

Request For Board Action

REFERRED TO BOARD: August 1, 2016

AGENDA ITEM NO: 6

ORIGINATING DEPARTMENT: Community Development

SUBJECT: Consideration of a proposal to approve a Special Use for a drive-thru at Subway for the property located at the northwest corner of Route 83 and Main Street.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Combined Planning Commission and Zoning Board conducted a public meeting on June 23, 2016 for a proposed drive-thru at a subway which is proposing to relocate to the end cap adjacent to Main Street at the Town Square retail center.

As part of the meeting, staff outlined the required findings in accordance with Sections 10-4-4 and 10-15-5 for proposed Special Use. Based on staff's analysis, specific concerns were outlined to the PZB about the potential impact that a drive-thru could have on the functionality of the Town Square traffic flow if vehicles within the drive-thru blocked the main access drive in front of this retail center. The applicant testified that this proposed drive-thru would have less traffic than the previous existing Walgreens.

Staff reviewed the other required findings of fact outlined in Section 10-15-5 and found that proposed drive-thru met a number of the required findings of facts that are required for a Special use. The PZB did not concur with staff that the proposed drive-thru did not meet finding "amount of traffic generated and capacity and design of roadways and available parking facilities to handle anticipated traffic.

The Planning Commission recommended approval of the requested Special Use for a drive-thru.

FINANCIAL IMPACT: None

DOCUMENTS ATTACHED:

1. Staff Report.

RECOMMENDED MOTION:

Motion to waive second reading and approve a Special Use ordinance for a drive-thru for a Subway located at the northwest corner of Main Street and Route 183 subject to the following stipulations: (PZB 16-09 SU)

- A. That the applicant work with staff on some additional landscaping along Main Street to screen the menu board.
- B. Compliance with the requirements of the Antioch Fire Department.
- C. That the stacking of vehicles within this drive-thru be limited to five (5) vehicles and that the applicant shall be prohibited from obstructing any vehicular access drive within the Towne Square Retail Center.

- D. The electronic kiosk intended for ordering and paying for food and drinks shall be dark unless actually in use, and shall not be used for advertising purposes unless a customer is actually using the device.
- E. Failure to comply with conditions C and/or D shall provide the Village Board with the discretion to revoke this Special Use after due notice to the applicant and full consideration by the Village Board.
- F. This Special Use shall lapse in the event the specified tenant for the involved space, ie. Subway of Antioch (or any duly approved successor) shall cease operations at this location.
- G. This Special Use shall not be transferrable to any other location within the legally described premises, and shall not be transferrable as a matter of right to any other operator of a restaurant in the specifically designated space. Rather, the Village Board reserves full right and discretion to approve or disapprove any such proposed transfer to ensure that an expansion of a potentially problematic use does not occur to the detriment of the neighboring property owners.

VILLAGE OF ANTIOCH

ORDINANCE NO.

***AN ORDINANCE GRANTING A SPECIAL USE FOR A DRIVE-THRU FOR A SUBWAY
STORE AT TOWNE SQUARE RETAIL CENTER
(PZB-16-09)***

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF ANTIOCH, ILLINOIS

ON

AUGUST 1st, 2016

**Published in pamphlet form by authority of the Village Board
of the Village of Antioch, Lake County, Illinois,
this _____ day of August 2016**

LAWRENCE M. HANSON	President	JERRY JOHNSON	Trustee
		MARY DOMINIAK	Trustee
LORI K. ROMINE	Clerk	TED POULOS	Trustee
		SCOTT A. PIERCE	Trustee
ROBERT J. LONG	Attorney	ED MACEK	Trustee
		JAY JOZWIAK	Trustee

ORDINANCE

***AN ORDINANCE GRANTING A SPECIAL USE FOR A DRIVE-THRU AT A SUBWAY STORE AT THE TOWNE SQUARE RETAIL CENTER
(PZB-16-09)***

WHEREAS, pursuant to Chapter 15 of Title 10 of the Antioch Village Code, a public hearing was commenced by the Combined Planning Commission and Zoning Board on June 23, 2016 following notification as required by State Law and Village Ordinance to consider a petition for a Special Use allowing for a drive-thru at a Subway Store at the Towne Square Retail Center after due notice by newspaper publication, pursuant to the application of Robert Ocwieja (“Owner”), at the northwest corner of Route 83 and Route 173.

