



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Jason Simpson, City Manager

Prepared by: Remon Habib, City Engineer
Damaris Abraham, Community Development Director

Date: September 24, 2024

Subject: Request to Modify Condition of Approval No. 73 Related to the Relocation and Undergrounding of Power Poles Out of the Roadway for the Riverside & Lincoln Commercial Project (PA 2020-92)

Recommendation

Deny the applicant's request to modify Condition of Approval No. 73 and keep the previously approved condition as stated below:

73. All arrangements for the relocation of utility company facilities (power poles, vaults, etc.) out of the roadway shall be the responsibility of the applicant, property owner, and/or their agent. Overhead utilities (34.5 kV or lower) shall be undergrounded (LEMC Section 16.64).

Background

On April 13, 2021, the City Council adopted Mitigated Negative Declaration (MND) (ER 2020-05) (SCH No. 2021010316) and approved General Plan Amendment (GPA) No. 2020-02, Zone Change (ZC) No. 2020-01, Tentative Parcel Map (TPM) No. 37958, Conditional Use Permit (CUP) No. 2020-09, and Commercial Design Review (CDR) No. 2020-08.

Tentative Parcel Map No. 37958 included a subdivision of the 6.36-acre parcel into four parcels ranging in size from 0.93 acres to 2.88 acres.

CUP No. 2020-09, and CDR No. 2020-08 included a proposal to develop a commercial project consisting of a 4,291 sq. ft. convenience store, 16 gasoline-dispensing stations with a 4,291 sq. ft. canopy, beer and wine sales (Type 20), self-storage facility (three (3) buildings that are 38,016 sq. ft. in total), 3,979 sq. ft. self-serve carwash, and 4,456 sq. ft. drive-thru restaurant 221 parking stalls, landscaping, and related site improvements.

The subject property is currently vacant and is located at the southwest corner of Lincoln Street and Riverside Drive. The project encompasses Assessor Parcel Numbers (APNs) 379-111-017, 018, 019, and 020 (Previous APN: 379-111-014).

On March 3, 2022, Parcel Map No. 37958 was finalized and recorded. In accordance with the requirements of the Subdivision Map Act and the Lake Elsinore Municipal Code (LEMC), the applicant entered into a Subdivision Improvement Agreement as a condition to Parcel Map recordation. The Subdivision improvement Agreement obligates the applicant to install and complete, at applicant's own expense, all the public improvement work required by the conditions of approval to the Parcel Map and to provide improvement security to secure performance of these obligations. The amount of the security is based upon the applicant's engineer's estimate.

On April 13, 2023, the CUP and CDR applications expired. On January 17, 2024, the applicant submitted a new CUP (CUP No. 2023-16) and CDR (CDR No. 2023-06) applications with the same configuration and layout as the original applications.

On April 16, 2024, the Planning Commission reviewed and approved the new CUP and CDR applications. On May 14, 2024, the City Council received and filed the Planning Commission's action to approve the applications.

On August 26, 2024, the applicant submitted a letter (Attachment 1) requesting modifications to Condition of Approval No. 73.

Discussion

Condition of Approval (COA) No. 73 requires the relocation and undergrounding of overhead utility lines. COA No. 73 currently states:

All arrangements for the relocation of utility company facilities (power poles, vaults, etc.) out of the roadway shall be the responsibility of the applicant, property owner, and/or their agent. Overhead utilities (34.5 kV or lower) shall be undergrounded (LEMC Section 16.64).

The applicant is requesting that COA No. 73 be modified as follows:

1. The electrical poles will be relocated however they remain above ground, rather than being undergrounded.
2. The city will provide a \$100,000 credit towards all permit fees associated with this project.

Staff has reviewed the applicant's request to modify COA No. 73. Staff does not support the proposed modifications based on the review of the conditions of approval and the Lake Elsinore Municipal Code (LEMC). While the LEMC does provide for certain exclusions and exemptions, the applicant's request does not meet those eligibility requirements outlined in Sections 16.64.035 and 16.64.036. LEMC Chapter 16.64 is included in this staff report as Attachment 3 for reference. Additionally, this condition is a normal, typical part of development that is applied to all development projects.

In fact, COA No. 73 to the 2024 entitlements was included verbatim as Condition of Approval No. 90 to the 2021 entitlements, including the Parcel Map. The removal of four power poles and the undergrounding of electrical was included in the Cost Estimate prepared by the applicant's engineer and attached to the Subdivision Improvement Agreement. Performance of this condition is secured by the Deed of Trust recorded against the property as improvement security.

Fiscal Impact

There is no direct additional fiscal impact associated with this item.

Attachments

- Attachment 1 – Applicant Letter Requesting to Modify COA No. 73
- Attachment 2 – Final Conditions of Approval
- Attachment 3 – LEMC Chapter 16.64
- Attachment 4 – Aerial Map
- Attachment 5 – Subdivision Improvement Agreement

Community Development