



410 East 5th Street
Loveland, Colorado
970.962.2523

FINAL FINDINGS REPORT

Burger King Special Review #941 (PZ #17-00218)

July 13, 2018

TITLE: Burger King – Special Review #936 (PZ #17-00218)

LOCATION: Southeast of the intersection of Hwy 287 and E. 57th Street. See the enclosed “project vicinity map”.

APPLICANT: Diana Ocegüera, (720) 415-0160

STAFF CONTACT: Jennifer Hewett-Apperson, Current Planning
Melissa Morin, Water/Wastewater
Suzette Schaff, Stormwater
Mark Warner, Power
Randy Maizland, Transportation Dev. Review
Ingrid McMillan-Ernst, Fire

APPLICATION TYPE: Special Review #941

STAFF RECOMMENDATION: Staff recommends that the Current Planning Manager approve a Type 2 Zoning Permit for Burger King, subject to the conditions listed in this report dated July 13, 2018.

I. ATTACHMENTS

1. Vicinity Map
2. Site Plan

II. SITE DATA

Acreage of Site 1.201 acres (52,316 square feet)
Total Parking for Site – 47 parking spaces (surface parking)
Landscaped area – 14,517 square feet (27.76% of site)

III. PROJECT DESCRIPTION

Proposal is to construct a 3,475 square foot fast food restaurant with drive through service. This site is part of the Drake Loveland Commons commercial development that is subject to an approved Conceptual Master Plan. Vehicle access will be via internal driveways off of Hwy 287 and E. 57th St. Site improvements include paving for drive aisle and parking, utility connections and landscaping. The property is zoned B – Developing Business District. Restaurants with drive through service are permitted only through approval of a Special Review. The Special Review includes review of a site plan by the City for conformance to all applicable standards, input from surrounding property owners and findings of compatibility within the neighborhood.

IV. KEY ISSUES

There are no key issues regarding the Burger King – Special Review #941 from City staff, nor have any concerns been raised by nearby property owners.

V. BACKGROUND

The zoning on the property is B – Developing Business District. Restaurants with drive through service are permitted through approval of a special review. The Development Review Team (DRT) has conducted three (3) reviews of the special review plans and is currently awaiting submittal of Final Documents with technical corrections. Minor technical corrections are needed that did not impact the City's ability to begin the process of issuing findings and comment/appeal.

VI. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

A. Notification

An affidavit was received from Diana Ocegüera, which certifies that the surrounding property owners within 600 feet of the property were notified on June 6, 2018, of a neighborhood meeting to be held on June 21, 2018.

B. Neighborhood Response

A neighborhood meeting was held on **June 21, 2018**, regarding this project. One neighbor attended who had questions about site access, but no objections to the project.

C. Project Schedule

1. Type 2 Special Review #941 was filed with the Current Planning Department on **November 7, 2017**.
2. A neighborhood meeting was held on **June 21, 2018**, at 5:30 p.m. in the Development Center (410 E. Fifth Street).
3. The staff preliminary findings and determination was made on **July 2, 2018**.
4. The public review period for the staff preliminary findings and determinations is from **July 3, 2018** to **July 12, 2018**. The Final Findings will be issued on **July 13, 2018**.
5. The appeal period for the Type 2 Zoning Permit for Special Review #941 is from **July 14, 2018** to **July 23, 2018**.
6. The Type 2 Zoning Permit for Special Review #941 will be issued on **July 24, 2018** (providing no appeal(s) is/are filed and final plans prepared).

II. FINDINGS AND ANALYSIS

Finding 1. That the proposed special review use meets the purposes set forth in Section 18.04.010 of the Loveland Municipal Code.

The special review meets the purposes of Section 18.04.010 of the Loveland Municipal Code in that it is designed to adhere to the zoning regulations and districts established in Title 18 and more particularly those for the B district including but not limited to providing adequate facilities (i.e. transportation, water, sewer, power, etc.), appropriate use of land, and keeping with the character of the land.

