



OFFICIAL NOTICE

CITY OF CASSELBERRY PLANNING AND ZONING COMMISSION LOCAL PLANNING AGENCY

Wednesday, August 9, 2023
6:30 PM

City Commission Chambers
1st Floor, Casselberry City Hall
95 Triplet Lake Drive, Casselberry, Florida

TO THE PUBLIC: Persons are advised that if they decide to appeal any decisions made at these meetings/hearings they will need a record of the proceedings and for such purpose, they may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based per Section 286.0105, Florida Statutes.

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City of Casselberry A.D.A. Coordinator, 48 hours in advance of the meeting at (407) 262-7700, ext. 1150.

This is a public meeting, and the public is invited to attend. This agenda is subject to change. Please be advised that one (1) or more members of the City Commission and/or one (1) or more members of any of the City's Advisory Boards may be in attendance and may participate in the discussion at the meeting.

Persons can obtain an electronic copy of the agenda packet for this meeting by making a public records request to the City Clerk's Office by calling (407) 262-7700, Ext. 1133 or emailing cityclerk@casselberry.org.

AGENDA

1. **Call to Order/Roll Call**
2. **Pledge of Allegiance**
3. **Approval of Minutes - None**
4. **Disclosure of Ex Parte Communications**
5. **Conditional Use Applications**
 - A. **CU 23-05: 386 S.R. 436**
Conditional Use Request for a drive-through establishment, Charley's Philly Steaks fast food restaurant, located at 386 S.R. 436.
 - B. **CU 23-07: 863 S.R. 436**
Conditional Use Request for Beer and Wine Sales (2COP) for On-Site Consumption at 863 S.R. 436
 - C. **CU 23-09: 141 Sunnyside Road**
Conditional Use Request for Two (2) Accessory Structures Greater than 500 sq. ft. located at 141 Sunnyside Road
6. **Site Plan Applications - None**
7. **Future Land Use and Rezoning Amendments - None**
8. **Public Hearings - None**
9. **Other Business - None**
10. **Adjournment**

Date

Donna G. Gardner, CMC
City Clerk



City of Casselberry

Community Development Department

95 Triplet Lake Drive, Casselberry, Florida 32707 • Telephone (407) 262-7751

To: Planning and Zoning Commission

From: Community Development Staff

Date: August 9, 2023

Subject: CU 23-05: 386 S.R. 436

REQUEST: Conditional Use Request for a drive-through establishment, Charley's Philly Steaks fast food restaurant, located at 386 S.R. 436.

INTRODUCTION: The Community Development Department, Planning Division, requests that the Planning and Zoning Commission hold a public hearing to consider a conditional use request to allow a drive-through establishment located at the subject property, 386 S.R. 436. The applicant, Stephen Allen, P.E., with CivilCorp Engineering, is the Engineer of Record for a related renovation project at the subject property for a Charley's Philly Steaks fast food restaurant (SPR 23-12).

Article II, Section 1-2.6 of the City's *Unified Land Development Regulations* (ULDR) authorizes the Planning and Zoning Commission (P&Z) to review conditional use requests. ULDR Article VI sets forth specific criteria for approving the conditional use request.

GENERAL INFORMATION: The subject property has a Major Thoroughfare Mixed-Use (MTMU) Future Land Use Map (FLUM) designation and is located in the CG (Commercial General) zoning district (Attachment 1 – Maps). The subject property is ±0.74 acres, generally located on the east side of S.R. 436 and ±242 feet north of Lamplight Way (Attachment 2 – Street View of Subject Property); the subject property is also situated in the Community Redevelopment District (CRD). ULDR Table 2-5.3 indicates that drive-through establishments require conditional use review and approval in the CG zoning district. Further, Table C.3 of the CRD Urban Design Standards indicates that restaurants, including drive-ins and fast food, require conditional use review and approval.

In March 2023, the applicant submitted an application for site plan review (SPR 23-12) for the subject property proposing the renovation and enclosing of the glass bump out of the existing building. Other site improvements include façade enhancements and a small reduction of excess parking in favor of landscaping and connectivity to adjacent properties. SPR 23-12 was recently approved at the July 20, 2023, Development Review Committee Meeting (Attachment 3 – Approved Site Plan).

