

Development Services Department  
Staff Report

**DATE:** February 18, 2020

**TO:** Planning Commission

**FROM:** Pierre Rivas, Director

**SUBJECT:** **Zoning Interpretation (ZON) 2020-01** – A Request to add Temporary Parking Lot Uses to the List of Uses Permitted under City Code Section 10-4-7 (A): Special Temporary Use Permits, to include said temporary parking lots in the Business Professional (BP) Zone

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**BACKGROUND**

City Code contains Section 10-4-7 which provides the purpose, intent, and the set of uses subject to and the processing procedure for Special Temporary Use Permits. Section 10-4-7 is provided below in its entirety.

*10-4-7       **SPECIAL TEMPORARY USE PERMITS:** Uses permitted subject to a special temporary use permit are those temporary uses which are required for the proper functioning of the community or are temporarily required in the process of establishing a permitted use, or constructing a public facility. Such uses shall be so conducted that they will not be detrimental in any way to the surrounding properties or to the community.*

*(A)       **Uses Permitted Subject to Special Temporary Use Permits:** The following uses shall be allowed upon the issuance of a temporary use permit:*

- 1.       Temporary outside display and sales of merchandise in the C Zone.*
- 2.       Christmas tree sales.*
- 3.       Carnivals, circuses, special events of not over seventy two (72) consecutive hours.*
- 4.       Parking and storage of materials and earth moving or construction equipment incidental to the carrying on of a public works project, subdivision or construction project.*
- 5.       Such other uses as the Planning Commission may, by resolution, deem to be within the intent and purpose of this Section.*

6. *Caretaker units/night watchman facilities (Planning Commission determination).*

(B) *Special Temporary Use Permit Procedure:*

1. *Application and filing fee for a special temporary use permit may be made by the property owner or his authorized agent. Such applications shall be filed with the Development Services Director. The Development Services Department shall charge and collect a filing fee for each such applicant, as determined by resolution of the City Council. The Development Services Director may require any information of the applicant which may be necessary to make a determination concerning the proposed use.*

2. *Determination: Application for special temporary use permit shall be reviewed by the Development Services Department. The Development Services Director shall approve, conditionally approve, or disapprove such application. Approval or conditional approval shall be given only when in the judgment of the Development Services Director, such approval is within the intent and purpose of this Zoning Title.*

3. *Special temporary use permits shall specify the period of time set by the Development Services Director during which the use may be carried out, not to exceed one year from date of issuance of the permit.*

4. *Appeals from Determinations: If the applicant is dissatisfied with the decision he may appeal to the Commission within ten (10) days after the decision is rendered. Such appeal shall be in writing and shall be filed with the secretary of the Commission. Upon the receipt of such appeal, the secretary of the Commission will establish the date, time and place to hear such appeal. The Commission, upon receipt of the Development Services Director's action, may require said determination to be presented at a public hearing before the Commission. No permits shall be issued until the Planning Commission makes a determination. The determination of the Commission may be appealed to the Council per the procedure established in Section 10-3-7.*

Subsection (A) contains the list of uses permitted subject to a Special Temporary Use Permit. Subsection A.5 gives the Planning Commission the authority to determine that other uses may be added to the list of uses, by resolution, if they deem other uses are within the intent and purpose of Section 10-4-7. Review and approval by City Council

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is not required, unless a timely appeal is made within 10 days of the Commission's action.

On August 17, 2010, the Planning Commission adopted Resolution No. 2010-01 which added temporary parking lots as a use permitted within the Commercial (C), Highway Commercial (HWC), and Heavy Commercial (HC) Zone Districts. This request would add the Business-Professional (BP) Zone District to the list.

A temporary parking lot use is not permitted outright within any zone district of the City. Therefore, there are no specific standards for their appearance, operation or use. Permanent parking facilities and parking lots are conditional uses within the Central Business District (CBD), C, and HC Zone Districts. Parking lots are only permitted in the HWC and BP Zones as an accessory use (not as a standalone use). New parking structures and lots are included within the land use categories provided in City Code Section 10-4-9(C)(5) that require Site Plan Review. Several Site Plan Review Criteria (10-4-9(G)) address parking areas, such as surfacing, landscaping and shade trees and maintenance.

