



STAFF REPORT

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 • Fax (760) 367-5400
jcorbin@29palms.com

To: Planning Commission
From: Community Development Director
Date: January 6, 2004
RE: Election of Chair and Vice Chair
Determination of Meeting Time and Dates for 2004

RECOMMENDATION: Select Chair, Vice Chair and meeting time and dates for 2004.

BACKGROUND: Pursuant to Section 19.02.100 (E) of the Development Code, the Commission must select its Chair and Vice Chair for 2004 at the first meeting of the year. Therefore, following the Call to Order, Pledge of Allegiance, and Roll Call, Chairman Caplinger will open the floor to nominations for Chairman. When the new Chair is selected, the gavel will be passed and the new Chair will preside over selection of the Vice Chair in the same manner.

Section 19.02.100 (F) specifies that, after the Chair and Vice Chair are seated, the Commission should determine the regular meeting time and dates for the coming year.

Staff recommends that the Commission select a Chair and Vice Chair, and continue to hold regular meetings on the first and third Tuesday of each month, beginning at 6:00 p.m.

Submitted for your consideration,

Jay Corbin
Community Development Director



STAFF REPORT

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 • Fax (760) 367-5400
jcorbin@29palms.com

To: Planning Commission
From: Community Development Director
Date: January 6, 2004
RE: PC 03-45

Conditional Use Permit (CUP) for proposed Change of Use, development of indoor and outdoor automotive repair facility and towing business at 73662 Homestead Drive (APNs 621-131-03, 04, and 05).

RECOMMENDATION: Conduct the Public Hearing and deny the CUP based on nonconformance with the City's standards of development and the City's General Plan.

BACKGROUND: Applicant Janet Breuer proposes an automotive repair facility and towing business in an existing facility. Present zoning for the property is General Commercial (CG). The proposed use requires a Conditional Use Permit.

Project Routing

After receiving the application, staff routed the proposal to the following agencies and City departments requesting their review and comment:

Richard Pedersen, City Engineer
Fred Fogel, Building Official
Administrative Sergeant, San Bernardino County
Sheriff's Department
Tracy Walters, Environmental Health Services
Mike Wright, Twentynine Palms Water District
Jim Thompson, Twentynine Palms Fire
Department
Lt. R. E. Jones, Commander, California Highway
Patrol
Charles Springer, California Regional Water
Quality Control Board
Ashley Calvert, Sierra Environmental Services

Attachments

- CUP application
- Locator Map
- Proposed design
- August 22, 2003 letter
- August 25, 2003 letter
- September 2, 2003 letter
- October 16, 2003 letter
- November 25, 2003 letter
- Initial Study and draft Negative Declaration
- Draft Conditions of Approval
- Site Plan

Comments were received from the Sheriff's Department, City Engineer and Building Official. The Sheriff's Department expressed no concerns; comments provided by the City Engineer and Building Official are incorporated into the draft Conditions of Approval.

CUP Requirement

One of the main points of contention regarding this application is the applicant's belief that their business does not require a Conditional Use Permit. The requirement is contained in the City's Municipal Code; it was also contained in the recently repealed Community Plan. The applicant states that Chapter 19.10 of the newly adopted section of the Development Code is not applicable because their application was submitted on August 1, 2003, prior to November 14, 2003, the effective date of the Chapter. The City Attorney has reviewed this matter and points out that the application, though submitted August 1, 2003, was not deemed complete prior to the effective date of Chapter 19.10. Therefore, Chapter 19.10 is applicable.

Further, even under the requirements of the Community Plan, which was in effect when the application was submitted, a Conditional Use Permit (CUP) is required for a muffler shop in the General Commercial (CG) land use district. Per the Community Plan, a towing business is not allowed in the CG district. Staff has extended an interpretation that would allow both towing and muffler repair because section 19.10.020 of the zoning code, which became effective November 14, 2003, allows them as Conditional Uses.

