



STAFF REPORT

MEETING DATE: February 8, 2024

ITEM TITLE, PRESENTER: Consideration and Approval of the Love's Travel Stop, proposed along HWY 191, within Spanish Valley on 13.06 acres as a mixed-use and permitted under the Controlled District Highway Commercial (CDh) Zoning. Mack McDonald, Chief Administrative Officer

RECOMMENDATION: [1] Make a motion stating that the Love's application is incomplete and cannot be considered.

OR

[2] Make a motion stating that the Love's application is complete but that the CDh zone does not apply to the application and that it is denied as a prohibited truck stop under the Spanish Valley Development Ordinances enacted in November 2019 and/or (specify) a temporary land use regulation adopted on May 21, 2019 that prohibited applications for commercial projects at this location. (State facts and reasons supporting motion.)

OR

[3] Make a motion stating that the Love's application was complete and that the CDh zone applies;

AND

[3][a] the proposed use is permitted because it fits one or more of the permitted uses listed for the CDh (specify which ones) and is approved. (State facts and reasons supporting motion.)

OR

[3][b] the proposed use is permitted because it is in harmony with the intent of the neighborhood commercial zone and similar in nature to the listed CDh uses (state why) and is approved. (State facts and reasons supporting motion.)

OR

[3][c] the proposed use either fits one or more the uses listed for the CDh (specify which ones) or (state which) is in harmony with the intent

of the neighborhood commercial zone and similar in nature to the listed CDh uses (state why) but requires a “variance” to be granted by the Planning Commission and is referred to staff to recommend variance terms. (State facts and reasons supporting motion.)

OR

[3][d] the proposed use does not fit one or more of the uses listed for the CDh and is not in harmony with the intent of the neighborhood commercial zone and similar in nature to the listed CDh uses and is therefore another use that must be approved as a conditional use and is referred to staff to determine the project’s reasonably anticipated detrimental effects and recommend reasonable conditions to mitigate those detrimental effects, if possible. (State facts and reasons supporting motion.)

SUMMARY

The Planning Commission has been ordered by the Seventh Judicial District Court in and for San Juan County, State of Utah, to determine whether Love’s proposed travel stop on property it owns on the east side of U.S. Highway 191 and south of Sunny Acres Lane in the Spanish Valley area of San Juan County is a permitted use, whether the use is a mixed use, automobile service station, a restaurant or both and whether two or more permitted uses can be combined and still be in harmony with the neighborhood commercial zone’s intent and similar to other permitted uses. And also whether it requires a variance or a conditional use permit.

The Love’s property is currently zoned Highway Commercial (HC) under the Spanish Valley Development Ordinance (SVDO). But before that, the property was zoned Controlled District Highway Commercial (CDh) under the San Juan County Zoning Ordinance (2011) (SJZO). Although the Planning Administrator at the time approved Love’s plan as a permitted use, he did not explain why it was a permitted use.

The District Court determined that the travel stop was a mixed use, not entirely any single one of the permitted uses listed for the CDh zone in the ordinance. Citing SJZO section 12-2’s provision in the list of permitted uses in the CDh zone that it included “[o]ther uses approved by the Planning Commission as being in harmony with the intent of the neighborhood commercial zone and similar in nature to the above listed uses,” the court held that “the Planning Commission (not this court) must first determine from substantial evidence whether this project is ‘an automobile service station,’ a ‘restaurant,’ or both.

And if so, whether two or more permitted uses can be combined and still be in harmony with the Highway Commercial zone.” (Order on Pet.’s Mot. for Summ. J. & Respd’t’s Cross-mot. for Summ. J. at 3 (Oct. 2, 2023).) The court directed the Planning Commission to decide that issue “and determine whether the use also requires a variance or conditional use permit.” (*Id.*)

HISTORY/PAST ACTION

As indicated in the Staff letter dated May 10, 2019 to Love's Travel Stops and Country Store, Inc c/o Kym Van Dyke, the County received an email of documents and application on May 3, 2019 and by U.S. Postal Services on May 6 of hardcopy materials consisting of a sketch plan, project proposal and application for commercial development for Love's proposed Spanish Valley travel stop along Highway 191. The application also include a check dated May 3, 2019 in the amount of \$550.