



CITY OF TWENTYNINE PALMS
STAFF REPORT
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799, Fax (760) 367-5400
plantech@ci.twentynine-palms.ca.us

To: Planning Commission
From: Community Development Specialist
Date: October 20, 2009

Case: PC 08-53 – Conditional Use Permit

RE: Mr. Jose Martinez of Yucca Valley is requesting a Conditional Use Permit to establish a used car sales lot at 4004 Adobe Road; CG Zone; APN 0620-111-25; Section 8, T1N and R9E.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, find the project Categorical Exempt pursuant to CEQA, adopt Planning Commission Resolution 09-20 and approve the project subject to the draft Conditions of Approval.

Attachment
1. Resolution 09-20

BACKGROUND: City records indicate that the last active business to occupy the site was an auto repair shop; its Business License expired in 1997. City Code Enforcement records indicate that the business was closed on April 19, 2000. The building has been vacant and no other business licenses have been issued at this location since that time. From October 2003 until March of 2006, City Code Enforcement worked with the property owner for voluntary compliance for nuisance abatement of the property. On March 22, 2006, the property owner signed a "Consent to Abate" the property, thus voluntarily granting consent to the City to enter the property to remove the junk, rubbish and an abandoned motor home.

Between March 28, 2006 and April 7, 2006 the City of Twentynine Palms abated the property, boarded up two windows, painted a door and removed junk and rubbish including scrap metal, engines, pipe, auto parts, furniture, dead brush, barrels of used oil and an old abandoned motor home. On May 23, 2006, the City Council adopted Resolution 06-09 assessing the outstanding confirmed costs of the nuisance Abate Lien against the property. Proof of repayment of the outstanding Abatement Lien is proposed as a Condition of Approval.

On August 26, 2008, an application was received from Mr. Jose Martinez proposing a used car sales lot at this location. Between September 23, 2008, and August 21, 2009, the application was reviewed and deemed incomplete three (3) times. On September 8, 2009, after submission of additional materials and revised site plans, the application was deemed complete and routed to local agencies for comment.



<p>0620-111-25</p>		<p>PC 08-53 JOSE MARTINEZ CONDITIONAL USE PERMIT USED CAR LOT</p>	<p>10/06/09</p>
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East Elevation



North Elevation



West Elevation



South Elevation

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project has been reviewed for its potential to impact the environment. It has been determined that the request being considered, the conversion of a former auto repair facility to auto sales, will not have an impact upon the environment and is Categorical Exempt from further environmental review.

Surrounding Land Use, General Plan and Zoning Designations

	Land Use	General Plan	Zone
Site	Commercial/Vacant	CG	CG
North	Vacant/Residential	CG	CG
East	Vacant	CG	CG
South	Commercial/Commercial	CG	CG
West	Vacant	RL-1	RL-1

Zoning

Zoning for the subject parcel is General Commercial (CG). Pursuant to Chapter 19.10 “Commercial Districts” of the Development Code a motor vehicle sales lots is an allowed use with Planning Commission approval of a Conditional Use Permit.

Project Analysis

Building Exterior

The building at the proposed site is of brick construction (photos shown above) with a mix of cement/asphalt parking area. Both the building and the parking area are in poor condition. The applicant has not proposed any improvements to the existing structure at the time of the preparation of this report. The Commission has three alternatives: it a) may wish to continue the Public Hearing to allow the applicant time to develop a plan to provide for façade improvements for the existing structure, b) make improvements to the structure a Condition of Approval or c) not require improvements to the structure.

Parking and Parking Lot Area

Required parking for an auto and/or vehicle sales lots is one (1) space per 300 sq. ft. of gross floor area (minimum 3) and one (1) space per 5,000 square feet of outdoor display area (the required spaces may not be used for display or sales).

The existing building is a 1,019 sq. ft. structure requiring four (4) customer parking spaces. The proposed display area is 10,440 sq. ft. requiring three (3) customer parking spaces, totaling seven (7) required customer parking spaces, one of which must be handicap accessible. The site plan depicts the required number of spaces.

