

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** NOVEMBER 23, 1998

**FROM:** CITY MANAGER

**SUBJECT:** MODIFICATION OF CONDITION USE PERMIT #2936  
1021 EAST COLORADO BOULEVARD

**CITY MANAGER RECOMMENDATION:** It is recommended that the City Council following a public hearing:

1. Adopt a finding that there are sufficient changed circumstances to justify the modification of the original application as contained in Attachment A;
2. Approve the modification of condition #6 as contained in Attachment B so that a completion bond will no longer be required for this project.

## **BACKGROUND:**

On October 14, 1996, the City Council approved conditional use permit #2936 to allow for the construction of a 170,950 square foot office building at 1021 East Colorado Boulevard. The City Council approved the EIR for this project and adopted a Statement of Overriding Considerations for the demolition of the existing automobile showroom. The applicant for this project was Allwin Development. The City Council imposed condition #6 to ensure that the office project would be completed and to ensure that the developer did not demolish the McDanel Motor Company showroom after receiving entitlements and discontinue the project. It should be noted that Allwin development proposed a similar office building development at 1026 East Colorado Boulevard a 1.1 acre formerly vacant site located across the street from the subject property. On the site across the street, the City approved an 85,340 square foot office building in February 1996; however, no office building was constructed. The site across the street was sold and a Rite Aide drug store constructed. Allwin Development has sold this project to Koll Development Corporation, which has submitted a financial plan to the City Manager within the time limits of this condition. This plan was approved by the City Manager.

Condition #6 required that within one year the applicant submit evidence of financial ability to complete the project to the reasonable satisfaction of the City Manager. This condition also required that the applicant submit a completion bond equal to the valuation of the new construction to the Building Official (This would be a bond equal to roughly 18 to 20 million dollars and costing the applicant roughly \$180,000). On January 12, 1998, the City Council approved the modification of this condition to extend the time limit for the submittal of a financial plan to be concurrent with the expiration of the conditional use permit. Additionally, the project has received Concept Design approval and has been approved for an extension of its use permit, which will expire on October 15, 1999.

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The applicant is now requesting a new modification of condition #6. According to the applicant, the complying with this condition will cost approximately \$180,000. This will reduce the amount of money being spent on the project, thereby reducing the quality of the building and reducing the benefit that this project can bring to Colorado Boulevard. The applicant argues that Koll Development Company has already demonstrated their ability to finance this project.

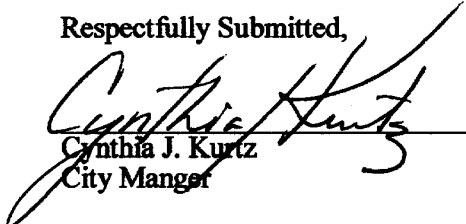
**ANALYSIS:**

The applicant, Koll Development Company, has requested the modification of condition #6 of conditional use permit #2936. They are requesting that condition #6 be modified so that the requirement for a completion bond is removed. At the time this application was approved, concerns were raised about the ability of Allwin Development to complete the project. A bond was required because of concerns that the applicant would demolish the building and halt construction in order to sell the property for a profit with the removal of a potentially historic structure. Koll Construction Company argues that they have an excellent financial capability to complete this project. Additionally, they state that they must build the building in order to realize a profit on their investment.

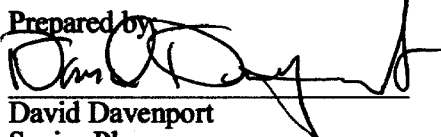
Since the project has changed ownership, and the new owner has received approval of a financial plan, it would warrant some consideration to changing this condition. In order to provide some guarantee that the project will be constructed and that the potentially historic building is not demolished, it would be staff's recommendation that the applicant provide some type of security such as a letter of credit or other means that would be reviewed and approved by the City Attorney. This letter or credit or other means would be in the amount of \$200,000 and would serve as a penalty to the applicant if the project were not constructed. This would continue to provide an incentive to the applicant to complete the project and ensure that the auto showroom is not demolished and the lot left vacant.

**FISCAL IMPACT:** No fiscal impact is anticipated because the letter of credit or any similar instrument would benefit the City only if the developer fails to comply with condition number 6, as indicated in Attachment "B" of this report. However, should the developer not comply with the terms of condition number 6, the City would receive the amount of \$200,000.


Respectfully Submitted,

  
Cynthia J. Kurtz  
City Manager

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Approved by:

  
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