



# PLANNING AND ZONING COMMISSION STAFF REPORT

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**Date**                      **July 20, 2023**

**To**                            **Planning and Zoning Commission**

**From**                      **Sarah Dircks**  
Planner

**Subject**                  **Fry's 56 Gas Station**  
Northeast corner of Olive Avenue and 83<sup>rd</sup> Avenue

## ***PROPOSAL***

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The applicant is requesting a Conditional Use Permit to allow a new gas service station at the northeast corner of Olive Avenue and 83<sup>rd</sup> Avenue.

## ***APPLICATION INFORMATION***

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**Case Numbers**        Conditional Use Permit (CU23-03)

**Applicant**              Eric Gerster of Sustainability Engineering Group on behalf of Desert Viking 83rd And Olive LLC

**Request(s)**            Approval of a Conditional Use Permit (CUP) to allow for the construction of a new gas station with an associated kiosk and outdoor sales areas within the Trellis at Roundtree Ranch mixed-use project.

## ***LOCATION AND CONTEXT***

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### **SUBJECT SITE**

The undeveloped 1.3-acre site is located at the northeast corner of Olive Avenue and 83<sup>rd</sup> Avenue, within the Trellis at Roundtree Ranch mixed-use project as shown in more detail in **Exhibit 2 and Exhibit 3**.

### **CONTEXT**

The subject site is bounded to the north by the Parc @ Roundtree Ranch apartment complex, and to the east by the future location of a Dunkin' / Baskin-Robbins drive-through restaurant. (**Exhibit 3**) To the south is Olive Avenue, followed by Circle K and the Villas on Olive. The Village at Pioneer Park is located to the southwest of the site. Directly across 83<sup>rd</sup> Avenue to the west is the Valero gas station and then the VLUX Peoria Heights community.

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### APPLICANT'S PROPOSAL

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The applicant's proposal is to construct a new gas Fry's gas station, which will consist of an approximately 5,420 square foot fuel canopy with seven (7) double-sided fuel pump stations and an approximately 236 square foot retail kiosk, which will be surrounded by outdoor sales area.

The proposed fuel canopy and retail kiosk will be situated along Olive Avenue, and the fuel tanks are to be located north and east of the fuel station canopy. Access to the site will be provided from both Olive Avenue and 83<sup>rd</sup> Avenue, as shown in Applicant's Conceptual Site Plan. **(Exhibit 4)** As identified in the Project Narrative, **Exhibit 5** the fueling station will be operational 24 hours per day, 7 days per week, with a staffed retail kiosk operational daily from 5:00 a.m. to 11:00 p.m.

### DEVELOPMENT INFORMATION

<u>Existing Use:</u>	Vacant commercial pad site within the Trellis at Roundtree mixed-use project
<u>Proposed Use:</u>	Gas service station
<u>Property Size:</u>	1.3-net acres (approximately)
<u>Hours of Operation:</u>	Fueling Station: 24 hours per day, 7 days per week  Retail Kiosk: 5:00 a.m. to 11:00 p.m.

## STAFF ANALYSIS

### ZONING HISTORY AND PROPERTY DEVELOPMENT

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- The property was annexed into the City from Maricopa County on April 26, 1960 through *Ordinance 45* and subsequently zoned General Agricultural (AG).
- In 1985, the City Council adopted *Ordinance 85-25* to rezone the subject property from General Agricultural (AG) to Intermediate Commercial (C-2).
- In 2006, the City Council adopted *Ordinance 06-38* to revise the site's zoning from Intermediate Commercial (C-2) to the 83<sup>rd</sup> & Olive Mixed Use Community Planned Area Development (PAD).
- The site was subsequently rezoned in 2018 through *Ordinance 2018-24A* to the Trellis at Roundtree Ranch Planned Area Development (PAD Z17-33), which represents its current zoning district.
- The Trellis at Roundtree Ranch Planned Area Development (PAD) is a mixed-use development, with retail and commercial uses permitted along Olive Avenue and multifamily uses permitted to the north along 83<sup>rd</sup> Avenue.

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- The multi-family residential component of the development, Parc @ Roundtree Ranch was approved in 2019.
- The first commercial component within the development was approved in 2022, through CU21-01 and SP21-01 on the adjoining commercial lot for a Dunkin' / Baskin-Robbins restaurant with drive through.

### ***CONDITIONAL USE PERMIT ANALYSIS***

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The purpose of the Conditional Use Permit is to ensure that the physical and operational characteristics inherent with the land use have been sufficiently resolved or mitigated, thereby optimizing compatibility with the surrounding area, and that the use is not otherwise injurious to the health, safety, and general welfare of the community.

Within the Trellis at Roundtree Ranch Planned Area Development (PAD) Zoning District, a Gas Service Station is permitted with the issuance of a Conditional Use Permit and operating in conformance with the stated review criteria and special limitations within the Peoria Zoning Ordinance as further discussed below.

