



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: NOVEMBER 19, 2019**

**FROM: COMMUNITY & ECONOMIC DEVELOPMENT      WARD: 5**  
**DEPARTMENT**

**SUBJECT: PUBLIC HEARING - P17-0494 GENERAL PLAN AMENDMENT, P17-0495 ZONING CODE AMENDMENT, P18-0986 CONDITIONAL USE PERMIT, P18-0987 CONDITIONAL USE PERMIT, P18-0988 PARCEL MAP, P18-0990 DESIGN REVIEW, P18-0989 VARIANCE, P18-0991 DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY – PROPOSAL BY STEVE BERZANSKY OF STEVEN WALKER COMMUNITIES FOR THE CONSTRUCTION OF A VEHICLE FUEL STATION AND A 5,250 SQUARE FOOT MULTI-TENANT COMMERCIAL BUILDING, INCLUDING A DRIVE-THRU RESTAURANT SITUATED ON THE NORTHWEST CORNER OF VAN BUREN BOULEVARD AND LINCOLN AVENUE**

## **ISSUE:**

Approve a proposal by Steve Berzansky of Steven Walker Communities, to permit the following entitlements for the construction of a vehicle fuel station and a 5,250 square foot multi-tenant commercial building, including a drive-thru restaurant: 1) General Plan Amendment to change the General Plan land use designation from VHDR – Very High Density Residential to C - Commercial; 2) Zoning Code Amendment to change the zone from R-4 – Multiple Family Residential Zone to CR – Commercial Retail Zone; 3) Conditional Use Permit to permit a vehicle fuel station consisting of a 3,062 square foot convenience store with off-sale of beer/wine (Type 20 Alcohol License); 4) a Conditional Use Permit to permit a 1,960 square foot drive-thru restaurant; 5) Parcel Map to subdivide 1.44 acres into two lots; 6) Design Review of project plans; 7) Variances to allow alcohol sales within 100 feet of property zoned for residential uses and a reduced landscape setback along the west property line; and 8) Determination of Public Convenience or Necessity to allow the off-sale of beer/wine.

## **RECOMMENDATIONS:**

That the City Council:

1. Determine that this proposed project will not have a significant effect on the environment based on the findings set forth in the case record and adopt a Mitigated Negative Declaration and Mitigation and Monitoring Reporting Program (MMRP);
2. Approve Planning Cases P17-0494 General Plan Amendment, P17-0495 Zoning Code Amendment, P18-0986 Conditional Use Permit, P18-0987 Conditional Use Permit, P18-0988 Parcel Map, P18-0989 Variance, P18-0990 Design Review, P18-0991 Determination

of Public Convenience or Necessity, based on the findings outlined in the staff report and summarized in the attached findings and subject to the recommended conditions;

3. Adopt the attached Resolution to amend the General Plan 2025 land use designation of approximately 1.44 acres of land from VHDR – Very High Density Residential to C - Commercial (Attachment 1); and
4. Introduce and subsequently adopt the attached Ordinance amending the Zoning Map (Attachment 2).

### **PLANNING COMMISSION RECOMMENDATION:**

On October 3, 2019, the City Planning Commission recommended approval of Planning Cases P17-0494, P17-0495, P18-0986, P18-0987, P18-0988, P18-0989, P18-0990, and P18-0991, by a vote of 4 ayes, 2 noes and 0 abstentions, with staff recommended conditions of approval (Attachment 3 and Attachment 4).

### **BACKGROUND**

The project site consists of one parcel on the northwest corner of Van Buren Boulevard and Lincoln Avenue. The project site is currently being used by Van Daele Homes for construction staging of the adjacent multi-family residential development. The project site was previously developed with a plant nursery (Moon Valley Nursery), consisting of a modular trailer/office building, several storage sheds, and a surface parking lot accessed from a driveway on Lincoln Avenue.

Surrounding land uses include multi-family residential to the north (approved under Planning Case P18-0172), single-family residences to the south (across Lincoln Avenue), a shopping center to the east (across Van Buren Boulevard), and single-family residences to the west.

On August 9, 2017, the Development Review Committee approved Parcel Map 37351 (Planning Case P17-0496) to subdivide a 6.74 acre parcel into two parcels for financing purposes. The proposed project encompasses Parcel 2 of Parcel Map 37351 (1.49 acres), with frontage along both Van Buren Boulevard and Lincoln Avenue. Only this parcel is under consideration for the General Plan Amendment and Zoning Code Amendment.

