

DRAFT MINUTES
PLANNING COMMISSION
OCTOBER 10, 2018

CALL TO ORDER: The Planning Commission meeting was called to order by Chairperson Kyle Brown in the City Council Chambers at 7:00 p.m.

FLAG SALUTE: Commissioner Juarez led the flag salute.

ROLL CALL: Roll was taken by Development Services Director Suarez.

COMMISSIONERS PRESENT: Chair Brown, Vice-Chair Grajeda; Commissioners Arias, Juarez, Hemming (arrived after pledge flag salute)

COMMISSIONERS ABSENT: Commissioner Ursua

STAFF PRESENT: Development Services Director Mario Suarez, Assistant City Attorney Andrew Jared, Senior Planner Ata Khan, Contract Planner Jeff Hamilton

ITEM D:
PUBLIC COMMENT:

None

ITEM E:
CONSENT CALENDAR:

1. Time Extension (EXT 10450-2018) request for a one-year time extension for Conditional Use Permit (CUP 5251-2016) to allow the sale of alcoholic beverages (on-sale beer and wine - Type 41 ABC license) for on-site consumption in conjunction with an existing restaurant (Wingstop) located at 2063 Rancho Valley Drive, Suite 300 in the C-4 (Highway Commercial district).

Motion by Commissioner Juarez, seconded by Commissioner Grajeda, carried by a unanimous vote of the members present (6-0-1-0), approving Time Extension (EXT 10450-2018).

ITEM F:
HEARING ITEMS:

F-1 PUBLIC HEARING – CONDITIONAL USE PERMIT (CUP 9509-2018) TO REQUEST FOR A CONDITIONAL USE PERMIT TO PERMIT THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION (TYPE 20-OFF-SALE) AT A PROPOSED CONVENIENCE MARKET LOCATED AT 888 WEST MISSION BOULEVARD IN THE MDTOWN SEGMENT OF THE POMONA CORRIDORS SPECIFIC PLAN.

Item continued from September 26, 2018

Ata Khan, Senior Planner, provided a presentation on this item.

Chair Brown confirmed the Commission received two packages of petitions including Letters of Support and Letters of Opposition.

Senior Planner Khan replied that is correct and provided two points of clarification pertaining to incorrect facts in the letters. He stated the Letters of Support, reference a gas station in addition to the 7-Eleven, however that's not on the table; this is just a convenience store. He stated the Letters of Opposition reference three stores and a night club selling the same merchandise that less than 200 feet from the proposed location, however, staff field verified this statement and determined that within 200 feet of the proposed development there are not any convenience markets or a night clubs. He noted within 200 feet includes an Angelo's Burgers, Survifiesta Party Supplies, Brown Motor Works and B&H Auto Repair.

Commissioner Grajeda asked who presented the petitions and asked if anyone was here to confirm they signed statements for or against.

Senior Planner Khan responded the Letters of Support were provided by the applicant and the Letters of Opposition were provided at the last hearing and he presumes some of those folks may be here tonight, but he can't say for sure.

Commissioner Juarez confirmed an additional 77 neighbor signatures were added to the opposition.

Senior Planner Khan confirmed that information has been included in the staff report and provided in the Attachments.

Commissioner Juarez asked for the total number opposed.

Senior Planner Khan replied he doesn't know the total; he would have to add it up. He stated they did receive two batches, the first on the 26th and the second received last Thursday at the Planning Counter.

Commissioner Juarez asked if he could estimate at least 450.

Senior Planner Khan stated he could do a quick count if provided a few minutes.

Chair Brown opened the public hearing.

Sherrie Olson, here on behalf of 7-Eleven and Fiedler Group, reported they did their due diligence by walking the neighborhood and knocking on doors within 500 feet of the premises to receive comments from the community. She stated there were six people from the local community present at the last meeting to speak in support of the project, but then the item was continued. She clarified 7-Eleven is not a liquor store; they are asking for beer and wine on a limited basis.

Ben Steckler, Entitlement Manager for Fiedler Group, stated beer and wine will be 4.6 percent of the total store area.

