

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, UPHOLDING AND RE-AFFIRMING THE PLANNING COMMISSION'S DECISION TO APPROVE DEVELOPMENT PERMIT NO. 06-18, CONDITIONAL USE PERMIT NO. 05-18, DESIGN REVIEW NO. 04-18, MITIGATED NEGATIVE DECLARATION, AND RESOLUTION OF CONVENIENCE OR NECESSITY

WHEREAS, applicants Robert Garcia, Gary Garcia, Maria Bermudez, and Victor Elizalde (collectively the "Applicant"), have filed an application with the City of Desert Hot Springs for approval of Tentative Tract Map No. 37571, Development Permit No. 06-18, Conditional Use Permit No. 05-18, Design Review No. 04-18, Sign Variance No. 03-18, Mitigated Negative Declaration, and Resolution of Convenience or Necessity for development of an approximately 20,000 square foot discount grocery store ("Grocery Outlet") within the City of Desert Hot Springs, California (collectively, "Application"); and

WHEREAS, on March 12, 2019, a duly noticed public hearing on the Application was held by the Planning Commission; and

WHEREAS, the Planning Commission considered the staff report and all of the information, testimony, and evidence presented during the Planning Commission's public hearing and approved the Application with the removal of the following condition:

1. Underground the overhead utilities as to a portion of the project

WHEREAS, on March 25, 2019, Applicant filed an appeal of the Planning Commission's decision to approve portions of the Application, specifically, Development Permit No. 06-18, Conditional Use Permit No. 05-18, Design Review No. 04-18, Mitigated Negative Declaration, and Resolution of Convenience or Necessity ("Appealed Application"); and

WHEREAS, notice of a public hearing of the City Council of the City of Desert Hot Springs ("City") to consider Applicant's appeal of the Planning Commission's approval was given in accordance applicable law; and

WHEREAS, on May 7, 2019, a public hearing on the Appealed Application was held by the City Council; and

WHEREAS, the City Council has reviewed the proposed Appealed Application, the entire record, all evidence and testimony, and has determined that the Planning Commission's decision should be upheld and that the Appealed Application should be approved, based upon the findings detailed below.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals.

That the Recitals set forth above are true and correct and are hereby incorporated herein by this reference.

Section 2. Findings.

That the City Council makes the following findings regarding the Appealed Application:

Development Permit Findings:

- A. That the proposed use is permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance, including prescribed development standards and design guidelines;*

The proposed discount grocery store is a use, "Grocery Store", which is specifically labeled as a "Permitted Use" within the table of permitted uses (Table 17.12.01, Desert Hot Springs Zoning Code) for properties with a C-N (Commercial Neighborhood) Zoning designation. Staff has evaluated the proposed development of the site and determined that the project is consistent with the development standards and design guidelines of the city, with minor design recommendations from staff made in the Conditions of Approval, and/or outlined in the mitigation measures contained within the draft mitigated negative declaration.

- B. That the subject site is physically suitable for the type and intensity of the land use being proposed;*

The proposed development of the site with a 20,000 square foot discount grocery store is consistent with the Zoning and General Plan land-use designations and is consistent with other development in the vicinity and along Palm Drive. The allowable building coverage is 35% for the C-N zoning district, while the project's building footprint only proposes to cover approximately 22% of the site.

- C. That the proposed development would be compatible with existing and future developments within the land use district and general area;*

The proposed discount grocery store is specifically allowed as a permitted use within the C-N zone, as well as a use that is clearly indicated in the language of the City's General Plan discussion on the C-N land use designation. The surrounding properties are largely of a commercial nature and there are other smaller markets, general retail, restaurants, a bank, a K-Mart shopping center, and other commercial businesses in the immediate area. The proposed discount grocery store would be complimentary to the other buildings, uses, and businesses in the area.

D. That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use is not detrimental to public health and safety;

The subject site is proposed to be developed with one commercial building and includes all public services and utilities installed and available. The proposed discount grocery store will not create an extraordinary demand for water, sanitation or other public utilities and services that would result in any detriment to public health and safety.

E. That there is adequate public access and roadway capacity to serve the subject proposal;

Staff has added a condition that the applicant/developer will be required to install the traffic signal at the southern driveway/entrance to the project site. The completion of the installation will be required prior to the grocery store getting occupancy and beginning operations. This will help mitigate the addition traffic and projected level of services at the southern driveway, and to improve safety for its patrons (vehicular, bicycle, and pedestrian traffic) when entering and exiting the site. The developer will also be required to make street improvements, add bicycle lanes, cur/gutter/sidewalks, street lights, ADA ramps, ADA paths of travel, etc. to help improve safety on and off-site.

