparatus access roads shall be asphalt or concrete and support a minimum of 80,000 pounds.

The proposed drive-through will likely impede access to the existing fire department connection (FDC) currently located on the west side of the existing building. Unobstructed access shall be maintained to the FDC, or it must be relocated to an accessible location. Any proposed relocation of hydrants or FDCs shall be approved by the Utility and Fire Prevention Divisions. Knox boxes are required at the main entrances and other areas as designated by the Fire Prevention Division. Provide for emergency responder radio coverage throughout the complex and in all structures per the requirements of Appendix L in the 2015 Minnesota State Fire Code.

Any changes made to the current plans, including building location, access roads, water supply and addressing, shall be reviewed by the Fire Marshal to ensure continued compliance with the Fire Code.

### **Public Correspondence**

The City has not received any correspondence from the public in this case as of the publication date of the Planning Commission agenda packet.

## **FINDINGS**

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

| <b>Required Finding</b>                                                              | <b>Finding Outcome/Discussion</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) The proposed use is not in conflict with the Comprehensive Plan.                 | <b>Finding Made</b> – The site is guided Community Commercial in the Comprehensive Plan. Community Commercial allows general business activities, larger scale service and retail uses that require larger parcels such as supermarkets and restaurants. This designation excludes regionally oriented retail and services uses that demand easy access from the freeway system but is an appropriate designation when adjacent to arterial or collector streets. A drive-through restaurant or coffee shop with outdoor seating is not in conflict with the guidance of the Comprehensive Plan. |
| (2) The proposed use is not in conflict with any adopted District Plan for the area. | <b>Finding Made</b> – The site is not located in an area subject to a District Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (3) The proposed use is not in conflict with City Code provisions.                   | <b>Finding Made</b> – The application includes development plans that are not in conflict with City Code provisions. Subject to recommended conditions of approval and the future review of formal Final Development Plans, the proposed use is not in conflict with the City Code.                                                                                                                                                                                                                                                                                                              |

| Required Finding                                                                                                                                                                             | Finding Outcome/Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (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. | <b>Finding Made</b> –The retail shopping center is directly served by two arterial roadways. Existing access to the site is proposed to remain unchanged. To protect the City’s sanitary sewer system, the restaurant must install an external grease interceptor should the cooking equipment necessitate such intervention. The proposed use is not anticipated to create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve the planned development. |
| (5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.                                                          | <b>Finding Made</b> – The proposed drive-through restaurant with outdoor seating is not located close enough to residential uses to necessitate screening or other operational restrictions. A coffee shop is a typical use in a retail shopping center. The proposed use is not anticipated to be injurious to the surrounding neighborhood or otherwise harm the 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 24<sup>th</sup>.**

Staff recommends approval through the following motion:

In Case #PL2020-190, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit for a drive-through restaurant with outdoor seating located at 10520 France Avenue South, subject to the conditions and Code requirements listed in the resolution.