

MINUTES
REGULAR PLANNING COMMISSION MEETING
CITY COUNCIL CHAMBERS
1 CIVIC CENTER DRIVE
SAN MARCOS, CALIFORNIA
MONDAY, MAY 7, 2012 - 6:30 PM

CALL TO ORDER

At 6:30 p.m. Chairman Nelson called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Kildoo led the Pledge of Allegiance to the Flag.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: JONES (Alternate), KILDOO, MAAS, NELSON,
NORRIS, SCHAIBLE, WEDGE

ALTERNATE COMMISSIONERS IN AUDIENCE: FLODINE

ABSENT: MINNERY.

Also present were: Planning Division Director, Jerry Backoff; Office Specialist III,
Lisa Kiss; Deputy City Attorney, Jim Lough; Assistant Planner, Sean del Solar;
Assistant Planner, Art Pinon

ORAL AND WRITTEN COMMUNICATIONS

None.

CONSENT CALENDAR

1. APPROVAL OF MINUTES, 3/5/12

Action:

COMMISSIONER KILDOO MOVED TO APPROVE CONSENT CALENDAR AS
PRESENTED; SECONDED BY COMMISSIONER WEDGE AND CARRIED BY A
UNANIMOUS VOTE.

PUBLIC HEARINGS

2. **Case No:** CUP 96-294 (11R)
Application of: Tamasebi, LLC, d.b.a. San Marcos Car Company
Request: A Major Conditional Use Permit renewal to allow the continued operation of a retail used automotive sales lot from existing facilities in the Commercial (C) zone of the Business and Industrial District.
Location of Property: 1650 Grand Avenue, more particularly described as: Being a portion of lots 25 through 32 in block 78 of Rancho Los Vallecitos de San Marcos, according to the map thereof no. 806 filed in the Office of the County Recorder of the County of San Diego, State of California, on December 21, 1895. Assessor's Parcel No.: 219-097-34.

Staff Presentation (Sean del Solar):

Described request and location. PowerPoint presentation shown. Used automotive sales lot may be allowed in the C zone provided a major CUP is approved. There are approximately 47 parking spaces provided for vehicle display and additional 17 spaces for employee/customer parking. Maintenance compliance issues/violations outlined in Condition "C." Staff has confirmed that most violations have been corrected. All parking is to be provided on site. Junked, damaged and/or abandoned autos are prohibited. Stormwater conditions have been updated. Staff recommends approval for a 5 year term. No public comments were received. Applicant is present.

OPEN PUBLIC HEARING

Nelson: Asked what type of violations?

del Solar: Minor site maintenance issues. There was a change of ownership. Mr. Tamasebi now operates site. Doors on trash enclosure were changed out, maintenance on site and storm water filter.

Al Tamasebi, Applicant: Have been doing business in City for the last 20 years. Permit has been renewed for the last 15 years. Requested a 10-year term. If there are any issues, staff can resolve with applicant.

Kildoo: Inquired how long he's owned property?

Tamasebi: 15 years, original owner.

Nelson: Asked why he wants a 10-year term?

Tamasebi: Cost, it's a small business. Everything is under control. City can inspect and we can continue to resolve any small issues like we have done.

Wedge: Inquired if there have been problems each time it renewed?

del Solar: Indicated this was his first time processing this renewal. Staff conducts a site inspection when CUP's are up for renewal. It's not uncommon to see some minor violations.

Backoff: There were some minor maintenance issues in the past. City takes the stormwater issues seriously. Staff feels it's easier to obtain compliance with a 5-year term.

Wedge: Is there a problem in correcting issues with this owner? Asked how often they are inspected, at renewal only?

Backoff: Staff tries to inspect more frequently than just at renewal, sometimes yearly.

Wedge: Asked if City can revoke if there is a violation?

Backoff: It's more difficult, must go through a process and it takes time.

Wedge: Inquired what a typical term is?

Backoff: There's not a typical term, its determined based on a case-by-case, but it's rare to go beyond 5 years.