Staff has also evaluated the City's parking requirement and determined that the project affords adequate parking; 80 spaces are provided; 80 spaces are required. The Public Works Department & City Engineer have reviewed the project and have conditioned the entitlements to make all necessary improvements to meet the City's design standards.

F. That there are no significant harmful effects upon environmental quality and natural resources;

A draft initial study and mitigated negative declaration have been prepared for the project. Based on those documents, City staff has determined that the project will not have any significant impacts that cannot be conditioned or mitigated prior to construction, during construction, and/or prior to the business becoming operational and as a part of the attached conditions of approval and the mitigation measures outlined in the draft initial study and mitigated negative declaration for the project. All impacts have been mitigated or will be mitigated at the appropriate times during construction and/or prior to completion of the project.

G. That any negative impacts of the proposed use can and shall be mitigated;

A draft initial study and mitigated negative declaration have been prepared for the project. Based on those documents, City staff has determined that the project will not have any significant impacts that cannot be conditioned or mitigated prior to construction, during construction, and/or prior to the business becoming operational and as a part of the attached conditions of approval and the mitigation measures outlined in the draft initial study and mitigated negative declaration for the project. All impacts have been mitigated or will be mitigated at the appropriate times during construction and/or prior to completion of the project.

H. That the proposed use is consistent with the General Plan; and

The proposed development of the site with a 20,000 square foot discount grocery store is consistent with the City's General Plan land-use designation of C-N (commercial neighborhood), which specifically states: "This designation provides for neighborhood scale shopping centers conveniently located near residential areas. These developments are typically anchored by supermarkets and super drugstores. A wide range of other uses, including banking, barbers/beauty salons, dry cleaners, restaurants, service businesses, offices and other related activities are typically found in these planned centers. Typical sizes are 8 to 10 acres providing approximately 80,000 to 100,000 square feet of gross leasable floor area.

I. That the proposed location, size, design, and operational characteristics of the planned use are not detrimental to the public interest, health, safety, convenience, or welfare of the City

The location, size and design of the proposed grocery store are comparable to other commercial developments in the area and staff has evaluated the application, architectural building plans, the environmental documents, as well as all of the related technical studies. After consideration of the documents staff has added a condition that the applicant/developer shall install a new traffic signal at the southern driveway/entrance to the project site. The completion of the installation will be required prior to the grocery store getting occupancy and beginning operations. This will to help mitigate the addition traffic and projected level of services at the southern driveway, and to improve safety for its patrons (vehicular, bicycle, and pedestrian traffic) when entering and exiting the site. The developer will also be required to make street improvements, add bicycle lanes, cur/gutter/sidewalks, street lights, ADA ramps, ADA paths of travel, etc. to help improve safety on and off-site.

Staff has also evaluated the City's parking requirement and determined that the project affords adequate parking; 80 spaces are provided; 80 spaces are required. The Public Works Department & City Engineer have reviewed the project and have conditioned the entitlements to make all necessary improvements to meet the City's design standards. A draft initial study and mitigated negative declaration have been prepared for the project.

Based on those documents, City staff has determined that the project will not have any significant impacts that cannot be conditioned or mitigated prior to construction, during construction, and/or prior to the business becoming operational and as a part of the attached conditions of approval and the mitigation measures outlined in the draft initial study and mitigated negative declaration for the project. All impacts have been mitigated or will be mitigated at the appropriate times during construction and/or prior to completion of the project. Staff has determined that the proposed 20,000 square foot grocery store will not detrimental to the public interest, health, safety, convenience, or welfare of the City.

Design Review Findings:

- A. The design of the proposed project would provide a desirable environment for its occupants and visiting public as well as its neighbors through good aesthetic use of materials, textures, and colors that will remain appealing and will retain a reasonably adequate level of maintenance.*

The proposed discount grocery store will utilize a variety of exterior finishes and materials and will incorporate a large pedestrian canopy structure in to the architecture of the building as well as some pop-out structural/architectural features and a cornice like roof treatment to give the overall building a more interesting appearance than just a plane large box. Staff has reviewed the proposed buildings massing, architecture, use of exterior finishes , materials, structural elements, colors, lighting and landscaping and has determined that the project well be that of a well-designed, yet somewhat utilitarian designed building, but one that is consistent with the commercial area, and the overall design characterizes of the vicinity, and will provide for a desirable environment for its patrons as well as its neighbors.

