

SALINAS PLANNING COMMISSION

Staff Report

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Planning Manager Approval	Agenda Item
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DATE: February 20, 2019
TO: Planning Commission
FROM: Courtney Grossman, Planning Manager
BY: Thomas Wiles, Senior Planner

SUBJECT: VARIANCE 2018-002; A REQUEST TO VARY FROM THE ZONING CODE REQUIREMENT FOR STREET FRONTAGE LANDSCAPING AND SCREENING FROM THE PUBLIC VIEW FOR AN EXISTING AGRICULTURAL PROCESSING FACILITY LOCATED AT 745 AIRPORT BOULEVARD IN THE INDUSTRIAL - GENERAL – AIRPORT OVERLAY (IG-AR) ZONING DISTRICT

RECOMMENDATION

That the Planning Commission consider affirming the findings and adopting the attached Resolution denying Variance 2018-002 because the required findings for approval of a Variance pursuant to Zoning Code Section 37-60.620 could not be established.

BACKGROUND

Taylor Fresh Foods Incorporated, is requesting a Variance from the Zoning Code requirement for a minimum depth of 20-feet of street frontage landscaping and screening of outdoor industrial uses from the public view for an existing agricultural processing facility. The property owner is the Oaktree Property Company.

The property is located in the Industrial - General – Airport Overlay (IG-AR) District. The following provides an overview of the land uses and zoning districts adjacent to the project site:

North: Industrial/Industrial - General – Airport Overlay (IG-AR)

South: Industrial/Industrial -General – Airport Overlay (IG-AR)
East: U.S. Highway 101
West: Transportation/Industrial - General – Airport Overlay (IG-AR)

In lieu of the standard landscape and screening requirements specified in the Zoning Code, the Applicant is proposing to landscape a small existing triangular dirt area located on the northwest portion of their Airport Boulevard frontage ranging in size from approximately one (1) to eight (8) feet consisting of approximately 420 square-feet with California Fuschia shrubs. According to the Sunset Western Garden Book, said plants grow to one to two feet in height. The Applicant is also proposing to install a six (6) foot high chain link fence painted black with black vinyl slats approximately 10-feet in lieu of 20-feet from the front yard property line with eight (8) 15-gallon Arbutus 'Marina' (Strawberry Tree) in 36-inch high, 16 square-foot concrete planters and 22 five (5) gallon "Distictis Buccinatoria" (Red Trumpet Vine) in 18-inch high, four (4) square-foot concrete planters located along the proposed fence line (see Landscaping Plan (Sheet L1.0)).

The Applicant is proposing that approximately 1,935 square-feet of existing pavement along the Airport Boulevard frontage in front of the proposed fence line will not be landscaped because the area was erroneously filled with concrete. The Applicant has stated it would cost an estimated \$31,000 in concrete removal and planting and irrigation costs to extend the planting area. In addition, the Applicant has stated that since the City approved a previous Grading Plan without a landscape and irrigation plan, that if the work is to be required, that the City provide reimbursement for the cost. Per Grading Permit GP17-0008, which was approved on October 2, 2017, a landscape and irrigation plan was required to be submitted to Planning as a condition of approval within 30-days of permit issuance. The required plan was not submitted until months later after the concrete was poured and cured (see below timeline).

ANALYSIS

The following timeline provides the land use permitting history for the site:

1. The subject property was previously used as an industrial warehouse use prior to the existing agricultural processing facility. No outdoor screening was previously required for the warehouse because the area in question was only a parking lot serving the warehouse, not an outdoor industrial use.
2. On October 13, 2009, Site Plan Review 2009-013 (SPR 2009-013) which authorized a two-phase development on the subject property was approved by the Community Development Department. The first phase allowed for the construction of a new 1,620 square foot equipment room-vestibule for a previous industrial warehouse use, add four (4) loading docks, and add insulation to an existing 68,913 square foot building for continued warehouse use only. The second phase allowed for the conversion of 86,189 square feet of warehouse area to industrial processing, add 57 parking stalls, add nine (9) loading docks, and via a Lot Line Adjustment, create 30,958 square feet of impervious surface within an abandoned rail spur.