To summarize the above, the Community Plan was in effect when the application was submitted. Zoning requirements for the project, contained in the Community Plan, were replaced by Chapter 19.10 on November 14, 2003; because the application was still incomplete on November 14th, the requirements of Chapter 19.10 are applicable. A CUP is required for a muffler shop under the old and the new codes. A CUP is required for a towing business only under the new code and cannot be approved under the Community Plan which was in effect at the time the application was submitted. Therefore, a CUP is required for this project

The applicant's business has been relocated to the subject site and is currently operational. Its operation at this location prior to approval of a CUP is in violation of the Municipal Code.

Additionally, the applicant has placed two storage containers on the property. Pursuant to Section 17.64.020 of the Municipal Code, a Temporary Use Permit (TUP) is required prior to placement of storage containers on commercial property for temporary use. If the containers are for permanent use, a CUP is required. Because the containers were placed there prior to application for a TUP, and because they are not proposed in the CUP application, the placement of the containers is a violation of the Code.

In their Business License application, dated August 22, 2003, Thomas Towing describes the nature of their business as, "Towing office, parking trucks, dispatching tow calls, sell auto parts & accessories & propane, installing mufflers and hitches." Pursuant to Section 5.01.110 (C) of the Municipal Code, a Business License shall not be issued until an applicant has obtained all necessary land use entitlements. This means that the Business License cannot be issued until the CUP is approved. Because they have commenced operation prior to securing a Business License, they are in violation of Chapter 5.01 of the Code.

When the CUP application was submitted on August 1, 2003, it did not include a site plan. An August 22, 2003 letter was sent, pursuant to the State's Permit Streamlining Act, informing the

applicant that their application was incomplete. During subsequent meetings between the applicant and staff, the applicant raised objection to providing a site plan because of the City's requirement for street improvements. Staff clarified the City's requirements in an August 25, 2003 letter to Janet Breuer.

On August 28, 2003, the applicant submitted a hand-written letter from property owner Geraldine Hagman indicating that she was granting her permission to locate two storage containers on the property (73662 Homestead Drive). To ensure that the applicant was clear regarding the City's requirements for storage containers, a September 2, 2003 letter was sent which stated, in part:

Placement of storage containers for temporary use requires approval of a Temporary Use Permit. Please complete and submit the application that was provided to you today, along with the materials specified on page two of the application.

Your statement today that you have already placed the storage containers without the required approval indicates that you are in violation. To avoid the City taking legal action against you, a complete TUP application for Planning Commission consideration must be submitted within ten (10) days of this date.

A meeting was held on October 7, 2003 at City Hall between staff and the applicant. The following excerpt from staff's October 16, 2003 letter summarizes the meeting:

On October 7, 2003, we met in the City Hall conference room to discuss your project. During this discussion, we were able to identify the items necessary to complete your CUP application. You indicated that you would be able to provide the required materials by the week's end, Friday October 10th, and this would have cleared the way for your hearing to be scheduled on November 4, 2003.

To date, however, we have not received contact from you regarding your site plan. Your application, therefore, remains incomplete.

On November 20, 2003, a site plan was submitted. In a November 25, 2003 letter, staff informed the applicant that their proposal did not conform to City standards. The letter stated, in part:

On November 20, 2003, you submitted to the City a site plan for your project. This letter is to notify you that the site plan does not conform to City standards and cannot be approved pursuant to the City's Municipal Code. Your application, therefore, remains incomplete. However, as is discussed in more detail below, your project will be presented to the Planning Commission at their January 6, 2004 meeting for action.

The letter identified items which were required to be included on the site plan to complete the application. They were described in the November 25, 2003 letter as follows:

- Curb, gutter, sidewalk, and match-up paving along Homestead Drive in conformance with City standards.
- Ingress and egress of properties across the street.
- Paved customer parking area indicating the striping layout and the number of regular and handicap accessible parking spaces, drive approaches and vehicle circulation.
- Paved truck parking area(s), including driveways connecting the parking area(s) to City streets.
- Method, dimensions, and location of screening outdoor work area(s), truck parking area(s), and outdoor storage area(s).
- Identification of property lines.
- A sign plan, including size, type and design of commercial signs, if signs are proposed.
- The location and duration of temporary storage containers which have been placed on the property.

