

## TOWN OF ORO VALLEY

## PLANNING &amp; ZONING COMMISSION

MEETING DATE: April 3, 2012

**TO: PLANNING & ZONING COMMISSION****FROM:** Karen Berchtold, Senior Planner**SUBJECT: Public Hearing:** Review of a Conditional Use Permit for a proposed gas station at Lot 8 of the Mercado at Canada Hills Center, directly north of the Fry's Market Plaza at the northeast corner of N. La Canada Drive and W. Lambert Lane. OV812-001**SUMMARY:**

The Kroger Company proposes to develop a gas station at Lot 8 of the Mercado at Canada Hills center (*Attachment 2*). The proposed gas station would be operated by the Fry's Market located in the commercial plaza to the south. The project site is in the El Conquistador Planned Area Development (PAD), Area D.

**BACKGROUND:**

The El Conquistador PAD, Area D notes that retail uses may include those uses permitted in the C-2 Commercial District of the Town Zoning Code. Conditional uses shall require a use permit. The Zoning Code notes that gas stations are allowed in the C-2 Commercial District with a conditional use permit.

Subsequent to Conditional Use Permit review, a Conceptual Site Plan and Conceptual Architecture must be submitted to the Conceptual Design Review Board (CDRB) for review. The use permit is required to assure that the characteristics of the use are compatible with the surrounding area.

Site Conditions

- Mercado at Canada Hills is a 8.16 acre commercial subdivision
- Five of the eight lots in the subdivision are developed
- Zoning is El Conquistador PAD, Area D, Commercial
- Existing uses at the Center include: restaurant, hardware store, indoor fitness, office, retail, and service

Proposed Improvements

- Gas station includes a 4,480 square foot, 18 foot high steel canopy; kiosk building; seven fuel dispensers; and two underground storage tanks
- Kiosk is 178 square feet, with convenience sales and staff restroom
- Two parking spaces are provided, including one mobility-impaired space
- Access is provided from driveways to the north and south
- Landscaping within parking area is proposed

Approvals to date:

- 2011: Administrative review and approval of changes to Landscape Plan, Mercado at Canada Hills
- 2007: Town Council approved Final Plat for Mercado at Canada Hills
- 2005: Town Council approved Development Plan/Preliminary Plat for Mercado at Canada Hills
- 1983: Town Council approved El Conquistador Country Club Planned Area Development

Surrounding Land Uses:

A map indicating the site within the context of surrounding development is provided as Attachment 3.

Direction	Zoning	Land Use
North, East, and South	El Conquistador Country Club PAD, Area D, Commercial	Vacant lot; parking; retail, office and service uses; Fry's Market plaza; Valero gas station
West	El Conquistador Country Club PAD, Area B, Residential	Canada Hills: Existing single family homes

**Oro Valley General Plan**

The Town General Plan designates this site as Neighborhood Commercial/Office. This designation denotes commercial and office areas with good arterial access that are located close to residential areas.

The following are applicable General Plan policies;

- *Policy 11.3.1, "1.4.8 The Town shall continue to require adequate buffering of commercial and employment uses from adjacent neighborhoods, with special consideration being given to placing office or other less intense uses adjacent to the residential areas."*

The proposed gas station is located directly east of N. La Canada Drive. As noted in the Zoning Code, a gas station is in the category of Tier II, a more intense convenience use. The proposed gas station is located across the street from a residential neighborhood, Canada Hills. A Landscape Plan for the Mercado at Canada Hills was approved in 2006. The Plan includes a twenty foot wide buffer along La Canada Drive. Staff compared the existing buffer with the approved Plan. The trees indicated on the approved Plan are provided, but the number of shrubs and understory plants is less than shown on the approved Plan. Staff recommends shrubs and accent plants be replaced in the buffer between Lot 8 and La Canada Drive, consistent with the approved Landscape Plan. A condition is added to Attachment 1.

- *Policy 11.3.2, "The Town shall continue to require all new developments.....to maintain and/or enhance the character and quality of views from and along scenic corridors . . . such as La Canada Drive."*

The proposed gas station is located in the Mercado at Canada Hills center adjacent to N. La Canada Drive. The gas station is adjacent to the roadway, and the canopy will have some impact on midrange mountain views. The view impact is significantly reduced by the perpendicular orientation of the canopy to the roadway.

**EL CONQUISTADOR PAD COMPLIANCE:**

This conditional use request complies with applicable PAD requirements.