3. On September 3, 2014, Minor Modification 2014-016 (MM 2014-016) to SPR 2009-013, was submitted to change the previously approved site plan to remove and replace the existing AC parking lot with a concrete truck circulation pathway and to install stabilized recycled aggregate in the relocated parking area. Minor Modification 2014-016 was approved by the Community Development Department on October 29, 2014. This approval included the required 20-foot deep landscaped planter and screen fencing along the Airport Boulevard frontage. Minor Modification 2014-016 expired one (1) year later on October 29, 2015 due to inactivity.
4. On March 11, 2015, the Property Owner was cited by the City of Salinas for site grading and constructing improvements on the front portion of the subject property without the required permits (BLD1503-0004). The Property Owner was fined \$100.00 on August 24, 2017 (see attached photos and citation). Per City records BLD1503-0004 was closed on August 21, 2018.
5. On August 25, 2017, the City of Salinas issued a stop work order on the subject property because construction work on the front portion of the lot was being done without a required permit (SW1708-0001 and ENG 1709-0001) (see attached photos). Per City records, both of these violations are currently still outstanding.
6. On September 9, 2017, Grading Permit 17-0008 (GP17-0008) was submitted in response to SW1708-0001 and ENG 1709-0001. On October 2, 2017, GP17-0008 was issued by the City of Salinas. One of the conditions of GP17-0008 from the Development Engineering Section of the Public Works Department dated September 29, 2017, required a landscape and irrigation plan to be submitted to Planning for review and approval within 30-days of issuance of the Grading Permit, which was on November 1, 2017. This submittal did not occur timely.
7. On January 5, 2018, Building Permit B17-0495 was issued to allow for the removal and replacement of existing light poles foundation, with the removed light poles to be saved for reinstallation. On January 3, 2018, Planning approved B17-0495 with a condition that a subsequent separate building permit application be submitted for landscaping and irrigation.
8. On January 31, 2018, The Don Chapin Company, submitted landscape and irrigation plans for GP17-0008, (processed as REV18-0039). This submittal was late and was three (3) months later than the required 30-days from the issuance of GP17-0008. Planning staff reviewed the plans and determined that the submittal was incomplete. Plans did not show the required 20-foot planter (see attached comments dated February 28, 2018).
9. On August 17, 2018, the Applicant submitted to the Community Development Department an application for a Variance from the minimum required 20-foot landscape required by Zoning Code Section 37-50.690(b), Table 37-50.190. The Applicant stated on the application form that it was only informed by the City of the landscaping requirement after

\$95,000 of concrete installation work had been performed and that it would cost \$31,000 to remove the concrete and install landscaping as required by the Zoning Code. As indicated above, the requirement for landscaping was conveyed to the Applicant during the processing of MM 2014-016 in 2014 and on October 2, 2017 via issuance of GP17-0008.

10. On September 14, 2018, the Community Development Department sent an Incomplete Letter to the Applicant and the Property Owner stating that the Variance application was incomplete per the issues stated in the letter. One of the issues included a requirement that the planting area for the "California Fuschia" be expanded to include the entire fenced in area along the Airport Boulevard frontage (property line to fence) (see Sheet L1.0). In addition, staff requested that the Applicant provide written justification for the proposed Variance.
11. On October 5, 2018, the Applicant resubmitted revised plans for the Variance application. The revised plans did not show any additional "California Fuschia" planting area. The resubmitted application included a letter dated October 2, 2018, providing the Applicant's response to the Incomplete Letter and their reasons for supporting the Variance findings. The letter stated that on October 23, 2017, Mr. Nelson Barros with The Don Chapin Company met with Planning staff at the Permit Center counter. The letter also states that on November 10, 2017, a revised landscape and irrigation plan was submitted to Planning for review. The office was closed on that date for the Veterans Day holiday and there are no records of the plan submittal (see attached letter).
12. On October 29, 2018, the Community Development Department sent a second attached Incomplete Letter to the Applicant and the Property Owner stating that the Variance application was incomplete per the issues stated in the letter (see attached Incomplete Letter dated October 29, 2018).
13. On November 16, 2018, the Applicant resubmitted revised plans for the Variance application. The revised plans did not show any additional "California Fuschia" planting area.
14. On December 11, 2018, the Community Development Department sent a third attached Incomplete Letter to the Applicant and the Property Owner stating that the Variance application was incomplete per the issues stated in the letter (see attached Incomplete Letter dated December 11, 2018).
15. On January 11, 2019, the Applicant resubmitted revised plans for the Variance application. The revised plans did not show any additional "California Fuschia" planting area. Due to the Applicant's request not to show any additional landscaping on the revised plans, staff has determined to schedule this Variance for consideration at a Planning Commission public hearing. The Applicant was informed of this decision in a fourth Incomplete Letter dated January 29, 2019.