Ms. Ellison spoke about the security measures (lockable cooler doors, security cameras), in-house training procedures, and security shoppers for all age restrictive products. She reported they are different from the neighbors; they do not carry liquor, do not sell single sells or minis and offer a clean environment with fresh food items. She added it will be a beautiful new development and addition to the community, while the other stores have bars up and are not putting any money into the community. She noted she believes the petitions are coming from a local competitor. She spoke about doing promotions in the schools and activities in the community. She stated they want to provide the convenience of one stop shopping.

Mr. Steckler spoke about the security typically provided by 7-Eleven; high definition cameras facing each door both sides and cameras on the inside. He shared in other communities these cameras has assisted Police Departments in identifying the license plates of a vehicles that have committed crimes. He reported they had discussions with Lopez Elementary and agreed to point one camera towards the school to make sure the kids remain safe and if anything happened there would be video footage.

Ms. Ellison reported they will be working with the school and the property owner to provide a crossing guard at Cypress, as well as, provide lockable cooler doors 1 hour prior to school and 1 hour after school.

Mr. Steckler shared 7-Elevens runs a program with the nearby schools to give Slurpee coupons to the principals as rewards for the students.

Commissioner Arias asked where the property owner was tonight and stated the Conditional Use Permit, if approved, runs with the land.

Mr. Steckler responded he has not spoken with him and could not answer.

Commissioner Arias asked if 7-Eleven has a lease agreement signed with the property owner.

Mr. Steckler and Ms. Ellison responded yes we do.

Commissioner Arias commented that 7-Eleven has a lease signed and is asking for a Conditional Use Permit to augment profits on the business, however, the property is still in the same condition it was when they were here two weeks ago. He expressed he was unhappy and suggested there should have been sort of outreach or partnership to have the area cleaned up for tonight.

Mr. Steckler responded presumed the property owner was going to take care of this and apologized for not following up.

Ms. Ellison replied she thought it was clear that he was going to clean it up and apologized. She stated she will follow up with him to make sure this gets taken care of right away.

Commissioner Hemming asked if Ms. Ellison was the franchisee who is going to be opening the 7-Eleven.

Mr. Steckler replied no, we are the designers of this store. Fiedler group is the architect and engineer for the interior tenant improvements.

Commissioner Hemming asked if there was a franchisee.

Ms. Ellison stated they had a conference call this morning regarding the franchisee. She reported 7-Eleven is looking at three in the area but that franchisee has to put in for this store and the selection will be based on qualifications such as how well their current stores are doing.

Commissioner Hemming commented that once we give a beer and wine to this address it could be any mini market that has beer and wine if you don't get a franchisee that's interested in this location.

Ms. Ellison replied that they have a signed lease and it's their goal to work with the developer.

Commissioner Hemming reported she has called the franchisees in Pomona that are exemplary for 7-Eleven and they knew nothing about this. She stated when the Planning Commission gives a Conditional Use Permit to a location; they need to know who's going to be charge of that location.

Mr. Steckler responded 7-Eleven has expressed to them that they don't initiate that until they have received approval for a store.

Commissioner Hemming responded they received the approval for the store two weeks ago, just not the approval for the beer and wine. She noted the other 7-Eleven franchisee's in this City opened their stores before they got beer and wine.

Ms. Ellison restated that there has not been a franchisee selected for this store. She reported she was told this morning that there were two candidates being considered, Jimmy and Majeed.

Commissioner Hemming responded she has called both of these individuals and neither knew anything about it.

Ms. Ellison responded because it's so early in the process.

Commissioner Grajeda stated he was hoping to see the owner of the property in here today. He reported he dropped by the location just about every day and has not seen any change which is disrespectful to the community. He asked about the number of people that are in opposition for this store and stated he hopes to hear from them tonight.

Ms. Ellison responded she couldn't say where the signatures came from, but it looks like the petition is from a competitor, she would have to look at the addresses to be more accurate. She restated they walked the neighborhood physically knocking on doors and people were excited.

