



STAFF REPORT

CONDITIONAL USE PERMIT NO. 528 AND VARIANCE NO. 18-01

TO: Planning Commission

FROM: Public Works & Development Services

DATE: November 28, 2018

CASE NO.: Conditional Use Permit No. 528 and Variance 18-01

APPLICANT REQUEST:

Conditional Use Permit (CUP) and Variance: A Conditional Use Permit to consider the construction, establishment and operation of a Convenience Store Land Use (7-11) within a proposed 2,306 square foot convenience store. Also proposed is a Gasoline Service Station for purposes of selling and dispensing gasoline under a new canopy measuring 2,147 square feet. In addition to the CUP, the applicant will need Variances to allow the project on a site that is less than 25,000 square feet in size and within one hundred (100) feet of a residential district. Per Chapter 19.31.400 of the Zoning Code, gasoline stations must be located on parcels 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 proposal is on a lot measuring 20,395 square feet and will be within three hundred (300) feet away from residential.

RECOMMENDATION: Planning Commission to Deny the Conditional Use Permit and Variance and approve the Resolution 18-13 for this hearing.

LOCATION: 2425 South Atlantic Boulevard
Commerce CA 90040

APPLICANT: Taylor Megdal

REPRESENTATIVE: Taylor Megdal
252 South Beverly Drive, Suite C.
Beverly Hills, CA. 90212

PUBLIC HEARING NOTICE:

The Public Hearing Notice was published in the Cerritos News on November 16, 2018 and mailed to property owners within 500 feet of the project site.

ATTACHMENTS: A) Plans
B) Maps

LAND USE, ZONING AND APPLICABLE REGULATIONS:

Project Site - Land Use & Applicable Regulations	
General Plan Designation:	Atlantic Mixed Use
Zoning:	C/M-1 (Commercial Manufacturing)
Possible Applicable Zoning Regulations:	Commerce Municipal Code (CMC) Chapter 19.11 Manufacturing Zones; CMC Section 19.31.400 Gasoline Service Station; CMC Section 19.39.390 Conditional Use Permit; CMC Section 19.39.420 Required Findings; CMC Section 19.39.480 Variance; Required Findings 19.39.510; CMC Section 19.39.430 Conditions of Approval; CMC Chapter 19.21 Off-Street Parking and Loading.

SURROUNDING ZONING AND LAND USES:

Direction	Zoning	Land Use
North	C/M-1	Office
South	C/M-1	Vacant
East	C/M-1	Retail
West	C/M-1	Vehicle Repair

DESCRIPTION OF PROPERTY & NEIGHBORHOOD CHARACTERISTICS:

The subject site is relatively flat in nature with an approximate land area of 20,395 square feet, and is situated in the Commercial Manufacturing Zoning District (C/M-1). The site is currently developed with a vacant building that was previously used as a drive-through restaurant (Church's Chicken) that would be demolished as part of this proposal. The site takes street access from Washington Boulevard. The property is shown on the following page, outlined in yellow:



ANALYSIS:

At the October 24, 2018 Planning Commission, Planning Staff brought before the Planning Commission this project for the Commission's review and recommendation. After Planning Staff presented the project and concerns with the site planning of the project and concerns with not meeting the minimum requirements of the Conditional Use Permit, and inability to meet the findings of fact for the CUP and Variance, the Commission directed staff to bring back this item to the Planning Commission with a recommendation of denial for the Conditional Use Permit and Variance.

The description of the project as per the submittal package to the City is as follows, the applicant is requesting approval to allow for the construction of a new 2,306 square foot convenience store, with a service (gas) station under a canopy measuring 2,147 square feet on a vacant parcel. The site previously operated as Church's Chicken, a fast-food restaurant with Drive-through services. According to City records, the fast food restaurant has been closed for over two years. As part of the proposal, the applicant will demolish the drive-through building to make space for the proposed project.