WHEREAS, the Combined Planning Commission recommended approval to the Village Board to allow the operation of drive-thru; and

WHEREAS, the Corporate Authorities have concluded and found that the Special Use, subject to and in conformance with the terms and conditions of this Ordinance, conform to a majority of the required standards as required by ordinance, including; a) The compatibility of the proposed use with the existing and planned uses on abutting properties; b) Any increase in density or intensity of the proposed use that will affect the compatibility of the use with existing and planned uses in surrounding area; c) The proposed use will not change the predominant character of the surrounding area; d) The ability to mitigate adverse and understandable impact to the surrounding area, including, but not limited to the individual impacts, air emissions, noise, vibrations, glare, heat, odors, water pollution, electromagnetic interference and other nuisance effects; e) Amount of traffic generated and capacity and design of roadways and available parking facilities to handle anticipated traffic; f) The effect on infrastructure including water, wastewater, stormwater, utilities, and streets; g) The incorporation and integration of architectural and landscape features to mitigate impacts from the proposed use.

WHEREAS, the Corporate Authorities have concluded and found that the Special Use will further enhance economic development within the Village and promote the general welfare of the Village and the health, safety and welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I: The representations, recitations and findings set forth in the foregoing recitals are material to this Ordinance and such recitals are hereby incorporated into and made a part of this Ordinance as though they were fully set forth herein. This Ordinance shall be liberally construed so that the purpose and intent represented by the recitals shall be accomplished to the greatest extent permitted by law.

SECTION II: That the real estate which is the subject of this ordinance (Subject Property) is legally described as follows: (See attached legal description)

SECTION III: That, subject to the conditions stated below, the Special Use shall be and is hereby approved and shall be binding upon the Village, Petitioner and Owner, and their respective owners successors, and assigns when a true execution copy of this Ordinance is tendered to the Village fully executed by the Petitioner and Owner, and when the Mayor has affixed his signature upon the Ordinance:

- A. That the applicant work with staff on some additional landscaping along Main Street to screen the menu board.
- B. Compliance with the requirements of the Antioch Fire Department.
- C. That the stacking of vehicles within this drive-thru be limited to five (5) vehicles and that the applicant shall be prohibited from obstructing any vehicular access drive within the Towne Square Retail Center.
- D. The electronic kiosk intended for ordering and paying for food and drinks shall be dark unless actually in use, and shall not be used for advertising purposes unless a customer is actually using the device.
- E. Failure to comply with conditions C and/or D shall provide the Village Board with the discretion to revoke this Special Use after due notice to the applicant and full consideration by the Village Board.
- F. This Special Use shall lapse in the event the specified tenant for the involved space, ie. Subway of Antioch (or any duly approved successor) shall cease operations at this location.
- G. This Special Use shall not be transferrable to any other location within the legally described premises, and shall not be transferrable as a matter of right to any other operator of a restaurant in the specifically designated space. Rather, the Village Board reserves full right and discretion to approve or disapprove any such proposed transfer to ensure that an expansion of a potentially problematic use does not occur to the detriment of the neighboring property owners.

SECTION IV: The following exhibits shall be attached to and made a part of this Special Use Ordinance and, except as expressly modified by this Ordinance, compliance with all standards, requirements, designs or specifications in such exhibits shall be a condition of the grant of this Special Use Ordinance:

- A. Staff Reports, attached as Exhibit A;
- B. PZB Recommendation, attached as Exhibit B.