Per Table 19.82-E “Required Number of Loading Spaces”, automobile and vehicle sales lots require one (1) tractor-trailer loading space. No tractor-trailer space is provided on the proposed site plan. It is noted that Note “D” in the Table states that “Variations in the size, number and/or location of required loading spaces may be reviewed and approved by the Approval Authority on a case-by-case basis following the submission of supporting traffic, parking or loading information, study or analysis.” At this time, the Applicant has not requested or provided information to waive the loading space requirement.

Paving of all parking areas, including access ways for all development in the General Commercial (CG) land use districts is a City requirement. As a Condition of Approval, paving of the parking, drive isles and display areas will be required.

Building Setbacks

Building setbacks in the CG zone are fifteen (15) feet front yard, ten (10) feet side yard and ten (10) feet rear yard. The existing building setback from the south side yard is sixty-one (61) feet, the north side yard is zero lot line (built on the property line), the east front yard building setback is eleven (11) feet, and the west rear yard, the building sets back in excess of 500 feet. As such, both the north side yard and front yard setbacks do not conform to current Code requirements.

The substandard front yard setback was created when an Offer of Dedication for Adobe Road was granted for the rehabilitation of Adobe Road, a Capital Improvement Project planned for the roadway in the near future. The zero lot line setback on the north is a pre-existing condition which has existed since the building was constructed prior to the City's incorporation and has remained a physical nonconformity since that time. However, pursuant to Section 19.86.040 "*Alteration of Nonconforming Uses*"; a nonconforming use may be altered after review and approval of a Conditional Use Permit with the additional finding that the alteration of the nonconforming use will not result in an expansion of more than twenty-five percent (25%) and that it will not adversely affect surrounding properties or uses. The applicant does not propose any alteration (expansion) to the building under this application. Any future alteration or expansion to the building will be subject to application and review for a Conditional Use Permit approved by the City Council and/or the Planning Commission.

Findings for Approval

As required by Code, prior to approving the Conditional Use Permit, the Planning Commission must make three (3) specific Findings. Listed below are the required "Findings" with a comment to address each.

- 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; and

Comment:

The Development Code, with the approval of a Conditional Use Permit, allows the proposed auto sales facility use.

- 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; and

Comment:

The project is located in a General Commercial land use district, on Adobe Road (an Expressway) and, therefore, would not be detrimental to the public health, safety or welfare, or materially injurious to uses, properties or improvements in the vicinity due to the limited nature of any potential impacts.

- 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.

Comment:

The 1.18-acre project site is of adequate size to accommodate the proposed use, a vehicle sales lot, subject to the proposed Conditions of Approval.

Approval Process

The Planning Commission is the Approval Authority for the Conditional Use Permit. In taking action to approve, the Commission must find that the proposed Conditional Use qualifies for a Categorical Exemption under CEQA, and is consistent with the goals and policies of the General Plan. Because the subject property has the CG General Plan land use designation the proposed project is consistent with the General Plan Land Use Plan and Development Code with approval of a Conditional Use Permit.

CITY OF TWENTYNINE PALMS
PLANNING COMMISSION
RESOLUTION NO. 09-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW A USED CAR SALES LOT AT 4004 ADOBE ROAD; CG ZONE; APN 0620-111-25; SECTION 8, T1N, AND R9E.

WHEREAS, on August 26, 2008 an application was received from Mr. Jose Martinez for consideration of a Conditional Use Permit to allow an automobile sales lot; and

WHEREAS, the land use designation (zoning) for the subject property is General Commercial (CG); and

WHEREAS, automobile dealerships are permitted in the CG Zone with Planning Commission approval of a Conditional Use Permit; and

WHEREAS, Pursuant to Section 15301 (Class 1) of the CEQA Guidelines, the project, which consists of the the conversion of a former auto repair facility to auto sales, will not have an impact upon the environment and is Categorically Exempt from further environmental review; and

WHEREAS, the City Planning Commission finds on the basis of the whole record before it (including the review of CEQA Guidelines and any comments received) that there is no substantial evidence that the project will have a significant effect on the environment and that the Determination of Exemption reflects the Planning Commission's independent judgment and analysis: and

WHEREAS, the project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations; and

WHEREAS, the site can be adequately served by all required utilities and public services; and