Commissioner Grajeda commented some of the 7-Eleven supporters were from Los Angeles, which is completely separate from Pomona. He reiterated the owner of the property should have been here tonight because he needs to hear what is happening. He stated he supports his colleagues because we are looking to change Pomona for the positive and need to bring in businesses that are going to work with them.

Ms. Ellison replied she agreed and stated she will address this.

Commissioner Kercheval asked what type of market research was done to conclude this would be a good place for a 7-Eleven.

Mr. Steckler responded he doesn't do the research for 7-Eleven, he does the drawings and provides support for processing with the City. He stated 7-Eleven does their own market research to evaluate and develop a return on investment document to confirm a profitable location.

Commissioner Kercheval confirmed national 7-Eleven does the research. She asked if they have certain parameters setup and for details about the specific process.

Mr. Steckler responded when they identify a site with a developer they do internal research within the neighborhood to find out if that site is viable; once they have determined a viable site they enter into a Letter of Intent with the developer.

Commissioner Kercheval clarified that Mr. Steckler doesn't know how they made sure it's viable.

Mr. Steckler replied no and Ms. Ellison added by traffic, house counts, and population.

Commissioner Juarez confirmed corporate designated this area, asked Fiedler Group to design build this site and the plan is still to have a 7-Eleven with restaurant adjacent to it and a Laundromat in the rear building.

Mr. Steckler responded to this best of his knowledge the Laundromat had not signed a lease and the developer was still searching for other tenants. He clarified Ms. Ellison and himself do not work for the developer.

Commissioner Juarez asked if corporate 7-Eleven was waiting to get a beer and wine license approval so that they can present a palatable business option to the franchisee.

Ms. Ellison responded yes, corporate will get all the entitlements and then look at the closest franchisees to the site. She stated those franchisees will have the first right of refusal. She spoke about franchisee qualifications; good financial standings, keeping their stores clean, having no red cards and community involvement.

Commissioner Juarez commented positively about setup with auto lock coolers during the school hour and security cameras. He spoke about Pomona's off-sale beer and wine licenses being sky high and approving if corporate were to close the location on Mission and San Antonio to open this one. He reported that several of the 7-Elevens that exist that are downtrodden, do not improve the community, are outlets for the homeless and a crime, therefore to add another is something the Commission is struggling with.

Ms. Ellison responded they are in the process of looking for a license within the community right now, so as to not bring in an additional license.

Chair Brown reminded the Commissioners to stay focused on questions at this phase.

Ms. Ellison spoke about why she brought pictures of what's other alcohol sale businesses exist in the area and compared the investment and offerings to 7-Eleven with fresh foods, diapers, medicine and items that actually help the community. She spoke about having conditions imposed on them while these other stores are without any conditions. She reiterated that 7-Eleven will be selling prepackaged six packs and twelve packs, not selling minis and single beers because that's what causes loitering. She commented as the Planning Commission imposes conditions on retailers, it will change the community and make a difference in the neighborhood, but this will take time. She spoke about attempting

to purchase a license from these other retailers, at a cost of over \$100,000, to take out a problematic stores to make a difference.

Victor Preciado, spoke in opposition of the Conditional Use Permit. He spoke about the land owner not properly working with 7-Eleven and the City. He suggested the City hold the owner accountable until he meets certain requirements and then consider this item again if they reapply. He comment Pomona has an obese demographic and so Slurpee coupons are the worst thing to be giving children. He added there is a Laundromat one block to the east that has a homeless problem that has become a security issue.

Alias Alanini, 953 W. Mission Blvd, submitted an additional 300 signatures from the neighborhood, to the existing 400 signatures. He shared he is the manager 953 W. Mission Blvd. A&J Liquor, which is operated by three families, and operates like a small business. He reported the store is clean, has security cameras and closes at 10:00 p.m. and by 11:00 p.m. there is no one there, no homeless. He commented if you drive by the 7-Eleven you see the homeless because they are open 24 hours. He spoke about losing their living if 7-Eleven opens. He shared he tried to get a cigarette license to open a smoke shop next to the liquor store and was denied because of the proximity to two churches and one school. He stated if this item is approved, he would have the right to get approved for the cigarette license because his store is farther than this location from the school and the church.

