

July 3, 2024

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Via E-mail and U.S. Mail

Longmont City Clerk
City Staff
350 Kimbark St.
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RE: Appeal Hearing Requested: McDonald's at Sandstone Marketplace Conditional Use Site Plan PZR - 2024 - 3C

Dear City Staff Members:

On behalf of Kimley-Horn and Associates, Inc. as applicant, we hereby request an appeal hearing for Case No. PZR – 2024 - 3C, also known as the McDonald's at Sandstone Marketplace Conditional Use Site Plan (the "**Applicant**"). The Applicant submitted an application for a Conditional Use Site Improvement Plan for a new 4,517 square feet McDonald's Drive-Thru located on Lot 6, Block 1 of the Sandstone Marketplace subdivision (the "**Site Plan**"). Planning staff recommended approval of the Site Plan without conditions. The Planning Commission denied the Site Improvement Plan on June 26, 2024, by a 4-3 vote (the "**PZ**").

The PZ decision is not supported by any competent evidence in the record, and the decision is plainly inconsistent with the review criteria set forth in Municipal Code Sec. 15.02.055 (the "**Code**"). Pursuant to the Code, no major, minor, or administrative development application shall be approved unless it meets the following review criteria:

1. The Application Must Be Consistent With The Comprehensive Plan, Fulfill The Purpose Of The Code And Zone District, And Conform To Any Previously Approved Concept Plan, Preliminary Plat, Or PUD Development Plan And Complies With All Applicable Statutes, Codes, Ordinances, And Regulations.

With respect to criterion 1, the PZ ignored how the project aligns with the comprehensive plan and adheres to the purpose of the code and the MUR zoning district. PZ concluded that drive thru restaurant use is incompatible with Envision Longmont because Envision Longmont does not expressly list drive thru restaurants as either primary or secondary uses. However, drive-thru use is specifically allowed in the zoning code under the MUR zoning as designated for this Site Plan. The zoning code is the expression of Envision Longmont through the implementation of detailed regulations. This is evidenced by the following quote from the "how to use the plan" section of Envision Longmont: "[e]nvision Longmont is an advisory document that outlines Longmont's aspirations for the future." Therefore, the PZ acted plainly inconsistent with review criterion 1 when ignoring the allowed drive-thru use under the MUR zoning designation.

The Site Plan is consistent with the following development goals:

- Goal 1.2A: Overall Mix of Uses. Strive for a balanced mix of residential, employment, retail, commercial, recreational, and other uses that allow residents to live, work, play, learn, and conduct much of their daily business within the City and increase the self-sufficiency of the community.
- Goal 1.2B: Distribution of Service and Recreation-Oriented Use. This plan supports the City's goal of promoting a balanced geographic distribution of services and recreation-oriented facilities throughout Longmont.
- Goal 1.7: Reinforce Longmont's unique identity and sense of community.

The Site Plan is located along a key gateway corridor into Longmont, which enhances the appearance of a major right of way and strengthens Longmont's unique identity and sense of community. Additionally, the Site Plan meets all applicable statutes, codes, ordinances, and regulations. Commissioner Hite stated that his primary reason for denial was because the Site Plan was based on the preliminary plat and not the final plat. However, the language of the Code expressly allows the Applicant to base the Site Plan on a previously approved Preliminary Plat. Furthermore, any differentiation between the preliminary plat and the final plat were minimal, and can easily be remedied by the Applicant's engineering team. Therefore, the PZ's decision on this criterion was plainly inconsistent with the review criteria.

2. The Application Complies With Applicable City Standards, Including For Street And Utility Design And Layout, And Adequate Utilities Are Available Or Will Be Provided For Appropriate Urban-Level Services.

With respect to criterion 2, the PZ failed to acknowledge that the Site Plan adheres to applicable city standards for street and utility design and layout. Further, adequate utilities are available or will be provided to ensure appropriate urban-level services. Commissioner Flaig stated that her reason for denial was that she did not think there was enough room on the Site Plan to, "accomplish all that needs to be accomplished" and that the Applicant needs to, "go back and play with how it works." This statement is vague and is also not supported by any competent evidence in the record. The evidence in the record from the Applicant's engineers demonstrate how this Site Plan fits the proposed use and accommodates the City's utility design and layout. One of the many ways the Site Plan complies with the Code is by exceeding the stacking length required by the Code, to allow for improved site design and layout.

3. The Application Proposes Development Compatible With Surrounding Properties In Terms Of Land Use, Site And Building Layout And Design, And Access.

With respect to criterion 3, the PZ failed to address that the Site Plan of the subject property is compatible with the surrounding properties and is generally in conformance with the approved plans in place at the time of annexation and the subsequent approvals for the development of surrounding properties.

4. The Application Will Not Adversely Affect Surrounding Properties, The Natural Environment, Existing Or Planned City Transportation, Or Utility Services Or Facilities, Or The Adverse Impacts Of The Use Will Be Mitigated To The Maximum Extent Feasible.

With respect to criterion 4, the PZ failed to address any specific adverse impacts on the surrounding properties or the natural environment, besides the existing traffic issue at the intersection of 119 and County Line Road. While the PZ acknowledges that this intersection already has a "D level" of service rating, the PZ failed to acknowledge the evidence in the record on this issue. The original traffic study factored in a fast food/drive thru restaurant. The improvements presently under construction already take the estimated traffic from the proposed McDonald's into account, and improve the level of service. If the McDonald's is not approved, certain improvements are not necessary. The PZ failed to properly consider this information, although it was available in the record; therefore this criterion is met. Further, this Site Plan is compatible with both the MUR zoning designation and Envision Longmont, both of which accounted for impacts on traffic when adopted. The traffic study shows that the existing and planned street network will sufficiently support the development. Therefore, the PZ's decision to deny based on this criterion is inconsistent with the evidence in the record.

5. Criterion 5 Is Not Applicable To The Site Plan And Is Not An Issue On Appeal.

6. The Application Includes An Appropriate Transportation Plan, Including Multi-Modal Planning And Zoning Commission Transportation Access, And Is Integrated And Connected, Where Appropriate, With Adjacent Development Through Street Connections, Sidewalks, Trails, And Similar Features.

With respect to criterion 6, the PZ failed to acknowledge that the Applicant meets this criterion by constructing a public street, which is currently under construction by the developers of the subdivision, to provide access onto County Line Road to the west and Common Drive to the east. The Applicant has designed the Site Plan to facilitate transportation access and walkability, and the PZ did not cite to any evidence in the record supporting that this criterion was not met.

We respectfully request an appeal of the PZ's decision and request an appeal in front of City Council pursuant to Code Section 15.02.040. Based on the timeline to appeal, if possible, we request a hearing date of August 27, 2024.

Please reach out to me directly with any questions.

Sincerely,



Carolynne C. White

CC:

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