Typically, a CUP application is not processed until deemed complete. Rather than delay the review, however, staff routed the proposal to all affected agencies and City departments, and set the matter for hearing. In concluding the November 25, 2003 letter, staff stated:

The Planning Commission is the approval authority for a CUP and is authorized to approve, deny or continue your project. Because your proposal does not comply with City standards, your application could be delayed or denied. If you provide a revised site plan which depicts improvements in compliance with standards established by the City Council, staff will recommend approval at the January 6, 2004 meeting. To allow opportunity for review, I will need to receive the revised site plan by December 19, 2003.

Additional materials have not been provided as requested.

Findings for Approval

Pursuant to Section 19.30.050 of the Development Code, the Planning Commission is required to make the following findings prior to approval of a CUP:

- A. That the proposed use is in accordance with the purpose of this Development Code, the zoning regulations applicable to the site, the City of Twentynine Palms General Plan, and other applicable development policies and standards of the City; and
- B. That the proposed use will not be detrimental to the public health, safety, or welfare, or

materially injurious to properties or improvements in the vicinity; and

- C. That the proposed site is adequate in size and shape to accommodate the use and integrate it with the existing and planned uses in the vicinity.

If the required findings cannot be made, the application should be denied.

General Plan Consistency

As indicated above, one of the required findings is that the proposed project be consistent with standards established in the Twentynine Palms General Plan. The following inconsistencies with the General Plan *Land Use* Goals and Policies are noted. Text is extracted from the General Plan below followed by a staff comment regarding the inconsistency:

Goal #1

A Land Use Plan which provides a desirable City in which to live.

Purpose

Goal #1 establishes the primary purpose of the Land Use Plan, a setting which provides a high quality of life for all residents and visitors.

Policy #1.1

Traffic, noise and other impacts will be considered prior to any land use designation change and/or land use intensification.

Inconsistency: Approval of the project conflicts with Policy 1.1 above because the City cannot analyze traffic and noise impacts utilizing the site plan that was submitted for approval.

Policy #1.2

Quality standards will be applied to all new developments.

Program 1.2.1

A Desert Southwest design theme shall be dominant in commercial developments in the General Commercial and Tourist Commercial Districts. The Desert Southwest design theme shall be encouraged in the Office Commercial, Neighborhood Commercial, Service Commercial and Community Industrial Districts. Project design shall not be incompatible in any area in which a Desert Southwest theme is required or encouraged.

Inconsistency: While the primary structure does comply with the City's design requirements, the placement of storage containers and construction of screening walls or fences requires review to ensure compliance. Based on the incomplete site plan, a determination of design compatibility, required by Program 1.2.1, cannot be made.

Program 1.2.2

Streets will be constructed per standards established in the Circulation Plan when new projects are constructed or existing uses are intensified. Waiver of the requirements may only be made in

developed areas where street improvements do not exist and when the proposed development will not result in increased traffic or alteration of drainage flows.

Inconsistency: Construction of streets per standards includes sidewalks, curb and gutter. The applicant states on the site plan, “No existing sidewalks, curb and gutter and none proposed.” Because the proposal intensifies the site– increases traffic, requires truck parking areas, has potential for increased noise, etc.– the requirement for street improvements is applicable.

Goal #2

Development of a variety of high quality residential neighborhoods.

Purpose

The purpose of Goal #2 is to emphasize the importance of providing opportunity for a variety of residential development and provide housing opportunities for all City residents.

Policy 2.2

Development shall ensure efficiency in circulation to and from residential Land Use Districts.

Program 2.2.3

The City will require on-site parking per established standards for new development and projects which intensify uses and/or increase traffic generation.

Inconsistency: The applicant’s proposed onsite parking is not per established standards are required by Program 2.2.3.

Goal #3

The City will provide opportunity for commercial facilities offering a wide variety of goods and services.

Purpose

The purpose of Goal #3 is to enhance the level and quality of business activity by encouraging vibrant retail/commercial centers to meet the needs of local residents and visitors.

Policy 3.1

Create a strong commercial and social focal point in the Downtown area.

Program 3.1.3

A Desert Southwest design theme shall be encouraged in all commercial areas, and shall be required for all commercial areas in highly visible locations.

