

PLANNING COMMISSION
RECOMMENDED CONDITIONS

PLANNING COMMISSION HEARING DATE: APRIL 7, 2016

Case Nos.:

P14-0887 (Conditional Use Permit)

P14-0888 (Design Review)

P14-0890 (Variance)

P14-0891 (Variance)

CONDITIONS

The applicant is advised that the business or use for which this conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the satisfaction of the Planning Division.

Case Specific

Planning

1. The drive-thru business shall be developed and operated substantially as described in the text of this staff report and as shown on the plot plan on file with the case, except for any specific modification that may be required by these conditions of approval.

Site Operation Standards:

2. The applicant shall be responsible for maintaining the site free of litter.
3. No window advertising signs shall be placed in or adjacent to the drive-thru windows.
4. Building and window signs shall comply with Chapter 19.620 of the Zoning Code. Signs shall be subject to separate review. A separate sign application, including fees and additional sets of plans, will be necessary prior to sign permit issuance.

Prior to Issuance of Grading Permit:

5. The applicant shall obtain a demolition permit to remove the existing vehicle fuel station building.
6. A 40-scale precise grading plan shall be submitted to the Planning Division and include the following:
 - a. Hours of construction and grading activity are limited to between 7:00 a.m. and 7:00 p.m. weekdays and 8:00 a.m. and 5:00 p.m. Saturdays. No construction noise is permitted on Sundays or Federal Holidays;
 - b. Compliance with City adopted interim erosion control measures;
 - c. Compliance with any applicable recommendations of qualified soils engineer to minimize potential soil stability problems; and

- d. Include a note requiring the developer to contact Underground Service Alert at least 48 hours prior to any type of work within pipeline easement.

During Grading and Construction Activities:

7. To reduce construction-related particulate matter air quality impacts, the following measures shall be required:
 - a. The generation of dust shall be controlled as required by the AQMD;
 - b. Grading activities shall cease during periods of high winds (greater than 25 mph);
 - c. Trucks hauling soil, dirt or other emissive materials shall have their loads covered with a tarp or other protective cover as determined by the City Engineer; and
 - d. The contractor shall prepare and maintain a traffic control plan that is prepared, stamped, and signed by either a licensed Traffic Engineer or a Civil Engineer. The preparation of the plan shall be in accordance with Chapter 5 of the latest edition of the Caltrans Traffic Manual and the State Standard Specifications. The plan shall be submitted for approval, by the engineer, at the preconstruction meeting. Work shall not commence without an approved traffic control plan.
8. Projects must abide by the SCAQMD's Rule 403 concerning Best Management Practices for construction sites in order to reduce emissions during the construction phase. Measures may include:
 - a. Develop a construction traffic management program that includes, but is not limited to, rerouting construction-related traffic off of congested streets, consolidating truck deliveries, and providing temporary dedicated turn lanes for movement of construction traffic to and from the site;
 - b. Sweep streets at the end of the day if visible soil material is carried onto adjacent paved public roads;
 - c. Wash off trucks and other equipment leaving the site;
 - d. Replace ground cover in disturbed areas immediately after construction;
 - e. Keep disturbed/loose soil moist at all times;
 - f. Suspend all grading activities when wind speeds exceed 25 miles per hour;
 - g. Enforce a 15-mile-per-hour speed limit on unpaved portions of the construction site.
9. To reduce diesel emissions associated with construction, construction contractors shall provide temporary electricity to the site to eliminate the need for diesel-powered electric generators, or must provide evidence that electrical hook ups at construction sites are not cost effective or feasible.

10. It is possible that ground-disturbing activities during construction may uncover previously unknown, buried cultural resources. In the event that buried cultural resources are discovered during construction, operations shall stop in the immediate vicinity of the find and a qualified archaeologist shall be consulted to determine whether the resource requires further study. The qualified archeologist shall make recommendations to the Lead Agency on the measures that shall be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Potentially significant cultural resources consist of, but are not limited to stone, bone, fossils, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites. Any previously undiscovered resources found during construction within the project area should be recorded on appropriate Department of Parks and Recreation (DPR) forms, and evaluated for significance in terms of CEQA criteria.

If the resources are determined to be unique historic resources as defined under Section 15064.5 of the CEQA Guidelines, mitigation measures shall be identified by the monitor and recommended to the Lead Agency. Appropriate mitigation measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds.

No further grading shall occur in the area of the discovery until the Lead Agency approves the measures to protect these resources. Any archaeological artifacts recovered as a result of mitigation shall be donated to a qualified scientific institution approved by the Lead Agency, where they would be afforded long-term preservation to allow future scientific study.

11. In the event a fossil is discovered during construction for the proposed project, excavations within 50 feet of the find shall be temporarily halted or delayed until the discovery is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The City shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the find is determined to be significant and if avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards.
12. In the event of an accidental discovery or recognition of any human remains, Public Resource Code (PRC) Section 5097.98 must be followed. In this instance, once project-related earthmoving begins and if there is accidental discovery or recognition of any human remains, the following steps shall be taken:
 - a. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the "most likely descendant" of the deceased Native American. The most likely descendant may make recommendations to

the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98, or

- b. Where the following conditions occur, the landowner or his/her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendent or on the project area in a location not subject to further subsurface disturbance:
 - i. The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission;
 - ii. The descendent identified fails to make a recommendation; or
 - iii. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

Prior to Issuance of Building Permit:

- 13. Details for the trash enclosure shall be revised to include colors and materials consistent with those proposed for the drive-thru business and a decorative overhead trellis subject to Planning Division staff approval and in accordance with the City's trash enclosure policies and development standards.
- 14. Any roof mounted mechanical equipment shall be completely screened from view of all perimeter streets. Parapet walls shall be designed so the top of the walls are higher than the tallest mechanical equipment on the roof of the building
- 15. Submit three sets of plans depicting the exact size, design and location of the domestic water backflow preventer to the Planning Division. These plans will be reviewed and approved by the Water Division and Planning Division. The design should include the smallest preventer possible, painted green with screening. The visibility of such facilities shall be minimized to Planning Division review and approval through means including but not limited to relocation, berm, landscaping, and/or installation of a screen wall. The applicant is advised to consult with the Water Division prior to preparing these plans.
- 16. Submit three sets of plans depicting the preferred location for an above ground utility transformer of capacity to accommodate the planned or speculative uses within the building. These plans shall be reviewed and approved by the Planning Division and Public Utilities Department - Electric Division prior to the issuance of a building permit. The proposed location of the transformer shall be level, within 100 feet of the customer's service point, accessible to service trucks and in a location where the transformer can be adequately screened from public view, either by buildings or landscape screening. If landscape screening is the preferred screening method, no landscaping except ground cover shall be allowed within 10 feet of the transformer. The applicant is advised to

consult with the City of Riverside Public Utilities, Electrical Engineering Division, at (951) 826-5489 prior to preparing these plans.

17. An exterior lighting plan shall be submitted for Planning Division staff review. A photometric study and manufacturer's cut sheets of all exterior lighting on buildings, landscaped areas and in parking lots shall be reflected. All on-site lighting shall provide a minimum intensity of one foot-candle and a maximum of ten foot-candles at ground level throughout the areas serving the public and used for parking. Light sources shall be shielded to minimize off-site glare, shall not direct light skyward and shall be directed away from adjacent properties and public rights-of-ways. If lights are proposed to be mounted on buildings, down-lights shall be utilized. Light poles shall not exceed twenty feet in height, including the height of any concrete or other base material.
18. Landscaping and Irrigation plans shall be submitted for Planning Staff review. Design modifications may be required as deemed necessary. Separate applications and filing fees are required.
 - a. The visibility of water meters, backflow preventers and utility cabinets shall be minimized through means including but not limited to relocation, berming, landscaping, and/or installation of a screen wall.

Prior to Release of Utilities and/or Occupancy:

19. Install the landscape and irrigation per the approved plans and submit the completed "Certificate of Substantial Completion" (Appendix C of the water Efficient Landscaping and Irrigation Ordinance Summary and Design Manual) signed by the Designer/auditor responsible for the project. Call Brian Norton, at (951) 826-2308 to schedule the final inspection at least a week prior to needing the release of utilities.
20. The project shall comply with all existing State Water Quality Control Board and City storm water regulations, including compliance with NPDES requirements related to construction and operation measures to prevent erosion, siltation, transport of urban pollutants, and flooding.

Standard Conditions

21. There shall be a 24-month time limit in which to commence construction of the project beginning the day following approval by the Planning Commission unless a public hearing is held by City Council; in that event the time limit begins the day following City Council approval.
22. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.
23. The Project must be completed per the Conditional Use Permit and Design Review approved by the Planning Commission, including all conditions listed in this report. Any substantial changes to the Project must be approved by the Planning Commission or minor modifications by Planning Staff. Upon completion of the Project, a Staff inspection

must be requested, UTILITIES will not be released until it is confirmed that the approved plans and all conditions have been implemented.

24. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim, action or proceeding and the City will cooperate in the defense of the proceeding.
25. The applicant is advised that the business or use for which this conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the satisfaction of the Planning Division.
26. This project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.
27. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
28. The applicant shall comply with all federal, state and local laws and shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of this permit.
29. This permit is issued based upon the business operations plan and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify Community Development Department, Planning Division, of any change in operations and such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this conditional use permit.
30. The applicant herein of the business subject to this conditional use permit acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
31. Failure to abide by all conditions of this permit shall be cause for revocation.

32. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
33. The applicant shall continually comply with all applicable rules and regulations in effect at the time permit is approved and exercised and which may become effective and applicable thereafter.

Public Works

34. Closure of unused driveway openings on La Cadena Drive and on Interchange Street to Public Works specifications.
35. Size, number and location of driveways to Public Works specifications.
36. Installation of a sewer lateral to serve this project to Public Works specifications.
37. Prior to final inspection for the development project, the applicant shall pay the Transportation Uniform Mitigation Fee (TUMF) in accordance with the fee schedule in effect at the time of payment. If the project improvements include qualifying right-of-way dedications and/or street improvements to a TUMF regional arterial roadway as identified on the Regional System of Highways and Arterials, the developer may have the option to enter into a Credit/ Reimbursement Agreement with the City and Western Riverside Council of Governments (WRCOG) to recover costs for such work based on unit costs as determined by WRCOG.

The terms of the agreement shall be in accordance with the RMC Chapter 16.68 and the TUMF Administrative Plan requirements. Credit/reimbursement agreements must be fully executed prior to receiving any credit/reimbursement. An appraisal is required for credit/reimbursement of right of way dedications and credit/reimbursement of qualifying improvements requires the public bidding and payment of prevailing wages in accordance with State Law. For further assistance, please contact the Public Works Department.

38. Prior to issuance of a building or grading permit, the applicant shall submit to the City for review and approval, a project-specific WQMP that:

Addresses Site Design BMP's such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas and conserving natural areas;

Incorporates the applicable Source Control BMP's as described in the Santa Ana River Region WQMP and provides a detailed description of their implementation;

Incorporates Treatment Control BMP's as described in the Santa Ana River Region WQMP and provides information regarding design considerations;

Describes the long-term operation and maintenance requirements for BMP's requiring long-term maintenance; and

Describes the mechanism for funding the long-term operation and maintenance of the BMP's requiring long-term maintenance.

39. Prior to issuance of any building or grading permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument acceptable to the City Attorney to inform future property owners of the requirement to implement the approved project-specific WQMP. Other alternative instruments for requiring implementation of the approved project-specific WQMP include: requiring the implementation of the project-specific WQMP in the Home Owners Association or Property Owners Association Conditions, Covenants and Restrictions (C,C&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the project-specific WQMP; or equivalent may also be considered. Alternative instruments must be approved by the City prior to the issuance of any building or grading permits.
40. If the project will cause land disturbance of one acre or more, it must comply with the statewide General Permit for Storm Water Discharges Associated with Construction Activity. The project applicant shall cause the approved final project-specific WQMP to be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.
41. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:

Demonstrate that all structural BMP's described in the project-specific WQMP have been constructed and installed in conformance with approved plans and specifications;

Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project-specific WQMP; and

Demonstrate that an adequate number of copies of the approved project-specific WQMP are available for the future owners/ occupants.

Parks and Recreation Department

Prior to Building Permit Issuance:

42. Payment of all applicable park development fees (local, regional/reserve, trail and aquatic) as mitigation for the impacts of the project on the park development and open space needs of the City. For questions or concerns regarding this condition, contact Park Planning & Design, 951/826-2000.

Fire Department

Contact Margaret Albanese at 951-826-5455 for questions regarding Fire conditions or corrections. The following to be met prior to construction permit issuance:

43. An automatic fire sprinkler system is required by City Ordinance 16.32.076. Under separate cover, submit plans for the automatic fire sprinkler system(s) and obtain approval from the Fire Department prior to installation. Systems exceeding 20 sprinkler heads shall be provided with supervisory service and shall be monitored by an approved facility. Post Indicator valves, Detector Check control valves and water flow switches are required to be central station monitored. Have alarm contractor submit plans and obtain

approvals prior to installation. Alarm contractor shall provide a copy of a maintenance contract complying with N.F.P.A. 72.

Public Works Street Trees

Contact Guy Tanaka at Gtanaka@riversideca.gov or 951-351-6313 for questions regarding street tree conditions or corrections.

Prior to building permit issuance

- 44. Property owner shall remove all palms in the Public right-of-way.
- 45. Landscape plans involving proposed street trees must be submitted for review by STREET TREES. (NOTE: Tree Inspector will make FINAL determination for required 24" box size street trees as to species, quantity, and location after site inspection is scheduled after fine grading and hardscape installation has been completed.)

Public Utilities – Electric

Contact Summer Ayala at 951-826-2129 for questions regarding public utilities (electric) conditions/corrections listed below.

- 46. The provision of utility easements, water, street lights and electrical underground and/or overhead facilities and fees in accordance with the rules and regulations of the appropriate purveyor.
- 47. All utilities shall be satisfactorily relocated, protected and/or replaced to the specifications of the affected departments and agencies, and easements for such facilities retained as necessary.

Public Utilities – Water

- 48. Advisory: All utilities shall be satisfactorily relocated, protected and/or replaced to the specifications of the affected departments and agencies.
- 49. Advisory: The provision of water facilities in accordance with the City of Riverside Public Utilities Water Rules.
- 50. Advisory: The provision of utility fees and charges in accordance with the City of Riverside Public Utilities Water Rules.
- 51. Advisory: The provision of water facilities in accordance with the City of Riverside Public Utilities Water Rules. Existing 6" diameter water mains in Interchange Street will need to be upgraded to 12" diameter if fire flow requirements cannot be met by existing water system.

Riverside Police Department

Security

52. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easy discernment of the appearance and conduct of all persons on or about the parking lot.
53. An HD security camera surveillance system shall be in constant use, maintained in good working order, have significant coverage of the premises and have the ability to save and or retrieve video footage for up to 30 days. The Riverside Police Department shall be provided requested surveillance footage within 48 hours of any request.

Grounds

54. The licensee shall be responsible for maintaining free of litter the area adjacent to the premises in which they have control.
55. The licensee shall be responsible for maintaining free of graffiti the area adjacent to the premises in which they have control.
56. No loitering shall be permitted on any property adjacent to the license's premises which is under control of the licensee.
57. No loitering/trespassing signs shall be posted (per City specifications) through the property. The licensee shall enroll in the Riverside Police Department Trespass Authorization Program annually.

Compliance

58. The required conditional use permit is subject to a mandatory six-month review by the Planning Division. In addition to any other stipulations, three or more sustained complaints to the Riverside Police Department within any 12-month period regarding disturbances caused by patrons or staff at the site shall be grounds for revocation proceedings.