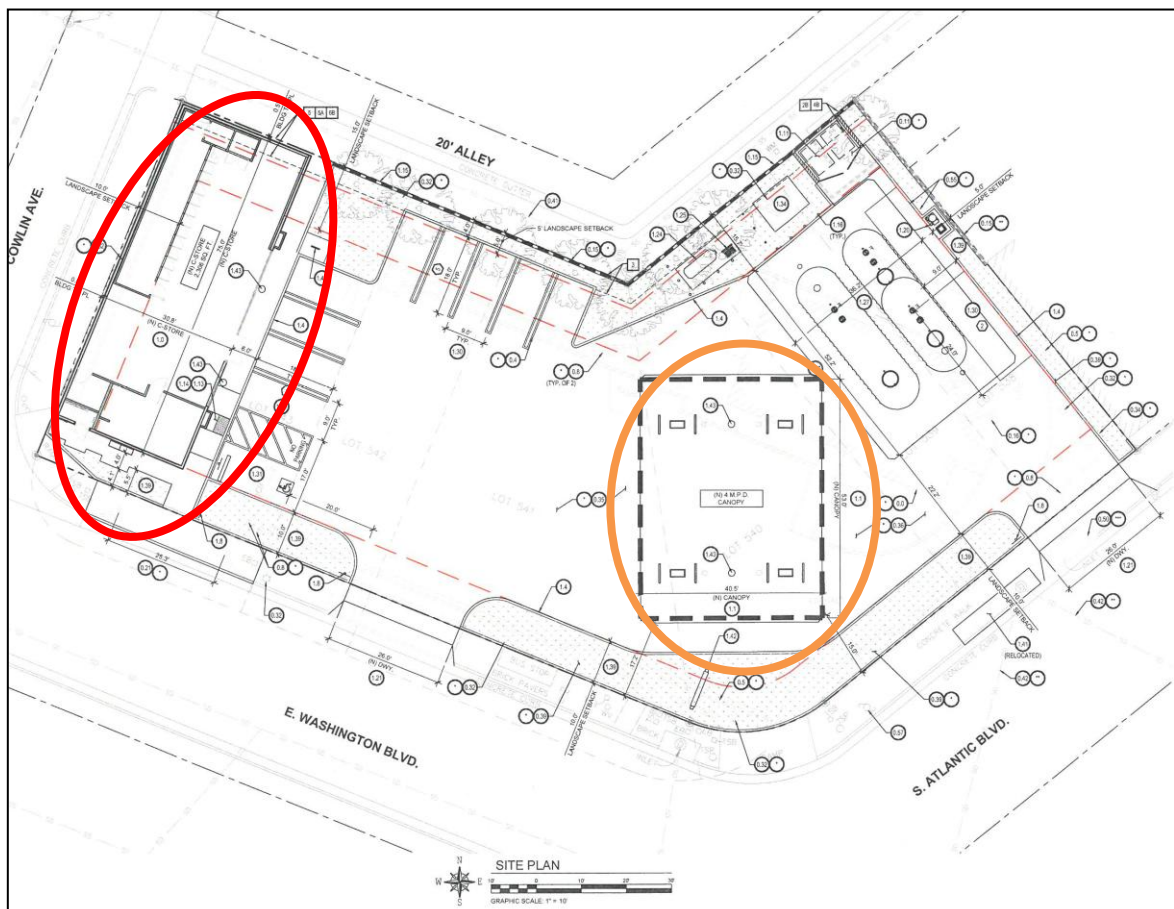
Pursuant to the Commerce Municipal Code (CMC), under Table 19.11.030A, a convenience store with gasoline sales requires the consideration of a conditional use permit. Furthermore, Section 19.31.400 requires a minimum parcel size of

twenty-five thousand (25,000) square feet for any combination of two uses (service station and mini-market), as well as a separation of 300 feet from a residential use. In order to allow for the 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.

As mentioned above, staff worked with the applicant on this proposal and previously shared some concerns with the applicant regarding the projects design and site planning that required consideration prior to moving forward with an official recommendation. This report outlines those concerns that were shared with the applicant. Below are the concerns that were previously raised on this project:

Building Placement and Siting

The subject site is located at the northwest corner of South Atlantic Boulevard where it meets East Washington Boulevard. To the west is Cowlin Avenue. A 20 foot alley separates the property to the north from an existing residential zoning on the northside of the alley. Below is the site plan as proposed by the applicant:



Within the red circle is the location of the proposed 2,306 square foot convenience store. As represented in the plans, the building will be situated along the

westernmost portion of the site, immediately adjacent to Cowlin Avenue, and wrapping around Washington Boulevard. Primary access to the building will come from within the site, adjacent to an area within the parcel that will be used for off-street parking. As a result, the building elevations facing out towards Washington Blvd. and Cowlin Ave. will serve as side and rear building elevations, respectively. Within the orange circle on the site plan on Page Four is the location of the gas pumps area with open canopy. The canopy and pumps will be centrally located on the site in order to take advantage of the proposed curb cuts along both East Washington and South Atlantic Boulevards.