- B. The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards; and*

The layout and design of the proposed grocery store utilize a 2.09 acre site at the southern end of the overall site. The building lot coverage is less than 22% of the project site and is substantially less than allowed by the Desert Hot Springs Zoning Code, which allows up to a 35% building-to-lot coverage.

The proposed 20,000 square foot grocery store will provide adequate parking (80 spaces), meeting the City's parking requirement, and is being conditioned to pay a fair-share contribution for the installation of a new street light at the south entrance to the site. This will help mitigate the future traffic, and will help to improve safety for vehicles, bicycles, and pedestrians. The project will also be required to make all necessary street improvements including but not limited to ADA ramps, ADA path of travel, bike lanes, right of way dedications, installation of street lights, etc. Staff has determined that the project, as conditioned and mitigated, will not unreasonably interfere with the use or enjoyment of the neighboring properties (existing, or future) and will not result in vehicle and/or pedestrian hazards.

- C. The architectural design of the proposed project is compatible with the character of the surrounding neighborhood and will maintain the harmonious, orderly and attractive development contemplated by this Zoning Ordinance and the General Plan.*

The proposed discount grocery store will utilize a variety of exterior finishes and materials and will incorporate a large pedestrian canopy structure in to the architecture of the building as well as some pop-out structural/architectural features and a cornice like roof treatment to give the overall building a more interesting appearance than just a plane large box. Staff has reviewed the proposed buildings massing, architecture, use

of exterior finishes , materials, structural elements, colors, lighting and landscaping and has determined that the project well be that of a well-designed, yet somewhat utilitarian designed building, but one that is consistent with the commercial area, and the overall design characterizes of the vicinity, and will provide for a desirable environment for its patrons as well as its neighbors. Staff has determined that that the proposed grocery store will provide for and maintain a harmonious, orderly and attractive development, which is contemplated by this Zoning Ordinance and the General Plan.

Conditional Use Permit Findings:

A. That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance;

The proposed discount grocery store is a use, "Grocery Store", which is specifically labeled as a "Permitted Use" within the table of permitted uses (Table 17.12.01, Desert Hot Springs Zoning Code) for properties with a C-N (Commercial Neighborhood) Zoning designation. Staff has evaluated the proposed development of the site and determined that the project is consistent with the development standards and design guidelines of the city, with minor design recommendation from staff made in the projects Conditions of Approval, and/or outlined in the project's mitigation measures contained within the draft mitigated negative declaration.

The application for a Type 21 (Off-Sale General) ABC liquor license, which is identified in Section 17.12.050 of the City of Desert Hot Springs Zoning Ordinance, subject to approval of a Conditional Use Permit. The project is proposed to be compliant with applicable provisions of the Zoning Ordinance. Conditions of Approval have been prepared and are recommended to assure the proposed use will comply with applicable Zoning Ordinance provisions.

B. That the proposed use would not impair the integrity and character of the land use district in which it is to be located;

The proposed discount grocery store and Type 21 (Off-Sale General) ABC license for the sale of beer, wine, and distilled spirits is physically suitable for the General Commercial zoned parcel on which it is proposed. The proposed grocery store is specifically allowed as a permitted use within the C-N zone, as well as a use that is clearly indicated in the language of the City's General Plan discussion on the C-N land use designation. The surrounding properties are largely of a commercial nature and there are other smaller markets, general retail, restaurants, a bank, a K-Mart shopping center, a Stater Brothers grocery store, and other commercial businesses in the immediate area. The proposed discount grocery store would be complimentary to the other buildings, uses, and businesses in the area. Staff has determined that the proposed project would not impair the integrity and/or character of the land-use district in which the project is located.

C. That the subject site is physically suitable for the type and intensity of land use being proposed;

The proposed development of the site with a 20,000 square foot discount grocery store is consistent with the Zoning and General Plan land-use designations and is consistent with other development in the vicinity and along Palm Drive. The allowable building coverage is 35% for the C-N zoning district, while the project's building footprint only proposes to cover approximately 22% of the site.

D. That the proposed use is compatible with the land uses presently on the subject property;

The project site does not contain any other active uses. The entire site is presently vacant. Therefore, staff has determined that the proposed use is consistent with the other use (vacant commercial land) on the subject property.