While the property had previously operated as a fast-food restaurant with a drive-through, the previous Wendy's restaurant ceased operations in April 2022, according to our records. As such, staff advised the applicant that conditional use shall be required for the drive-through as the use had been discontinued for more than 90 days. The proposed drive-through for Charley's Philly Steaks will cater to both sit-down patrons as well as those in vehicles. The proposed business will operate between the hours of 10:00 a.m. to 10:00 p.m., Monday through Sunday (Attachment 4 – Business Letter). There are no plans to serve alcohol at this location.

ANALYSIS: ULDR Article VI, Section 2-6.2 provides criteria for reviewing conditional use requests, which staff has evaluated, summarized, and outlined below.

1. Land use compatibility.

The subject property is located along S.R. 436, a major arterial roadway, comprised of many general retail and service-oriented establishments. Land uses such as an RV dealership, a grocer, retail, general offices, and massage parlors surround the immediate vicinity. To the north is a single-family neighborhood, however, the building is situated abutting the front setback, maximizing the distance between the nearest home and the business. The building onsite is currently unoccupied, and the applicant has stated the site will undergo total redevelopment to accommodate the proposed business use based on the approved site plan (SPR 23-12). The proposed use is compatible with the surrounding land uses and will not adversely impact land use activities in the immediate vicinity.

2. Sufficient site size and adequate site specifications to accommodate the proposed use.

The proposed project is able to meet all setbacks and buffers required. The proposed site plan includes additional ingress/egress points on the southeast boundary of the property, connecting to the adjacent parcel, which will facilitate proper traffic flow. The approved site plan includes a single building and a drive-through facility, as well as associated parking and landscaping. Redevelopment of the property shall adhere to applicable ULDR regulations, including the CRD Urban Design Standards. All this considered, there is sufficient space onsite to accommodate the proposed use of a drive-through.

3. Proper use of mitigative techniques.

The proposed use will not generate any prohibited nuisance impacts, including glare, smoke or other air pollutants, noise, vibration, major fire hazards, or other impacts that would negatively affect nearby uses. The applicant shall adhere to all City regulations, including ULDR Section 3-16.3.E. which indicates that any sounds emitted must comply with City Code Section 58-56. Further, the applicant shall ensure the space meets the minimum necessary standards to be compliant with applicable building and fire codes based on the proposed use of a drive-through.

4. Hazardous waste.

A grease interceptor is required and subject to the City's Oil and Grease Management Program. Any additional hazardous waste produced by the business shall be disposed of according to local, state, and federal laws.

5. Compliance with applicable laws and ordinances.

The applicant holds a current and valid City business tax receipt. The applicant is responsible for any other applicable permits, licenses, and inspections from other agencies, which must be provided to the City prior to implementing the use.

STAFF RECOMMENDATION: Staff recommends that case number CU 23-05 be approved with staff's conditions, based upon the staff report and the testimony and evidence presented, that the request meets the applicable provisions of the Unified Land Development Regulations and is consistent with the Comprehensive Plan as per the written findings contained within the staff report. The conditions of approval are as follows:

1. The conditional use shall be limited to 386 S.R. 436. Any expansion of the business to another property will require additional conditional use approval.
2. The drive-through use shall only begin upon redevelopment of the existing site according to the approved site plan (SPR 23-12). Modifications to the site plan may be permitted pursuant to ULDR Article XVIII, Site Plan Review.

3. All applicable licenses and permits shall be obtained within 180 days from final site plan approval.
4. The business shall remain in complete compliance with all City, County, and State requirements.
5. There shall be no outside display or storage of goods, materials, or services.
6. The expiration of the conditional use shall mirror the expiration provided for final site plan approval.
7. A new conditional use application shall be required if the use should cease for more than 90 days.
8. All of the above conditions shall be fully and faithfully executed, or the conditional use shall become null and void.

ATTACHMENTS:

1. Maps
2. Street View of Subject Property
3. Approved Site Plan
4. Business Letter



City of Casselberry

Community Development Department

95 Triplet Lake Drive, Casselberry, Florida 32707 • Telephone (407) 262-7751

To: Planning and Zoning Commission

From: Community Development Staff

Date: August 9, 2023

Subject: CU 23-07: 863 S.R. 436

REQUEST: Conditional Use Request for Beer and Wine Sales (2COP) for On-Site Consumption at 863 S.R. 436

INTRODUCTION: The Community Development Department, Planning Division, requests that the Planning and Zoning Commission (P&Z) hold a public hearing to consider a conditional use request to serve beer and wine (2COP) for on-site consumption at a proposed sit-down restaurant to be located at 863 S.R. 436.

