

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE  
GARDEN GROVE, CALIFORNIA

THURSDAY  
SEPTEMBER 4, 2003

CALL TO ORDER: The work session of the Planning Commission was called to order at 6:30 p.m. in the Founders Room of the Community Meeting Center.

PRESENT: CHAIR BUTTERFIELD, VICE CHAIR JONES,  
COMMISSIONERS BARRY, CALLAHAN, FREZE,  
HUTCHINSON, AND NGUYEN

ABSENT: NONE

ALSO PRESENT: Doug Holland, Deputy City Attorney, Susan Emery, Planning Services Manager, Erin Webb, Senior Planner; Rosalinh Ung, Planner; Noemi Bass, Assistant Planner; Sergeant Robert Fowler; and Teresa Pomeroy, Recording Secretary.

CALL TO ORDER: The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers of the Community Meeting Center.

PRESENT: CHAIR BUTTERFIELD, VICE CHAIR JONES,  
COMMISSIONERS BARRY, CALLHAN, FREZE,  
HUTCHINSON, AND NGUYEN

ABSENT: NONE

ALSO PRESENT: Doug Holland, Deputy City Attorney, Susan Emery, Planning Services Manager, Erin Webb, Senior Planner; Rosalinh Ung, Planner; Noemi Bass, Assistant Planner; Sergeant Robert Fowler; and Teresa Pomeroy, Recording Secretary.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance to the Flag of the United States of America was led by Commissioner Nguyen and recited by those present in the Chamber.

ORAL COMMUNICATION: None.

APPROVAL OF  
MINUTES:

Commissioner Callahan moved to approve the Minutes of August 21, 2003, with an amendment, seconded by Chair Butterfield. The motion carried with the following vote:

AYES: COMMISSIONERS: BARRY, BUTTERFIELD, CALLAHAN, JONES,  
NGUYEN  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: FREZE AND HUTCHINSON

PUBLIC

HEARING:  
APPLICANT:  
LOCATION:

CONDITIONAL USE PERMIT NO. CUP-116-03  
THE ULTIMATE LIQUOR & JR. MARKET  
NORTHWEST CORNER OF BROOKHURST STREET AND HAZARD  
AVENUE AT 14461 BROOKHURST STREET  
DATE: SEPTEMBER 4, 2003

REQUEST:

To allow an existing liquor store/mini-mart under new ownership to continue to operate with an Alcoholic Beverage Control Type "21" (Off-Sale, General) license. The site is located in the C-1 (Neighborhood Commercial) zone.

Staff report was reviewed and recommended approval.

Commissioner Freze questioned Sergeant Fowler whether there was a connection between the high crime count in the district and this business. Sergeant Fowler indicated that the general vicinity contributes to the crime count, but not this particular business.

Chair Butterfield opened the public hearing to receive testimony in favor of or in opposition to the request.

Mr. Michael Morales, representative for the applicant, approached the Commission. He stated that he was a Planning Commissioner in the City of Alhambra, which is how he became acquainted with the applicant who owns several liquor stores. He noted that the applicant, Mr. Maidah, utilizes video cameras in his stores that produce a good image that can be provided to police if needed. The requirement for a security guard is not necessary as Mr. Maidah believes that security guards can be over reactionary, and he directs his employees to hand over whatever a thief demands. He noted that Mr. Maidah plans to repave and restripe the parking lot.

Chair Butterfield noted that the conditions of approval state that the requirement for a security guard is at the request of the police department and may not be necessary.

Doug Holland stated that the police would determine the necessity of a security guard and that this requirement would be appealable.

Mr. Morales stated that Mr. Maidah is concerned about being prohibited from selling single units of alcohol as this will affect profitability of the business. He noted that the store is well lit which enables the video camera to be more effective; and Mr. Maidah is working with a neighbor to close off

the accessway to the back of the site. He is also working with the phone company to remove the ability to use the pay phones outside the store in order to eliminate loitering.

Chair Butterfield noted that the prohibition of single units sales of alcohol is a standard condition and applied to all new requests for Conditional Use Permits.