#### **REVIEW CRITERIA**

Section 21-321 of the Peoria Zoning Ordinance outlines the applicable criteria for evaluating Conditional Use Permits. The Planning and Community Development Department shall review applications and make a recommendation for approval or denial to the Planning and Zoning Commission based on the following criteria:

1. Whether the use is designated as a permitted Conditional Use within the zoning district in which the property is located.
2. Whether the use meets the locational and development standards provisions, as applicable for the Conditional Use Permit, for the zoning district in which the property is located.
3. Whether the use is consistent with the goals, policies, and intent of the General Plan and any adopted Specific Plan applicable to the site where the proposed use is located.
4. Whether the use is consistent with documentation and recommendations provided by reviewing City Departments.
5. Whether the use complies with all applicable City Codes, standards, and guidelines governing such use.
6. Whether the use will be materially detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the property, to the neighborhood, or to the public welfare; or if the use will unreasonably interfere with the use and enjoyment of nearby properties. Consideration shall include, but not be limited to the following factors:
  - a. Damage or nuisance arising from noise, smoke, odor, dust, vibration, or illumination;
  - b. Impact on surrounding areas resulting from an unusual volume or character of traffic;

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- c. Ingress and egress to the property and proposed structures;
  - d. Pedestrian and vehicular circulation with particular reference to fire protection;
  - e. Parking and loading; and
  - f. Impact on public services, including schools, utilities, and recreation.
7. The Planning Manager shall not recommend approval of any Conditional Use Permit unless the Department has received a Waiver of Proposition 207 from the Owner(s) of the property that is the subject of the Conditional Use Permit or has determined that the absence of such a Waiver of Proposition 207 is consistent with the City's General Plan and zoning goals and regulations.

### SPECIAL LIMITATIONS

In addition to the review criteria contained within Section 21-321 of the Zoning Ordinance, Gas Service Stations have additional limitations as outlined in Section 21-505.A.5. These limitations are enumerated with staff's response in italics below each requirement.

Gas Service Stations shall be subject to all of the following additional requirements:

- a. Minimum frontage of one hundred-eighty (180) feet on one arterial street is required.  
*The subject site has over one hundred-eighty (180) feet of street frontage along 83<sup>rd</sup> Avenue, and over one hundred-eighty (180) feet of street frontage along Olive Avenue. Both streets are classified as arterial streets.*
- b. No part of any canopy, fuel dispenser, or fuel storage tank shall be within 200 feet of any single-family residentially zoned lot, not including common area tracts.  
*The proposed canopy, fuel dispenser, and fuel canopy are located approximately 470 feet from the nearest single-family residentially zoned lot, which are located to the north and east of the subject site.*
- c. A minimum of 500 feet of separation is required between gas service stations located on the same side of the street. Gas Service Stations separated by arterial streets are not subject to this requirement.  
*There are no gas service stations within the 500 feet of the proposed Fry's facility. More specifically, the gas service stations nearest to the subject site, Circle K and Valero, are located within 500 of the site feet; however, both are separated by an arterial street. Thus, the criteria is met.*
- d. All of the following standards shall apply:
  - 1) All fuel pump mechanism and any accessory equipment dispensing fuel shall be covered by canopies.  
*The proposed layout meets this requirement.*
  - 2) Under canopy mounted lights shall be flush with the underside of the canopy.  
*The proposed lighting for the fuel canopy complies with this requirement.*

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- 3) Fuel tanks larger than 1,000 gallons must be located underground. Above ground tanks shall be screened from street view, shall not exceed 6-feet in height, and shall be setback at least 25-feet from any public street.

*The proposed development does not feature any above ground fuel tanks.*

### OPERATIONAL CHARACTERISTICS

#### *Circulation and Access*

Access to the site is provided via one driveway on Olive Avenue and one along 83<sup>rd</sup> Avenue. Both are limited to right-in, right-out turning movements given their proximity to the intersection. Additionally, access to other commercial pad sites adjoining to the east, and ultimately the Parc at Roundtree residential area to the north is provided through cross-access easements across the parcels.

#### *Parking*

Based on the proposed site design, the convenience store will require two (2) parking spaces in accordance with the Zoning Ordinance. The proposed layout complies with this requirement and can be seen on the Conceptual Site Plan, **Exhibit 4**.

### CONTINUING JURISDICTION

The proposed development will meet all applicable limitations and development standards referenced above, and when operated in accordance with the recommended conditions of approval, the use is not expected to disrupt other nearby uses.

If any issues arise regarding the operation of the business, Section 21-321.I provides the City with continuing jurisdiction over all Conditional Use Permits. This means that the Zoning Administrator may recommend to the Planning and Zoning Commission that a permit may be revoked, modified, or suspended should any of the following occur:

1. The permit was obtained by fraud or misrepresentation;
2. The use authorized by the permit has been exercised in violation of the conditions of its approval;
3. A change in circumstances consisting of any of the following has occurred:
  - a. Impacts from the approved conditional use to neighboring properties.
  - b. Changes in aesthetic or environmental impacts such as noise, odors, or pollution.
4. The use authorized by the permit has been exercised in a manner that is detrimental to the public health, safety, or welfare of the community or in a manner that constitutes a nuisance to neighboring property owners, adjacent neighborhoods, or the City.

***COMMUNITY INVOLVEMENT***

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*Public Noticing*

The application was properly noticed pursuant to Section 21-315 of the Peoria Zoning Ordinance, which includes notification to all property owners within 600 feet of the site and registered Homeowner's Associations (HOAs) within one (1) mile, posting of a sign on the site, and placing an ad in the Peoria Times at least 15 days prior to the Public Hearing.

*Support / Opposition*

At the time of this writing, no correspondence has been received in support or opposition to this request.

***KEY FINDINGS***

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1. The proposal meets the Conditional Use Permit standards and meets the above referenced special limitations as identified within Section 21-505 of the Zoning Ordinance.
2. When operated in accordance with the recommended conditions of approval, the use is not expected to disrupt other nearby uses.
3. On behalf of the owner, the applicant has submitted a signed and notarized Proposition 207 waiver, which will be recorded with the conditions outlined below.

***RECOMMENDATION***

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Staff recommends that the Planning and Zoning Commission take the following action:

**Approve the Conditional Use Permit under Case CU23-03, subject to Conditions of Approval identified within Exhibit 1.**

***STAFF CONTACT***

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