Article II, Section 1-2.6 of the City's *Unified Land Development Regulations* (ULDR) authorizes the Planning and Zoning Commission (P&Z) to review conditional use requests. ULDR Article VI sets forth specific criteria for approving the conditional use request. Furthermore, Chapter 10 of the City's *Code of Ordinances* (City Code) regulates the sale and consumption of alcoholic beverages.

GENERAL INFORMATION: The applicant, Iliana M. Araujo Gutierrez, requests to serve beer and wine (2COP) for on-site consumption at a new restaurant, B-Town-Burger-Sushi-Bar, in a tenant space located at 863 S.R. 436 in the Indian Hills Village Shopping Center. The subject parcel (Parcel Number: 21-21-30-520-0000-0010) is ±5.03 acres and has a Commercial (C) Future Land Use Map (FLUM) designation and is zoned CG (Commercial General) (Attachment 1 – Maps; Attachment 2 – Property Survey). ULDR Table 2-5.3 indicates that the sale of alcoholic beverages for on-site consumption in the CG zoning district requires conditional use approval from P&Z.

The proposed establishment will serve a combination of sushi and specialty hamburgers as well as desserts, beer, and wine (Attachment 3 – Menu). The serving of alcohol shall be secondary to the primary use of the restaurant, which is proposed to be open from 11:00 a.m. to 10:00 p.m. daily (Attachment 4 – Business Letter). The applicant's proposed hours of operation are consistent with City Code Section 10-2, which limits the sale and on-site consumption of alcoholic beverages to the hours between 7:00 a.m. and 2:00 a.m., seven days a week.

In addition to 863 S.R. 436, the applicant has also leased the adjacent tenant space, 861 S.R. 436. The applicant intends to utilize the space as an office for the restaurant business and may expand the restaurant one day. Further, the applicant has expressed interest in providing outdoor seating arrangements for patrons (Attachment 5 – Outside Seating Plans). This considered, an application has been submitted for site plan review to modify their site plan accordingly (SPR 23-17). The applicant's request for conditional use approval to serve beer and wine for on-site consumption includes any outdoor areas approved as part of SPR 23-17 and 861 S.R. 436 once any required improvements are complete.

ANALYSIS: ULDR Article VI, Section 2-6.2 provides criteria for reviewing conditional use requests, which staff has evaluated, summarized, and outlined below.

1. Land use compatibility.

The subject property is located along S.R. 436, a major arterial roadway. Adjacent to the subject property on both sides are multi-tenant commercial properties consisting of various uses, from professional services to retail establishments. To the rear of the property are single-family homes, separated by a six-foot concrete wall. A shared-parking lot in the rear of the property sits adjacent to a landscape buffer, and the applicant is not proposing any exterior modifications to the site. As such, enhanced screening was not deemed necessary. Overall, the sale of alcohol will be ancillary to the site's primary use as a restaurant, which is generally compatible with adjacent commercial uses and not anticipated to impact the surrounding area unfavorably.

2. Sufficient site size and adequate site specifications to accommodate the proposed use.

The subject parcel is known as Indian Hills Village Shopping Center. The commercial shopping plaza consists of two buildings, each housing a variety of tenants. The proposed restaurant, 863 S.R. 436, and the adjacent office, 861 S.R. 436, are in the building on the northernmost end of the subject parcel.

ULDR Section 3-15.2 requires one parking space for every 100 sq. ft. of building area for "Restaurants or Other Eating Places." The total area the applicant occupies amounts to $\pm 2,500$ sq. ft., resulting in a minimum required 25 spaces, with at least four ADA-accessible spaces. Approximately 65 standard spaces and one ADA-accessible space surround the proposed restaurant. While there is sufficient standard parking, per ULDR Section 3-15.6(D)(g), 65 spaces require a minimum of three ADA-accessible spaces. As a condition for approval, correcting the insufficient ADA-accessible parking onsite will be necessary.