Variance 2018-002:

Zoning Code Section 37-50.690(b), Table 37-50.190, requires that landscaping and irrigation be installed within the front yard setback of General Industrial (IG) zoned properties. Pursuant to Zoning Code Section 37-30.320, Table 37-30.140, the minimum front yard setback in the IG District is 20-feet from the property. This would require a minimum of 20-feet of landscaping along the front yard, Airport Boulevard frontage area. Zoning Code Section 37-50.170 requires a Conditional Use Permit (CUP) for the conduct of business outdoors unless the industrial use in the IG District is screened from public view. The 20-foot planter in conjunction with fencing provides screening for the outdoor operations of the existing agricultural process facility from Airport Boulevard. Zoning Code Section 37-30.330(c)(1)(E)(F) requires the screening of outdoor storage, work areas, and equipment and landscaped open space.

Below are photos of the existing condition, which does not conform with the Zoning Code requirements:



Staff cannot support the required findings for a Variance from the minimum required 20-feet of landscaping along the Airport Boulevard frontage. The Variance request from the Zoning Code requirement for 20-feet of landscaping along the Airport Boulevard frontage requires that all six (6) findings stated in Zoning Code Section 37-60.620 be established as shown below:

1. ***That because of special circumstances or conditions applicable to the development site, including size, shape, topography, location, or surroundings, strict application of the requirements of this Zoning Code deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification;***

The application includes a Variance from the Zoning Code requirement for 20-feet of landscaping along the Airport Boulevard frontage. Zoning Code Section 37-50.690(b), Table 37-50.190, requires that landscaping and irrigation be installed within the front yard setback of Industrial - General (IG) zoned properties. Pursuant to Zoning Code Section 37-30.320, Table 37-30.140, the minimum front yard setback in the IG District is 20-feet. Per Zoning Code Section 37-50.170, a Conditional Use Permit is required for the conduct of business outdoors unless the industrial use is screened from public view.

Pursuant to Division 9 (Variances), Section 37-60.570, *Purposes of Variances*, states: "Variances are intended to resolve practical difficulties or unusual physical hardships that may result from the size, shape or dimensions of a site or the location of existing structures thereon; from geographic, topographic or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity of the site." There are no physical conditions on the site or in the immediate vicinity, or from street locations or traffic conditions in the immediate vicinity of the site that creates or results in practical difficulties or unusual physical hardships that prevent installation of the required 20-foot landscaped planter other than the fact that the Applicant has installed the existing concrete without the benefit of a required permit and was caught doing this work and cited with a stop-work order by the City of Salinas on August 25, 2017.

While not all nearby properties located along Airport Boulevard include 20-feet of landscaping along their frontages, many include greater areas of landscaping and irrigation than the subject property. Recent Caltrans improvements to the Airport Boulevard/U.S. 101 interchange project include trees, shrubs, and ground cover as well as nearby properties along Airport Boulevard frontage. These nearby properties include 730, 740, 772, and 780 Airport Boulevard.

Provision of landscaping would conform with Zoning Code Section 37-30.330(k)(3), which indicates that black power or vinyl-coated chain link fencing with black slatting is an acceptable screening material in Industrially-zoned Districts only for areas of a

lot not visible from a public or private street or U.S. Highway 101. Without complying to the minimum Zoning Code requirements for landscaping, the site would be in violation of the Zoning Code, because the proposed fencing would be clearly visible from Airport Boulevard.

For these reasons, there are no special circumstances or conditions applicable to the development site, including the size, shape, topography, location, or surroundings that would prohibit strict application of the requirements of the Zoning Code and deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. By not requiring the Applicant to expand the planting area to be consistent with the minimum Zoning Code requirements, it could create a privilege not enjoyed by other properties located in the vicinity and under similar zoning. Therefore, this Variance finding cannot be established.

2. ***That granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare;***

The project neighborhood is composed of industrial and transportation uses and is adjacent to U.S. Highway 101. Granting of this Variance would be detrimental to the surrounding neighborhood because it would result in insufficient landscape screening from the public view for outdoor industrial uses. Zoning Code Section 37-50.170(c)(7) requires that industrial uses in an IG (Industrial – General) District be screened from a public street such as Airport Boulevard. Other properties along Airport Boulevard, including the adjacent and recent Caltrans Airport Boulevard/U.S. 101 improvements include the installation of trees, shrubs, and ground cover. General Plan Policy CD-2.8 requires the avoidance of large un-landscaped parking areas and blank building walls facing streets or adjoining properties. Granting of this Variance would allow the continuation of an existing large un-landscaped parking area, which would be injurious to properties nearby and the general welfare of the City, because it would be inconsistent with General Plan Policy CD-2.8.