Mr. Mensor Maidah, the applicant, approached the Commission. He stated that not being able to sell the single units of alcohol would hurt his business, and noted that he does not sell fortified wine or malt liquor.

Doug Holland suggested that the requirement be modified to say that refrigerated single units of 16 ounces or less of beer would be prohibited.

Mr. Maidah stated that he could understand prohibiting malt liquor or fortified wine. However, he expressed concern about unhappy customers not being able to buy a couple of beers.

Doug Holland stated that the requirement is to ensure that people would not be drinking and driving.

There being no further comments, the public portion of the hearing was closed.

Commissioner Barry moved to approve Conditional Use Permit No. CUP-116-03, with an amendment to condition N. to prohibit the sales of refrigerated single unit containers of alcohol, including beer, malt, and wine of 16 ounces or less, seconded by Commissioner Hutchinson; pursuant to the facts and reasons contained in Resolution No. 5378 and authorized the Chair to execute the Resolution. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, BUTTERFIELD, CALLAHAN, FREZE, JONES, HUTCHINSON, AND NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

PUBLIC HEARING:	NEGATIVE DECLARATION SITE PLAN NO. SP-328-03 DEVELOPMENT AGREEMENT
APPLICANT:	DANIEL & KIM SEID
LOCATION:	NORTHEAST CORNER OF 15 <sup>TH</sup> STREET AND BROOKHURST STREET AT 10001 15 <sup>TH</sup> STREET
DATE:	SEPTEMBER 4, 2003
REQUEST:	To allow the construction of a 10,340 square foot multi-tenant retail building. The site is located in the C-1 (Neighborhood Commercial) zone.

Staff report was reviewed and recommended approval of the Site Plan and a recommendation for approval to City Council for the Development Agreement. Staff noted the amendment to the conditions that removes the requirement for a new public fire hydrant to be installed on 15<sup>th</sup> Street.

Chair Butterfield asked why there is a condition for the contractor to abandon the existing sewer lateral and install a new clean out at the right-of-way line. Staff stated that the contractor, who has worked with Public Works staff could respond.

Chair Butterfield opened the public hearing to receive testimony in favor of or in opposition to the request.

Mr. John Peschelt, representative for the applicant, approached the Commission. He complimented staff for their efforts on this project. He stated that it is industry standards for the six-inch sewer tie in for the sewer lateral, and he is not sure whether the existing structure actually ties into the sewer line, as it is very old. They are, however, prepared to meet these conditions. He expressed concern about condition H. 12., which restricts building permit issuance until the city's sewer system is substantially repaired, and asked when this work would be completed. Staff stated that the improvements are expected to be finished in the Spring. Mr. Peschelt stated that the project would be jeopardized if they have to wait until Spring to obtain building permits. He asked that he be able to obtain building permits, but to wait for a "Certificate of Occupancy" prior to the sewer improvements.

He noted the requirement for two exits on a retail use of 1,500 square feet, and he asked how the code would handle a mixed use with 2,000 square feet, i.e., 1,000 square feet of office use and 1,000 square feet of retail within the same structure. He stated that he would like to have some language changed on this condition in order to reflect a hybrid situation such as a space for retail and office. Staff stated that as this is a Fire Department condition, he would need to work with the Fire Department as he moves through the process.

Mr. Peschelt noted the requirement for a ten-foot landscape area behind the building, and requested a walkway in the landscape setback. Staff stated that a paved walkway would not be permitted in the landscape setback, however, stepping stones inset into the landscape setback would be acceptable. Mr. Peschelt responded that was agreeable, and noted that they plan to keep people out of this area with fencing, however, they would like it to be architecturally pleasing.

Chair Butterfield asked who designed the lighting for the building. Mr. Peschelt responded that an electrical subcontractor who has done several projects for the Irvine Company. He noted that this form of lighting on the face of the building enhances the signage.

Vice Chair Jones asked for language in condition H.12. to be changed to "Certificate of Occupancy" rather than "building permits" be issued upon completion of the sewer improvements.

