

**RESOLUTION PC2019-17**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A CONDITIONAL USE PERMIT (CUP 19-07) FOR OPERATION OF A GAS STATION CONVENIENCE STORE AND DRIVE-THROUGH USES LOCATED ON THE FOLLOWING ASSESSOR PARCEL NUMBERS: 063-040-036 AND 063-040-035**

**(5<sup>TH</sup> STREET DEVELOPMENT, LLC– CONDITIONAL USE PERMIT FOR THE OPERATION OF A GAS STATION CONVENIENCE STORE AND DRIVE-THROUGH USES)**

**WHEREAS**, 5<sup>TH</sup> Street Development, LLC submitted a Conditional Use Permit application to allow the operation of a gas station convenience store and drive-throughs at the following Assessor Parcel Numbers: 063-040-035 and 063-040-036 ; and

**WHEREAS**, a duly notified public hearing was held by the Planning Commission on November 13, 2019; and

**WHEREAS**, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Conditional Use Permit.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Class 32 In-Fill Development Categorical Exemption of the California Environmental Quality Act; and
- E) That the utilization of drive-through is consistent with those uses allowed in the C-2 Commercial General Zone.
- F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Conditional Use Permit CUP (19-07) for a drive-through usage at the following assessor parcel numbers: 063-040-035 and 063-040-036 conditions of approval outlined in Exhibit A and based on the following findings:
  - 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.
3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

**PASSED, ADOPTED AND APPROVED** by the Planning Commission of the City of Imperial, this 13<sup>th</sup> day of November 2019.

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Planning Commission Chairman

ATTEST:

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Planning Secretary

**EXHIBIT A  
RESOLUTION PC2019-17**

**CONDITIONS OF APPROVAL**

**For**

**Conditional Use Permit 19-07**

**5<sup>th</sup> Street Development, LLC  
Assessor Parcel Numbers: 063-040-035 and 063-040-036  
Imperial, CA 92251**

1. This Conditional Use Permit is granted for the operation of a gas station convenience store and drive-through restaurant and/or use at assessor parcel numbers: 063-040-035 and 063-040-036, Imperial, CA 92251;
2. This conditional use permit shall be null and void if a building permit is not obtained within a year;
3. The parking lot shall be paved and must be ADA compliant with the State of California American Disabilities Act Standards.
4. Internal Fire Hydrants may be required for the project and that determination will be made during the Building Permit Process.
5. The drive-through shall be paved with room for cars stacking;
6. Desert landscape shall be installed in the required setbacks before a certificate of occupancy is issued.
7. A Right-in and Right-out turn on 15<sup>th</sup> street is required, with no left turn out on 15<sup>th</sup> Street.
8. On-site Retention Basin is required and will be reviewed and approved by the Community Development Department during the Building Permit Process.
9. Underground storage tanks CUPA/above ground will require review and approval by the Imperial County Fire Department during the Building Permit Process Phase.
10. Proprietor/owner shall maintain a paved walking path at all times;
11. Landscaping in the form of trees, hedges, and low-laying vegetation shall be installed along the street frontage;
12. Decorative architectural treatments shall be provided on all sides of the building;
13. The developer shall be responsible for the installation of one (1) master sign displaying all lessees at the location. The master sign shall conform to zoning code 24.16;
14. The provisions of this Conditional Use Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project. This Conditional Use Permit is only valid for assessor parcel numbers 063-040-035 and 063-040-036;

15. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property;
16. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times;
17. Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply;
18. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver;
19. Applicant must implement sound maintenance and housekeeping procedures;
20. The Applicant shall pay all impact and capacity fees as required by the city;
21. All applicable Conditions of Approval shall be completed prior to opening for business;
22. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority;
23. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party;
24. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.