The applicant has also proposed outdoor seating and applied for a site plan modification (SPR 23-17), which is presently under review by the City's Development Review Committee. Four tables are proposed to be placed outside 861 S.R. 436 and 863 S.R. 436.

3. Proper use of mitigative techniques.

According to City Code Section 10-7(1)(c), a restaurant holding a 2COP alcoholic beverage license that derives at least 51% of gross revenue from selling food and nonalcoholic beverages is exempt from meeting distance separation requirements. The applicant has provided a menu and confirmed that food and nonalcoholic beverage sales should account for more than 51% of gross revenue. The site is, therefore, exempt from distance separation requirements.

4. Hazardous waste.

A grease interceptor is required and subject to the City's Oil and Grease Management Program. Aside from this, any hazardous waste produced by the applicant shall be disposed of according to local, state, and federal laws.

5. Compliance with applicable laws and ordinances.

Possession of both City and County Business Tax Receipts, as well as any applicable permits, licenses, and inspections from other agencies, must be provided to the City prior to the sale of beer and wine.

STAFF RECOMMENDATION: Staff recommends that case number CU 23-07 be approved with staff's conditions, based upon the staff report and the testimony and evidence presented, that the request meets the applicable provisions of the Unified Land Development Regulations and is consistent with the Comprehensive Plan as per the written findings contained within the staff report. The conditions of approval are as follows:

1. The conditional use shall be limited to the subject parcel (Parcel Number: 21-21-30-520-0000-0010). Any expansion and/or relocation of the proposed use within the subject parcel will require a new business tax receipt.
2. Outdoor seating shall not commence without prior site plan approval according to ULDR Article XVIII, Site Plan Review.
3. All sales and consumption of alcoholic beverages, except for approved package sales, shall be on-site and indoors or confined to outdoor seating areas as part of an approved site plan per ULDR Article XVIII, Site Plan Review.
4. Sale of alcoholic beverages is prohibited when food service is unavailable, and at least 51% of gross revenue shall be derived from the sale of food and nonalcoholic beverages.
5. The hours of on-site alcohol consumption and sales shall comply with the hours outlined in Section 10-2 of the City of Casselberry's *Code of Ordinances*.
6. The business shall comply with all city, county, and state requirements.
7. An engineering permit to increase the number of ADA-accessible parking spaces to comply with ULDR Article XV, Offstreet Parking and Loading Requirements, must be submitted within 180 days of the conditional use approval.
8. The conditional use shall commence within 180 days of the approval.
9. The conditional use shall expire if the use is discontinued for more than 90 days.
10. All of the above conditions shall be fully and faithfully executed, or the conditional use shall become null and void.

ATTACHMENTS:

1. Maps
2. Property Survey
3. Menu
4. Business Letter
5. Outside Seating Plans



City of Casselberry

Community Development Department

95 Triplet Lake Drive, Casselberry, Florida 32707 • Telephone (407) 262-7751

To: Planning and Zoning Commission

From: Community Development Staff

Date: August 9, 2023

Subject: CU 23-09: 141 Sunnyside Road

REQUEST: Conditional Use Request for Two (2) Accessory Structures Greater than 500 sq. ft. located at 141 Sunnyside Road

INTRODUCTION: The Community Development Department, Planning Division, requests that the Planning and Zoning Commission (P&Z) hold a public hearing to consider a conditional use request for the construction of two (2) accessory structures greater than 500 sq. ft. at the rear of the subject property, 141 Sunnyside Road. One accessory structure will function as an accessory dwelling unit (ADU) while the other proposed structure is a detached garage.

Section 2-7.9(D) of the City's *Unified Land Development Regulations* (ULDR) states that accessory structures greater than 500 sq. ft. in area shall require conditional use approval. ULDR Section 1-2.6 authorizes the Planning and Zoning Commission (P&Z) to review conditional use requests. ULDR Article VI sets forth specific criteria for approving the conditional use request.

GENERAL INFORMATION: The subject property is ±0.60 acres and has a Low Density Residential (LDR) Future Land Use Map (FLUM) designation with R-9 (Low Density Single-Family) zoning (Attachment 1 – Maps; Attachment 2 – Property Survey). The applicant, Carolina Cruz, is proposing to construct a ±600 sq. ft. detached metal garage with a concrete pad in addition to a ±1,076 sq. ft. ADU for the purpose of housing herself and her husband on the subject property, where her parents reside (Attachment 3 – Site Plan; Attachment 4 – Letter of Intent). ULDR Table 2-5.3 permits the use of "Single-family dwellings and accessory residential units" in the R-9 zoning district.