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, among other things. After a preliminary review of the plans, staff believes the proposed location of the new convenience store will leave Cowlin Avenue 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 Code 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.

To meet the intent of this Code section, staff recommended that the proposed convenience store be relocated from the western portion of the site and placed along the northeast corner of the site, in order to match the setbacks exhibited by the existing buildings that are located along the west side of Atlantic Boulevard. With the recommended adjustment, Cowlin Avenue stands to better integrate with the subject site, while providing pedestrian visibility to and from the site.

The applicant reviewed this recommendation. It is the applicant's position that the proposed layout is designed to absorb and limit the spill-over of any negative, or secondary impacts resulting from the proposed use to surrounding property. Therefore, the applicant is requesting to move forward with the layout as originally proposed.

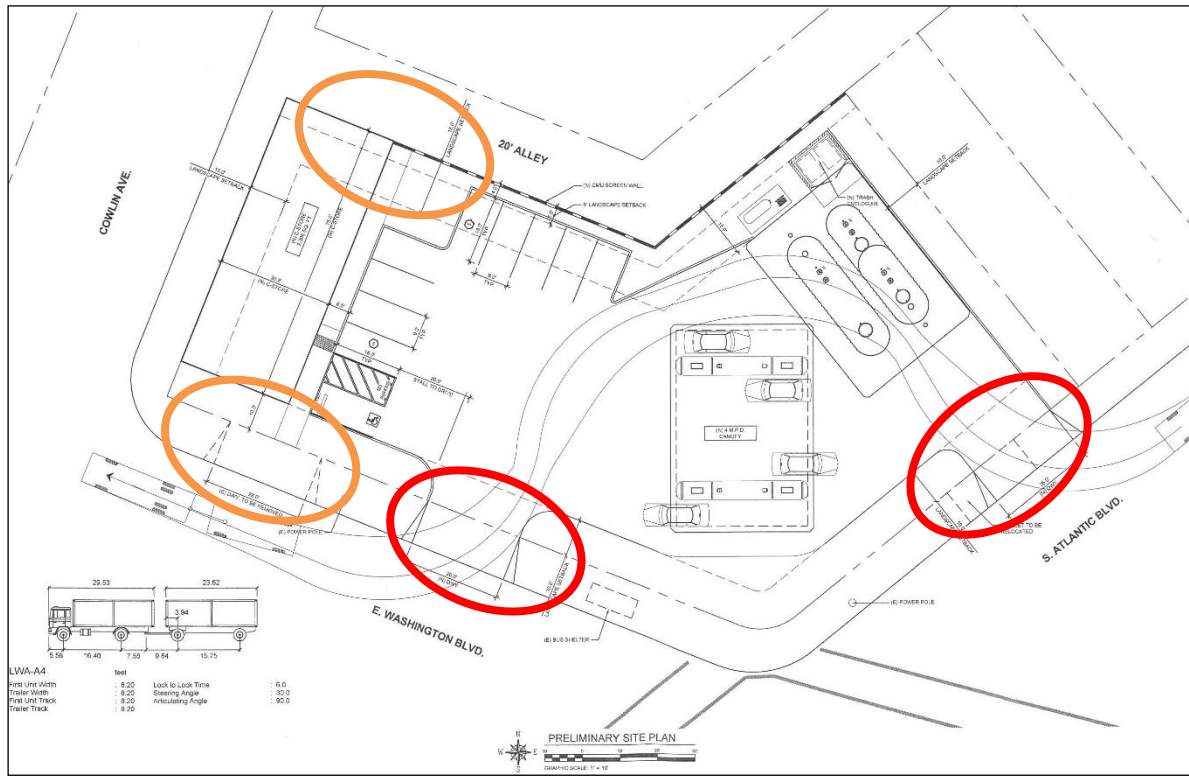
Proposed location of Curb Cuts along Atlantic and Washington Boulevard

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. It is worth noting that the existing driveway was previously improved and replaced in 2016 as part of the Washington Boulevard Project Improvements.

In addition, the applicant is proposing a new 26-foot curb cut along South Atlantic Boulevard, where none currently exists. Here, the new driveway will encroach into

an existing LA County Flood Control catch basin and will front out into an existing right turn lane. Finally, the site has an access driveway from a 20' alley along the northern boundary of the site that will be closed off as part of this proposal.