SECTION V: Any person violating the terms and conditions of this Ordinance shall be subject to a penalty not exceeding Five Hundred Dollars (\$500.00) with each and every day that the violation of the Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees. This section shall not apply to the Village of Antioch, its officials, agents or employees.

SECTION VI: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not be included.

SECTION VII: That the Village Clerk is hereby directed and ordered to publish this Ordinance in pamphlet form as provided by law.

SECTION IX: That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed this 1st day of August, 2016

Ayes: Nays: Absent/Abstain:

Scott A. Pierce
Jay Jozwiak
Ted Poulos
Ed Macek
Mary Dominiak
Jerry Johnson

APPROVED:

By: _____
Lawerence M. Hanson, Mayor

ATTEST:

By: _____
Lori K. Romine, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on August _____, 2016

Trustees
Mary C. Dominiak
Jerry T. Johnson
Jay Jozwiak



Trustees
Ed Macek
Scott A. Pierce
Ted P. Poulos

Lawrence M. Hanson, Mayor

Lori K. Romine, Village Clerk

REPORT TO: VILLAGE PRESIDENT and BOARD OF TRUSTEES
FROM: MICHAEL S. GARRIGAN, Esq, AICP, CNU-A, Community Development Director
DATE: July 14, 2016
SUBJECT: REPORT TO VILLAGE BOARD

CASE: Subway (Drive-Thru)
16-09 SU

REQUEST: Special Use

LOCATION: 1120 Main Street

APPLICANT: Robert Ocwieja

ZONING: Community Edge

Background

The applicant is seeking a Special Use for a drive-thru for the former Walgreen's at the northwest corner of Main Street and Route 83. The subject space has been vacant and the applicant is seeking to convert the end-cap of the Town Square development into a new Subway store with a drive-thru. The Village's Zoning Ordinance requires a drive-thru to obtain a Special Use. The applicant is proposing to use an existing drive-thru window that was previously used by Walgreen's.

Special Use

The applicant is requesting a proposed drive-thru for this Subway and any drive-thru requires a Special Use. When reviewing any proposed Special Use, it is important to look at the surrounding uses and make sure that the proposed Special Use will not have any negative impact on the adjacent parcels. Therefore, it is necessary to look at the site's context, the nature of the surrounding uses and potential impact that the Special Use will have.

Below is a summary of the surrounding uses:

North: Commercial (Main Street Transitional)
East: Main Street (Antioch High School)
South: B-2 (Commercial)
West: B-2 (Commercial)

In accordance with Section 10-15-5, any proposed Special Use must comply with three findings of facts that are outlined in this section of the Zoning Ordinance. The required findings of facts are as follows:

ANALYSIS

a) The compatibility of the proposed use with the existing and planned uses on abutting properties:

The subject site is a retail center that is adjacent to an existing McDonald's and a KFC store. The subject site is an auto oriented commercial center that contains a high degree of vehicular traffic. The subject retail center previously contained a Walgreens at the eastern end cap of the retail building and the Walgreen's was designed with a drive-thru along the eastern edge of the building.

- Staff does have some concerns that a drive-thru with more than four or five vehicles could have a negative impact on the traffic flow not only within this retail center, but also the McDonald's and KFC stores.

b) Any increase in density or intensity of the proposed use that will affect the compatibility of the use with existing and planned uses in the surrounding area.

The major question pertaining to this proposed Special Use for a drive-thru is whether the drive-thru will have a negative impact on safety and the traffic flow within this retail center. As highlighted above, the applicant is proposing to re-use the existing drive-thru that once was used by Walgreen's. Typically, Walgreens have a very low volume drive-thru.

The question is whether the proposed Subway would be similar to the Walgreen's as a low-volume drive-thru or whether it would be creating a traffic issue within this retail center.

c) The proposed use will not change the predominant character of the surrounding area.

