



City of Culver City

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Staff Report

File #: 20-123, **Version:** 1

Item #: C-7.

CC - Approval of Temporary Use Permit No. P2019-0077-TUP to Allow Extended Construction Hours Related to the Installation of Solar Panel Equipment at 10820 Jefferson Boulevard.

Meeting Date: August 26, 2019

Contact Person/Dept: Gabriela Silva/Current Planning Division
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Phone Number: (310) 253-5736
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Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Public Hearing: ☐

Action Item: ☐

Attachments: ☒

Commission Action Required: Yes ☐ No ☒ **Date:** N/A

Public Notification: (E-Mail) Meetings and Agendas - City Council (08/21/2019); (Mail) all owners/occupants within 1,000 feet of the site - 10820 Jefferson Boulevard (08/01/2019); (Published) Culver City News (08/08/2019).

Department Approval: Sol Blumenfeld, Community Development Director (08/29/19)

RECOMMENDATION

Staff recommends the City Council approve Temporary Use Permit, P2019-0077-TUP, to be issued to Brock Halterman for SunPower (Applicant), to allow expanded construction hours related to the installation of solar power equipment at 10820 Jefferson Boulevard.

BACKGROUND

The Culver City Municipal Code (CCMC), Section 9.07.035 - Construction, limits construction activity to the following hours, in order to address possible noise nuisances to property and persons surrounding construction sites:

- 8:00 am to 8:00 pm - Monday through Friday
- 9:00 am to 7:00 pm - Saturday

- 10:00 am to 7:00 pm - Sunday

The CCMC also allows for requests to allow the temporary extension of construction hours, which may be authorized by the City Council through a Temporary Use Permit (TUP).

The Applicant has installed solar panels on the roof of the existing commercial building at the subject property located along the “south” side of Jefferson Boulevard, between Sawtelle Boulevard and Kinston Avenue. Additional electrical work is required in order to activate the panels (i.e. connection of the solar power system to the electrical system). This involves shutdown of electrical power to the building which operates daily until midnight. The Applicant has requested to commence work at 10:00 pm and end no later than 2:00 am, instead of the construction times allowed by the CCMC, in order to minimize disruptions to the retail business operations. The proposed work in the application would involve four total hours and is located at the rear of the building property, which abuts the rear yards of residential properties on Kinston Avenue. The work that is proposed to occur during the extended construction hours includes the following:

- Use of handheld drill (to create hole in electrical panel equipment to pull new wires)
- Pulling of electrical wires
- Use of a portable generator; and
- Use of handheld flashlights

A Noise and Lighting Technical Report (Attachment No. 1) has been prepared by ESA in order to analyze potential noise and light level impacts that may occur in association with the proposed extended construction hours.

DISCUSSION:

Installation of roof-mounted solar panels at the subject site has been completed. In order to activate the solar panel system, electrical work is necessary to connect the solar panels to the electrical system. In order to safely complete the work, the power to the existing building must be turned off. The applicant proposes to commence the power shutdown at 10:00 pm in order to minimize disruptions to the operations of the occupant/property owner (Target). The applicant has indicated that conducting the work during hours allowed by the CCMC would not only inconvenience customers, but would also present a significant financial hardship to the retailer through loss of revenue, as the store cannot operate while the power is off. A portable generator will be used to maintain necessary life safety systems operational during that time.

If the request is approved, construction activities will include use of a limited number of equipment/tools, such as handheld drills, flashlights; and activities could occur as “early” as 10:00 pm and end no later than 2:00 am, rather than between 8:00 am and 8:00 am. Construction related noise and lighting will therefore be generated at times outside those permitted by the CCMC.

ESA analyzed potential noise and light/glare impacts related to the proposed extended construction hours and determined the proposed work will not create significant adverse impacts, and also identified recommended noise reduction measures, as listed below, in order to ensure this result. The noise reduction measures include:

- Installation of a temporary ten (10) feet high sound barrier (long enough to block the line-of-sight to the residential uses), with a performance standard achieving a minimum of 15 dBA noise level reduction
- Installation of a temporary enclosure (four-sided with roof), with a performance standard achieving a minimum of 20 dBA noise level reduction over the temporary generator
- Use of construction equipment with engine mufflers and prohibition of idling when equipment is not in use
- Use of only the noise-generating equipment identified in the technical study and strict adherence to the work timeline

The ten (10) foot high sound barrier will serve to diminish the construction related noise that travels to nearby residential sensitive receptors; similarly, the four-sided barrier around the generator will reduce related sound from travelling out of the barrier. Additionally, the technical study concluded that the proposed construction activities would not exceed the City's noise standards, and the expected increase in the ambient noise levels would range from barely perceivable to readily perceivable (during the quietest hour midnight to 1:00 am), provided that the recommended sound barriers are in place during the work period. The technical study was also reviewed by the City's environmental consultant, who concurred with the conditions listed in Finding G below. Further, based on the limited use of additional lighting, which is limited to handheld flashlights that are to be pointed directly at the area of work, there are no expected perceivable changes in the light and/or glare levels at the subject site and abutting sensitive receptors.