WHEREAS, Public Hearing notice for PC 08-53 Conditional Use Permit was published in the Desert Trail, a newspaper of record, and notice was mailed to all property owners located within 300 feet of the project site on October 8, 2009; and

WHEREAS, a Public Hearing was held by the Planning Commission on October 20, 2009; and

WHEREAS, the zero lot line setback on the north is a pre-existing condition which has existed since the building was constructed prior to the City's incorporation and has remained a physical nonconformity since that time; and

WHEREAS, the substandard front yard setback was created when an Offer of Dedication for Adobe Road was granted for the rehabilitation of Adobe Road, a Capital Improvement Project planned for the roadway in the near future; and

WHEREAS, with respect to the Conditional Use Permit application the Planning Commission made the following Findings:

- A. The Development Code, with the approval of a Conditional Use Permit, allows the proposed auto sales facility use. Therefore, 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.
- B. The project is located in a General Commercial land use district, on Adobe Road (an Expressway) and therefore, 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.
- C. The 1.18-acre project site is of adequate size to accommodate the proposed use, a vehicle sales lot and integrate it with the existing and planned uses in the vicinity, subject to the proposed Conditions of Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Twentynine Palms determines that PC 08-53 is Categorically Exempt and approves the Conditional Use Permit, subject to the Conditions of Approval attached hereto as "Attachment A" and incorporated herewith by reference.

APPROVED AND ADOPTED THIS 20th DAY OF OCTOBER, 2009.

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

Chuck Caplinger, Chairman

ATTEST:

Jacqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. 09-20 duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the 20th day of October, 2009 in Twentynine Palms, California.

Dated this 20th day of October, 2009.

Jacqueline Palmer, Deputy City Clerk

Attachment “A”

CITY OF TWENTYNINE PALMS
DRAFT CONDITIONS OF APPROVAL
PC 08-53

Applicant: Mr. Jose Martinez

Project: Conditional Use Permit to convert an existing former auto repair facility to an automobile dealership.

Location: 4004 Adobe Road

APN# 0620-111-25

Approved: October 20, 2009

Expire: October 19, 2012

The following Standard Conditions of Approval shall be applicable to all Conditional Use Permits in the City. Additionally, the Planning Commission may impose reasonable and appropriate conditions in order to achieve the purposes of the Development Code and to justify making necessary findings.

Planning Division

Per Section 19.30.090 (A) of the Development Code, Conditional Use Permits shall expire three (3) years from the date the approval was granted, unless prior to the expiration date:

1. A Building Permit is issued and remains active for any approved phase of the project; or
2. A Certificate of Occupancy is issued for the use or structure; or
3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
4. The site is occupied in accordance with an approved phase as part of a phased development.

Per Section 19.30.090 (B), an approved Conditional Use Permit shall expire if the use has been commenced and then is discontinued for a period of one (1) year or more.

General Conditions

- G1. All Conditions are continuing Conditions. Failure of the Applicant and/or operator to comply with any of the said Conditions at any time may result in the revocation of the Conditional Use Permit and/or citation for code violation.
- G2. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees, including reimbursement for all City expense in ensuring compliance with the Conditions of Approval.
- G3. The applicant shall provide a signed copy of the Conditions of Approval to the Planning Division within 10 days of approval.

