



STAFF REPORT

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 • Fax (760) 367-5400
commdev@ci.twentynine-palms.ca.us

To: Planning Commission
From: Community Development Director
Date: February 3, 2004
RE: PC 02-17
Development Code Update, Chapter 19.56 Community Care Facilities.

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

BACKGROUND: The attached draft was prepared by the City's planning consultant and was reviewed in a July 1, 2003 Planning Commission Study Session.

Following the Study Session the Planning Commission directed staff to set the matter for public hearing. The chapter was intended to be included in the last phase of the Development Code update, but was inadvertently omitted. Therefore it is presented at this time for consideration.

The purpose of Chapter 19.56 is to implement the applicable state regulations in a manner that allows for the establishment of care facilities while preserving the character of the Land Use District in which the uses are located.

Chapters 19.07-through 19.15, the City's recently adopted zoning and land use regulations, provide detail on the required approval process for community care facilities. Additionally, the residential chapters (Chapter 19.07 RL, 19.08 RS, 19.09 RM, and 19.14 OSR) refer the reader to Chapter 19.56, stating that such facilities, where allowed, are required to operate in compliance with Chapter 19.56.

Adoption, therefore, brings the City's code into compliance with state law and provides regulation for the development and use of such facilities to avoid negative impacts in residential areas.

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.

Attachments

- Chapter 19.56, Community Care Facilities

Summary

If the Commission is satisfied with the draft text after conducting the Public Hearing, a recommendation for Council adoption would be in order.

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 February 24, 2004 to consider the Planning Commission's recommendation. If introduced by the Council at the February 24th meeting, the chapter may be adopted by the Council at the March 9, 2004 meeting.

Recommended Motion for Approval

I move that the Planning Commission recommend adoption of Chapter 19.56, Community Care Facilities, as presented.



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: February 3, 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 Municipal Code, Development Code, General Plan, and City's standards of development.

BACKGROUND: Applicant Janet Breuer proposes to operate a business consisting of, among other uses, towing, parking trucks, selling auto parts and accessories, and installing mufflers and hitches on a previously unoccupied site. Present zoning for the property is General Commercial (CG). The proposed use requires a CUP.

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
- October 16, 2003 letter
- November 25, 2003 letter
- Site Plan

CUP Requirement

One of the main points of contention regarding this application is the applicant's belief that their business does not require a CUP. The requirement is contained in Chapter 19.10 of the City's

Development Code. The applicant states that Chapter 19.10 is not applicable to their application, which was submitted on August 1, 2003, because Chapter 19.10 did not become effective until November 14, 2003. The City Attorney has reviewed this matter and concluded that since the applicant was not legally established prior to the effective date of Chapter 19.10, Chapter 19.10 is applicable.

Further, even under the requirements of the Community Plan, which was in effect when the application was submitted, a CUP was required for a muffler shop and an automotive repair service in the CG land use district. Per the Community Plan, a towing business was not allowed in the CG district. At the time of application, staff, in an effort to assist the applicant to establish a towing business, applied the provisions of the not-yet-adopted Section 19.10.020, which would allow the towing business and muffler repair/automotive repair services, subject to the requirement that the applicant obtain a CUP. At that time, staff anticipated that Chapter 19.10 would be adopted in the near timeframe. With this approach, the applicant was provided a means of obtaining approval of their towing business, which would otherwise be prohibited at the proposed site.

When the CUP application was submitted on August 1, 2003, it did not include a site plan. On August 22, 2003, the City sent the applicant a letter, informing the applicant that the 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 that the site plan include street improvements, which the applicant did not believe should be required.

To discuss issues concerning the application, 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 the following items, which were required to be included on the site plan to complete the application:

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

(Regarding item 8 above, the storage containers have since been removed from the property.)

In conclusion, the letter 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.

Typically, a CUP application is not processed until deemed complete. Rather than delay the review, however, staff set the matter for hearing.

At the January 6, 2004 hearing, the Planning Commission continued the hearing until February 3, 2004, and directed the applicant to submit a complete site plan, in accordance with all applicable City requirements, by January 21, 2004. As of the date of this Staff Report (January 30, 2004), a revised site plan has not been submitted.

Current Violations

On approximately September 1, 2003, the applicant began operating its towing and automotive repair business at the subject site. The business was relocated to the subject site from a previous location within the City, where the business had been established prior to the City's incorporation. Operation of the business at the new location, without obtaining a CUP, is a violation of the Municipal Code.

Additionally, Chapter 5.01 of the Code requires a valid Business License to be obtained from the City prior to the operation of any business in the City. On August 22, 2003, the applicant submitted an application for a Business License. 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 the applicant has commenced operation prior to securing a Business License, it is in violation of Chapter 5.01 of the Code.

Findings for Approval

Pursuant to Section 19.30.060 of the Development Code, the Planning Commission is required to make the following findings prior to approval of a CUP. Staff's analysis of the required findings is provided (indented) below each finding:

- A. That the proposed design and location of the conditional use and the conditions under which it will be operated are 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.

Section 19.10.050(B) of the Development Code requires the applicant to construct a solid wall made of block, masonry, or other materials around the perimeter of all tow yards and vehicle repair or service operations. The applicant's site plan did not include the solid wall required by this section, and therefore the project is not in compliance with the Development Code.

Section 19.10.090 of the Development Code requires that prior to occupancy of a development that would result in increased traffic, the applicant is required to construct street improvements per the City's standards. The applicant's site plan did not include the street improvements required by this section, and therefore the project is not in compliance with the Development Code.

