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Staff Report Memorandum November 2, 2023

To: City Council via Planning Commission

From: Community Development Department

Subject: Amendments to Title 21 of the Land Development Code, Chapter 19, Special Development (SD) Districts, Section 20, SD (Carnation) -10600 S. 1000 E. CA09062023-0006605

Public Hearing Notice: This item has been noticed on public websites, sent to affected entities and property owners within 500 feet of the zoning district and posted in three public locations at least 10 days prior to the Public Hearing.

Request

Adam Nash, representing several property owners that are part of the area zoned SD (Carnation), has applied to amend Title 21, *Land Development Code*, Chapter 19, *Special Development (SD) Districts*, Section 20, *SD (Carnation)-10600 S. 1000 E.* of the Sandy Municipal Code. The SD Carnation zone affects approximately two acres of land located around 984 East 10600 South (see map insert). The code amendment is proposed to allow restaurants to have drive-up windows as a permitted use in the SD (Carnation) zone. This would remove the current limitation on drive-up windows, which only allows non-food uses such as banks, ATMs, dry cleaners, and pharmacies. If the amendment is approved, it would allow food-related establishments like restaurants to have drive-up windows as well. This proposal is included with this report as Exhibit “A” (redlined version) and Exhibit “B” (clean version). The applicant’s request is included as Exhibit “C.”



Background

In 2004, the SD Carnation Zone was established specifically for this area and the zone not used in any other location in the city. The purpose of the SD Carnation Zone is “to provide an area for convenience commercial retail services and professional and business offices with development standards compatible with those of contiguous properties” (Sec. 21-19-20). This zone is bordered to the north by single-family homes and churches (jurisdiction of White City); to the west and south by the Dimple Dell Recreation Center (OS Zone); and to the east is a school and a church (R-1-8 Zone).

Case History	
Case Number	Case Summary
Ord. No. 04-25; CA-04-04 Ord. No. 04-26; R-04-04	Creation of the SD (Carnation) zone, and a rezone from CVC and Open Space (OS) to the SD (Carnation) zone, May 2004.
SPR-04-20	Site Plan Review for the 106 th South Retail Center, Phase 1, Big 5 Sports, September 2004.
Ord. No. 19-34 CODE-10-19-5752	Amendments to the SD (Carnation) zone to allow Pharmacies and Medical Office as permitted uses in the zone and to reduce the code required landscaped front yard setbacks from 10 feet to 8 feet. Approved, December 2019.
SPR-08-19-5704 and SUB-08-19-5705	Site Plan Review with a 3-Lot Subdivision for the development of Jolley's Pharmacy. Approved, but project not developed.
Ord. No. 20-06 CODE-04-20-5844	Amendments to the SD (Carnation) zone to allow drive-up windows for non-food uses. The code amendment allowed a pharmacy to operate with a drive-up and walk-up window and to reduce the amount of required parking for all retail commercial uses within this zone district. Approved, 2020.
CA05252023-0006537	Code amendment that would allow gasoline service stations in the SD Carnation zone. Denied, August 2023.

Public Notice

The city issued notice of the public hearing for the proposed code amendments on public websites, mailed notice to affected entities and property owners within 500 feet of the zoning district, and posted in three public locations at least 10 days prior to the Planning Commission public hearing in accordance with the Land Development Code Sec. 21-36-1 and the Utah State Code § 10-9a-205.

A neighborhood meeting was held on Thursday, October 19, 2023, at 7 pm. In attendance was the applicant Adam Nash and one participant, Jan Schut. He was concerned about traffic due to the awkward corner, and traffic backing up.

Analysis

The SD (Carnation) zone was originally created with a limited selection of permitted and conditional uses that follows those of the CvC zone (Planned Center-Convenience Zoning District), with some exceptions. This was intentionally done to limit the negative impacts from certain uses and avoid traffic generating land uses. The land use matrix under [Section 21-8-2](#) shows that drive-up windows are not permitted for any use in CvC zone.

In 2020, the City Council approved a code amendment to the SD (Carnation) zone in response to a request by the same applicant, coupled with an application to develop a pharmacy with a drive-up window. The code amendment specifically limited drive-up windows to only non-food uses (e.g., banks, ATMs, dry cleaners, pharmacies), to avoid the negative impacts from drive-up windows associated with restaurants (e.g., fast food restaurants, coffee, and soda kiosks).



Drive-up windows can create negative impacts with increased vehicle traffic, conflicts with pedestrians and bicyclists, circulation and stacking issues, noise from speakers, glare from lighting and longer operating hours. This is particularly true for drive-up windows connected with restaurants, which have a higher vehicle trip generation when compared with other land uses. For example, the Institute of Transportation Engineers (ITE) Manual provides the following trip count estimates:

- Fast Food (per 1000 sf) 471 weekday, 51 peak hour trips
- Pharmacy (per 1000 sf) 109 weekday, 11 peak hour trips

Based on these estimates, it appears that drive-up windows at restaurants generate approximately 4-5 times more vehicle trips compared to drive-up windows at pharmacies. This suggests that allowing food-related establishments to have drive-up windows will result in a higher volume of vehicle traffic in the area. See Exhibit “D” for information from the ITE manual.

