

RESOLUTION NO. PC 18-13

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
COMMERCE DENYING CONDITIONAL USE PERMIT NO. 528 AND VARIANCE NO. 18-01

WHEREAS, Taylor Megdal filed an application with the City for the construction, establishment and operation of a Convenience Store Land Use (7-11) within a proposed 2,306 square foot convenience store. The proposed project includes a Gasoline Service Station for purposes of selling and dispensing gasoline under a new canopy measuring 2,147 square feet. Pursuant to 19.31.400 Commerce Municipal Code, a Gasoline Service Station use is a permitted use subject to the development standards and conditions contained in Section 19.31.400 of the Commerce Municipal Code. One of the conditions requires the approval of a Conditional Use Permit ("CUP") with the required findings contained in Section 19.39.420 of the Commerce Municipal Code. In addition to the CUP, the applicant's proposed project requires the approval of two variances. Per Chapter 19.31.400(B) of the Zoning Code, a combination of a service station and mini-market must be located on a parcel at least 25,000 square feet in size and located a minimum distance of three hundred (300) feet away from any property zoned for residential use. In this case, the proposed project is on a lot measuring 20,395 square feet and will be located within 100 feet from residential uses. As a result, one variance is required to secure relief from the minimum lot size requirement while one variance is required to secure relief from the minimum distance from property zoned residential requirement.

WHEREAS, a CUP and variances are required for the proposed gasoline service station use within the City's C/M-1 zoning district.

WHEREAS, staff has reviewed all aspects of the application and believes the necessary findings **cannot** be made for the Planning Commission to approve the requested CUP and variances; and

WHEREAS, staff provided notice of the public hearing for the CUP and Variance application in the Los Cerritos News on November 16, 2018 and by mail to all property owners within 500 feet of the project site; and

WHEREAS, the Planning Commission has reviewed all materials concerning the subject request and held a public hearing on November 28, 2018, considering all evidence submitted thereat.

NOW, THEREFORE, THE PLANNING COMMISSION DOES HEREBY RESOLVE AND DETERMINE AS FOLLOWS:

Section 1. An Initial Environmental Study was not prepared for the project based on the direction of the Commission to move forward with the recommendation of denial of the Conditional Use Permit and variances for the proposed project.

Section 2. The Planning Commission finds that the facts of the Conditional Use Permit case are as follows:

1. **The proposed use is one conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this Title 19.** The proposed use is conditionally permitted within the C/M-1 zone pursuant to the Commerce Municipal Code (CMC). Pursuant to the Commerce Municipal Code (CMC), under Table 19.11.030A, a convenience store with gasoline sales requires the consideration of a conditional use permit. Furthermore, Section 19.31.400(B) requires a minimum parcel size of twenty-five thousand square feet (25,000 sq.ft.) for any combination of two uses (service station and mini-market), as well as a separation of 300 feet from a residential use. The proposed project does not meet both minimum requirements and is soliciting variance to waive the development standards. The proposed project does not comply with the intent of all applicable provisions of Title 19.
2. **The proposed use would not impair the integrity and character of the zone in which it is to be located;** The proposed project will impair the integrity and character of the existing zone. The proposed location of the new convenience store will leave Cowlin Avenue and residential area void of any interaction with the site, given the rear building mass will face out towards Cowlin Avenue. In this case, Section 19.19.220 encourages buildings to be orientated to face the street, while minimizing impacts on views from adjacent properties. Most importantly, the Section 19.19.220 encourages building design that provides visual interest and a sense of human scale by requiring buildings to be orientated with their major facades and entries to face toward the street.
3. **The subject site is physically suitable for the type of land use being proposed.** The site is not physically suitable for the type of proposed land use. Section 19.31.400(B) requires a minimum parcel size of twenty-five thousand square feet for any combination of two uses (service station and mini-market), as well as a separation of 300 feet from any property zoned for a residential use. In order to allow for the proposed project, approval of a Conditional Use Permit along with two variances to deviate from for the required minimum lot size and the required minimum separation of the proposed use from residential uses are needed. The proposed site is 20,395 square feet and is within 100 feet of residential uses.
4. **The proposed use is compatible with the land uses presently on the subject property.** The site is currently developed with a vacant building that was previously used as a drive-through restaurant (Church's Chicken) that has been closed for over 2 years. The proposed use is not compatible to the restaurant use and the office use that was previously at the site. The site is not physically suitable for the type of proposed land use. Section 19.31.400(B) requires a minimum parcel size of twenty-five thousand square feet for any combination of two uses (service station and mini-market), as well as a separation of 300 feet from any property zoned for a residential use. In order to allow for the proposed project, approval of a Conditional Use Permit along with two variances to deviate from for the required minimum lot size and the required minimum separation of the proposed use from residential uses are needed. The proposed site is 20,395 square feet and is within 100 feet of residential uses.