Ms. Cheryl Lynn McClintock approached the Commission and stated that she owns property on Lola Lane, east of the subject site. She expressed concern about the traffic conditions on 15<sup>th</sup> and Brookhurst Street, and made a suggestion to synchronize the signal at 11<sup>th</sup> Street to allow traffic to move through 15<sup>th</sup> Street. Staff noted that there is a requirement for the

applicant to prepare traffic signal modification plans for the existing traffic signal at Brookhurst Street and Reading Avenue that includes the intersection at 15<sup>th</sup> Street.

Commissioner Hutchinson commented that this would help alleviate the traffic concerns.

There being no further comments, the public portion of the hearing was closed.

Chair Butterfield moved to adopt the Negative Declaration and approve Site Plan No. SP-328-03 with an amendment to the conditions to eliminate the requirement for a new public fire hydrant on 15<sup>th</sup> Street, and to change the requirement for obtaining building permits to obtaining a "Certificate of Occupancy" prior to the completion of sewer improvements, and recommended approval of a Development Agreement to City Council, seconded by Commissioner Callahan, pursuant to the facts and the reasons contained in Resolution No. 5381 and authorized the Chair to execute the Resolution. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, BUTTERFIELD, CALLAHAN, FREZE, HUTCHINSON, JONES, NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

PUBLIC  
HEARING:

NEGATIVE DECLARATION  
GENERAL PLAN AMENDMENT NO. GPA-1-03  
AMENDMENT NO. A-102-03  
SITE PLAN NO. SP-330-03  
VARIANCE NO. V-106-03  
TENTATIVE PARCEL MAP NO. PM-2003-127  
DEVELOPMENT AGREEMENT

APPLICANT:  
LOCATION:

SHIL PARK  
NORTHEAST CORNER OF MAGNOLIA AVENUE AND GARDEN GROVE  
BOULEVARD AT 9001 GARDEN GROVE BOULEVARD

DATE:

SEPTEMBER 4, 2003

REQUEST:

To allow the construction of a single-story commercial building and a variance to deviate from the landscape/setback requirements. This request includes a parcel map that will subdivide an adjacent residential lot, and consolidate into one lot, a portion of the subdivided residential lot with three existing commercial lots. In order to use the subdivided portion of the residential lot as part of the commercial development, a zone change and general plan amendment is required. The site is located in the C-1 (Neighborhood Commercial) and R-2 (Limited Multiple Residential) zone.

Staff noted that the applicant requested that this item be continued to September 18, 2003.

Commissioner Hutchinson moved to continue the request to September 18, 2003, seconded by Vice Chair Jones. The motion received the following vote:

AYES: COMMISSIONERS: BARRY, BUTTERFIELD, CALLAHAN,  
FREZE, HUTCHINSON, JONES,  
NGUYEN  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NONE

PUBLIC HEARING: NEGATIVE DECLARATION  
CONDITIONAL USE PERMIT NO. CUP-115-03  
APPLICANT: SPRINT PCS  
LOCATION: WEST SIDE OF HARBOR BOULEVARD SOUTH OF GARDEN GROVE  
BOULEVARD AT 13141 HARBOR BOULEVARD  
DATE: SEPTEMBER 4, 2003  
REQUEST: To allow the construction and operation of an unmanned wireless telecommunications facility disguised as a 59-foot palm tree located behind an existing single-story retail establishment. The site is located in the HCSP-TZS (Harbor Corridor Specific Plan, Transition Zone South).

Staff report was reviewed and recommended approval. Doug Holland noted the letter provided to the Planning Commission from Mr. Michael Shonafelt from the law office of Nossaman, Guthner, Knox & Elliott, LLP representing the applicant, Sprint PCS. The letter objects to the conditions placed on Sprint PCS for the installation of fencing around the rear parking lot, the security lighting at the rear parking lot, correction of maintenance deficiencies including paving, restriping and repair of the trash enclosure and the repair of landscaping and irrigation. The CUP is an entitlement that runs with the land, and the property owner would receive a substantial benefit from the lease of this property and that the conditions placed on Sprint are appropriate and legal.

Chair Butterfield opened the public hearing to receive testimony in favor of or in opposition to the request.

