

City of Jonesboro Metropolitan Area Planning Commission
Record of Proceedings – Meeting Held October 12, 2010

1. Panera Bread: Conceptual Site Plan Review

Mr. Otis Spriggs introduced the item: Panera Bread. This matter appears on the agenda in two forms: Firstly, to entertain the question of whether Panera Bread is considered fast food or general restaurant. We have provided you with the specific ordinances which define both:

Restaurant, fast-food, means an establishment where the principal business is the sale of food and nonalcoholic beverages in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-in-style restaurant offering quick food service, where orders are generally not taken at the customers table, where food is generally served in disposable wrapping or containers and where food and beverages may be served directly to the customer in an automobile.

Restaurant, general, means an establishment, other than fast-food restaurant, where the principal business is the sale of food and beverages in a ready-to-consume state, where there is no service to a customer in an automobile, and where the design or principal method of operation consists of one or more of the following:

(1) A sitdown restaurant where customers, normally provided with an individual menu, are generally served food and beverages in nondisposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed; or

(2) A cafeteria or cafeteria-type operation where food and beverages generally are served in nondisposable containers and consumed within the restaurant.

Mr. Spriggs: This property was rezoned in November, 2007 with the restriction that the property not be used as fast food restaurant. Staff has reviewed the proposal and has dined in a number of Panera Bread locations around the country. We feel confidently that it is a specialty style restaurant which serves food on permanent dinnerware. Fast food is typically centered around the vehicle and is meant to be quickly prepared and served and on paper supplies. Staff asks for MAPC's concurrence. If approved tonight, the applicant will take the submitted conceptual plan and submit a final site plan to the MAPC as required in the original ordinance.

Mr. Lonnie Roberts made a motion that we concur that this restaurant is not a fast food restaurant. Mr. White seconded the motion.

Mr. Spriggs stated that the applicant has asked for a pick up window in the proposal similar to some of the general dining restaurants in town. This was the only gray area in this interpretation, realizing that some restaurants have a pick up window, even though they are general restaurants in nature.

Mr. Halsey: Pick up window would be different than a drive-thru.

Phillip Crego: Do the commissioners have the statutory definitions of restaurant fast food and general? Mr. Spriggs noted that they have them in the staff report. Mr. Crego pointed out that there is a provision under restaurant general stating that there is no service to a customer in an automobile.

Mr. Kent Arnold: There are 1400 Panera's in the U.S. I have never been to one with a drive-thru. They asked us to design one for them as an ancillary service. As for the definitions, I would yield to the fact that we have drive-thru's in Jonesboro, such as the fish restaurant on Southwest Dr./Main Street across from Jonesboro High School. Panera is a bakery/deli. It is similar to Outback's pickup. It does minimal business through its pickup area. This is similar to San Francisco Bread.

Mr. Crego: The other restaurants mentioned do not have a limited use overlay. This one does.

Mr. Hoelscher stated that the word "service" is a little nebulous. Some restaurants allow you to pull up without a window and they bring your order out to you. I would say that is service as well in a vehicle. It seems the intent of that restriction was that you not have a drive-thru lane where you pull up, order and then drive up to a second window and get your food. Do you see any latitude in intent vs. actual wording?

Mr. Arnold reiterated service in a car such as Outback and others. Mr. Halsey asked about the notes of the intent when we approved it? Mr. Hoelscher asked if this is call-in only? Mr. Arnold noted that he didn't know the exact details.

Mr. White: So it's a drive-thru, but you do not have any idea of the menu details? Mr. Arnold: No. This is conceptual. They wanted even 20 more seats inside. This will be one of their prototypes.

Mr. Hoelscher: Asked Mr. Spriggs- as a planner why would fast food restaurants be exempted from certain zonings. Mr. Spriggs explained that when the rezoning went through, there was an assumption that this will be some form of neighborhood scale commercial. The caution that was taken by the MAPC and Council at that time was the fact that there would still remain some single family homes after commercial starts to develop. Having fast food restaurants was a concern of one of the neighbors at that time, due to the impact on an abutting single family home. There was not a lot detail on the ordinance approving this.

Mr. Arnold: They will bring 100 jobs, this will be a first class place. He added this in later. This is particularly a bakery and a coffee shop. The purpose is to go there is for the ambience and the food.

Mr. Crego: I accept and understand what you are saying and I don't want it to appear that I am trying to prevent them from coming; all those things I don't dispute. But, when you start talking about a drive-thru window, I don't see how this Commission is going to reconcile that particularly, because they have asked the questions and we can't get an answer. When I order and they bring my food out it will be in paper containers, etc. Those are the issues, not the quality of the Company and the number of jobs. The MAPC has to decide the distinction on the service in an automobile.

Mr. Crego asked that the Commission delineates exactly what we are stating. Other vacant properties would have to be developed and treated the same.

Mr. White: We have established that a variance cannot be granted. Is there a possibility that a different zoning can be granted. In this case this area has changed. Can we not do the same and say that this should not have a limited use overlay.

Mr. Spriggs stated that the quick answer would be- No. A comparison to the conditional use process and the limited use overlay (in which this one falls under) was given. A new rezoning petition similar to the one later on the agenda, would have to be submitted to accomplish that with detailed restrictions.