Nelson: Asked if any are longer than 5 years?

Backoff: There are some 7-8 years. Hanson rock mining permit was 20 years which is unusual. Typical range is 1-5 years.

CLOSE PUBLIC HEARING

Action:

COMMISSIONER WEDGE MOVED TO APPROVE CUP 96-294 (11R) AS SET FORTH IN RESOLUTION PC 12-4292; SECONDED BY COMMISSIONER NORRIS AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: JONES, KILDOO, MAAS, NELSON,
NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

3. **Case No:** CUP 11-869 - Appeal

Appellant: Seltzer, Caplan, McMahon, Vitek representing James Flores and ZRG, Inc., (the owner of two condominium units in the Santa Fe Hills Business Center)

Request: Appeal of Administrative Hearing officer's decision to approve Conditional Use Permit (CUP 11-869) for Pacific Safety Solution's operation of a 3,108 s.f. occupational safety training facility.

Location of Property: 2892 S. Santa Fe Avenue, Suite 110, more particularly described as: Lot 1, of San Marcos Tract No. 478, of Map No. 15765, in the City of

San Marcos, County of San Diego, State of California. Assessor's Parcel No.: 217-161-25-10.

Staff Presentation (Art Pinon):

Described request and location in Santa Fe Hills Business Center. PowerPoint presentation shown. They offer occupational safety training services to construction contractors such as telecommunication facilities and electrical towers. Facility would be used for both office work and client employee training with a maximum of six students and one instructor. Training also takes place off site. Floor plan shown and discussed. During processing, an opposition letter was submitted by the attorney representing the appellant. A second opposition letter was submitted the day of the Administrative Hearing. Staff responded verbally and invited the appellant to attend the hearing and express concerns. Neither the attorney nor Mr. Flores attended the hearing and the CUP was approved. Following the hearing, the Appeal was received and identified issues: 1. Zoning Ordinance Compliance; 2. Land Use Compatibility; 3. Parking; 4. CEQA Compliance; and 5. Public Notification. Discussed staff's response: Facility operates as both administration office and occupational training. Occupational safety training center is unique and not identified in Zoning Ordinance. As a similar "service type use" it conforms to the purpose and intent of the Light Industrial zone. All activities occur inside building, doors shall remain closed and they're limited to a total of seven. The Business Center Association has approved the use. Discussed parking: Project condo space is allocated seven spaces and they are limited to one class per week with no overlapping of classes. Per CEQA, it qualifies for categorical exemption as there is no expansion to building and given the low number of patrons, the use is no more intense than that of an office or light industrial use with regard to parking, traffic or noise. Public Notice: The Notice of Public hearing was sent 13 days prior to the hearing to all property owners within 500' radius, notice was published in North County Times on 3/22/12 and a sign was posted at the site while application was being processed. Staff recommends denial of the appeal. Public Notification of the Appeal has occurred and no additional comments were received. Applicant and Appellant are present.

Schaible: Appellant states that the use is incompatible. Asked what uses there are?

Pinon: It's mostly warehouse distribution and offices. There's a recycling facility, roofing contractor and light manufacturing.

Kildoo: Is it correct that Zoning is not meant to capture every possible use? That would make for a very long document.

Pinon: Correct. As long as compliant with the purpose and intent of Light Industrial zone, City staff can approve with CUP. It has been done over past years. If you look at permitted uses, you don't see "typewriter repair" too often anymore. It's an example of the time frame that it was put together. Code allows staff some flexibility to make determination.