The detached metal garage will be 20 ft. by 30 ft. in size and will be placed on a concrete pad of the same size; the structure is approximately 12 ft. tall and lower than the roofline of the principal structure. The proposed ADU consists of two bedrooms and two bathrooms and includes a front porch, totaling ±1,076 square feet. The proposed ADU will not have an oven or washer or dryer to ensure the use is ancillary to the principal dwelling as seen in the plans provided by the applicant.

ANALYSIS: ULDR Article VI, Section 2-6.2 provides criteria for reviewing conditional use requests, which staff has evaluated, summarized, and outlined below.

1. Land use compatibility.

The properties to the north, south, and west of the subject property are single-family homes. On the east side, the property is adjacent to an office building parking lot. In residential zoning districts, accessory structures and ADUs are allowed if constructed at the same time or after the principal structure. Additionally, the proposed ADU is meant to only be used for family members of the principal structure.

As for the detached garage, the applicant has confirmed that it will only be used for storage and will not be converted into a dwelling unit or business-related use. The accessory structure will not have water or plumbing, so it will not adversely affect land use activities nearby.

2. Sufficient site size and adequate site specifications to accommodate the proposed use.

Due to the size of the proposed accessory structures, per ULDR Section 2-7.9, they are required to meet the same minimum side and rear setbacks as the main structure; the accessory structures must also be at least 10 ft. from the main structure. The R-9 zoning district requires a 7.5-ft. setback from the side interior lot line and a 20-ft. setback from the rear lot line.

Further, in the R-9 zoning district, impervious areas can encompass up to 50% of the property, which the addition of the two structures does not exceed. There are no other accessory structures currently on the property. With the construction of the proposed accessory structures, there cannot be any additional accessory structures on the property per ULDR Section 2-7.9. Additionally, parking requirements, outlined in ULDR Section 3-15.2, require two (2) spaces for each single-family dwelling. With the addition of a dwelling unit on the subject property, three more parking spaces are provided in the proposed accessory structure adjacent to the ADU.

Both the ±600 sq. ft. detached metal garage and the ±1,076 sq. ft. ADU meet all of the required size and dimension regulations of the R-9 zoning district in ULDR Table 2-5.4. Therefore, there is sufficient site size to accommodate the proposed accessory structure. 3. Proper use of mitigative techniques. The accessory structures will be located behind the principal structure in the rear yard of the subject property. In order to maintain the harmonious appearance of the residential area, the façades of each accessory structure shall be coordinated with the main structure and evaluated during the building permit process (Attachment 5 – Building Elevations & Renderings).

4. Hazardous waste.

No hazardous waste will be produced or stored at the site.

5. Compliance with applicable laws and ordinances.

A building permit must be obtained, and all inspections must be approved prior to utilizing the accessory structure and ADU. The Applicant is responsible for any other applicable permits, licenses, and inspections from other agencies which must be provided to the City prior to building permit issuance.

STAFF RECOMMENDATION: Staff recommends that case number CU 23-09 be approved with staff's conditions, based upon the staff report and the testimony and evidence presented, that the request meets the applicable provisions of the Unified Land Development Regulations and is consistent with the Comprehensive Plan as per the written findings contained within the staff report. The conditions of approval are as follows:

1. The conditional use shall be limited to the location of 141 Sunnyside Road.
2. The accessory structure shall not be utilized for any commercial activity or home occupation.
3. The ADU shall not be utilized for any commercial activity.
4. The accessory structure shall be utilized solely for storage and shall not be converted to a habitable structure.
5. Any additions that increase the height or square footage of the accessory structure or ADU will require conditional use approval.
6. A building permit must be issued within 180 days of approval. All inspections must be approved by the expiration date of the building permit.

7. The use shall remain in complete compliance with all city, county, and state requirements.
8. All of the above conditions shall be fully and faithfully executed, or the conditional use shall become null and void.

ATTACHMENTS:

1. Maps
2. Property Survey
3. Site Plan
4. Letter of Intent
5. Building Elevations & Renderings