

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA DENYING CASE 5.1269 CUP; A CONDITIONAL USE PERMIT FOR THE ESTABLISHMENT OF A CONVENIENCE STORE USE AT 611 SOUTH PALM CANYON DRIVE.

WHEREAS, Lend Lease for 7-Eleven, "applicant", has filed an application with the City pursuant to Section 94.02.00 (Conditional Use Permit) of the Zoning Code seeking approval to establish a convenience store use of approximately 3,574 square feet at 611 South Palm Canyon Drive, APN: 513-290-015, Zone PD-77, Section 22/T4/R4; and

WHEREAS, a notice of public hearing for Case 5.1269 CUP was given in accordance with applicable law; and

WHEREAS, on September 14, 2011, a public hearing on Case 5.1269 CUP was held by the Planning Commission in accordance with applicable law; and

WHEREAS, on September 14, 2011, the Planning Commission continued Case 5.1269 CUP to a date uncertain and requested that the applicant meet with surrounding neighborhoods, landlords and law enforcement to adequately address the concerns of the neighborhood related to signage, lighting and security; and

WHEREAS, a notice of public hearing for Case 5.1269 CUP was given in accordance with applicable law; and

WHEREAS, on February 22, 2012, a public hearing on Case 5.1269 CUP was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed project is considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA") The project has been evaluated in accordance with the guidelines of CEQA and determined to be Categorically Exempt pursuant Section 15301 (Existing Facilities), and

WHEREAS, the Planning Commission has carefully reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: Pursuant to Zoning Ordinance Section 94.02.00 (B), the following findings cannot be made for the request:

*b. That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the*

*general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located;*

A convenience store use is not necessary at this location because:

1. Convenience foods and goods are generally offered by nearby retail and convenience establishments. Some of these stores include a 24-hour pharmacy store at 366 South Palm Canyon Drive, a liquor store at 1109 South Palm Canyon Drive and a liquor store at 1400 South Palm Canyon Drive. Therefore, the proposed convenience store use at 611 South Palm Canyon Drive is not necessary for the development of the community.
2. An existing nightclub use and the proposed convenience store would operate at the subject site during the same times of the day and share the same parking lot. Furthermore, off-street parking needs of the proposed convenience store are not believed to be sufficient at the commercial complex. Therefore, the proposed use may be detrimental to existing uses in the zone in which the proposed convenience store would be located.

*e. That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards. Such conditions may include:*

- i. Regulation of use,*
- ii. Special yards, space and buffers,*
- iii. Fences and walls,*
- iv. Surfacing of parking areas subject to city specifications,*
- v. Requiring street, service road or alley dedications and improvements or appropriate bonds*
- vi. Regulation of points of vehicular ingress and egress,*
- vii. Regulation of signs*
- viii. Requiring landscaping and maintenance thereof*
- ix. Requiring maintenance of the grounds*
- x. Regulation of noise, vibration, odors, etc.*
- xi. Regulation of time for certain activities*
- xii. Time period within which the proposed use shall be developed,*
- xiii. Duration of use,*
- xiv. Dedication of property for public use,*
- xv. And such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this Zoning Code, including but not limited to mitigation measures outlined in an environmental assessment.*

Security personnel would better serve the proposed convenience store use at the subject site during the nighttime hours, and none are proposed. It is concluded that the Conditions of Approval related to the Conditional Use Permit cannot be identified to adequately mitigate the security and safety concerns of the proposed use in the mixed-use shopping complex, and therefore the use would not be beneficial to the future economic vitality and general welfare of the City.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby denies Case 5.1269-CUP; a Conditional Use Permit request to operate convenience store use within the Sun Center at 611 South Palm Canyon Drive.

ADOPTED this 14th day of March, 2012.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Craig A. Ewing, AICP  
Director of Planning Services