5. **The proposed use would be compatible with existing and future land uses within the zone and the general area in which the proposed use is to be located.** *The subject site has been zoned as C/M-1 Manufacturing for over 50 years. The C/M-1 allows for commercial uses including light manufacturing uses. The proposed 2,306 square foot convenience store (7-11) will be combined with a proposed gasoline service station under a new canopy measuring 2,147 square feet in a 20,395 square foot site. The gasoline service station and convenience store are not compatible with the current and future land uses in the zone and the general area. The proposed site is within 100 feet of residential uses. In addition, there are currently four (4) 7-Elevens within 1.5 mile radius and fourteen (14) gas stations (10 with convenience stores) within a 1.5 radius.*
6. **There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to the public health and safety.** *The project site is located in an urbanized area where existing infrastructure already exists. The proposed building will be located in an area where adequate provisions for water, sanitation and public utilities already exist.*
7. **There would be adequate provisions for public access to serve the subject proposal.** *The project site is on a parcel within the City with heavy traffic. To facilitate and service the proposed project, the applicant is requesting the installation of two new curb cuts to provide both ingress and egress to the property. Specifically, the applicant is requesting to relocate an existing driveway that currently faces Washington Boulevard and move it further east, approximately 40 feet closer to the intersection of Washington and Atlantic Boulevards. The existing driveway was previously improved and replaced in 2016 as part of the Washington Boulevard Project Improvements, providing adequate access to the site.*

*The applicant is proposing a new 26-foot curb cut along South Atlantic Boulevard, where none currently exists. The new driveway will encroach into an existing LA County Flood Control catch basin and will front out into an existing right turn lane. The proposed project would close off an existing access driveway from a 20 foot wide alley along the northern boundary of the site. Staff is concerned that any new curb cuts closer to the intersection of Washington Blvd. and Atlantic Blvd. may cause additional traffic congestion and possible turning hazards, especially from traffic making a right onto Washington Blvd, from South-bound Atlantic Boulevard. This concern may also be heightened by the introduction of a new curb cut, where none currently exists along Atlantic Boulevard, approximately 65 feet away from the intersection. As proposed, the City does not find that the proposed project includes adequate provisions for public access to serve the subject proposal.*
8. **The proposed use is consistent with the objectives, policies, general, uses, and programs of the Commerce General Plan.** *The proposed use is not consistent with the objectives, policies, general land uses, and programs of the Commerce General Plan. Also, the proposed use does not meet the development standards of the City's zoning ordinance. As such, the use not is consistent with the goals and objectives of the General Plan.*

*Community Development Policy 1.1. The city of Commerce will continue to promote land use*

*compatibility.*

*Community Development Policy 1.3. The city of Commerce will continue to implement specific standards for new commercial developments located adjacent to residential neighborhoods in order to ensure that adequate buffers are provided so that negative impacts such as noise, light pollution, truck use, and traffic may be mitigated.*

*Community Development Policy 6.3. The city of Commerce will require new commercial and industrial development to employ architectural and site design techniques that will promote quality and efficient development.*

9. **The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.** *The proposed operation of the use is not complying with all the applicable standards of the Zoning Ordinance. The project may adversely impact the general welfare of the City with the additional traffic from the proposed drive approaches. Therefore, the proposed use may be detrimental to the public interest, health, safety, convenience, or welfare.*
10. **The proposed design and elevations preserve and maximize the image, character, and visual quality of the neighborhood.** *When analyzing the proposed layout, staff referenced Section 19.19.220 of the CMC which sets forth general development standards and design guidelines that are intended to address building placement and siting, in addition to other requirements. After a preliminary review of the plans, the proposed location of the new convenience store will leave Cowlin Avenue void of any interaction with the site. In this case, Section 19.19.220 encourages buildings to be orientated to face the street, while minimizing impacts on views from adjacent properties. Section 19.19.220 encourages building design that provides visual interest and a sense of human scale, by requiring buildings to be orientated with their major facades and entries to face toward the street. The proposed design is intended to service only the site and its customers. The proposed design does not preserve and maximize the image, character, and visual quality of the neighborhood.*

