

RESOLUTION NO. 2023-02

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT
FOR THE OPERATION OF A SERVICE STATION AT AN EXISTING GASOLINE
STATION LOCATED AT 2401 EAST DIVISION STREET
CASE FILE NO. 2022-34 CUP
APN: 552-302-13

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for the operation of a service station at an existing gasoline station located at 2401 East Division Street. At a duly advertised public hearing held on February 6, 2023, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing, the Planning Commission considered the staff report contained in Case File No. 2022-34 CUP maintained by the City and incorporated herein by reference along with evidence and testimony presented at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on February 6, 2023, support the following findings, which the Planning Commission hereby finds and determines:

1. The proposed use is allowable within the applicable zoning district pursuant to a CUP and complies with all other applicable provisions of the Land Use Code because the use is allowable within the MXD-1 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for service stations, as discussed below.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because service stations are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. There is no Specific Plan in the area. In addition, a service station use is consistent with the MXD-1 land use designation contained in the Land Use and Community Character element of the General Plan.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because the buildings on the site were previously analyzed for traffic impacts when constructed and any modifications to the building containing the proposed use will have to be built in compliance with the City's LUC and all applicable building and fire codes. There will be no impacts from the proposal and it will be compatible with the existing and future land uses in the vicinity.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed use will occupy a building where the use was previously conducted and only minor modifications to the existing structure will be necessary.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use will be subject to conditions that limit the automotive services that may be conducted, the hours of operation, and activities permitted outdoors.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review under Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that the proposed use will be conducted in a building that was built to accommodate the same use, which is permitted in the MXD-1 zone. As conditioned, the proposed use will not have a direct or reasonably foreseeable indirect impact on the environment.

BE IT FURTHER RESOLVED by the Planning Commission of the City of National City, California that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the operation of a service station at an existing gasoline station located at 2401 East Division Street. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-34 CUP, dated 11/15/2022.
2. Before this Conditional Use Permit shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by

the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Conditional Use Permit. The applicant or owner shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant or owner shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Conditional Use Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.

3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This Conditional Use Permit may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

Planning

6. The service station is only permitted to conduct minor automotive repair and services including, but not limited to, oil changes, brake changes, and engine checks.
7. Major automotive repair, as defined in Chapter 18.50 of the Land Use Code (LUC), is not authorized with this CUP.
8. Uses permissible at a service station do not include body or fender work or automobile painting. Dismantling of automobiles for the purpose of selling parts is prohibited.
9. All repair work shall be conducted within the existing structure proposed to be used as a service station.
10. Prior to the issuance of any building permits related to the proposed use, the applicant shall bring the property into compliance with all applicable National City Municipal Code provisions. A building permit shall not be issued if there is an open code compliance related to the property unless the permit is necessary to achieve compliance.
11. Adequate facilities for the repairs conducted on site shall be available. Any required permits for the installation of equipment or modifications to the structure shall be obtained prior to the commencement of service or repair activities.

12. Operations outside permanent structures shall be limited to the dispensing of motor fuels and the servicing of tires, batteries and/or automobile accessories.
13. The service of vehicles shall only be permitted between the hours of 9:00 a.m. and 8:00 p.m. Monday through Saturday.
14. All activities shall comply with the limits contained in Table III of Title 12 (Noise) of the National City Municipal Code.
15. Applicable permits shall be obtained for this project. Plans shall include a revised site plan indicating the relocation of the existing ADA parking space in front of the service bays in accordance with applicable law.
16. Building permits are required for exterior modifications to the building including modifications to exterior materials, the installation of service bay doors, and any installation of repair equipment requiring a permit. Any work that was completed prior to obtaining permits shall be noted in the scope of work.
17. Building permit plans for this project shall conform to all applicable development standards in the LUC.
18. A trash enclosure, in conformance with Section 7.10.080 of the National City Municipal Code, is required for this project and shall be constructed prior to the commencement of service of repair activities.
19. Plans submitted for improvements must comply with the current editions of the California Building, Electrical, Plumbing, Mechanical, and Fire Codes.
20. Existing landscaped areas shall be maintained with a mix of trees, shrubs, and ground cover. A landscape and irrigation plan shall be submitted as part of the construction permitting process. Installation of landscaping items required by the LUC, including adequate landscaped area, trees, and shrubs shall be maintained for the life of the project.
21. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.
22. Any abandoned signs on the property shall be removed prior to the issuance of any permits associated with the service station use.
23. Permits shall be obtained for any signage associated with the new service station use.

Indemnification Agreement

The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any

environmental document or decision. The City will promptly notify the Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, the Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by the Applicant.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the owner, applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of February 6, 2023, by the following vote:

AYES:

NAYS:

ABSENT: None.

ABSTAIN: None.

CHAIRPERSON