### DISCUSSION

Marshall Hospital has submitted three applications to allow for temporary parking lots within the BP Zone. Staff is requesting to add temporary parking lots within the BP Zone to the list of uses subject to the Special Temporary Use Permit under City Code Section 10-4-7. As stated previously, the Planning Commission has the authority under City Code to determine that other uses may be added to the list of Special Temporary uses by resolution should the Commission deem other temporary uses are within the intent and purpose of Section 10-4-7.

The stated purpose and intent of City Code Section 10-4-7 is provided in the first paragraph of this section. It states: "Uses permitted subject to a special temporary use permit are those temporary uses which are required for the proper functioning of the community or are temporarily required in the process of establishing a permitted use, or constructing a public facility. Such uses shall be so conducted that they will not be detrimental in any way to the surrounding properties or to the community." Therefore to approve the request, the Commission must find that temporary parking lot uses in the BP Zone are:

- Required for the proper functioning of the community, OR
- Are temporarily required in the process of establishing a permitted use, or constructing a public facility.

## **STAFF ANALYSIS**

The above statement “required for the proper functioning of the community,” is general in nature, allowing the Commission broad interpretation of its intent and purpose. In contrast, the statement “temporarily required in the process of establishing a permitted use, or constructing a public facility,” appears to be narrower scope, relating specifically to a permitted use or activity.

Under existing code as described above, parking lots are considered permanent uses. Their design and appearance reflect the diligence of timely and thoughtful review by City staff, outside agencies, and the decision making authorities for their conformance with established standards, regulations, and criteria. The appearance of a temporary parking lot would not necessarily reflect established design criteria due to its short-lived existence. In addition, City Code would not restrict a property owner from applying each year for any listed special temporary use permit uses, including temporary parking lots if listed. This raises an issue of the potential for a serial special temporary use permit. The Code Section 10-4-7(B)3 states: *Special temporary use permits shall specify the period of time set by the Development Services Director not to exceed one year from date of issuance of the permit.* Therefore, should staff determine that the serial establishment of a temporary parking lot constitutes the establishment of a permanent use, staff can deny the application subject to appeal and consideration by the Planning Commission.

It is staffs opinion the hospital can be considered a “public facility” befitting the entirety of the community and thus should be afforded the ability to make application for temporary parking lots in the BP Zone. The hospital has undergone significant expansion requiring additional parking space to serve employees and the general public.

## **Environmental Determination**

Staff finds that the inclusion of temporary parking lots to the list of uses subject to a Special Temporary Use Permit under City Code is categorically exempt from environmental review pursuant to Section 15311(b) of the California Environmental Quality Act Guidelines, in that small parking lots are listed as exempt from such review.

## **RECOMMENDATION**

Should the Commission find that the request meets the legislative purpose and intent of City Code Section 10-4-7(A), a draft resolution is provided as Attachment A of this staff report for the Commission to adopt as is or amend as it deems necessary.

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Should the Commission find that the request does not meet the purpose and intent of City Code Section 10-4-7(A) then the Commission should make a finding that the requested use is not required for the proper functioning of the community, or that the requested use is not temporarily required in the process of establishing a permitted use, or constructing a public facility. For this action a minute order is sufficient and the adoption of a resolution is not required.

Staff is recommended that the Commission take the following actions:

1. Enter Staff's report into the public record;
2. Consider the request, under the authority granted to the Planning Commission pursuant to City Code Section 10-4-7(A), and public comment received; and
3. Adopt Resolution 2020-01 adding temporary parking lots within the Business Professional (BP) Zone District to the list of uses subject to a Special Temporary Use Permit under City Code Section 10-4-7(A) and making the required findings.

The Commission's action may be appealed to the City Council within 10 days.

### Attachment

- A. Draft Planning Commission Resolution 2020-01