Section 3. The Planning Commission finds that the facts under CMC Section 19.39.510 of a variance:

1. **That the strict or literal interpretation and application of this Title 19 would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this Title 19, or would deprive applicants of privileges granted to others in similar circumstances.** *Development standards that are imposed on service stations and convenience stores are in place to protect residential uses and to provide a buffer between the two uses. The development standards are necessary to ensure that adjacent use are compatible uses. Similarly, the minimum lot size requirement is set to provide adequate circulation for the two uses. The 25,000 square foot lot size is required to provide for safety, articulation and circulation of the vehicles and trucks entering the site. The 300 foot distance between the use and residential uses gives adequate buffer and is not a standard that cannot be waived through a variance. A variance provides the City with flexibility to analyze specific projects on a case by case basis to determine whether relief from the development standards is appropriate due to constraints of the configuration of the lot that prevent the property owner*



*from developing. In this case, this use is a discretionary permit and not permitted by right where a variance would not be the appropriate process to modify the zoning code. The strict or literal interpretation and application of this Title 19 will not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this Title 19, nor would it deprive the applicant of privileges granted to others in similar circumstances.*

2. **That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or the intended development of the property that do not apply generally to other properties in the same zone.** *The property is a regular shaped lot and does not have any extraordinary circumstances or conditions that prevents it from developing the site for other uses.*
3. **That the granting of such variance will not constitute the granting of a special privilege inconsistent with the limitations on other properties in the vicinity classified in the same zone.** *The granting of a variance will constitute the granting of a special privilege. The waiver of the minimum lot size and 300 feet distance requirement to residential uses are typical standards for these types of uses. The 300 feet distance requirement to residential use is to provide a buffer between the uses and provide some level of security from the uses. The proposed 100 feet distance between the uses does not provide adequate buffer and security to the residential areas.*
4. **That the granting of such variance will not be materially detrimental to the public health, safety, or general welfare or injurious to property or improvements in the zone or neighborhood in which the property is located.** *The granting of a variance from the 300 foot distance requirement may cause a threat to the public's health, safety and general welfare of the surrounding residential uses within the area. The proposed 100 feet distance between the uses does not provide adequate buffer and security to the residential areas. The residential areas adjacent to the project will be negatively affected by the gas station with the frequent vehicular and truck traffic entering the site.  
A conditionally approved use is by nature a use that needs to meet specific conditions in order to be allowed, this project is unable to meet two specific conditions that could be detrimental to the public health, safety, or general welfare of the surrounding uses. The increase traffic created by the gas station will impact the area negatively.*
5. **That the granting of such variance will not create any inconsistency with any objective contained in the General Plan.** *In the General Plan there are specific policies that were considered in making the decision not to grant the variance.  
Community Development Policy 1.1. The city of Commerce will continue to promote land use compatibility.  
Community Development Policy 1.3. The city of Commerce will continue to implement specific standards for new commercial developments located adjacent to residential neighborhoods in order to ensure that adequate buffers are provided so that negative impacts such as noise, light pollution, truck use, and traffic may be mitigated.  
Community Development Policy 6.3. The city of Commerce will require new commercial and*

*industrial development to employ architectural and site design techniques that will promote quality and efficient development.*


*The proposed project does not promote land use compatibility. The proposed project does not create an adequate buffer between the proposed use (mini-market and gas station) and the adjacent residential use. The lack of an adequate buffer will create negative impacts on the adjacent residential use.*

*The proposed project does not include architectural and site design techniques that promote quality and efficient development.*

I hereby certify that the foregoing findings contained in this resolution were adopted by the Planning Commission at its regular meeting of November 28, 2018.

  
\_\_\_\_\_  
Ernesto Gonzalez, Chairperson  
Planning Commission

ATTEST:

  
\_\_\_\_\_  
Matt Marquez, Secretary