Section 12.01.040 of the Municipal Code requires that the applicant provide one parking space per 200 square feet of floor area and Section 12.01.090 (i) of the Municipal Code requires that the parking spaces be paved and striped. The applicant's site plan designates a specific location for parking, on an existing gravel surface, but does not provide the paving or striping as required by the Municipal Code. Because the applicant does not propose the required paving and striping, the City is unable to assess whether the applicant's proposed parking complies with the quantity requirements established in Section 12.01.040 of the Municipal Code.

Policy 1.1 of the General Plan Land Use Goals and Policies provides that traffic, noise and other impacts will be considered prior to any land use intensification. The establishment of a towing and automotive repair/service facility on a previously unused site is an intensification of land use, and therefore the traffic, noise, and other impacts of the proposed use must be analyzed. Because the site plan submitted for approval does not include any of the street improvements required per section 19.10.090 of the Development Code, or the block wall required pursuant to Development Code Section 19.10.050(B), the City cannot analyze the traffic and noise impacts of the project as required by the General Plan.

Policies 1.2 and 3.1 of the General Plan Land Use Goals and Policies provides that a Desert Southwest design theme shall be dominant in commercial developments in the General Commercial District. While the applicant's primary structure does comply with the City's design requirements, the placement and construction of the block wall required pursuant to Development Code Section 19.10.050(B) requires review to ensure compliance with this land use policy. Based on the incomplete site plan, a determination of design compatibility cannot be made.

Policy 1.2 of the General Plan Land Use Goals and Policies and Policies 1.2 and 4.1 of the General Plan Circulation Goals and Policies provide that streets must be constructed per standards established in the Circulation Plan when new projects are constructed or existing uses are intensified. Because the proposed use is new, and will result in increased traffic, the General Plan requires the construction of streets, in accordance with the Circulation Plan. The standards in the Circulation Plan provide for construction of sidewalks, curb and gutter. The applicant stated on the submitted site plan: "No existing sidewalks, curb and gutter and none proposed," which is inconsistent with the Circulation Plan and, thus, the General Plan.

Policy 2.2 of the General Plan Land Use Goals and Policies and Policy 5.1 of the General Plan Circulation Goals and Policies require that all development must provide on-site parking per established standards for new development and projects which intensify uses and/or increase traffic generation. The applicant's site plan designates a specific location for parking, on an existing gravel surface, but does not provide for paving or striping, or any other means of identifying actual parking spaces or the number of spaces to be provided. As a result, the City is unable to assess whether the applicant's proposed onsite parking is per the established standards.

Policy 1.3 of the General Plan Noise Goals and Policies provides that special design standards will be required for projects that have the potential to exceed the City's noise level requirements, and in such cases mitigation plans must be submitted to the City. 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.

- B. That the proposed design and location of the conditional use and the conditions under which it will be operated will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity.

The applicant's site plan does not include the street improvements required by the City's General Plan and Development Code, nor the block wall required by the Development Code. In addition, the site plan does not provide parking in accordance with the City's General Plan and Municipal Code. The proposed design, location and operating conditions of the towing business and automotive repair service facility, which is an intensification from the site's prior nonuse, will increase traffic circulation and noise. Without mitigation, the design, location and operation of the business could be detrimental to the public health, safety and welfare and materially injurious to uses, properties or improvements in the vicinity.

- 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.

The site plan submitted by the applicant does not provide sufficient detail for the City to assess whether the site is adequate in size to accommodate the proposed use and integrate it with the existing and planned uses in the vicinity.

(Section 19.30.060 became effective on November 14, 2003. The findings set forth in Section 19.30.060 are substantially similar to the findings required pursuant to the prior applicable provision, which was Section 19.30.050 of the Development Code.)

If any of the required findings cannot be made, the application should be denied. Staff finds that, based on the above, the Planning Commission is unable to make any of the findings required by Section 19.30.060.

Approval Authority

The Planning Commission is the Approval Authority for the CUP. The Commission may, 1) Approve the CUP if the Planning Commission disagrees with staff's analysis and makes the required findings of approval contained in Section 19.30.060, 2) Deny the CUP based on the analysis set forth in this staff report, or 3) Continue the matter to a future specific date to allow additional time for consideration of the issues.

Staff Recommendation

Staff recommends denial of the CUP because the required findings for approval, set forth in Section 19.30.060 of the Development Code, cannot be made.



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To: Planning Commission
From: Community Development Director
Date: February 3, 2004
RE: Standard Conditions of Approval for proposed subdivisions.

RECOMMENDATION: Approval of standard conditions for future applications for subdivisions.

BACKGROUND: At the January 20, 2004 meeting, the Planning Commission approved the first major subdivision in the City. Currently, several other developers are in discussions with staff regarding potential future proposals. To avoid a situation where the City re-creates conditions with each subsequent proposal, staff has prepared the attached standard conditions for the Planning Commission's consideration.

Attachments

- Draft Standard Conditions of Approval

If the standard conditions are approved by the Planning Commission, staff will provide them to potential developers and this will assist them in development of their proposal. Additionally, it will provide a basis for future actions by the Planning Commission and avoid a situation where a developer might assume that he/she has been singled out and/or onerous conditions have been placed on them.

If the Commission is satisfied with the proposed conditions, a motion to accept them as the City's standard conditions for subdivisions would be in order.