Below is a site plan showing the large truck movements with proposed curb cuts (RED) and driveway closures (ORANGE):



When discussing the location of driveways with the applicant, staff recommended that the proposal consider the retention of the existing curb cut along Washington Blvd. and utilize an existing alley entrance along the northern boundary of the site. The purpose for this was to eliminate a few traffic concerns. Primarily, 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.

In response, the applicant informed staff that this project requires two driveway entrances in order to allow convenient access to both patrons and refueling tankers. Tankers will access the site via the proposed driveway from Southbound Atlantic Blvd, and exit via the newly relocated Washington Blvd exit, without impacting the smaller side streets such as Cowlin Avenue or the existing alley along to the northern boundary of the site. Patrons to the site will have access from both Atlantic Blvd and Washington Blvd.

Compliance with the California Environmental Quality Act

As with any discretionary action, CEQA applies when an agency (City or State) undertakes an activity defined by CEQA as a "project." A project is an activity undertaken by a public agency or a private activity which must receive some discretionary approval (meaning that the agency has the authority to deny the requested permit or approval) from a government agency which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment. In this case, the Conditional Use Permit and Variances to allow for the project are discretionary entitlements that are subject to the review and consideration by the Planning Commission.

For this case, staff consulted the California Environmental Quality Act in order to determine the appropriate level of CEQA compliance. The analysis considered if the project is eligible for a possible CEQA (15332, Class 32) In-Fill Exemption or if it requires the review and preparation of an Initial Study. To qualify for a Class 32 in-fill development a project must meet the following:

1. 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;
2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
3. The project has no value as habitat for endangered, rare or threatened species;
4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and
5. the site can be adequately served by all required utilities and public services.
6. In this case, the proposal has been designed to comply with all applicable zoning codes, including setbacks, height, as well as off-street parking. No additional entitlements such as a variance are being requested in conjunction with this proposal.

In this case the proposal requires a CUP for the use, as well as a pair of variances to deviate from two development standards. Consideration of an In-Fill Exemption is not applicable in this case because the proposed project is not consistent with the Zoning Code, as required by number one. As noted in this report, staff is concerned with the generation of additional traffic, as well as building and driveway placement. Furthermore, certain exemptions from CEQA are granted by the State Legislature. The exemptions take several forms. Some are complete exemptions from CEQA while others apply to only part of the requirements of CEQA, and still other exemptions apply only to the timing of CEQA compliance. Section 15270 of the State's CEQA guidelines exempt projects that a public agency rejects or disapproves. Therefore, no further analysis pursuant to CEQA is required.

Findings of Fact

As part of the decision-making process, the Planning Commission will have to consider if findings for a conditional use permit (CUP) and Variances can be made to allow for the use. Such considerations will have to determine that the use will not be detrimental to surrounding property, that the use will comply with the intent and purpose of the General Plan, and most importantly, approval of the variances will not constitute a special granting or 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. Below are the findings that must be considered in conjunction with this proposal:

The findings for a CUP are outlined in CMC Section 19.39.420. In order to grant a CUP, the Planning Commission must make the following findings:

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 land use. Section 19.31.400 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 a residential use. In order to allow for the 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. 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. (See Attachment B)

4. The proposed use is compatible with the land uses presently on the subject property;

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 (See Attachment B).

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 feet 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; and

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.

Commerce Municipal Code Section 19.39.510 requires that before granting of a variance, the Planning Commission must make the following findings:

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 prevent 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; and

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.

As part of its consideration, the Planning Commission must also affirm that the goals and objectives of the General Plan can be met. The Commerce General Plan serves as the blueprint for future planning and development in the City. It implements the City's vision for the future through policies and plans that are designed to shape the physical development of the community. Most importantly, the General Plan acknowledges the importance of establishing an orderly pattern of development within the City.

Staff has identified a few policies from the General Plan for the Planning Commission to consider as part of the decision-making process:

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.

CONCLUSION:

As discussed herein, this report outlines concerns related to siting of the project, integration with surrounding streets, proximity to residential uses and location of curb cuts.

As such, staff is recommending that Commission consider the staff recommendation to deny the Conditional Use Permit and the Variance and approve Resolution 18-13 Denying Conditional Use Permit and Variance.

Prepared by: Manuel Acosta
Contract Planner

Reviewed by: Matt Marquez
Deputy Director of Development Services

Reviewed by: Noel Tapia
City Attorney