**ORO VALLEY ZONING CODE COMPLIANCE:**

The following are pertinent code requirements:

Section 25.1.A. General Requirements for all non-Residential Uses

1. *"No external speakers, except for drive-through order purposes, piped-in ambiance music that is not discernible (less than forty (40) decibels) from on-site property lines, special events and/or approved outdoor entertainment venues, shall be permitted on the premises."*

The applicant requested that intercoms be provided for safety, and staff supports this request. The applicant has not requested additional audio features. Due to proximity to residential areas, staff recommends that no external loudspeakers, music, or audio advertising be allowed at the site. A condition is added to Attachment 1.

2. *"Temporary outdoor storage is not permitted, except in accordance with Section 25.3, Temporary Uses and Structures."*

No temporary outdoor storage of merchandise, supplies, or other items will be permitted on the premises.

3. *"For building facades less than fifty (50) feet in width, outdoor displays shall not occupy more than twenty (25) feet of the façade."*

The applicant submitted a diagram that indicates display areas along the kiosk, and between the columns adjacent to the south elevation of the kiosk. The proposed kiosk is 8 feet by 22 feet. Staff recommends that total display area take up no more than half the total façade length of the kiosk building, which is consistent with the above standard. Landscape planters must be provided at the north, west, and east elevations. A condition is added to Attachment 1.

Section 25.1.G., Convenience Uses

1. *"Tier II Convenience Uses produce a high level of traffic generation and impact on surrounding uses. They included the following: drive-in/drive-through restaurants, convenience markets, car washes, gas stations, and automotive service uses."*

The proposed gas station is a Tier II convenience use. The kiosk will be open from 5:00 am to 10:00 p.m., and pumps will be operational 24 hours/7 days a week.

2. *"Vehicle queuing is prohibited in the required setbacks."*

The El Conquistador PAD requires an average setback of 20 feet from La Canada Drive. The twenty foot area along the property line is occupied by landscape buffer. This requirement is met.

3. *"Canopies shall not be located closer than ten (10) feet from property line of the project. Design of the canopy shall architecturally match the design of the main building. The maximum height of the canopy shall not exceed eighteen (18) feet or the height of the nearest structure, whichever is more restrictive."*

The proposed canopy is located 64 feet from the property line. Canopy design and height will be reviewed for compliance with these requirements at Conceptual Design review.

Section 27.7, Off-street Parking

The applicant has proposed two parking spaces for the gas station. The El Conquistador PAD provides parking requirements but does not address requirements for a gas station use, so Zoning Code standards apply. Based on Zoning Code requirements, staff recommends four parking spaces: one for mobility-impaired access; one adjacent the air/water dispenser; one for the employee; and one for convenience sales.

Section 22.5, Use Permits

Use permits may be granted based on consideration of the following criteria:

- A. *That the granting of such conditional use permit will not be materially detrimental to the public health, safety, or welfare. In arriving at this determination, the factors which shall be considered shall include the following:*

1. *Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination;*

Noise and Smoke: This commercial area is located proximate to residential areas and a major thoroughfare. Additional noise and smoke could come from the operation of vehicles at the site; as such, it is not anticipated this would meet the standard of "materially detrimental." Since this is a neighborhood center, external loudspeakers should not be permitted. A condition is added to Attachment 1.

Odor, Dust, and Vibration: The applicant notes that no odor, dust, or vibration issues are anticipated for this use, and that odor associated with fueling operations is eliminated through vapor recovery techniques.

Illumination: At the neighborhood meeting for this project, concern was expressed about the illumination at the site. The proposed gas station will be open 24 hours/seven days a week, so the site will be continually illuminated throughout the night. The existing Valero gas station to the south is also open 24 hours/seven days a week. Per the Zoning Code, gas stations must meet but may not exceed specific illumination requirements, including cut-off fixtures. Due to proximity to the residential area to the west and concern expressed by neighbors, Staff recommends the proposed gas station be limited to the minimum illumination permitted for gas station canopies. A condition is added to Attachment 1.

2. *Hazard to persons and property from possible explosion, contamination, fire or flood;*

The project must meet all Fire and Building Safety requirements. The gas station use does not impose additional impacts related to contamination or flood.

3. *Hazard occasioned by unusual volume or character of traffic.*

The applicant notes that no unusual traffic volumes or characteristics are anticipated. Engineering staff review concluded that the granting of the use permit will not be materially detrimental to the public health, safety, or welfare due to unusual volume or character of traffic.