The proposed Subway drive-thru will have no negative impact on changing the auto oriented character of this existing retail center. The proposed Town Square development will continue to be an auto oriented retail development and the applicant's proposal is consistent with this character of this retail center.

d) The ability to mitigate adverse and understandable impact to the surrounding area, including, but not limited to individual impacts, air emissions, noise, vibrations, glare, heat, odors, water pollution, electromagnetic interference and other nuisance effects.

There is nothing to indicate that the propose drive-thru for a Subway would have any negative impact on the surrounding properties with respect to causing a negative impact on the air, heat, glare, odor, or water quality.

e. Amount of traffic generated and capacity and design of roadways and available parking facilities to handle anticipated traffic.

The biggest challenge for this proposed drive-thru is the potential impact it could have on the functionality of the traffic flow within this retail center. The Town Square incorporates two full access points on Main Street (Route 83). However, the access point on the north side is generally used for the drive-thru traffic.

Staff is concerned that if there is more than three vehicles in the drive-thru lane would conflict with the main east-west access drive of this retail center and block traffic. The proposed functionality of this drive-thru will not work if there are more than one care behind the menu board or a total of six cares. The applicant has identified stacking for a total of six vehicles. The menu board would provide stacking for only one car before conflict with the main access drive would result from this proposed configuration.

There remains serious concern about the proposed functionality of this drive-thru based on the number of cares stacked in the drive-thru. If there would be more than one car stacked behind the menu board, there would be a conflict of a vehicle blocking the main access drive for this retail center.

There is a significant amount of vehicular conflict already between this retail center and the existing McDonald's at the subject site. If there are more than six cars using this drive-thru, there would be the potential of safety issues pertaining to this request.

f. The effect on infrastructure including water, wastewater, stormwater, utilities, and streets;

The proposed drive-thru would have no impact on wastewater, stormwater, or utilities. The proposed Subway should not have a substantial impact on additional stormwater or water that is being used by this retail center. The proposed subway is approximately the same size as the existing Subway that already exists at the subject site.

g. The incorporation and integration of architectural and landscape features to mitigate impacts from the proposed use.

If there is support for this proposed drive-thru, staff would request that the applicant add some landscaping within the landscape buffer along Main Street which would mitigate the visual impact from Main Street of the proposed menu board that is being proposed for the subject site.

Analysis

While staff does not believe that the proposed drive-use would have a negative financial impact on the surrounding properties, we continue to be concerned about the potential impact that this drive-thru could have on the functionality of this retail center. As outlined above, the proposed menu board is in close proximity to the main access drive for this retail center and stacking vehicles could block the main access drive for this retail center.

However, after extensive discussion by the PZB in June, there was a general consensus by the PZB that the proposed traffic volume for this drive-thru would be less than the Walgreens which was previously located at the subject site. The applicant identified that Subways have low traffic volumes for their stores and cannot be compared to typical fast food restaurant. The applicant further represented that a typical Subway will only have one or two cars in a drive-thru. Furthermore, the applicant surveyed Subways throughout the local region and identified stacking of three vehicles or less. The peak hours for a Subway do not compare with other fast food restaurants. In additionally, typically, 75% -80% of all customers for Subways continue to come into the store.

The fundamental question before the Village Board is whether the applicant's proposed projections are accurate. If the applicant's traffic volume is similar to the previous Walgreen's, then this proposed drive-thru will not have a negative impact on the traffic flow of this retail center.

However, if the proposed drive-thru exceeds more than three or four cars at the menu board, there would be a negative consequence on the traffic flow within this retail center.

RECOMMENDATION

Based on the foregoing analysis, staff recommends the following motion:

THE PZB recommended that the Village Attorney draft a Special Use ordinance for a drive-thru subject to the following stipulations:

- 1. That the applicant work with staff on some additional landscaping along Main Street to screen the menu board.*
- 2. Compliance with the requirements of the Antioch Fire Department.*