The shopping centers in this area along Jefferson Boulevard have been the source of various noise complaints to the City. The majority of these complaints have been submitted by residents in the neighborhood to the rear of the commercial properties. Such complaints have included issues pertaining to loading/unloading activities, refuse collection, property maintenance work, and construction activities, occurring during noise sensitive times, ranging from 10:30 pm to 6:00 am. Specific examples of noise issues include opening/dropping cargo containers, dropping metal, drilling, truck back-up warning sounds, operation of sweeping vehicle, and similar activities. Such activities were conducted without implementing any sound buffering measures to prevent noise from travelling beyond the property lines. Throughout the years, City staff has worked to inform the property owner/management of the CCMC restrictions pertaining to noise. The proposed work described in the project application will be limited in nature and will incorporate the above noise reduction strategies in order to minimize resident concerns about the work.

Temporary Use Permit

Pursuant to CCMC Section 17.520.030, the City Council must determine the TUP request is in the public's interest and make the following findings before the TUP can be approved:

- A. The use is limited to a duration that is no more than the maximum allowed duration, as determined appropriate by the review authority.*

The TUP duration would be approximately four (4) consecutive hours, as the scope of the construction work is minimal, and will be coordinated in order to maintain the most compressed timeline possible. Activities that may occur during the extended hours would

include operation of the utility vehicle, use of a portable generator, use of handheld drill, pulling of electrical wire, and general activities (e.g. worker conversation). If approved, the expected completion date for the electrical connection work would be 2:00 am of the day following the commencement of work, which will be determined by issuance of the TUP and permit, in coordination with City staff; therefore, the activity proposed by the subject TUP is temporary in nature.

- B. The site is physically adequate for the type, density, and intensity of use being proposed, including provision of services (e.g. sanitation and water), public access and the absence of physical constraints.*

The Project site is approximately 11.67 acres feet in size, irregular in shape, and generally flat in topography. The work area will comprise approximately 1,100 square feet (20'X55') of area at the exterior parking area at the rear of the building, which will provide approximately forty (40) feet of buffer to the property line of the nearest residential property line. The Project is currently developed and has all necessary provisions for services/utilities in place; a portable generator will be used for maintenance of life safety systems and will be outfitted with a noise attenuating enclosure, and handheld flashlights will be used for localized lighting needs during the proposed construction activity. No additional temporary provisions (e.g. portable restrooms, etc.) will be necessary. Existing streets and driveways will provide sufficient access, and the site does not have physical constraints. The proposed TUP would not further burden the site nor intensify the amount of work or construction activities, but rather allow certain limited activities to occur outside of the construction hours of the CCMC.

- C. The design, location, size, and operating characteristics of the proposed use are compatible with the existing land uses on site and in the vicinity of the subject property.*

The proposed construction activities are compatible with the existing land uses on site, in that they are consistent with the type of construction activities that would otherwise be permissible and occurring during normal construction hours pursuant to the CCMC. The construction activities are also compatible with existing land uses in the vicinity, including residential uses, as the activities will not adversely impact surrounding properties, with the implementation of certain measures, pursuant to the technical studies. The public outreach for the TUP application has followed the City's notification requirements to inform abutting neighbors and provide opportunities for them to submit feedback and express any concerns about the application. The applicant has not otherwise engaged in additional outreach measures to abutting owners.

- D. The temporary use will be removed, and the site restored as necessary to ensure that no changes to the site will limit the range of possible future land uses otherwise allowed by this Title.*

The proposal for extended construction hours and the work that will occur during those additional hours is temporary in nature, and is being performed in order to complete the activation of a previously installed roof-mounted solar panel system. If approved, construction activity hours would be 10:00 pm to 2:00 am, rather than the hours indicated in CCMC Section

9.07.035, and will cease immediately after the identified hour. At that time the site will continue to operate as usual for the existing permitted commercial uses. Thus, the proposed TUP will not affect the range of possible future land uses otherwise allowed by the Zoning Code.