3. ***That granting the application is consistent with the purposes of the Salinas general plan and this Zoning Code and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district;***

The granting of this Variance will be inconsistent with the purposes of the Zoning Code and will constitute a grant of special privilege. Approval of the Variance would allow the Applicant to retain insufficient front yard landscaping and screening of an outdoor industrial use, which fails to conform to the minimum Zoning Code requirements. In addition, allowance of the chain link fence along

the Airport Boulevard within the public view is not in compliance with the screening requirements of the IG-AR District.

4. *That any variance shall not be granted which authorizes a use or activity which is not otherwise expressly authorized within the zoning district;*

The Variance for an existing agricultural processing facility use does not create a use or activity that is not authorized in the Industrial – General Airport (IG-AR) District. However, the lack of 20-feet of landscaping and irrigation along the Airport Boulevard frontage does not comply with Minor Modification 2014-016 or minimum Zoning Code requirements.

5. *That the hardship peculiar to the property was not created by any act of the current owner; and*

The proposed Variance from the required 20-foot front-yard landscaped setback is the result of the Applicant not submitting a landscape and irrigation plan to the Community Development Department as required by Grading Permit GP17-0008 within 30-days of Grading Permit issuance and installing the concrete surfacing prior to submittal of this Variance application. The contractor and Applicant, on behalf of the owner by an agreement and/or lease, caused the hardship. Therefore, because this hardship was created by actions of the Applicant and current owner, this Variance finding cannot be established.

6. *That personal, family, or financial difficulties and loss of prospective profits are not hardships or reasons justifying a variance.*

The Applicant has stated in an email correspondence dated April 19, 2018, the cost to remove the concrete and replace it with landscaping and irrigation is estimated to be \$31,000. The Applicant has stated in the same correspondence that the City of Salinas should pay for the concrete removal because the City issued Grading Permit GP17-0008, even though the Permit required that the Applicant submit a landscape and irrigation plan to the City within 30-days of the Permit approval. The plan was not submitted in a timely manner. Three (3) months elapsed before the plan was submitted and was well after the concrete was poured and cured. Financial difficulties are not hardships or reasons justifying a Variance, especially for a corporation with an estimated nearly two (2) billion dollars of yearly revenue based on an article from Haas School of Business dated Spring 2012. Therefore, this Variance finding cannot be established.

Per the attached Planning Commission Resolution, Variance findings cannot be established per Zoning Code Section 37-60.620.

ENVIRONMENTAL REVIEW

The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). Because staff is recommending denial of the Variance, the project could be found statutorily exempt from further environmental analysis per CEQA Guidelines Section 15270 (Projects Which Are Disapproved). If the Planning Commission determines to approve the Variance, then additional CEQA review would be required for the Commission's approval of the Variance application.

FINDINGS

Variance 2018-002:

The Planning Commission must deny the application for a Variance if all of the required findings set forth in the attached proposed Planning Commission Resolution cannot be established.

TIME CONSIDERATION

The project was deemed complete on February 10, 2019. Final action is required by April 11, 2019 pursuant to Government Code Section 65950(a)(4).

ALTERNATIVES AVAILABLE TO THE COMMISSION

The Planning Commission has the following alternative:

1. Approve Variance 2018-002 pursuant to a revised Resolution with findings for granting the Variance. As stated above, further CEQA review and a revised draft Resolution would be required for Planning Commission approval of Variance 2018-002.
2. Direct the Applicant to apply for a Site Plan Review (SPR) to authorize full 20-foot landscaping and screening improvements within a five (5) year phased installation schedule.

CONCLUSION

The proposed Variance for the reasons stated above is inconsistent with the Zoning Code and the General Plan and findings for approval of the Variance cannot be established.

COURTNEY GROSSMAN
Planning Manager

BY: _____
Thomas Wiles
Senior Planner

Attachments: Proposed Planning Commission Resolution
Vicinity Map for Variance 2018-002 (V 2018-002)
Landscape Plan (Sheet L1.0)
Irrigation Plan (Sheet L2.0)
Planning response to Permit submittal REV18-0039 dated February 28, 2018
Incomplete Letter for V 2018-002 dated September 14, 2018
Incomplete Letter for V 2018-002 dated October 29, 2018
Incomplete Letter for V 2018-002 dated December 11, 2018
Letter from Taylor Farms dated October 2, 2018
Site Plan Review 2009-013 (SPR 2009-013)
Minor Modification to SPR 2009-013 (MM 2014-016)
Violation Photos of BLD1503-0004
Violation Photos of SW1708-0001
Airport Boulevard Frontage Photo dated November 30, 2017
Google Aerial Photo of Airport Boulevard

Cc: Taylor Fresh Foods, Inc., Applicant
Oaktree Property Company, Property Owner

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