



## **MEMORANDUM** - City of Commerce Development Services

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**DATE:** October 24, 2018

**TO:** Planning Commissioners

**FROM:** Jose Daniel Jimenez, City Planner

**RE:** Wednesday's PC Agenda Item No. 1

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Planning Commissioners,

During the September 2018 Planning Commission Meeting, an application for Conditional Use Permit No. 528 and Variance 18-01 was agendized and was to be considered by the Planning Commission. At the request of the applicant, the case was continued to the October 24, 2018 Planning Commission Meeting.

Attached to the packet is a copy of the September staff report previously shared with the Commission. There have been no additional changes to this report. Staff will provide a full presentation this coming Wednesday.



## **STAFF REPORT**

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

**TO:** Planning Commission

**FROM:** Public Works & Development Services

**DATE:** September 26, 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 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 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 300 feet away from residential.

**RECOMMENDATION:** Planning Commission to Provide Direction to Staff

**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 September 13, 2018 and mailed to property owners within 500 feet of the project site.

**ATTACHMENTS:** A) Plans

## LAND USE, ZONING AND APPLICABLE REGULATIONS:

Project Site - Land Use & Applicable Regulations	
General Plan Designation:	Industrial
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

## ENVIRONMENTAL ASSESSMENT:

A formal CEQA clearance is forthcoming. Planning Staff is requesting for the Planning Commission to first consider the testimony provided herein and provide direction to staff on the appropriate direction for the project. The appropriate environmental review in compliance with the California Environmental Quality Act (CEQA) will be determined upon receiving direction on the project from the Planning Commission.

## 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 will 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:**

Planning Staff is working with the applicant on this proposal and identified areas in the proposal that merit further consideration prior to moving forward with a recommendation to the Planning Commission. These items have resulted in a difference of opinions between staff and the applicant on the project, therefore staff is at an impasse with the applicant and is seeking direction from the Planning Commission on how to proceed with its recommendation as it relates to this project.

Per the submittal package to the City, the applicant Taylor Megdal 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

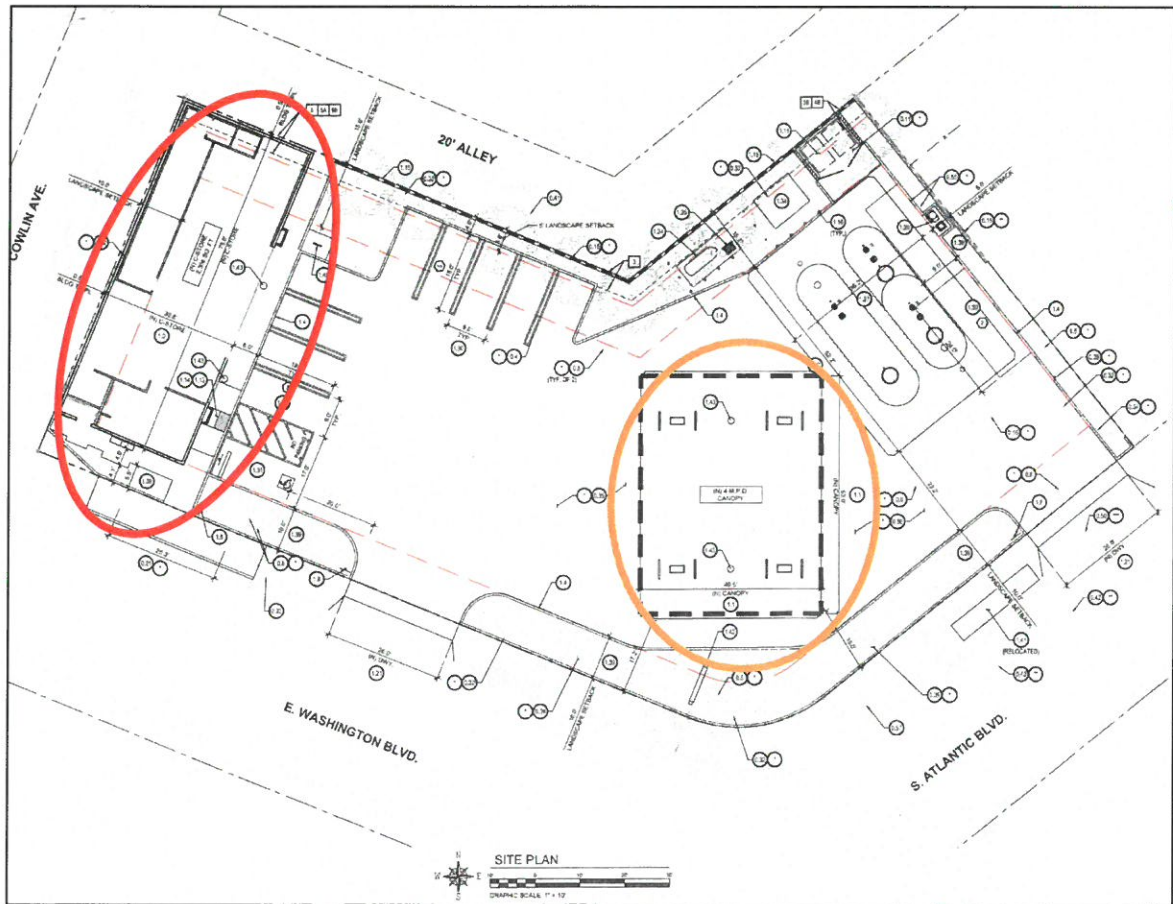


twenty-five thousand square feet for any combination of two uses (service station and mini-market), as well as a separation of 300 feet from a residential use. In order to allow for the project, approval of a Conditional Use Permit along with two variances to deviate from for the required minimum lot size and the required minimum separation of the proposed use from residential uses are needed.

As mentioned above, staff is working with the applicant on this proposal and previously shared some concerns with the applicant regarding the project that merit some level of consideration prior to moving forward with an official recommendation. This report outlines those concerns. At the conclusion of this report, staff will ask that the Planning Commission provide direction to staff on this project. Upon receiving direction, planning staff will then go back and prepare a report outlining the Commission's direction with recommendation which will then be presented and heard by the Planning Commission at a later date. 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.

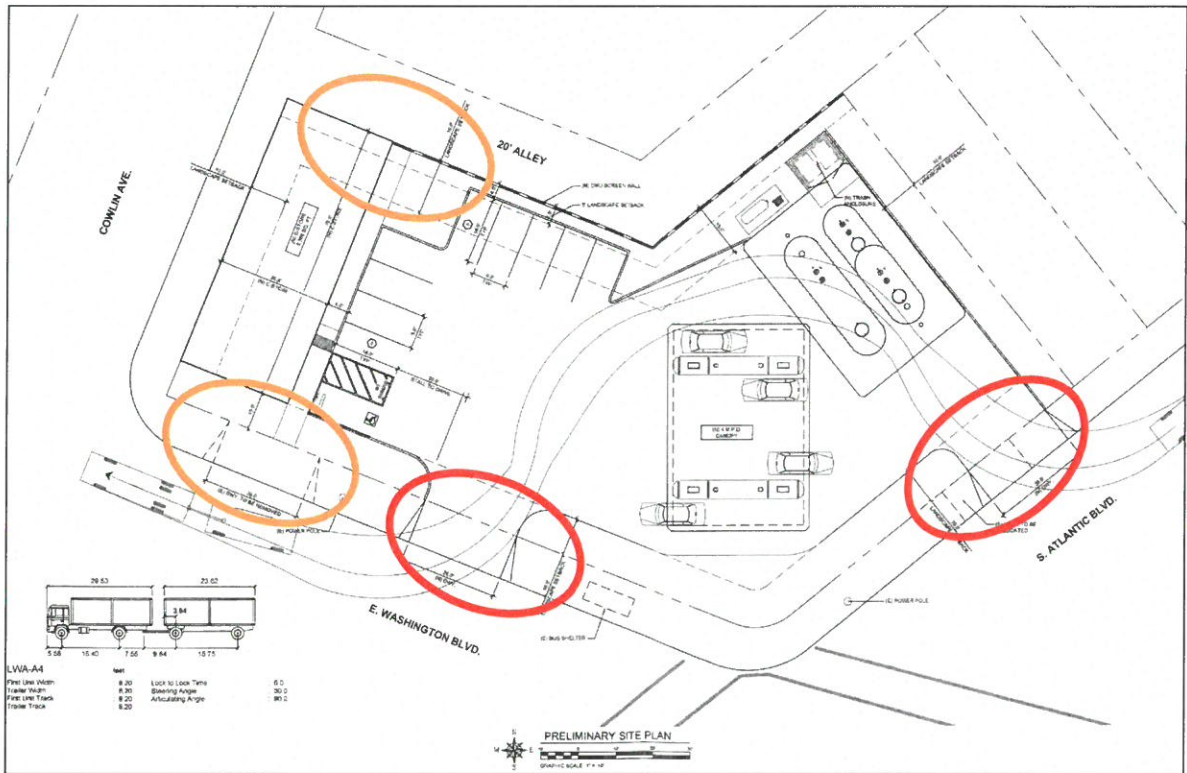
#### *Proposed location of Curb Cuts along Atlantic and Washington Boulevard*

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 recommended 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 Southbound 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. Staff would ask that the Commission consider this portion of the request and provide direction with the goal of trying to limit the traffic burden in the immediate area.

*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. 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. If there is a desire to move forward with the project, then it is necessary to prepare an Initial Study that will at a minimum consider potential traffic conditions in the immediate area that may result from this proposal. This will



provide the Commission with information regarding potential environmental impacts associated with the proposed project. This environmental analysis must be completed prior to making a recommendation in the affirmative on the project. If the Commission is to consider the alternative and provide direction to disapprove the proposal, it is only then that staff will consider an administrative exemption from CEQA that will forego the preparation of an Initial Study, given the project will not be approved.

### 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 CMC;*
2. *The proposed use would not impair the integrity and character of the zone in which it is to be located;*
3. *The subject site is physically suitable for the type of land use being proposed;*
4. *The proposed use is compatible with the land uses presently on the subject property;*
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;*
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;*
7. *There would be 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;*
9. *The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare; and*
10. *The proposed design and elevations 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;*
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;*
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;*
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*
5. *That the granting of such variance will not create any inconsistency with any objective contained in the General Plan.*

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, staff continues to work with the applicant on this proposal as highlighted in the discussion contained in this report. Staff shared some concerns regarding the project that merit some consideration prior to moving forward with an official recommendation. This report outlines concerns related to building placement, integration with surrounding streets, and location of curb cuts. Because of these concerns, staff is also asking for direction regarding CEQA compliance. As noted, the project does not qualify for a CEQA exemption because of the potential variances for the project. Furthermore, the proposal is looking to replace and add new curb cuts; therefore it is important that additional CEQA analysis be conducted in conjunction with any recommendation to move forward with this proposal.

As such, staff is recommending that Commission consider the proposal and consider the concerns raised and provide direction to Planning staff on how to proceed with this proposal.

Prepared by: Jose Daniel Jimenez  
City Planner

Reviewed by: Matt Marquez  
Deputy Director of Development Services

Reviewed by: Noel Tapia  
City Attorney