Mr. Adan Madrid, representative for the applicant, approached the Commission. He expressed appreciation for staff's recommendation and also the expeditious processing of this request. He estimated that the cost of complying with the requirement for repaving, restriping, lighting, the trash enclosure repair, and landscaping would cost over \$65,000.00. He noted that Sprint services are necessary and essential to the community for businesses as well as for emergencies, and they are hoping to have some of these conditions removed. He suggested that condition D. be changed to read that the applicant be responsible for debris, litter, and graffiti removal that is within their lease area, as opposed to the applicant/property owner be responsible for the entire property. He thought that the conditions imposed on Sprint for the maintenance of the property are unreasonable. He noted that the top of the antennas for the monopalm are 59 feet but the simulated palm fronds would extend to approximately 66 feet and would like to have the conditions amended to reflect the drawings that were submitted. He stated that they are willing to collocate, however, they would like to stipulate that collocation be allowed provided adequate separation between antennas is feasible. He asked that they have a decision about the number

of actual live palm trees and would like to be able to plant a 30 foot tall and a 35 foot tall palm tree, which would be adequate.

Chair Butterfield questioned staff if the 30 to 35 foot tall palm would be acceptable. Staff stated that the hope is for a variety of palm that would grow to a height comparable to the monopalm for a more visual appeal. Chair Butterfield asked what variety would be planted. Mr. Madrid suggested the Mexican Fan palm. Staff noted that there is a condition that the variety of palm would be pre-approved by the Planning Division prior to planting.

Vice Chair Jones asked what type of palm trees were used at other locations around the city. Staff stated that the goal is to match the type of tree that is used for the monopole, which can vary for each telecommunication company.

Chair Butterfield noted that the applicant needs to take an active role in the maintenance for this property and suggested that if this is an issue for Sprint then they should move to another location. Mr. Madrid responded that he was sure that this type of problem would be encountered at another location and Sprint should only be responsible for the lease area. He commented that the city has provisions within the zoning ordinance that would provide another avenue to pursue the property owner. If they use the conditional use permit to remediate this issue, it would stop Sprint from moving forward.

Chair Butterfield noted that the property owner has contacted the city, and has verbally agreed with the conditions. Mr. Madrid commented that he was not sure if the property owner was completely aware of the ramifications.

Chair Butterfield stated that this is an avenue for resolving the poor maintenance, noting that the property owner will receive money from Sprint and should be responsible for keeping up this property. The conditions are not meant to penalize Sprint.

Commissioner Barry asked how the conditions would be enforced if the property owner ignores these requirements. Staff stated that it would still be enforced through code enforcement, but the Conditional Use Permit is an added tool for getting the property owner to comply with city regulations.

Doug Holland noted that this is a technique that provides a convincing approach to ensure that property owners who want to have the benefit of collecting more revenue from their properties, maintain their properties.

Vice Chair Jones noted that the applicant is Sprint and not the property owner. Doug Holland stated that the application for an entitlement is a benefit that comes with an obligation that is attached to the legal description of the property. As an applicant and leaseholder of the property, Sprint is representing the property owner.

Vice Chair Jones noted that this use occupies a very small area of the property, which has had a history of code violations and will continue to have whether Sprint is there or not. He commented that Sprint should not be burdened with the responsibility for the property maintenance.

Chair Butterfield requested that the property owner give the city a letter of intent to comply with these conditions.

Mr. Madrid noted that in similar cases, the courts have established a direct relationship of conditions imposed, and the specific identified impacts of projects. He does not see in the staff report, that the impacts of this project have been identified. There has been a lot of discussion of the impacts of the property and the existing state of disrepair, but the conditions should be commensurate with the impacts of the specific project.

Doug Holland stated that for this property owner to benefit by leasing to Sprint, the property needs to be brought into compliance. What is being requested, through the conditions of approval, is that the property owner improves a substandard piece of property. He expressed that this is a discretionary decision on the part of the Planning Commission and staff is making this recommendation as this as a viable tool to bring the property into code.