Inconsistency: The City’s ability to evaluate the design theme of this proposal is ineffective due to the limited detail provided by the applicant.

The following inconsistencies with the General Plan *Circulation* Goals and Policies are noted:

Goal #1

A circulation network to safely move people and goods to and through the City.

Purpose

Goal #1 establishes the primary purpose of the Circulation Plan, the safety of all residents and visitors.

Policy #1.2

Quality standards will be applied to all new and reconstructed roadways as development occurs.

Program 1.2.1

Streets will be constructed per standards established in the Circulation Plan when new projects are constructed or existing uses are intensified. Waiver of the requirements may only be made in developed areas where street improvements do not exist and when the proposed development will not result in increased traffic or alteration of drainage flows.

Inconsistency: Streets are not proposed per standards.

Goal #4

Development of quality Local Streets to serve all citizens and visitors.

Purpose

The purpose of Goal #4 is to stress the importance of appropriate circulation providing access to individual parcels or neighborhoods.

Policy 4.1

Quality standards will be applied to development of Local Streets.

Program 4.1.2

Streets will be constructed per standards established in the Circulation Plan.

Inconsistency: Streets per standards are not proposed.

Goal #5

Parking facilities will be available for residents and visitors.

Purpose

The purpose of Goal #5 is to provide a nexus between the provision of parking facilities and efficient circulation.

Policy 5.1

The City will ensure that development does not increase deficiencies in available parking.

Program 5.1.1

The City will require on-site parking per established standards for new development and

projects which intensify uses and/or increase traffic generation.

Inconsistency: Onsite parking per standards is not proposed.

The following inconsistency with the General Plan *Noise* Goals and Policies are noted:

GOAL #1

Noise levels will be anticipated prior to the City taking actions on land use proposals and potential conflicts will be avoided so that noise levels will not exceed acceptable levels.

Purpose

The purpose of Goal #1 is to identify potential noise generated in the City and minimize noise levels to avoid stress and health damage.

Policy 1.3

The City will require special design standards for proposed projects with the potential to exceed the noise level requirements.

Program 1.3.1

In cases where special design standards are required, the City will require mitigation plans to be certified by a registered acoustician.

Inconsistency: The operation of an automobile repair facility and the addition of truck traffic have the potential to induce significant noise. The applicant has not proposed any mitigation of potential noise impacts.

General Plan Consistency

As is noted above, the proposed project is not consistent with the Twentynine Palms General Plan.

Environmental Clearance

The project is subject to the California Environmental Quality Act (CEQA). Accordingly, staff prepared an Initial Study to assess the potential environmental affects of the project. Based on staff's analysis, development of street improvements to the City's standards is required to avoid significant environmental effects. Therefore, if a motion is made to approve the project, a Mitigated Negative Declaration is recommended. One of the requirements of the Mitigated Negative Declaration is development of streets to the City's standards. This allows an opportunity for approval. However, the applicant has repeatedly stated that they will not pave the parking nor improve the streets adjacent to their site. Because approval of a Mitigated Negative Declaration requires, per CEQA, agreement between the City and the applicant on mitigation measures, adoption of the Negative Declaration is not legally possible.

Approval Authority

The Planning Commission is the Approval Authority for this project. If the Mitigated Negative Declaration is approved, the Commission may, 1) Make the required findings and take action to approve the CUP subject to the attached Conditions of Approval, 2) Make the required findings

and take action to approve the CUP subject to a modified list of Conditions, 3) Continue the matter to a future specific date to allow additional time for consideration of the issues, or 4) Deny the project based on the findings for denial provided below.

Findings for Denial

Staff recommends denial of the project based on the following findings of denial:

- A. That the proposed use is not in accordance with the purpose of the Development Code with regard to screening of outdoor work areas and would therefore result in a development that is detrimental to the surrounding area and the City generally.
- B. The proposal does not include development of parking per City standards which are required to ensure the effective and efficient use of parking areas.
- C. Nine inconsistencies with the General Plan are identified and the Planning Commission finds that the inconsistencies would result in development and use of the property in a manner that would be detrimental to the public health, safety and welfare. The General Plan inconsistencies identified in the January 6, 2004 staff report are hereby incorporated into the findings for denial.
- D. The substandard development would result in a use that will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- E. The project, as proposed, is not compatible with the existing and planned uses in the vicinity.