Ray Hypha, local business owner, 615 W. Mission Blvd, stated his business does not carry any alcohol or tobacco products and they help Lopez School and the local community. He spoke about there being a 7-Eleven on every corner and doings things in the City that will help the community and the future of our kids. He commented having another one across from a school is not going to benefit the school.

Virginia Madrigal, long time resident Pomona, expressed concerns with giving a Conditional Use Permit for a liquor license when the City does not know who the franchisee is going to be. She stated she supports opening businesses that are clean and that 7-Eleven is a great company and convenience store; however the City needs to be able to make a decision if an individual is qualified and will abide by what the City expects of them.

Domiana Aldonna, opposes the proposal and does not wish to speak.

Chair Brown closed the public hearing.

Senior Planner Khan clarified the request is not for liquor, it's for off-sale beer and wine.

Commissioner Hemming reported that in four years, she has only voted against beer and wine one time and has never voted against a 7-Eleven, because prohibition is dead and she doesn't think it is a big deal to have beer and wine at a location. She shared she has spoken on behalf of 7-Eleven at higher levels; however, this developer has not established a good track record in the community with this property. She expressed concerns with not knowing the franchisee owner and who will be behind the counter, running, cleaning and enforcing the rules at this store. She stated she has no faith in the developer to get a good franchise person. She stated she is not basing her opinion on the petitions and that this request is premature and cannot in good cause approve this.

Chair Brown invited the applicant forward for a rebuttal or further comment.

Commissioner Hemming motioned to reopened public hearing. Chair Brown reopened public hearing.

Ms. Ellison spoke about hearing from their competitors and the ease of providing petitions when you have a store that's open. She stated they don't know who the franchisee is and are not part of that selection process. She suggested deferring this item until they can get a franchisee and work with the landlord, rather than denying. She stated presenting an incomplete entitlement package to a franchisee does not inform them of what they are bidding on. She stated they can defer back to corporate and get specific names for the Commission to look at. She stated she knows they are looking at Majeed, Jimmy, and Antoinette, all of whom do an exceptional job. She noted they are documenting the locations that aren't doing well. She spoke about 7-Eleven's positive history of working with the City and not being held accountable for something a property owner is responsible for. She added they also took part and listened to the feedback from the community about this building to preserve the historic parts and to keep the same roofline and she is confident they will produce a nice store for the community to enjoy.

Mr. Steckler restated that less than 200 square feet in a 3,500 square foot store, is being sought to display beer and wine. He stated the majority (95%) of the store will be food and other items. He noted beer and wine is a convenient item so customers can do their entire shopping for the evening before they go home and is something the franchisees look forward to within their entitlement package. He noted they understand the Commission's perspective and will present this to corporate and the landlord.

Chair Brown closed the public hearing.

Commissioner Arias reiterated the property owner should have been present tonight because the Conditional Use Permit is going to run with the land. He stated the Commission doesn't know who the franchisee is going to be and if 7-Eleven falls through for some reason, that piece of property would still have a Conditional Use Permit for beer and wine and the Commission would not have control of who would be using it. He stated he can't in good conscience support this approval.

Chair Brown concurred with his colleagues about the lack of communication from the property owner, the lack of understanding of whom the operator will be and recognizing the Commission is making a commitment to something that could result in being operated by a very different operator. He expressed additional concerns that the staff report indicates this is a high crime area with an undue concentration of off-sale alcohol sales. He stated he appreciates the meeting with the school district and the efforts to make arrangements but the school district is one perspective and parents and teachers are another perspective from which he has heard concerns from about the proximity to the school. He noted the Letters of Support and the Letters of Opposition are something he takes into consideration, however, there is question about the signatures and he was frustrated that the Letters of Support referenced a gas station, so he doesn't know if they are supporting alcohol sales or supporting gas sales, plus ten of them were submitted for a 7-Eleven in Los Angeles at 701 Atlantic Boulevard. He stated the totality of these issues raises grave concerns with approving this request.