Commissioner Barry suggested that this is a type of dual application, with the applicant required to meet conditions but not on behalf of the property owner. Therefore, she would be more comfortable with an agreement in writing from the property owner. She asked that this request be continued to the next Planning Commission meeting and for the property owner to have representation either in person or in writing.

Commissioner Freze agreed with Commissioner Barry and stated that the owner needs to be represented either in person or in writing. He understands the need for these conditions; however, the conditions need to be placed on the appropriate party.

Commissioner Hutchinson stated that they are not obligating Sprint; they are demanding compliance from the property owner. If the property owner wants to earn more money from the property, it needs to be brought up to code. He would not feel comfortable approving the request as presented by Sprint because that would be rewarding both parties, with no one accountable for the property maintenance.

Doug Holland noted that the property owner would benefit from this lease and an approved entitlement, and ultimately the property owner is responsible for complying with the conditions of approval. However, if the Commission would like to have something in writing, this could be arranged.

Chair Butterfield stated that she would like to see something in writing from the property owner stating compliance with the conditions. Staff noted that this could be arranged and pointed out that the applicant would not be able to get permits if the improvements are not completed.

Mr. Madrid stated that they would like to see the conditions written to allow the construction of the tower and improvements to the property simultaneously. Staff agreed with processing the plans for the tower and improvements at the same time.



Ms. Yvonka Koleff located at 13036 Maple Drive approached the Commission. She stated that she is in favor of progress and feels that the cell service is needed. This proposed site is an extreme eyesore and she would like to see the owners clean up this property. Behind her backyard is the alley that backs up to this site and has experienced vandalism against her property on numerous occasions. She is concerned that the tower will attract more vandals. She also asked if this tower is going to make any noise.

Chair Butterfield noted that the tower will not make noise, and the property maintenance is going to be addressed.

Ms. Koleff expressed her doubt that the property owner will address these issues whether Sprint is leasing the site or not but appreciates the efforts to clean up this property.

Mr. Madrid stated that in the interest of timing to move this entitlement along, Sprint would be willing to install the wrought iron fence as well as lighting and they would like to be a good corporate neighbor.

Chair Butterfield stated that is very nice, but they would like to wait until they get something in writing from the property owner and to postpone voting on this request.

Mr. Madrid asked whether they would be willing to utilize code enforcement to address the issues related to the rest of the site. Doug Holland noted that the difficulty with relying on the conventional code enforcement method is that the property owner is out of State and that the city would like to pursue the owner through this entitlement process.

Staff asked whether the Commission would be willing to wait beyond the September 18 meeting if the property owner does not respond on time.

Chair Butterfield stated no.

Commissioner Hutchinson stated that if the owner does not respond, he would not support the request.

There being no further comments, the public portion of the hearing was closed.

Commissioner Barry moved to continue this request to September 18, 2003, seconded by Commissioner Freze. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, BUTTERFIELD, CALLAHAN, FREZE, JONES, HUTCHINSON, NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

MATTERS  
FROM

COMMISSIONERS: Commissioner Barry suggested that local nonprofit organizations volunteer time and assist with clean-up for seniors in the community that are violating municipal codes by lack of property maintenance. Staff noted that a study was done on code enforcement violations and oftentimes, code violations are found at senior's homes who may be unable to care for their property. Commissioner Nguyen noted that as she is the President of the Senior Meals Board, she would discuss this issue at the next board meeting.

MATTERS  
FROM STAFF: Staff stated that City Council has approved two additional Code Enforcement positions. Also, ten parcels have been acquired for the hotel project site south of the Crown Plaza Hotel, and the Fire Station motel will be completely demolished in approximately two weeks. A date has been arrived by City Council for a public forum to discuss proposals for the Brookhurst Triangle, and discussion of the new sports center will be held on September 11, 2003 at 6:00 p.m. at the Atlantis Play Center on Westminster Avenue. Staff announced that there would be a community meeting on October 1, 2003, to introduce a new proposal for 12 homes to be constructed on Gilbert Street.

ADJOURNMENT: The meeting was adjourned at 8:50 p.m.

TERESA POMEROY  
Recording Secretary