As a matter of information, on December 12, 2017, the City Council approved the Housing Element Implementation Program which consisted of a General Plan Amendment (Planning Case P17-0096) of the subject site from MDR – Medium Density Residential to VHDR – Very High Density Residential and a Zoning Code Amendment (Planning Case P17-0180) of the subject site from RE – Residential Estate Zone to R-4 – Multiple-Family Residential Zone. However, as part of the Housing Element Implementation Program, the City did not anticipate housing units on the project site as entitlement applications for a General Plan Amendment and Zoning Code Amendment had been formally submitted.

### **DISCUSSION:**

#### **Project Description**

The applicant requests approval of the following entitlements for the construction of a vehicle fuel station and a 5,250 square foot multi-tenant commercial building, including a drive-thru restaurant: 1) General Plan Amendment to change the General Plan land use designation from VHDR – Very High Density Residential to C - Commercial; 2) Zoning Code Amendment to change the zone from R-4 – Multiple Family Residential Zone to CR – Commercial Retail Zone; 3) Conditional Use Permit (CUP) to permit a vehicle fuel station (7-Eleven) consisting of a 3,062 square foot convenience store with off-sale of beer/wine (Type 20 Alcohol License); 4) Conditional Use Permit to permit a 1,960 square foot drive-thru restaurant; 5) Parcel Map to subdivide 1.49 acres into two lots (Parcel 1 consists of 0.75 acres and Parcel 2 consists of 0.74 acres); 6) Design Review of project plans; 7) Variances to allow alcohol sales within 100 feet of property zoned for residential uses and a reduced landscape setback along the west property line; and 8) Determination of Public Convenience or Necessity to allow the off-sale of beer/wine.

The applicant is also requesting a modification of development standards, reviewed under the CUP for the fuel station, to permit the operation of a vehicle fuel station on a lot smaller than one acre. The proposed commercial development includes the following:

- Vehicle Fuel Station with Off-Sale of Alcoholic Beverages

The proposed vehicle fuel station (7-Eleven) is located on the southern half of the project site (Parcel 2 consisting of 0.74 acres), at the northwest corner of Van Buren Boulevard and Lincoln Avenue. The vehicle fuel station includes the construction of a 3,062 square foot convenience store with the off-sale of beer and wine (Type 20 license) and a fueling canopy consisting of 6 multiple product dispensers comprising two gasoline pumps each. The proposed vehicle fuel station and convenience store will operate 24 hours per day, seven days per week. The applicant has indicated that fuel delivery is typically scheduled during off-peak hours. The vehicle fuel station will have approximately three to four employees per day shift and approximately two to three employees during the night shift.

- Multi-Tenant Building with a Drive-Thru Restaurant

The proposed multi-tenant commercial building is located on the northern portion of the project site (Parcel 1 consisting of 0.75 acres) and is comprised of a drive-thru restaurant consisting of 1,960 square feet and two retail suites consisting of 3,290 square feet. The entrance to the drive-thru lane is located on the south side of the building with the pick-up window on the north side of the building. The proposed drive-thru queuing lane is 12 feet wide, 240 feet long, and accommodates stacking for 10 vehicles. The drive-thru lane will be screened from Van Buren Boulevard by a three foot high screen wall. An outdoor seating area is located on the west side of the building. Tenants have not been identified for the proposed drive-thru restaurant or retail suites.

A total of 50 vehicle parking spaces are distributed throughout Parcel 1 and Parcel 2 and reciprocal access and parking is anticipated throughout the entire site. Access is provided via two proposed two-way driveways: a 35 foot wide, right-in/right-out driveway along Van Buren Boulevard, and a 30 foot wide driveway along Lincoln Avenue.

The proposed architectural design reflects a contemporary commercial style with Spanish influences, consisting of: arches, decorative wrought iron, stucco walls, and concrete tile roof. The proposed trash enclosures and the fueling canopy are consistent with the proposed building architecture through the use of similar materials and finishes. The proposed color palette is primarily shades of white, cream and brown. Staff recommends conditions of approval to revise the 7-Eleven elevations to provide a shed roof over the utility enclosure and to recess the areas where the decorative ironwork is proposed, consistent with the architectural detail of the proposed tower element.

