



PLANNING AND ZONING COMMISSION STAFF REPORT

Date August 17, 2023

To Planning and Zoning Commission

From Robert Kuhfuss, AICP
Senior Planner

Subject Dutch Bros. on Olive Avenue
North of the northeast corner of 91st Avenue and Olive Avenue

PROPOSAL

The applicant is requesting a Conditional Use Permit to allow a new drive through restaurant to be located north of the northeast corner of 91st Avenue and Olive Avenue.

APPLICATION INFORMATION

Case Numbers Conditional Use Permit (CU23-05)

Applicant Mitchell Reynolds, of CVP-Olive DB, LLC

Requests Approval of a Conditional Use Permit (CUP) to allow a new drive through restaurant.

LOCATION AND CONTEXT

SUBJECT SITE

The site consists of a vacant pad (0.98 acres) within a commercial center generally located at the northeast corner of 91st Avenue and Olive Avenue (**Exhibits 2 & 3**).

CONTEXT

North of the subject site is a Salt River Project (SRP) pump station followed by the Westgreen Townhomes. Located immediately to the east of the subject site is an existing religious facility. To the south is a Jiffy Lube automobile service facility, followed by a convenience store / gas station. Located to the east of the convenience store / gas station is an existing drive-through restaurant. Directly across 91st Avenue to the west of the site lies an existing manufacturing facility (TYR Tactical). South of the manufacturing facility lies another convenience store / gas station.

APPLICANT’S PROPOSAL

The applicant is requesting to operate a Dutch Bros. drive-through restaurant on the subject site. Dutch Bros. is a drive-through restaurant chain focused on coffee and other drinks, and is primarily located in the western United States. There are current locations in operation throughout the larger metro area including Peoria.

The proposed 935 square-foot single-story building will encompass the kitchen and prep area. There will also be a walk-up window and small outdoor seating area. As illustrated in the Site Plan (**Exhibit 5**), the drive-through will start as two lanes that will merge into a single lane before approaching the drive-through pick-up window. A by-pass lane will be located immediately to the south of the drive-through pick-up window lane. The applicant’s Project Narrative (**Exhibit 4**) describes the proposal more detail.

DEVELOPMENT INFORMATION

<u>Existing Use:</u>	Vacant, undeveloped
<u>Proposed Use:</u>	Restaurant with drive-through facility
<u>Property Size:</u>	0.98-acres
<u>Building Size:</u>	935 square feet
<u>Required Parking:</u>	13 spaces
<u>Provided Parking:</u>	26 spaces (does not include vehicle queuing)
<u>Drive-Through Queuing Required:</u>	160 feet (approx. 8 vehicles)
<u>Drive-Through Queuing Provided:</u>	565 feet (approx. 28 vehicles)
<u>Hours of Operation:</u>	5:00 a.m. - 11:00 p.m. daily

STAFF ANALYSIS

ZONING HISTORY AND PROPERTY DEVELOPMENT

- The subject property was part of a larger annexation from Maricopa County, approved by the City Council on November 28, 1972 under *Ordinance #147*.
- The subject property was part of a larger rezone from General Agricultural (AG) to the current zoning designation of Intermediate Commercial District (C-2), which was approved by the City Council on March 23, 1979 through *Ordinance 79-57*.
- The subject site has remained vacant since its original agricultural use.

CONDITIONAL USE PERMIT ANALYSIS

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

When located within 200 feet of a residentially zoned district, within the C-2 Zoning District, a *Drive-Through Restaurant* is allowed, subject to the issuance of a Conditional Use Permit, and continued operation in a manner that is 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 Department must 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;
 - 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.

DUTCH BROS. ON OLIVE AVENUE: CONDITIONAL USE PERMIT (CU23-05)

7. The Planning Manager may not approve or 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

Section 21-505.B.2 of the Peoria Zoning Ordinance sets the following limitations on Restaurants with a Drive-Through facilities. These limitations are outlined below, with staff's response in *italics* following each requirement.