OPEN PUBLIC HEARING

Erik Schraner, Attorney, representing ZRG, Inc./James Flores: Mr. Flores had a business trip and couldn't make the meeting. He owns two units in the center. Requesting that Commission approve the appeal and deny CUP. They originally

proposed 12 students, and now it's reduced to seven total. Appeal filed to address loud use and parking requirements and City's use of categorical exemptions. The Exemption only applies if there's negligible or no expansion of use beyond that existing at the time the lead agency's determination. There is no existing use; it's never been occupied, so this exemption cannot apply. There are unusual circumstances, it's not a permitted Light Industrial use, traffic will increase to and from the center and multiple classes during the day. It's incompatible with L-M zone. Would be more consistent with office or commercial center. Light Industrial generates considerable noise that is incompatible with this use. There's no facility for breaks or smoking. Trade/vocational schools are not allowed. Discussed history and parking: First approved as two buildings, then while under construction, it was converted into 18 condo units. The parking calculations when first approved no longer applies. There is a parking issue with this complex. There aren't as many excess parking spaces as noticed by staff. Indicated he was at the Condo Association meeting and no vote was taken at that time. The letter was submitted by the developer for the project who still has super majority rights for votes.

Jones: Asked if there are restrictions on the number of employees for the various businesses that were mentioned?

Schraner: Zoning Ordinance is fairly barebones when it comes to most CUP's. There are only a few uses which have specific regulations which specify standards that have to be met. Believe it's up to the decision maker to condition as necessary.

Jones: Asked if there could be more than 10-15 employees at one of the companies there?

Schraner: Yes, if you have sufficient parking. One of the major constraints on this complex since it has been divided up into 18 units is the parking requirements because it has to be satisfied for each of the 18 units.

Jones: How is it different, if you have 15 employees vs. seven students?

Schraner: Employees come in once per day, then leave. There's no restriction on number of classes, so could have a higher number of people coming and going. Gates are open during business hours. It was anticipated to be an industrial building with less traffic flow.

Nelson: Asked what kind of business his client has?

Schraner: It's mostly storage and warehousing. He owns two units and has other locations in the County. He may rent them out in the future.

Nelson: So he may not even be on site?

Schraner: He's currently using them now, but it varies how much he is on site.

Nelson: Asked if it's distribution of goods?

Schraner: Purchases medical equipment from hospitals and doctors and resells for reuse. They ship equipment to buyers. It's not retail.

Nelson: Asked if equipment gets there on a truck?

Schraner: Yes.

Corey Messer, Pacific Safety Solutions: Thanked staff for approving CUP. He didn't know what to expect going through a CUP process. Their company does site audits and assessments and based off of those, develops safety programs and training on such items. Most of the training is conducted off site at client's facilities. There are times when they hold small classes. Indicated he's done everything he could, been honest and posted sign. Started process seven months ago and still can't use the space. His preliminary review indicated it would be okay, and that he could have 12 students. He then submitted application and now must reduce to six students because of parking issues. Not super happy about it but will make work. All issues raised have been addressed, but received two new ones today: Loitering was discussed at the business association meeting where Mr. Flores was absent. He was also absent from the Administrative Hearing and now, so have not been able to talk to him. There's no overlapping of classes. Instructors arrive one hour before students so gate would not be an issue. The clients are those who are around them so it makes sense to be there. Indicated he started the part-time business seven years ago in his garage, while working as a storm water technician. It's now full-time and he has a partner. The space is perfect for what they want to do; it's a central location, close to home and will contribute to community. Want to help local businesses and create safe companies. Students may dine or stay the night in the City. He's ready for process to be finished. It's dragged on long enough, have a family to support and want to operate.

Wedge: Confused why Mr. Flores thinks there's overlapping classes.

Messer: Indicated he's tried to address this with Mr. Flores, but Mr. Flores doesn't have time to talk to him and sends his attorney instead. There will be one class per week, ranging from two to eight hours. Most training is off site.

Maas: Asked about forklift/man lift training?

Messer: Indicated they use client's equipment at their facility.

Jones: Asked what percentage is taught on site?

Messer: 5-10%.

Jones: How many per week?

Messer: One class there and others at the client's facilities.

Jones: Inquired how they're able to reduce by half what they originally wanted?

Messer: Didn't want to, but had to make a decision to alleviate stresses from perceived parking issue. Not ideal but will work with it.