Proposed landscaping includes a 10 to 29 foot wide landscaped planter along both street frontages.

### Community Concerns

Following publication of the Planning Commission Staff Report, staff received two letters in opposition to the proposed project and two letters in support (Attachment 5). Letters received prior to publication of the Planning Commission Staff Report are included as an exhibit to that report.

The following is an overview of the concerns expressed about the proposed project by the community and interested parties during the Planning Commission hearing and in written comments received after publication of the Planning Commission Staff Report. A response by Staff is provided with each topic of concern:

1. Concern: Proximity of a vehicle fuel station to residential development.

Response: The California Air Resources Board (ARB) published an Air Quality and Land Use Handbook that recommends a 50 foot separation between typical gas dispensing facilities and sensitive land uses, including: schools and schoolyards, parks and playgrounds, day care centers, nursing homes, hospitals, and residential communities. The proposed vehicle fuel station has been sited to comply with ARB's recommendation, providing a distance of 55 feet between the edge of the fueling area and the nearest residential building (multi-family residential development, approved under Planning Case P18-0172) and a distance of 355 feet between the edge of the fueling area and the nearest residential property line (across Lincoln Avenue).

2. Concern: Increase in traffic congestion on local streets.

Response: A Traffic Impact Analysis (TIA) prepared for the project analyzed six study area intersections near the site. The TIA concluded that the project will not result in any potentially significant impacts. To mitigate any potential impacts and improve the overall operation of the intersection of Van Buren Boulevard and Indiana Avenue, the Conditions of Approval included conditions related construction of a left turn median on Lincoln Avenue and fair share contributions towards improvements at the Van Buren Boulevard and Rudicill Street intersection and the Van Buren Boulevard and SR-91 westbound ramp intersection.

3. Concern: Increase in noise due to the drive-thru operations.

Response: A Noise and Vibration Analysis was prepared for the project, which analyzed project related operational noise, including: mechanical equipment (e.g., HVAC units); a drive-through window and an outdoor dining area for the fast food restaurant; landscape maintenance equipment; vehicles entering and leaving the site; and trash collection activities. The Noise and Vibration Analysis concluded that the project will not result in any potentially significant impacts. Furthermore, the project includes a Condition of Approval requiring all operations to be in compliance with Title 7 (Noise Control) of the Riverside Municipal Code.

4. Concern: Health effects of Benzene from the proposed vehicle fuel station relating to the recommended buffer distances of 300 feet between gas stations and residential uses, as provided in the California Air Resources Board's *Air Quality and Land Use Handbook*, and the amount of Benzene emitted per day by the proposed vehicle fuel station.

Response: The Initial Study/Mitigated Negative Declaration (IS/MND) evaluated the potential impact to human health from Toxic Air Contaminants (TACs) related to the proposed gasoline station. As stated on page 26 of the IS/MND, the health effects of Benzene emissions, and other TACs associated with the proposed gasoline station, were evaluated based on methods established within the South Coast Air Quality Management

District's (SCAQMD's) Rule 1401 Risk Assessment Program. This Program was used to assess potential health risk associated with the proposed gasoline station and found that cancer risk levels would be below the SCAQMD's thresholds for cancer risk.

The California Air Resources Board's *Air Quality and Land Use Handbook: A Community Health Perspective* (CARB Handbook) recommends avoiding the siting of new sensitive land uses within 300 feet of a large gas station (defined as a facility with a throughput of 3.6 million gallons per year or greater). A 50-foot separation is recommended for typical gas dispensing facilities. The proposed gasoline station would dispense approximately 1.7 million gallons a year which is substantially less than 3.6 million gallons per year for a large gas station, as defined above. The CARB Handbook also provides that a typical GDF (Gas Dispensing Facility) in California dispenses under 3.6 million gallons of gasoline per year. The cancer risk for this size facility is likely to be less than 10 in a million at the fence line under urban air dispersion conditions. Because the proposed project would dispense less than half the amount of fuel compared to the gas station analyzed in CARB Handbook, cancer risk can also be expected to be less than 10 in a million.