The negative impacts from drive-up windows at restaurants is of particular concern for the SD (Carnation) zone because this zoning district is adjacent to single-family homes, three churches, the Dimple Dell Recreation Center, and a school, where the conflicts with pedestrians and bicyclists would be exacerbated by increased vehicle traffic.

Furthermore, to mitigate negative impacts, several commercial zoning districts (RC, BC, CN and CN(HSN) zones) that are located near residential areas do not permit restaurants with a drive-up window if they are within 250 feet from a residential zoning district. The intent is to mitigate impacts to those residential areas by restricting those uses when near residential developments. The site proposed for development is less than 250 feet from a residential zoning district. If a similar approach was adopted to this SD (Carnation) zone area, a restaurant with a drive-up window would not be permitted.

Lastly, the site proposed for development is limited by several factors, which could hamper development of a fast-food restaurant or coffee or soda kiosk. For example, the site does not have a secondary access but there should be for adequate site circulation and queuing. In addition, the site may not be large enough to accommodate the increased parking requirements that come with a drive-through restaurant (5 spaces/1,000 s.f. w/o drive through vs. 10 spaces/1,000 s.f. with drive through). Although these site design and development issues would have to be resolved through the site plan review process, these factors may be used to evaluate whether drive-up windows for restaurants are suitable for the SD (Carnation) zone.

A code amendment request should address how the proposal furthers the purposes of the Land Development Code and how it is consistent with the General Plan; however, the applicant has not provided evidence of how the proposal meets these criteria. Based on the analysis above, staff finds that restaurants with drive-up windows have increased negative impacts that will adversely affect the surrounding land uses of the SD (Carnation) zone. Consequently, the proposed use is not consistent with the purpose statement of the zone which is to allow for commercial uses that are compatible with those of contiguous properties. In addition, site constraints call into question the feasibility of developing a fast-food restaurant or coffee kiosk at this location. Therefore, staff finds no compelling reason to support the proposed code amendment.

Non-Conforming Uses

This code amendment would not create any non-conforming situations.

Land Development Code Purpose Compliance

The Sandy City Land Development Code in 21-1-3 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

21-1-3 Purpose

This Code is adopted to implement Sandy City's General Plan and to promote public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and

accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

1. General

- a. To facilitate the orderly growth and development of Sandy City.*
- b. To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.*
- c. To stabilize property values.*
- d. To enhance the economic well-being of Sandy City and its inhabitants.*

2. Implementation of General Plan

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.

3. Comprehensive, Consistent and Equitable Regulations

To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.

4. Efficiently and Effectively Managed Procedures

- a. To promote fair procedures that are efficient and effective in terms of time and expense.*
- b. To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.*
- c. To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.*

Staff finds the proposed code amendment is inconsistent with the purpose of the Land Development Code because the proposal does not promote public health, safety, and welfare, nor facilitate the orderly growth and development of Sandy City. Staff concludes that restaurants with drive-up windows have increased negative impacts that will adversely affect the surrounding land uses of the SD (Carnation) zone.

General Plan Compliance

The Sandy City General Plan encourages appropriate development standards for all uses and zoning categories within the city. As proposed, the code amendment is not inconsistent with the General Plan because drive-up windows for food-related land uses are not appropriate for the SD (Carnation) zone.

Recommendation

Staff recommends that the Planning Commission forward a negative recommendation to the City Council on this application to amend Section 21-19-20 of the Sandy Municipal Code to allow drive-up windows for food-related uses in the SD Carnation zone, based on the following findings:

Findings:

1. The City Council may amend land use ordinances consistent with the purposes of the Sandy Land Development Code, the Sandy City General Plan, and the Utah Code, Municipal Land Use, Development, and Management Act per Title 21 Chapter 5 of the Sandy Municipal Code.
2. The proposal is reviewed by the Planning Commission and City Council in accordance with the requirements of Title 21 Chapter 5 of the Sandy Municipal Code.
3. The proposal does not comply with the purpose of the Land Development Code under Section 21-1-03 because it does not promote public health, safety, and welfare, nor facilitate the orderly growth and development of Sandy City.
4. The proposal does not comply with the Sandy City General Plan because drive-up windows for food-related uses are

not appropriate for the SD (Carnation) zone.

5. The proposed use is not consistent with the purpose statement of the zone which is to allow for commercial uses that are compatible with those of contiguous properties.

Planner:



Melissa Anderson
Zoning Administrator

Exhibits:

- A. Proposed code amendments (red-lined version)
- B. Proposed code amendments (clean version)
- C. Applicant's Proposal
- D. Trip counts from the ITE manual.

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