Jones: Asked what would happen if the business grows?

Messer: We'll see. If there's a need to obtain more parking spaces, there's a way to do it through CC&R's. One person has a showcase there and was able to do that. Doesn't see parking as an issue.

Nelson: What if students carpool?

Norris: Why limit number? They could have more students if they carpool.

Backoff: Parking is seven total.

Norris: Asked if they could have more students square-footage wise?

Backoff: City doesn't regulate that. Staff tried to address parking concern and they're allocated seven spaces. Could make it flexible, to carpool and not result in more than seven spaces being used.

Messer: Carpooling is common.

Backoff: For the record, there are still 15 extra spaces on site.

CLOSE PUBLIC HEARING

Kildoo: Indicated he drove over there at 9:30 AM and counted 73 empty spaces. Doesn't think parking is a problem right now. Perhaps it will change later. There's always going to be some businesses that only need two or three spaces and others that need more. This is an opportunity for a business to grow. They've compromised in areas where they shouldn't have had to. He feels they should have an opportunity for larger classrooms. Perhaps a carpool? Feels Commission should approve and move on.

Wedge: Asked how they can change an Administrative Hearing decision? Commission doesn't have that resolution.

Backoff: Can add to conditions.

Jim Lough: Suggest they stick to the seven spaces, leave as is. Applicant can come back and amend later.

Wedge: Want to change class size, not number of parking spaces.

Lough: City doesn't regulate the number of people in a building. The way to code enforce traditionally is the external impacts in the neighbors. You don't count how many in a house or business, you count how many parking spaces are being used. Recommended leaving at seven and they can amend later for carpooling. You don't have an appeal from the applicant asking for carpooling. It will probably go to Council anyway. Between now and then, staff can look to see if any precedent for it.

Backoff: They were conditioned not to have more than seven total equating to seven spaces. Carpooling was not discussed. The intent of resolution is still there, not taking more than seven parking spaces.

Kildoo: It's clear that they've compromised. Keeping it at seven spaces without tying it to bodies is the right approach.

Maas: CUP applicant can ask later for additional students if they carpool and only take seven spots.

Nelson: Asked if appeal is denied, when could they start business?

Backoff: Depends if appealed to Council.

Action:

COMMISSIONER KILDOO MOVED TO APPROVE DENIAL OF THE APPEAL OF CUP 11-869 AS SET FORTH IN RESOLUTION PC 12-4293; SECONDED BY COMMISSIONER SCHAIBLE AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: JONES, KILDOO, MAAS, NELSON,
NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

PLANNING DIRECTOR COMMENTS

None.

PLANNING COMMISSIONERS COMMENTS

Kildoo: Asked about the Redevelopment Oversight Committee meeting?

Backoff: Indicated he didn't attend, but heard that they approved the transfer of monies that are obligated. Not sure of the other action.

Kildoo: Read an article regarding the Creek District and loss of funding for initial projects?

Backoff: That's the Residences and Shoppes at Creekside project. Everything was done the correct way, bonds established, tax credits approved. Dept. of Finance had a drop dead date in January that triggered their ability to take the money. City did everything by timeframe. State may try to steal funds and if so City would probably file suit. It was done before a date certain. State is trying to get additional monies they could access and now they're finding that not much is available because it's committed.

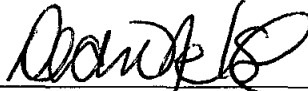
Wedge: Commented that she was out of town and disappointed she couldn't attend Paul's retirement. Asked how staff is feeling with future changes?

Backoff: Have not yet met the new City Manager. He arrives June 4th.

Wedge: Hope he follows in Rick and Paul's footsteps.

ADJOURNMENT

At 7:28 p.m. Commissioner Nelson adjourned the meeting.



Dean Nelson, Chairman
SAN MARCOS PLANNING COMMISSION

ATTEST:



Lisa Kiss, Office Specialist III
SAN MARCOS PLANNING COMMISSION