Planning Conditions

- P1. Conditional approval is granted by the Planning Commission acting as Approval Authority on October 20, 2009, to permit a automotive vehicle sales lot; and
- P2. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the project proposal.
- P3. The property owner shall keep the property neat, clean, and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas, and landscaping.
- P4. All outdoor lighting shall conform to Development Code Chapter 19.70, *Lighting Standards*, and shall be designed to not glare or reflect onto neighboring properties or public rights-of-way. Outdoor lighting shall be shielded and limited to that required for security and safety purposes.
- P5. All construction and improvements shall comply with *Encroachments into Yards or Setbacks* standards established in the Development Code for the underlying land use district.
- P6. The applicant shall defend, at its sole expense (with attorneys approved by the City), and indemnify the City against any claim, action, or proceeding brought by any third party against the City, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the City, its agents, officers or employees for any judgment, court costs and attorney's fees which the City, its agents, officers or employees may be required to pay as a result of such claim, action, or proceeding. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
- P7. A minimum of seven (7) paved parking spaces shall be provided; six (6) regular 9' x 19' parking spaces, one (1) 14' x 19' handicap accessible space. In addition, one (1) 12' x 70 tractor/trailer loading space shall be provided. Ingress, egress, parking areas and driveways shall comply with Development Code Chapter 19.82 – Off-Street Parking and Loading Regulations.
- P8. Vehicle display spaces shall be in addition to customer parking requirement and shall be limited to the display area depicted on the approved site plan. Approval of additional vehicle display parking shall require a Conditional Use Permit Amendment.
- P9. A trash dumpster enclosure shall be provided to meet the standards established by the City's Authorized Waste Hauler. Contact Burrtec, Inc. at (760) 367-9168.
- P10. The applicant shall not conduct automobile repair on the premises.
- P11. The applicant shall contact the California State Board of Equalization for required permits/license at (760) 346-8096 and provide the City of Twentynine Palms Community Development Department with copies upon permit issuance.
- P12. The applicant is required to obtain and maintain a current City of Twentynine Palms Business License.

- P13. Landscaping is required per approved site plan.
- P14. Powerwash and/or paint the building exterior walls.
- P15. Remove the wooden "V" and all sign components in disrepair and non-use on the east face of the building.
- P16. Ingress, egress, parking areas and paved driveways shall comply with Development Code Chapter 19.82 – Off-Street Parking and Loading Regulations.
- P17. Proof of repayment of the Nuisance Abatement Lien of \$3,309.00 plus interest of 430.17 for a total repayment of **\$3,739.17** prior to occupancy is required.

Building and Safety

- B1. The applicant/developer shall submit plans and obtain building permits for any tenant improvements (i.e., structural, electrical, plumbing). No work is to be done prior to approvals and permit issuance.

Engineering Division

- E1. Applicant to provide the In Lieu fee on all street improvements along the frontage of this project, in the amount, of the City Council adopted fee in place at the time of the approval.

Fire Department

- F1. Prior to any construction, the owner shall contact the Twentynine Palms Fire Department for verification of current fire protection requirements.
- F2. All construction and activities shall comply with applicable sections of the 1988 edition of the Uniform Fire Code and all other state, county, and city ordinances, rules and regulations regarding fire protection.
- F3. All flammable vegetation shall be cleared a minimum distance of 30 feet, or to the property line, from any flammable building materials or finished structures.
- F4. Street addresses shall be posted with numbers a minimum height of four (4) inches. Posted numbers shall contrast with their background and be visible and legible from the street. Developer shall furnish the fire department with a list and map of all of the street names and addresses within the project.
- F5. The applicant shall install a Knox Box.

The undersigned applicant verifies that he/she has read the Conditions of Approval, understands each Condition, and agrees to adhere to the Conditions of Approval.

Applicant (Jose Martinez)

Date



Notice of Exemption
City of Twentynine Palms
Community Development Department
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 Fax (760) 367-4890

- To: County of San Bernardino Clerk of the Board of Supervisors
385 North Arrowhead Avenue 2nd Floor
San Bernardino, CA 92415-0130
- Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Project Title: PC 08-53 - Conditional Use Permit

Project Location: 4004 Adobe Road

Project Location (city and county): Twentynine Palms, San Bernardino County

Description of nature, purpose and beneficiaries of Project: Conditional Use Permit to convert a former auto repair facility to an automobile dealership.

Public Agency approving Project: Twentynine Palms Planning Commission

Name of Person Carrying Out Project: Mr. Jose Martinez

Exempt Status (check one):

- Ministerial (Sec. 15073)
 Declared Emergency [Sec. 15071 (a)]
 Emergency Project [Sec. 15071 (b) and (c)]
 Categorical Type/Sec. 15301

Reason(s) Project is Exempt: Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guideline, the project, which consists of the permitting of an existing small structure, is Categorically Exempt from further environmental review under state law.

For information, contact Charles K. LaClaire, Community Development Director, City of Twentynine Palms. (760) 367-6799.

Signature

Date

Community Development Director
Title