Commissioner Hemming spoke about the City's history with Majeed and Jimmy and noted both opened their stores without beer and wine. She shared they came back for beer and wine after the community knew them and when the Commissioners could look at their stores to see how they ran them. She noted concerns would be far less if they named a franchisee. She stated she has no concerns about a 7-Eleven being by a school, she commented she has four kids; they go for Slurpee, not locked beer. She stated without knowing who the franchisee is, she makes a motion to not accept this, and will ask staff about the option to defer this until an actual licensee is able to come back and present.

Development Services Director Suarez responded the applicant is asking the Commission for deferral or continuance to an uncertain date, until they could address these issues with their corporate client, as well as, the maintenance. He reported there was specially a Condition of Approval to follow up with maintenance on the Use Permit that was approved at the last meeting. He reported he has specifically called the owner twice, indicating how important it was to maintain his property because Planning Commissioners will pass by. He noted if the Commission decides they want to approve and move forward, they could approve, Subject to Franchisee provided to the City prior to taking the Public Convenience or Necessity to City Council, however, with concerns related to the property maintenance, it's at the discretion of the Commission.

Commissioner Arias stated the Planning Commission should have been presented with a property owner and made a motion to deny. Chair Brown seconded.

Commissioner Juarez spoke about living in South Pomona and expressed concerns that there were too many off-sale beer and wine and off-sale liquor licenses. He spoke about going after the people that are not in compliance in the future. He stated adding another beer and wine license would not be beneficial and supports a denial.

Development Services Director Suarez spoke about making findings for denial based on the reasons provided by the Commissioners and including these with the final resolution.

Commissioner Hemming asked if this included the condition of the property.

Development Services Director Suarez replied it could, if the maker of the motion and second wants to.

Motion by Commission Arias, seconded by Chair Brown, carried by a majority vote of the members present (6-0-1-0), to deny the request for Conditional Use Permit (CUP 9509-2018) to permit the sale of beer and wine for

off-site consumption (Type 20-Off-Sale) at a proposed convenience market located at 888 West Mission Boulevard in the Midtown segment of the Pomona Corridors Specific Plan.

Development Services Director Suarez stated there is a 20 day appeal period.

E-2

PUBLIC HEARING - CONDITIONAL USE PERMIT (CUP 5344-2016) A REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW TWO ATTACHED SINGLE-FAMILY DWELLING UNITS ON A PROPERTY LOCATED IN THE MIXED-USE ARTERIAL RETAIL (MU-AR) ZONING DISTRICT OF THE DOWNTOWN POMONA SPECIFIC PLAN AT 665 E. SIXTH STREET.

Item moved to Item 3.

Senior Planner Khan Khan, Senior Planner, provided a presentation on this item.

E-3

PUBLIC HEARING - CONDITIONAL USE PERMIT (CUP 9813-2018) TO ALLOW THE OPERATION OF A BOARDING SCHOOL ON AN 8.75 ACRE SITE AT 2322-2350-2370 S. GAREY AVENUE IN THE NEIGHBORHOOD PARKWAY SEGMENT OF THE POMONA CORRIDORS SPECIFIC PLAN.

Item moved up to Item F-2

Jeff Hamilton, Contract Planner, provided a presentation on this item.

ITEM G:
PLANNING COMMISSION COMMUNICATION:

ITEM H:
DEVELOPMENT SERVICES DIRECTOR COMMUNICATION:

ADJOURNMENT:

The Planning Commission meeting was motion to adjourn by Chairperson Brown at 10:14 P.M., to the regular scheduled meeting of October 24, 2018 in the City Council Chambers.

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Mario Suarez, AICP
Development Services Manager

Jessica Thorndike, Transcriber

The minutes of this meeting are filed in the Planning Division of City Hall, located 505 South Garey Avenue, Pomona, CA, 91766.