1. All drive-through lanes, menu boards, speaker box, and other related elements shall be located at least 50 feet from any residentially zoned property or use. Speakers at a drive through shall not be audible from residentially zoned property. Sound shall be mitigated through the use of sound attenuation walls, landscaping, or other measures.

The proposed layout identified on the Site Plan (Exhibit 5) demonstrates compliance with the above referenced criteria and provides for the drive-through lane, menu boards, speaker box, and all related appurtenances to be located at least 100-feet away from the residentially zoned property to the north.

2. The drive-through lane shall be separated from parking areas and driving lanes by a minimum 5-foot wide landscaping island or other alternative as approved by the Planning Manager.

This criteria has been met as shown on the Site Plan (Exhibit 5).

3. Drive through canopies and other appurtenances shall be architecturally compatible with the principal building.

The proposed Building Elevations (Exhibit 6) indicate that the canopy is architecturally compatible with the principle building. Staff will work to ensure that screen walls and other appurtenances will meet this criteria through the Site Plan process.

4. Through the Conditional Use Permit (CUP) process, the conditions considered for imposition by the Planning and Zoning Commission may include, but are not limited to, a restriction on operating hours, additional screening, relocation of the drive-through, modification of the minimum drive-through stacking requirements, noise and visual mitigation, and other measures appropriate to the relevant circumstances.

The applicant is aware the Planning and Zoning Commission may impose additional restrictions such as those listed above, and has worked with staff to mitigate potential concerns. Given the location of the proposed drive through restaurant, staff is not recommending additional restrictions.

OPERATIONAL CHARACTERISTICS

Vehicle Access and Queuing

Currently, there exists two driveway cuts along 91st Avenue. One of these driveway cuts is located immediately south of the aforementioned SRP facility and provides direct access to the subject site; however, this specific driveway cut will be removed in deference to the city's Access Management standards. The remaining driveway, located to the north of the SRP facility, will provide primary access to the north end of the site. The drive aisle extending east from 91st Avenue adjacent to the north end of the site will contain a right-turn pocket to allow for sufficient access and queuing into the subject site. A rolling gate will prevent traffic from entering the church property to the east, except as needed to accommodate church activities. Secondary access will be from the south via an existing cross-access drive aisle, as shown in the attached Site Plan **(Exhibit 5)**.

Primary access will be from the north, while secondary access will be from the south. Both access points will lead to a single drive aisle located towards the east side of the site. All of the facility's off-street parking will take access from this main drive aisle. Two drive-through lanes will also take access from this main drive aisle and will provide vehicle queuing that is approximately three (3) times the minimum required for this type of use.

Parking

The applicant proposes 26 on-site parking spaces, which is twice the amount required by the Zoning Ordinance based on the size of the subject use.

Pedestrian Access

Pedestrian access will be from the north and will extend to the sidewalk located along the 91st Avenue right-of-way. This access way will lead to the primary building and along the inside radius of the inner queuing lane. Pedestrian access will also extend to the parking lot to the east. An outdoor seating area will be located immediately adjacent to the north side of the building.

Screening

Architecturally compatible screen walls line the view of the exterior of the site from 91st Avenue to screen both parking and the drive through lanes.

CONTINUING JURISDICTION

If any issues arise regarding the operation of the business, Section 21-321.I of the Peoria Zoning Ordinance provides the Planning Manager with continuing jurisdiction over all Conditional Use Permits. This means that the Planning Manager 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:

DUTCH BROS. ON OLIVE AVENUE: CONDITIONAL USE PERMIT (CU23-05)

- 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

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 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

1. The proposal meets the Conditional Use Permit standards and applicable special limitations within the Peoria Zoning Ordinance.
2. When operated in accordance with the recommended conditions of approval, the use is not expected to have an impact on adjacent properties.
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

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

Approve the Conditional Use Permit for Case CU23-05, subject to the Conditions of Approval identified in Exhibit 1.

STAFF CONTACT

Robert Kuhfuss, AICP
Senior Planner
623-773-7643
Robert.Kuhfuss@peoriaaz.gov