Mr. Crego: I am not arguing against this, but I am cautioning the Commission on two things: you have the limited use overlay. If a drive-thru is approved with no parameters, then you will see more fast food restaurant applications. If you want to specify what this commission views it to be, then I think you can approve the site plan, specifying if this is drive-up or pick-up and noting what the limits are.

Mr. Spurlock made comments and noted that fast food restaurants typically have 5 or so cars stacked up. We need to clarify how we define fast food restaurant with pick up.

Mr. Kelton stated that the public wants and expects to have the convenience of a pick-up window. This is what we want today.

Mr. Lonnie Roberts: I think we can still allow a pick-up and still approve this under the original intent of the ordinance. I sat on the Commission when we rezoned it.

Mr. Lonnie Roberts gave a first try at a motion: That the Commission would define a pull up window with a call-in order format; this is not considered a drive thru. We still want to weed out the drive-thru with 5 or more cars stacked. This is what I voted for when I voted to approve this- to have this type restaurant in this area.

Commission ACTION: Mr. Robert's Motion: MAPC concurs that a restaurant having pick-up service but not a true drive-thru with a full service menu is not a fast food restaurant. Motion was seconded by Mr. White.

Mr. Arnold explained the rezoning request and original intent. What I would like to do, if possible, is to have this site plan approved with a pick-up window. I would like to continue on with the Rezoning Case further on the agenda so that if the applicant wants more, then we would have the rezoning to remove the fast food restaurant.

Roll Call: Mr. Hoelscher- Aye; Mr. Roberts- Aye; Mr. White- Aye; Mr. Scurlock – Aye; Mr. Kelton- Aye. 5 to 0.

Conceptual Site Plan approved for Panera Bread. MAPC concurs that a restaurant having pick-up service but not a true drive-thru with a full service menu board, is not a fast food restaurant.

2. RZ 10-16: Ebbert/Talley Rezoning-Parkwood/Sun

Mr. Kent Arnold presented the rezoning case. Panera Bread is the applicant. The property has the C-3 LUO Zoning which limits the fast food restaurant, which precludes having a drive-thru. They are a bakery café, with wifi, and are known for their famous bread. They would like to have a drive-thru. We are asking for this plat to be amended, we don't want any other fast food on here we want Panera Bread including a drive through.

Mr. White asked if we can do a C-3 LUO with the previous motion. Mr. Roberts stated that we would be throwing out our earlier definition.

Mr. Arnold stated that when we think of fast food restaurant we think of McDonalds and Wendy's. The definition is narrow and we are asking for Panera Bread, which would be the only restaurant that would have the drive-thru. It is not fast food, but a bakery café restaurant.

Mr. Arnold: What would be wrong with proposing the C-3 LUO for this tract and having the restaurant with the drive-thru.

Mr. Roberts: Do we have the authority to now reconsider the C-3 LUO; can we strike the Fast Food Restaurant. Mr. Phillip Crego: This is a rezoning petition.

Mike Ebbert: Where is the definition of fast food? Mr. Crego: It is in the Zoning Ordinance. Mr. Spriggs stated that it is in the Staff Report. Mr. Crego pre-warned the Commission that if you rezone it C-3 without the Limited Use Overlay, then you will be allowing any type of fast food restaurant to be located there. You need to make sure you define what your terms are. Ultimately, anything you decide tonight will be a recommendation to the City Council.

Mr. Hoelscher made the observation that if we approve it only for Panera Bread; if that store closes in 2 years and some other restaurant tries to move in- it would come back to us.

Mr. Mooney: I filed the application on behalf of the land owners not the restaurant. In filing it, it was my thought that I have before you an application to rezon the entire tract to take out the drive-thru restaurant limitation. Seems that you are being asked to interpret that Panera Bread is not a fast food restaurant, and therefore, the exclusion did not apply to it. That left everything out there with that limitation on it. Panera Bread Co. does not violate that. You should have made the determination that we do not find it to be a fast food restaurant, but a general one with a pick-up window.

Mr. Halsey: We have given that to you.

Mr. Arnold: I am requesting on this rezoning, to change C-3 LUO and illuminate the word fast food restaurant from the exclusion list.

Mr. Kelton reiterated that people prefer window service as a convenience. The public expects to see it. Can we put some limitations on the size of the sign and the sound?

Mr. Spriggs explained that the food prepared at Panera is not pre-cooked. Mr. Spriggs stated that he does not support a rezoning to strike fast food limitation fully, and feels that the determination that it is not a fast food restaurant and the site plan approval with conditions on the pull up window is the better approach.

Mr. Arnold reiterated that the request is to remove the prohibition of the fast food from the L.U.O.

Mr. Halsey stated we can still approve the final site plan for a Panera Bread with a menu board just long as they prove its not fast food.

Mr. Arnold restated his request: To rezone the property, approved and limit it to a bakery, café with a drive-thru. In the event of closure within a period of years that this stipulation would no longer apply. I don't expect them to expire.

Mr. Halsey called for a motion. No motion was placed on the floor. Issue failed for a lack of a motion.