E. That the proposed use would be compatible with existing and future land uses within the general area in which the proposed use is to be located;

The proposed discount grocery store is specifically allowed as a permitted use within the C-N zone, as well as a use that is clearly indicated in the language of the City's General Plan discussion on intended uses within the C-N designation. The ancillary application for a Type 21 (Off-Sale General) ABC license for the sale of beer, wine, and distilled spirits is physically suitable for the General Commercial zoned parcel on which it is proposed. The surrounding properties are largely of a commercial nature and there are other smaller markets, a Stater Brothers grocery store, miscellaneous general retail establishments, restaurants, a bank, a K-Mart shopping center, as well as other commercial businesses in the immediate area. Staff has determined that the proposed discount grocery store would be complimentary to the other buildings, uses, and businesses in the area (both existing and future).

F. That the proposed use is compatible in scale, mass, coverage, density, and intensity with all adjacent land uses;

The proposed discount grocery store is specifically allowed as a permitted use within the C-N zone, as well as a use that is clearly indicated in the language of the City's General Plan discussion on the C-N land use designation. The surrounding properties are largely of a commercial nature and there are other smaller markets, general retail, restaurants, a bank, a K-Mart shopping center, and other commercial businesses in the immediate area. The proposed 20,000 square foot grocery store will only occupy about 22% of the project site (which allows up to 35% coverage), has a proposed building height of 32 feet (35 feet allowed) and meets all the setback and parking requirements of the C-N zoning district. The application for a Type 21 (Off-Sale General) ABC license for the sale of beer, wine, and distilled spirits is physically suitable for the General Commercial zoned parcel on which it is proposed. Therefore, staff has determined that the proposed grocery store is compatible with other adjacent lands uses in, scale, mass, coverage, density and intensity.

G. *That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;*

The subject site is proposed to be developed with one commercial building and requires that all public services and utilities be installed and available prior to the City granting occupancy of the building. Staff has determined that the proposed discount grocery store will not create an extraordinary demand for water, sanitation or other public utilities and services that would result in any detriment to public health and safety.

H. *That there will be adequate provisions for public access to serve the subject proposal;*

Staff has added a condition that the applicant/developer shall install a new traffic signal at the southern driveway/entrance to the project site. The completion of the installation will be required prior to the grocery store getting occupancy and beginning operations. This will to help mitigate the addition traffic and projected level of services at the southern driveway, and to improve safety for its patrons (vehicular, bicycle, and pedestrian traffic) when entering and exiting the site. The developer will also be required to make street improvements, add bicycle lanes, cur/gutter/sidewalks, street lights, ADA ramps, ADA paths of travel, etc. to help improve safety on and off-site.

Staff has also evaluated the City's parking requirement and determined that the project affords adequate parking; 80 spaces are provided; 80 spaces are required. The Public Works Department & City Engineer have reviewed the project and have conditioned the entitlements to make all necessary improvements to meet the City's design standards.

I. *That there will not be an adverse effect upon desirable neighborhood characteristics;*

The proposed discount grocery store will utilize a variety of exterior finishes and materials and will incorporate a large pedestrian canopy structure in to the architecture of the building as well as some pop-out structural/architectural features and a cornice like roof treatment to give the overall building a more interesting appearance than just a plane large box. Staff has reviewed the proposed buildings massing, architecture, use of exterior finishes , materials, structural elements, colors, lighting and landscaping and has determined that the project well be that of a well-designed, yet somewhat utilitarian designed building, but one that is consistent with the commercial area, and the overall design characterizes of the vicinity, and will provide for a desirable environment for its patrons as well as its neighbors. In addition, the application for a Type 21 (Off-Sale General) ABC license for the sale of beer, wine, and distilled spirits is physically suitable for the General Commercial zoned parcel on which it is proposed. Staff has determined that that the proposed grocery store with a type 21 liquor license, will not have any adverse effects upon desirable neighborhood characteristics.

J. *That the proposed use is needed or appropriate at the prescribed location, as demonstrated in the market/feasibility study, if required;*

The proposed discount grocery store, with an ancillary type 21 liquor license, is located in an area that will help to service the south end of town, off of the Palm Drive corridor. It will also help to serve an unincorporated area of the County that is under-served with this type of retail establishment. Staff agrees that a discount grocery store may be a good business venture, given the demographics of the population in the area. That being said, no feasibility study was required as a part of the submittal to the City. Nonetheless, staff has determined that the proposed use is appropriate for the prescribed location along the Palm Drive frontage and towards the south end of town.

K. *That the proposed use is consistent with applicable goals and policies of the General Plan;*

The proposed development of the site with a 20,000 square foot discount grocery store is consistent with the City's General Plan land-use designation of C-N (commercial neighborhood), which specifically states: "This designation provides for neighborhood scale shopping centers conveniently located near residential areas. These developments are typically anchored by supermarkets and super drugstores. A wide range of other uses, including banking, barbers/beauty salons, dry cleaners, restaurants, service businesses, offices and other related activities are typically found in these planned centers. Typical sizes are 8 to 10 acres providing approximately 80,000 to 100,000 square feet of gross leasable floor area.