- E. Adequate temporary parking will be provided in order to accommodate the vehicle traffic generated by the temporary use or special event either on-site or at alternate locations acceptable to the review authority.*

The proposed work will primarily occur during hours of non-operation of the shopping center in which the subject retailer is located. Thus, the existing parking lot is expected to be mostly empty. Further, there will be a minimal number of workers at the site, and they will use existing parking area at the rear of the building. It is not expected that the proposed TUP would generate a perceivable increase in parking demand or vehicle traffic during the proposed time of the construction activities.

- F. The use will comply with all applicable provisions of local, State, and Federal laws or regulations.*

The proposed construction activities (e.g. drilling, wire-pulling, etc.) would not exceed noise standards, provided certain noise reduction measures are implemented. Therefore, the construction activity/hours will be subject to compliance with these measures, which will be incorporated as conditions of approval in the TUP, if approved. Thus, the request will comply with applicable regulations and not interfere or adversely impact other activities/uses surrounding the subject site pursuant to the technical studies.

- G. Other pertinent factors affecting the operation of the temporary use have been addressed to ensure the orderly and efficient operation of the proposed use, in compliance with the intent and purpose of the Temporary Use provisions of the CCMC.*

Nuisance factors were considered relating to the proposed extended construction hours including, noise and lighting impacts to ensure that adjacent properties would not be adversely impacted. In addition, the associated technical studies and City Staff recommend the following conditions of approval to further ensure the proposed activity is compatible with surrounding properties:

1. The Applicant shall fund all City costs associated with inspections and/or studies required to ensure conformance with the TUP.
2. A temporary sound barrier shall be erected at the off-hours area adjacent to the construction equipment, measuring at least ten (10) feet in height and long enough to block the line-of-sight between the equipment and the residential uses, with a performance standard achieving a minimum of 15 dBA noise level reduction
3. A temporary sound enclosure (four-sided with a roof), with a performance standard achieving a minimum of 20 dBA noise level reduction shall be erected over the temporary generator

4. All construction equipment operating at the subject site (e.g. utility truck) shall be equipped with properly operating engine muffler and not allowed to idle when not in use (i.e. if idling not needed during the store power shutdown and start-up)
5. The only use of noise-generating equipment allowed during the proposed off-hours utility work are as stated in the associated technical study before 11:00 pm, with no additional operation of the power drill required during the off-hours period.

Public Outreach

Pursuant to Section 9.07.035 of the CCMC, a notice was mailed to approximately 992 owners/occupants within 1,000 feet of the Project Site, advising of the scheduled public meeting and inviting comments/questions related to the request for a TUP to extend the construction hours for installation of equipment associated with solar panels at 10820 Jefferson Boulevard, including the associated noise and lighting study.

In response to the public notification for this item, staff has received two written general inquiries by email (Attachment No. 2), to which staff responded by providing the requested information regarding the request. There were no direct objections expressed in the emails, and upon receipt of staff's response, the two community members responded with general acceptance of the proposed work, expressing that work is minimal and that adequate steps were being taken to ensure there would be no nuisance conditions for residents. No comments have been received by Current Planning Division staff from the residents in the neighborhood to the rear of the subject property.

Environmental Review

Based on the project description and pursuant to the California Environmental Quality Act (CEQA), Temporary Use Permit P2019-0077-TUP is determined to be a Class 4 Categorical Exemption pursuant to Section 15304(e) - Minor Alterations to Land, because the proposed temporary use (i.e. extended hours for construction activities) is considered a minor temporary use of land having negligible or no permanent effects on the environment.

FISCAL ANALYSIS

There is no fiscal impact to the City for considering or authorizing the requested TUP. The Applicant will be required to pay the TUP fee and third-party costs associated with the City's review of the required studies discussed above and all City costs associated with inspections and other matters performed during non-business hours.

ATTACHMENTS

1. 2019-08-26_ATT_Uilities Night Work - Noise and Lighting Technical Report
2. 2019-08-26_ATT_Public Correspondence Received by Current Planning Division staff

MOTION

That the City Council:

1. Approve Temporary Use Permit P2019-0077-TUP for SunPower to conduct construction activities between 10:00 pm and 2:00 am on a weekday to be determined, in connection with the solar panel system located at 10820 Jefferson Boulevard, subject to the conditions of approval herein, beginning the effective date of the TUP, based on the findings set forth in the staff report; and
2. Authorize the Community Development Director to prepare and issue the Temporary Use Permit on behalf of the City.