Submitted for your consideration,

Jay Corbin
Community Development Director



STAFF REPORT

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 • Fax (760) 367-5400
jcorbin@29palms.com

To: Planning Commission
From: Community Development Director
Date: January 6, 2004
RE: PC 02-17

Development Code Update, Chapters 19.06 Definitions and 19.82 Off Street Parking and Loading Regulations.

RECOMMENDATION: Conduct the Public Hearing and formulate a recommendation to the City Council for adoption of the chapters.

BACKGROUND: The attached chapters represent a portion of the ongoing Development Code update. Each chapter is discussed below.

Chapter 19.06 Definitions

Definitions become critical in determining the meaning of applicable text. The City's current Definitions chapter was adopted in 1998. They are being revised at this time to incorporate elements of other portions of the revised Development Code. The attached chapter was reviewed by the Commission at the November 18, 2003 meeting. Following the November 18th Study Session, the Planning Commission directed staff to set the matter for Public Hearing.

Chapter 19.82, Off-street Parking and Loading Regulations

In 1989, the City adopted Ordinance No. 52 which revised the parking requirements and standards for the City. Additionally, an exemption is provided for all existing buildings in the City which are not expanded or intensified. Ordinance No. 52 was codified into the Municipal Code as Chapter 12.01.

Last year, the City Council directed staff to hire a consultant to conduct a parking study of the City's Downtown. A request for proposal was published and RBF Consulting of Irvine was selected. Their report was prepared in late 2002 and published January 16, 2003. A copy of the executive summary is attached. Staff recommends consideration of their recommendations in review of the City's parking requirements. As part of the Development Code update, the Planning Consultant reviewed the recommendations contained in the parking study and prepared a draft for the City's consideration.

The Planning Commission held Study Sessions on August 5, 2003, August 19, 2003, September

Attachments

- Chapter 19.06, Definitions
- Chapter 19.82, Off-street Parking and Loading Regulations
- Parking consultant executive summary

16, 2003, October 7, 2003, October 21, 2003 and November 18, 2003. Following the November 18th meeting, the Planning Commission directed staff to set the matter for Public Hearing.

A recommendation provided by the City Manager, from input from local business owners, is that the City's code not require loop style striping. Loop style striping is specified in the City's current code, but enforcement has been sporadic at best. Therefore, staff has eliminated the requirement for loop style striping from section 19.82.060 (D)(1) of the draft text.

Additionally, a recommendation was made that parking stall width be increased from nine feet to ten feet and that a provision be made that up to 35% of required parking spaces may be nine feet wide and designated as compact parking. This change would result in wider parking stalls and would facilitate ease of movement. Please note also that the change would render previously established parking spaces as non-conforming and could limit future development of sites with limited parking availability. An alternative might be to leave the width requirement intact and *recommend* the wider parking stall width for a specified percentage of required parking stalls. If this change is made, it could be included in Table 19.82-C, *Dimensions for Parking Configurations* as a recommendation for ten-foot wide parking stalls where possible.

Environmental Clearance

The California Environmental Quality Act (CEQA), provides for several areas of exemptions. Class 7 allows for actions by regulatory agencies to maintain, restore, or enhance natural resources, other than construction activities, where the regulatory process includes procedures to protect the environment.

Fiscal Impact

The Council's action of March 12, 2002 authorized expenditure of \$44,170 for the update. Hogle-Ireland has completed the update within budget. Some additional cost for printing and staff time to assemble revised Codes will result from adoption of the Code. Additional direct costs are not anticipated.

Summary

Staff recommends that the Planning Commission conduct the Public Hearing and formulate a recommendation to the City Council for adoption. The City Council will hold a Public Hearing on January 27, 2004; if Council action is taken on January 27th, adoption could occur February 10, 2004.

Submitted for your consideration,

Jay Corbin
Community Development Director