L. *That there will not be significant harmful effects upon environmental quality and natural resources;*

A draft initial study and mitigated negative declaration have been prepared for the project. Based on those documents, City staff has determined that the project will not have any significant impacts that cannot be conditioned or mitigated prior to construction, during construction, and/or prior to the business becoming operational and as a part of the attached conditions of approval and the mitigation measures outlined in the draft initial study and mitigated negative declaration for the project. All impacts have been mitigated, or will be mitigated at the appropriate times during construction and/or prior to completion of the project. Staff has determined that as conditioned the project will not have any significant harmful effects upon environmental quality and natural resources.

M. *That the negative impacts of the proposed use are mitigated and/or a mitigated negative declaration may be filed; and*

A draft initial study and mitigated negative declaration have been prepared for the project. In addition, staff has conducted an analysis of the surrounding uses to determine if there are any religious institutions, public parks or schools within 500 feet of the project site and has concluded that there are no such facilities within 500 feet of the proposed project.

Based on that analysis and a review of the technical studies and environmental documents, City staff has determined that the project will not have any significant impacts that cannot be conditioned or mitigated prior to construction, during construction, and/or prior to the business becoming operational and as a part of the attached conditions of approval and the mitigation measures outlined in the draft initial study and mitigated negative declaration for the project. All impacts have been mitigated or will be mitigated at the appropriate times during construction and/or prior to completion of the project.

N. *That the proposed location, size, design, and operating characteristics of the proposed use would not be detrimental to the public interests, health, safety, convenience, or welfare of the City.*

The location, size and design of the proposed grocery store are comparable to other commercial developments in the area and staff has evaluated the application, architectural building plans, the environmental documents, as well as all of the related technical studies. After consideration of the documents staff has added a condition that the applicant/developer shall pay a fair-share contribution for the installation of a new traffic signal at the southern driveway/entrance to the project site. The completion of the installation will be required prior to the grocery store getting occupancy and beginning operations. This will to help mitigate the addition traffic and projected level of services at the southern driveway, and to improve safety for its patrons (vehicular, bicycle, and pedestrian traffic) when entering and exiting the site. The developer will also be required to make street improvements, add bicycle lanes, cur/gutter/sidewalks, street lights, ADA ramps, ADA paths of travel, etc. to help improve safety on and offsite.

Staff has also evaluated the City's parking requirement and determined that the project affords adequate parking; 80 spaces are provided; 80 spaces are required. The Public Works Department & City Engineer have reviewed the project and have conditioned the entitlements to make all necessary improvements to meet the City's design standards. A draft initial study and mitigated negative declaration have been prepared for the project.

Based on those documents, City staff has determined that the project will not have any significant impacts that cannot be conditioned or mitigated prior to construction, during construction, and/or prior to the business becoming operational and as a part of the attached conditions of approval and the mitigation measures outlined in the draft initial study and mitigated negative declaration for the project. All impacts have been mitigated or will be mitigated at the appropriate times during construction and/or prior to completion of the project. Staff has determined that the proposed 20,000 square foot grocery store will not detrimental to the public interest, health, safety, convenience, or welfare of the City.

Section 3. Upholding and Re-affirming the Planning Commission Decision to Approve the Appealed Application.

That the City Council hereby upholds and re-affirms the Planning Commission's

decision to approve Development Permit No. 06-18, Conditional Use Permit No. 05-18, Design Review No. 04-18, Mitigated Negative Declaration, and Resolution of Convenience or Necessity.

Section 4. Re-affirmation of Approval of Tentative Tract Map No. 37571 and Sign Variance No. 03-18.

That the City Council re-affirms approval of Tentative Tract Map No. 37571 and Sign Variance No. 03-18, on the express condition that Applicant obtains environmental approval for Tentative Tract Map No. 37571 in accordance with applicable laws.

Section 5. Certification.

That the City Clerk shall certify to the passage and adoption of this resolution, enter the same same is passed and adopted.

Section 6. Severability.

That if any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 7. Repeal of Conflicting Provisions.

That all the provisions heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 8. Effective Date.

That this Resolution shall take effect upon its adoption.

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PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the 7th day of May, 2019 by the following vote:

AYES, and in favor thereof, Council members:

NAYS, Council members:

ABSENT, Council members:

ABSTAINING, Council members:

ATTEST:

APPROVED:

Jerryl Soriano, CMC City Clerk

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney