



City Manager's Report

March 14, 2017 City Council Meeting

Prepared By: Pierre Rivas, Development Services Director

Item#: 11.1

Subject: Consider an appeal by Wilbur Howe and Marilyn McCarthy of the Planning Commission's denial of a Variance Application (VAR 15-03) to remove the requirement for 2-inches asphalt surfacing of a parking lot; and appeal of Conditions of Approval Nos. 7 and 8 of Conditional Use Permit (CUP 15-03) and Site Plan Review (SPR 15-05) requiring asphalt surfacing required per City Code Section 10-4-4(D)1 and meeting minimum parking aisle width per City Code Section 10-4-4(C)4 respectively for said parking lot. Property is located at 618 Main Street (APN 004-011-37).

Discussion:

Appeal of Variance Request Denial

The owner is appealing the denial by the Planning Commission of a request to allow a gravel parking lot instead of paved parking lot. Section 10-4-4(D)1 requiring that “each driveway, parking stall, loading berth; **all parking lots**; new and used vehicle sales lots; except those serving one-family dwelling, shall be graded, drained, and surfaced with a **minimum of two inches (2”) of asphaltic concrete** over four inches (4”) of aggregate base, as per City standards.”

The applicants justification for a variance is because the parking lot is private, the substrate is solid rock, and in conformity with Code Section 10-4-9(G)1.a.

Private Parking Lot: The City Code does not differentiate between whether the parking lot is available for the general public or parking for the auto store employees only. There are no differences in standards between what could be considered a public versus a private parking lot that excludes parking for customers. “Private,” as used by the applicant, means that the general public cannot utilize the parking lot. However, it should be noted that the parking lot is available for the store owner, employees, and delivery vehicles.

Solid Rock Substrate: Many existing parking lots, buildings, etc., have been constructed on solid rock along Main Street and throughout Placerville. This is strictly a cost issue and not a hindrance to paving. The rock type is slate and is not of a hardness that would make excavation difficult.

Conformity with Code Section 10-4-9(G)1.a: This section states: *The site shall be planned to achieve harmony and continuity between neighborhoods and commercial areas to maintain the historic foothill small town character, as opposed to suburban patterns of development.* Staff disagrees with the assertion that a graveled parking lot in the downtown commercial district achieves this codified design criterion.

In accordance with Government Code Section 65906 and City Code Section 10-3-5, variances from the development standards of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.” In practice, variances allow deviations from regulations on physical standards such as lot sizes, floor area ratios for buildings, and off-street parking requirements providing a “safety valve” to permit administrative relieve when the strict application of a general regulation would be confiscatory or produce unique hardship and prevent reasonable use of the property.

In addition, a parking lot in the Commercial Zone District is not a use allowed by-right, but a use allowed by a conditional use permit. Meaning uses listed that “may” be permitted under a CUP are those that may not be found suitable on any given property zoned Commercial (as in this case). Typically, a use would conform to all standards and be further conditioned to be found compatible with the surrounding area. The 7-stall parking lot, as submitted does not meet the City’s minimum development standards.

Appeal of Conditions Nos. 7 and 8 of Condition Use Permit & Site Plan Review (It should be noted that an appeal of Condition 8 should be considered a Variance request. Condition 7 is the subject of the Variance request.)

Condition 7: *The request shall meet the paving requirements per City Code Section 10-4-4(D), or the use of substitute paving materials as approved by the City Engineer.*

This condition generally allows for the substitution of a material that is either comparable or superior to that required (i.e.: use of asphalt concrete instead of asphalt). This condition is the subject of the appeal of the denial of the Variance discussed hereinabove.

Condition 8: *The request shall meet the minimum parking aisle width per City Code Section 10-4-4(C) 4.*

The applicant’s site plan submittal shows 7 parking stalls at a 60 degree angle with a 12-foot width to an approximate 9-foot width aisle width. The City Code and the Development Guide require a 17- foot width aisle for stalls between 40 and 70 degree stalls. Staff is assuming that a maximum of 3 stalls up to 40 degrees could be obtained if the minimum aisle width of 12 feet is maintained.

Condition 8 specific’s compliance with Section 10-4-4(C)4 is not to say that this condition would eliminate the requirement to meet any other applicable standards in the

Code. This condition was added during the hearing process by the Planning Commission in response to an earlier site plan submitted by the applicant that did not specify parking stall dimensions and aisle width. The Commission's approval of the Condition Use Permit and Site Plan Review was specifically predicated on the ability of the applicant on meeting the minimum code standards for the parking lot stall and aisle dimensions.

Should the applicants request be granted, the Council could waive the requirement to stripe the parking lot and require that the property owner enter into an indemnification agreement with the City to eliminate any potential liability issues as an alternative. Staff discourages this alternative since the site is a legal independent parcel and would recommend that the parcel be merged with the lot containing the C&H Auto store. This area would serve as a "loading zone" only for the business. Conditional use permits "run with the land" and the property could be sold off to a new owner and used as a standalone parking lot.

Options:

1. Conditionally approve Conditional Use Permit 15-03 and Site Plan Review 15-05; and deny Variance Request 15-03 upholding the action of the Planning Commission.
2. Conditionally approve Conditional Use Permit 15-03 and Site Plan Review 15-05; and approve Variance Request 15-03 overturning the denial of Variance Request by the Planning Commission allowing for the parking lot to be gravel; and the elimination of Conditions 7 and 8 allowing for the parking lot layout to be substandard as requested by the applicant.
3. This option would be combined with Option 1 or Option 2 above if exercised.

Authorize staff to accept an application for a Temporary Use Permit in accordance with Code Section 10-4-7 to authorize the use of the parking lot for a maximum of one year. Upon submittal of an application from the owner, staff would issue a TUP for the parking lot in its current condition. Staff would condition the TUP to maintain the parking lot in a dust free condition and require installation of wheel stops or other approved barrier to prevent vehicular access over the public sidewalks. Staff would recommend that the City Council stipulate that the applicant submit a complete TUP application no later than January 31, 2017 and that the parking lot use would immediately cease following expiration of the TUP.

Cost: None.

Budget Impact: None.

Recommendation: Consider an appeal by Wilbur Howe and Marilyn McCarthy of the Planning Commission's denial of a Variance Application (VAR 15-03) to remove the requirement for 2-inches asphalt surfacing of a parking lot; and appeal of Conditions of Approval Nos. 7 and 8 of Conditional Use Permit (CUP 15-03) and Site Plan Review (SPR 15-05) requiring asphalt surfacing required per City Code Section 10-4-4(D)1 and meeting minimum parking aisle width per City Code Section 10-4-4(C)4 respectively for said parking lot. Property is located at 618 Main Street (APN 004-011-37).



M. Cleve Morris, City Manager



Pierre Rivas, Development Services Director

Attachments:

1. Appeal
2. Staff Report to Planning Commission dated September 2016
3. Submitted Site Plan
4. Planning Commission Minutes of September 20, 2016
5. City Code Sections 10-4-4(C) and (D)