The SCAQMD establishes a 10 in a million health risk to determine whether there is excessive cancer risk to nearby land uses from an emission source. As discussed in the IS/MND, potential health risk for cancer from the proposed project is less than 10 in a million based on the Rule 1401 Risk Assessment Program. This level of risk is consistent with the aforementioned findings of the CARB Handbook. Because the health risk from the proposed project is less than the SCAQMD's cancer risk threshold, the proposed project would not result in a significant impact related to cancer risk from the operation of the proposed gas station.

In response to the commenter's statements of the amount of Benzene being released on a daily basis, as expressed in pounds of Benzene per day, it should be noted that this is the weight of a gas being emitted, and it does not correlate directly to a health effect. Health effects related to TACs are correlated to exposure to concentrations of pollutants and not to the weight of TACs per day. Concentrations are expressed in amounts per volume of air (parts per million, micrograms/cubic meter, etc.) to which an individual would be exposed. TAC exposure is affected by distance from the emission source as well as meteorological conditions. As such, contrary to the comment, the weight of a TAC does not have a direct correlation to a health effect. The CARB Handbook and the SCAQMD's Rule 1401 Risk Assessment Program do account for health effects related to exposure of TAC concentrations. As discussed previously, both the CARB Handbook and the Risk Assessment Program have determined that cancer risk associated with the proposed gas station would not represent a significant health risk impact at nearby residential or commercial uses.

5. Concern: Attraction of unhoused individuals to the area.

Response: Concerns raised about a project's potential to attract unhoused persons typically include assumed illegal behaviors associated with the chronically homeless. These frequently include panhandling, drug use, public intoxication, loitering and trespassing. The Riverside Police Department will enforce existing laws against illegal behaviors. The Riverside Police Department has also recommended specific Conditions of Approval relating to the off-sale of alcohol, including prohibiting the sale of single-serving alcoholic beverages. Further, the vehicle fuel station operator (7-Eleven) maintains policies that govern the operation and management to control and minimize illegal behaviors. Adherence to existing regulations, operating policies and the recommended Conditions of Approval will minimize possible illegal behaviors.

6. Concern: Potential increase in crime and deterioration of neighborhood security related to the proposed uses, especially the off-sale of beer and wine.

Response: The project was reviewed by the Riverside Police Department to address specific concerns related to security. Specific Conditions of Approval related to alcohol sales and convenience store operations are recommended to be applied to the project. Adherence to the recommended Conditions of Approval will prevent undue increases in criminal activity and reduce the incidence of calls for police service.

7. Concern: The overconcentration of commercial uses, such as drive-thru restaurants and vehicle fuel stations.

Response: Staff analyzed the proposed project against the applicable development standard. The Zoning Code does not provide minimum separation requirements for drive-thru restaurants and vehicle fuel stations.

8. Concern: Lack of sidewalks along Van Buren Boulevard and Lincoln Avenue.

Response: The project includes a specific Condition of Approval requiring the installation of curb, gutter, and sidewalk along the project frontage, adjacent to Van Buren Boulevard. As a matter of information, the installation of sidewalk along the project frontage, adjacent to Lincoln Avenue, was required as a Condition of Approval for Parcel Map 37351 (Planning Case P17-0496).

### Conclusion

Staff finds that the proposed project will provide convenient access to goods and services for the surrounding neighborhood. The proposed project is appropriate for the location and has generally been designed to comply with all applicable standards, requirements and guidelines. It will provide safe and efficient vehicular access and internal circulation while providing landscaping, water quality treatment facilities, and pedestrian access. Staff supports the proposed General Plan Amendment, Zoning Code Amendment, Conditional Use Permit, Parcel Map, Design Review, Variance, Determination of Public Convenience or Necessity, subject to the recommended Conditions of Approval.

For additional background, please refer to the October 3, 2019, City Planning Commission staff report (Attachment 4).

### **FISCAL IMPACT:**

There is no fiscal impact to the General Fund, since all project costs are borne by the applicant.

Prepared by: David Welch, Community & Economic Development Director  
Certified as to  
availability of funds: Edward Enriquez, Chief Financial Officer/Treasurer  
Approved by: Rafael Guzman, Assistant City Manager  
Approved as to form: Gary G. Geuss, City Attorney

### Attachments:

1. General Plan Amendment Resolution
2. Zoning Code Amendment Ordinance
3. City Planning Commission Draft Minutes – October 3, 2019
4. City Planning Commission Report – October 3, 2019

5. Planning Commission Comment Letters
6. Presentation