Finding 2. That the effects of the proposed special review use on the surrounding neighborhood and the public in general will be ameliorated.

The proposed special review is such that it will not significantly change the way the property is currently being used therefore ameliorating any negative effects on surrounding neighborhoods and the public in general. The subject property is located along an emerging commercial corridor in north Loveland and the proposed use is consistent with existing uses along Hwy 287 and will be sufficiently buffered from nearby residential properties via stormwater management facilities, landscaping and drive aisles. More traffic will be generated as a result, however adequate levels of service are being met and proper access circulation will be established both entering and existing the site.

Finding 3. That in assessing the potential effects of the proposed special review use, at a minimum, the following matters have been considered:

3a. Type, size, amount, and placement of landscaping;

The proposed development contains landscaping that is consistent with City of Loveland standards.

3b. Height, size, placement, and number of signs;

This proposal is subject to a Planned Sign Program for Drake Loveland Commons approved by the City of Loveland on December 19, 2016.

3c. Use, location, number, height, size, architectural design, materials, and colors of buildings;

The proposed building will be consistent with the commercial and industrial architectural standards established in the Municipal Code as well as the guidelines established by the approved Conceptual Master Plan.

3d. Configuration and placement of vehicular and pedestrian access and circulation;

The proposed special review improves circulation by establishing defined areas for parking and tying into common access points for the larger development.

3e. Amount and configuration of parking;

47 parking spaces are provided on site, which is in excess of the required 23 spaces. The excess parking spaces are mitigated with additional shade trees on site, as is required by the Municipal Code.

3f. Amount, placement, and intensity of lighting;

Exterior lighting would comply with the City's lighting standards.

3g. Hours of operation;

The hours of operation for Burger King will be Monday – Sunday, 6:00 am – 12:00 am.

3h. Emissions of noise, dust, fumes, glare, and other pollutants.

Glare from the site lighting will be managed through the use of full cut off lighting fixtures. A photometric plan was submitted as part of this application that demonstrates compliance with City of Loveland lighting standards.

The proposed use is not typically associated with noise or other pollutants.

Finding 4. The special review site plan conforms to the restrictions and regulations set forth in the Loveland Municipal Code for the zoning district in which the special review use is located.

The special review site plan conforms to the Loveland Municipal Code, Chapter 18.16.

Finding 5. The special review site plan meets the requirements set forth in Section 16.41 - Adequate Community Services - of the Loveland Municipal Code.

The special review is in compliance with the Adequate Community Service requirements.

VIII. CONDITIONS OF APPROVAL

Planning - Review:

1. Before issuance of a Certificate of Occupancy by the City, the Developer shall install all paving, striping and signage for the parking lot and circulation lanes, as shown on the approved plans, unless financial security is filed by the Developer with the City to assure installation at a later date acceptable to the City.
2. Before issuance of a Certificate of Occupancy by the City, the Developer shall install all landscape as shown on the approved landscape plans, unless financial security is filed by the Developer with the City to assure installation at a later date acceptable to the city. Any water tap fees or water meter activation fees for irrigation taps and meters shall be included in said financial security.
3. Before issuance of a Certificate of Occupancy by the City, the Developer shall install all other private improvements or amenities, such as private walks, fences, walls, etc. As shown on the approved plans, unless financial security is filed by the Developer with the city to assure installation at a later date acceptable to the City.
4. All exterior lighting shall comply with the lighting plans approved as part of the site development plan. All exterior lighting shall be designed, installed and maintained in a manner that assures that no direct light or glare is visible beyond the property lines. Existing lighting that is not being altered with this application shall be exempt from this requirement.
5. All external HVAC and other external mechanical equipment related to the use(s) on the property shall be fully screened from view as seen from all adjacent public streets. Noise emanating from such equipment may not exceed the levels allowed by Chapter 7.32 of the Municipal Code. Existing HVAC equipment that is not being altered with this application shall be exempt from the screening portion of this requirement.
6. Approval of this plan does not grant or imply approval of any signs. All signs must meet the applicable sections of the City Sign Code. No signs may be installed or altered unless first approved by the City by issuance of a Sign Permit Application.
7. The exterior of all roof-mounted HVAC equipment visible to public streets on all sides must be painted a color that will assure that it blend into the colors of the nearby roof and parapets.
8. No building permit for Burger King shall be issued until all of the Drake Loveland Commons Wagner Addition public improvements have been completed and accepted by the City PW Engineer Inspector.

PW-Transportation:

1. No building permit for Burger King shall be issued until all of the Drake Loveland Commons Wagner Addition public improvements have been completed and accepted by the City PW Engineering Inspector. All public improvements shall comply with the Larimer County Urban Area Street Standards (LCUASS) and CDOT standards on US 287.
2. The Developer agrees to acquire and dedicate, at no cost to the City, any rights-of-way necessary for the required street improvements associated with this development.
3. CDOT concurrence and a CDOT access permit must be obtained prior to City approval of the SDP and associated public improvement construction plans.
4. A variance is being granted for the full movement access on 57th Street as shown on the approved Public Improvement Construction Plans. The access will be restricted to a right-in/right-out only movement at such time the property to the east redevelops and a connection further east can be made meeting LCUASS access separation standards for a full movement access. The City maintains the ability to restrict the interim full movement access to a right-in/right-out if an unsafe conditions exists or a pattern of accidents develops at this access.
5. Prior to the issuance of any building permits, pursuant to the provisions in Section 16.40.010.b of the Loveland Municipal Code, the Developer shall design and construct the following public improvements unless already designed and constructed by others:
 - A) All curb, gutter, sidewalks, pavement widening, access driveways and turn lanes, signing and striping as shown on the city approved public improvement construction plans for Drake Loveland Commons, a replat of Lots 1 and 2, Wagner Addition.
 - B) A northbound right turn decal lane on US 287 into the three-quarter movement access.
6. City signed site development plans (including any associated public improvement construction plans), or the issuance of building permits, does not allow any construction within public street or alley rights-of-way or pedestrian easements. A separate City Development Construction Permit must be obtained by the Developer and/or his contractor at the City Project Engineering Office (and approved by Project Engineering) prior to any repair or construction of sidewalk, curb and gutter, driveway accesses, or any other construction in City street or alley rights-of-way or pedestrian easements, (this includes all items proposed in rights-of-way such as utility street cuts, sidewalk ramps, construction staging proposed in street, landscaping, traffic control, etc.). (Call 970-962-2510 to discuss details to obtain a Development Construction Permit).
7. Prior to the commencement of any construction activity that will involve any existing or proposed street signs or traffic control devices for or within public street rights-of-way (ROW), the Developer and/or his contractor shall contact the City Traffic Division at 970-962-2535 to coordinate the removal, relocation, installation, and/or proper storing of the sign(s) or traffic control device(s) and obtain a row work permit from the City Public Works Engineering Division to do such work. However, if the developer and/or his contractor removes or relocates any existing street sign(s) or traffic control device(s) for or within the public ROW without first obtaining a ROW work permit from the city public works division, then the contractor will be charged for the labor, materials, and equipment to reinstall the sign(s) or traffic control device(s) as deemed necessary by the City. The Developer and/or his contractor will also be charged to replace any existing street signs or traffic control devices that were damaged or blemished during any construction activity as deemed necessary by the City. The developer and/or his contractor may also be subject to additional fines as per the Loveland Municipal Code.
8. All trees, shrubs, and other plant materials located within clear sight triangles shall be trimmed in accordance with the requirements of Section 7 of the Larimer County Urban Area Street Standards (LCUASS). Under current LCUASS requirements, trees shall be limbed to a height of not less than

eight (8) feet and shrubs and other plant materials shall be maintained at a height of not more than thirty (30) inches, and said maintenance shall be conducted in perpetuity. Trees are also required to be kept limbed up a minimum of 8' above all street sidewalks.

Attachment 1: Vicinity Map



Attachment 2: Site Plan