At the neighborhood meeting, residents expressed concern for pedestrian safety at the crosswalk north of the proposed site. The concern is that increased traffic generated by the gas station may result in fewer gaps in traffic flow, making it more difficult to cross La Canada Drive. Town Engineering staff evaluated the site and notes that the existing crosswalk utilizes a standard "High Visibility" design with signage and advanced warning. Furthermore, the existing median

provides a refuge area for pedestrians crossing La Canada at this location. As with any new development, the proposed gas station is expected to generate additional traffic. However, a significant percentage of traffic to the gas station would be from "pass-by" trips. Pass-by trips are vehicle trips that are already on the adjacent roadway but would turn into the site while passing by as an intermediate stop on the way to another destination. New "trips" generated by this gas station will be relatively small when compared to the overall traffic capacity of La Canada Drive and Lambert Lane. Existing traffic conditions and level of service are not expected to be impacted because of the following: 1) La Canada Drive is already fully improved as a 4-lane, divided road; 2) An existing traffic signal is located at the La Canada Drive/Lambert Lane intersection which creates gaps in traffic; and 3) Lambert Lane will have additional capacity and other associated improvements once current roadway construction is completed. Therefore, staff concludes that no additional improvements are warranted.

- B. That the characteristics of the use proposed in such use permit are reasonably compatible with types of uses permitted in the surrounding area.*

The existing Mercado at Canada Hills center incorporates a mix of office, restaurant, and service uses. There is an existing gas station to the south at the Fry's Market Plaza at the intersection of E. Lambert Lane and N. La Canada Drive. The Canada Hills residential area proximate to the site is separated from the gas station site by N. La Canada Drive.

At the neighborhood meeting, neighbors expressed concern about the proximity of the proposed gas station to the existing one to the south. Concerns included: potential for the sales at the existing gas station to be decreased due to competition with the new gas station, causing the business to close and resulting in a vacancy; and change in aesthetics and uses at the center. Regarding the first point, competition between businesses is not unusual, and not cited as a criterion for reviewing a conditional use permit. If a business closes, it is likely that the site will be re-developed by a new business.

Regarding the second point, the Mercado center features distinctive architecture and well-planned amenities. The expectation is that the proposed new gas station, and two stations in the general vicinity, will detract from the current aesthetics and ambiance of the center. Although this may be the case, staff conclude that the proposed gas station will meet the criterion of "reasonably compatible" with the surrounding area. The Town's Design Standards, Conceptual Design Principles, and landscape requirements will be applied so that the design of the structure and site is consistent with the existing high-quality design of the Mercado at Canada Hills center.

### **Public Notification and Comment**

The property has been noticed and posted in accordance with Town requirements. In response to a neighbor request, the notice area was extended. To comply with the requirements of the Public Participation Ordinance, a neighborhood meeting was held on December 15, 2011. Eighteen residents attended. Key issues and concerns included:

1. Potential for odor and explosion
2. Close proximity to an existing gas station
3. Pedestrian safety at nearby crosswalk
4. Traffic within the center
5. Lighting and noise impacts this facility will have on the adjacent neighborhoods
6. Impact to ambiance, quality of life, property values

A list of primary Neighbor Issues and Concerns/Applicant Responses and a neighbor's letter is provided as *Attachment 4*.

**CONCLUSION/RECOMMENDATION**

The proposed gas station is in general conformance with applicable General Plan Policies and Zoning Code requirements. Conditions are incorporated to address potential noise and lighting impacts. The project must meet Town Design Standards and landscape requirements. Staff supports the conditional use permit and recommends approval with the conditions specified in Attachment 1.

**SUGGESTED MOTION**

The Planning & Zoning Commission may wish to consider one of the following suggested motions:

I move to recommend approval of **OV812-001, Fry's Food Stores conditional use permit** for a gas station at Lot 8, Mercado at Canada Hills, (with/without) the conditions specified in Attachment 1, finding that the request meets the following criteria: \_\_\_\_\_ for granting a conditional use permit.

OR

I move to recommend denial of **OV812-001, Fry's Food Stores conditional use permit** for a gas station at Lot 8, Mercado at Canada Hills, with the finding that the request does not meet the criteria for a conditional use permit, specifically: \_\_\_\_\_.

**Attachments:**

- 1. Conditions of Approval
- 2. Applicant's submittal
- 3. Context Map
- 4. Neighbor Issues and Concerns/Applicant Responses and Neighbor letter

Project Manager: Karen Berchtold, AICP, Senior Planner

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David Williams, Planning Division Manager

Cc: File  
Jeff Guyette, Fry's Food Stores  
Barry Kitay, Whirlygig Properties

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**Attachment 1**  
**Conditions of Approval**

Request for Conditional Use Permit  
Gas Station at Mercado at Canada Hills  
OV812-001

1. Shrubs and accent plants shall be replaced in the buffer between Lot 8 and La Canada Drive, consistent with the approved Landscape Plan for Mercado at Canada Hills.
2. No external loudspeakers, outdoor music, or audio advertising shall be allowed at the site.
3. Total merchandise display area may occupy no more than half the total façade length of the kiosk building.
4. Landscape planters must be provided at the north, west, and east elevations of the kiosk building.
5. The proposed gas station is limited to the minimum illumination permitted for gas station canopies.