

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 11/13/06		Item Number: <u>A-2</u>	
AGENDA ITEM: Appeal to the City Council by Joe Ramirez, dba Pacific National Security (3719/3723 Robertson Boulevard), from the August 16, 2006 Decision of the Committee on Permits & Licenses Conditionally Granting Pacific National Security a Security Guard Business Permit.			
Contact Person/Dept.: Roland Miranda, Deputy City Attorney		Phone Number: (310) 253-5660	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒	Attachments: ☒
Public Notification: Appellant was notified (9/20/06). Courtesy notification letter was sent to neighbors and surrounding businesses within a 300 foot radius (10/3/06; 10/5/06; 10/9/06). Master notification list (11/08/06).			
Department Approval: Carol Schwab (by H. Iker 10/03/06)		City Manager Approval: Jerry B. Fulwood (11/08/2006)	
City Controller Approval: Marlee Chang (11/07/2006)			

RECOMMENDATION:

The City Council should review the record of the meeting of the City of Culver City Committee on Permits and Licenses ("Committee") held on August 16, 2006, and the Committee's decision to *conditionally* grant a permit to Joe Ramirez, dba Pacific National Security ("Appellant"), to operate a security guard business from the location of 3719/3723 Robertson Boulevard, provided that Appellant rebuild a required trash enclosure within 90 days of the issuance of the permit, and determine whether there is a sufficient basis to grant the appeal and modify or overturn the Committee's exercise of discretion.

PROCEDURE:

1. Mayor calls for a brief staff report and receives and files all reports and notices.
2. Mayor invites the Appellant to address the City Council.
3. Mayor invites the Respondent (City Staff) to address the City Council.
4. Mayor invites public comment.
5. City Council discusses the matter and arrives at its decision.

City of Culver City, California
City Council Agenda Item Report

BACKGROUND:

On August 16, 2006, during its regularly scheduled meeting, the Committee considered Appellant's application to operate Pacific National Security, a security guard business, at 3719/3723 Robertson Boulevard. The Committee *conditionally* granted the permit, provided that the Appellant rebuild a previously-removed trash enclosure required by the Culver City Municipal Code ("CCMC") and the applicable development standards. A copy of the minutes of the meeting is included with this report (Attachment 1). Also included is a copy of the permit that was issued to Appellant (Attachment 2). Subsequently, on August 21, 2006, Appellant filed a request for appeal of the Committee's decision (Attachment 3).

During the August 16, 2006 meeting, City staff presented a brief report to the Committee about the history of the removal of the trash enclosure by Appellant in violation of the CCMC and the applicable development standards. City staff's report also highlighted staff's attempts to gain Appellant's cooperation in correcting the violation, by bringing the property into compliance with the CCMC and the applicable development standards. In that regard, between March 2005 and June 2006, various members of the City's Planning, Code Enforcement and City Attorney's Office advised Appellant of the requirements for an enclosed trash container area. Those requirements are found in CCMC § 5.01.100.B (which requires that trash containers found in any commercial zones be kept in trash enclosures) and in § 401 of the applicable Owner Participation Agreement (which requires that the site on which Appellant's business is located be developed only in accordance with that agreement and that any new or additional construction or development be approved by the Culver City Redevelopment Agency). CCMC § 5.01.100.B and § 401 of the Owner Participation Agreement are included with this report (Attachments 4 and 5, respectively). The plans for the development of this property were submitted and approved by the Culver City Redevelopment Agency on April 1, 1985 (Attachment 6). Those plans required a trash enclosure in conformance with the requirements of the CCMC (Attachment 7).

In response to the City's advisements regarding the required enclosed trash container area, Appellant offered various arguments why he should not have to comply with the trash enclosure requirements. Appellant's most frequent argument was that, prior to its removal, the trash enclosure had been used by vagrants and had thereby adversely impacted the safety of Appellant's employees as they came to or left from Appellant's premises. At other times, Appellant has also contended that the trash enclosure requirement was intended to apply only to the prior occupant of the premises but not to Appellant and that the trash enclosure requirement was only intended to apply to new businesses. City staff does not agree with these contentions.

City of Culver City, California
City Council Agenda Item Report

During the course of the Committee's August 16, 2006 meeting, Appellant argued that the presence of the required trash enclosure created a safety issue for his business because it attracted vagrants. Appellant also argued that Section 5.01.100.B of the CCMC was outdated and, therefore, did not apply to Appellant's business.

DISCUSSION:

After the Committee's consideration of staff's report on the history of the removal of the trash enclosure, as well as testimony and arguments provided by Appellant, the Committee granted Appellant's permit, **conditioned** upon Appellant rebuilding the trash enclosure Appellant had previously removed. The Committee's decision was pursuant to CCMC § 11.01.340.B (Attachment 8), which authorizes the Committee to grant a permit subject to such conditions as in its judgment the public interest may require. In making its determination to condition Appellant's permit on the rebuilding of the missing trash enclosure, the Committee made the following findings:

- Appellant's business is located within a commercial zone and CCMC § 5.01.100.B requires that all trash containers located in commercial zones be kept within a trash enclosure.
- An enclosed trash container was also a condition imposed on the redevelopment of the site on which Appellant's business is located.
- One of the standard conditions of approval of a permit issued by the Committee is that a permittee comply with all laws. Because Appellant was already in violation of the CCMC, due to Appellant's unlawful removal of the required trash enclosure, the Committee found it in the public interest to condition Appellant's permit on rebuilding such trash enclosure within 90 days of the issuance of Appellant's permit in order to bring his property into compliance with the CCMC and applicable development standards.

Council should consider the record of the meeting, particularly the basis for the Committee's decision, and determine whether there is a sufficient basis to grant the appeal and modify or overturn the exercise of discretion by the Committee.

FISCAL ANALYSIS:

Not applicable.

City of Culver City, California
City Council Agenda Item Report

ATTACHMENTS:

1. Copy of the minutes of the Committee's August 16, 2006 meeting.
2. Copy of Appellant's permit.
3. Appellant's request for appeal.
4. CCMC § 5.01.100.B.
5. § 401 of the Owner Participation Agreement.
6. Culver City Redevelopment Agency letter dated 4/15/85.
7. Building permit application for 3719/3723 Robertson Boulevard.
8. CCMC § 11.01.340.B.

MOTION:

That the City Council:

1. Find that the Committee on Permits and Licenses did not abuse its discretion in reaching its decision and uphold the August 16, 2006 decision of the Committee to conditionally grant Appellant's permit, provided that Appellant rebuild the required trash enclosure within 90 days of the issuance of the permit;

OR

2. Find that the Committee on Permits and Licenses abused its discretion in reaching its decision and reverse the Committee's August 16, 2006 decision and remand the matter to the Committee for further consideration (with appropriate instructions). (The reasons for this action should be stated on the record);

OR

3. Find that the Committee on Permits and Licenses abused its discretion in reaching its decision, reverse the Committee's August 16, 2006 decision and order that the permit be issued (under whatever conditions the Council may deem appropriate). (The reasons for this action should be stated for the record)