

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, City Engineer Rene Guerrero, 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 (6-0-0-1), 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.

Sherry Ellison, 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.

Elias 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 Haipha, 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 Aldana, 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 (6-0-0-1), 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 F2 moved to Item 3.

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

Chair Brown stated for the record that Commissioner Juarez left at approximately 9:38 p.m. (Commissioner Juarez was present for Item F3).

Commissioner Arias requested to see the site photographs and asked when this photo was taken.

Senior Planner Khan responded the photo was taken approximately three weeks ago and shared he was out there yesterday and it looked the same.

Commissioner Arias asked staff if a phone call is made to illegal dumping when they go to a site to take pictures and see this situation.

Development Services Director Suarez responded a phone call should have been made. He stated when staff do site reviews they look at code and compliance issues and contact public works to address this kind of dumping. He noted it takes anywhere from a week to three weeks for Public Works to get to a site depending on their schedule.

Commissioner Arias shared when he calls Public Works for dumping the items are picked up within 48 hours. He expressed concerns that this image was included on a staff report and stated although the department is understaffed he encourages a phone call to Public Works or the developer informing them to clean because City Staff will be taking pictures.

Commissioner Kercheval asked if there was a fraternity house next door and requested to see the alleyway picture.

Chair Brown asked if the street tree on the left, in the right of way, on the lot was going to be removed. He noted it was not in very good shape.

Senior Planner Khan replied that staff didn't look at that street tree for its health or condition. He stated he would have to review the Public Works conditions to see if there were any parkway improvements.

Chair Brown stated the proposed landscape plan includes a street tree on that property.

City Engineer Guerrero stated there is nothing specific in the conditions about the removal of that tree but there are conditions asking the developer to replace any existing damaged curbs and/or sidewalks.

Chair Brown suggested having the City Arborist look at the tree.

Chair Brown opened the public hearing and invited the applicant forward.

Tim Law, designer, spoke about following the City's directions to build a house on the vacant land, which matches the existing community.

Chair Brown asked Mr. Law if he was the owner.

Mr. Law responded he is the designer, however, the owner is here.

Commissioner Arias requested the owner of the property to come forward. He stated the property should have been cleaned up before it was presented to the Planning Commission and suggested the owner drive by the property at least one a month to ensure it stays clean and maintained.

Palamu Chu, the owner came forward; he responded he doesn't go to the property often because it's vacant, however, if the City sends a letter he will take care of it.

Commissioner Hemming responded she doesn't want the City to have to send him a letter and requested he clean up the property. She stated it's unfair to the neighbors. She asked if the owner felt he had adequate parking in the back because they are going to be painting the front curb red.

Mr. Chu responded they have a two car garage and guest parking.

Commissioner Hemming asked how many bedrooms in each house?

Mr. Chu responded four in each home.

Commissioner Hemming clarified with staff that the curb was going to be painted red.

Senior Planner Khan responded the red curb was an erroneous condition that should be removed.

Chair Brown closed the public hearing.

Commissioner Kercheval commented there is little bit of yard space with only two buildings on the property and other multiple units in the neighborhood, so she feels this will be ok.

Chair Brown spoke in support of the proposing screening along the eastern edge of the property. He suggested adding language that it be a complete screen or fence. He requested that the City arborist rule on the current tree and suggested a specific the replacement, if it warrants it. He echoed the concerns of the other Commissioners that site needs to be cleaned up and stated the owner is responsible for the right a way in front of his home and the alleyway. He expressed concerns the property will stay unkempt while awaiting construction and asked if staff could suggest a way to ensure this site is maintained in good condition.

Commissioner Arias responded there is a standard condition that the owner is responsible for cleaning debris and he thinks the mechanism is there but the enforcement needs work.

Senior Planner Khan stated staff would recommend adding a condition that specifies the removal of all debris in a certain time period to provide staff with an enforcement mechanism.

Chair Brown responded he would welcome that.

Commissioner Hemming motioned to approve to include staffs suggestion, Chair Brown's request for arborist and if the arborist recommends removal, that a certified arborist does that work. She requested to also include the request from Commissioner Arias regarding the cleanup and continued maintenance of the property until construction is complete.

Senior Planner Khan clarified if Commissioner Hemming's motion also includes Chair Brown's request for the screening on the eastern side of the property.

Commissioner Hemming replied yes, that would be fine.

Commissioner Arias provided a second to the motion.

Motion by Commissioner Hemming, seconded by Commissioner Arias, carried by a majority vote of the members present (5-0-0-2), to approve Conditional Use Permit (CUP 5344-2016) 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 with the following conditions; 1) the removal of all debris in a specified time period; 2) A review of the existing street tree by the City Arborist to determine its health. If removal is recommended, work must be done by a certified arborist and the replacement tree specified by the City Arborist; 3) The property is to be kept clean and maintained until construction is complete.

Development Services Director Suarez stated the approval is subject to a twenty (20) day appeal period.

F-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 F-3 moved up to Item 2

Jeff Hamilton, Contract Planner, provided a presentation on this item. He distributed a revised resolution that contains additional conditions from the Water Department.

Commissioner Juarez asked Mr. Hamilton what year the facility was built in.

Contract Planner Hamilton responded the first permit for the original office building at 2322 was issued in 1964, the next office building at 2324 was permitted in 1969 and then the office building at 2370 was permitted in 1966.

Commissioner Juarez asked for clarification of what was received today from AQMD (The South Coast Air Quality Management District) regarding the Commercial building.

Contract Planner Hamilton responded it appears AQMD staff has identified the improper removal of asbestos containing materials. He commented it is very common for buildings of this era to have had asbestos used in flooring or roofing materials and/or HVAC ducts. He stated the applicant will have to engage in a certified asbestos removal operation so the site is appropriate for reuse. He noted this would typically be dealt with during the building permit process.

Commissioner Juarez asked if they could approve this item with a condition of compliance with the AQMD.

Contract Planner Hamilton responded a condition shouldn't be necessary because AQMD is now aware of the activity and the building department is going to require that AQMD provide certification that the appropriate removal has occurred.

Development Services Director Suarez responded the conditions on Page 5-6 of the resolution include the appropriate conditions. He noted anytime a project comes in for a building a permit an AQMD report is required.

Commissioner Juarez expressed concerns about asbestos in the drywall, fireproofing materials, pipe wraps and roofing materials and asked specifically where the AQMD discovered the asbestos removal.

Contract Planner Hamilton responded since AQMD is involved the City has issued a stop work order and noted the appropriate agencies are handling this concern.

Commissioner Hemming spoke about this area as being a problem area for awhile within that neighborhood. She asked if once the residential component is granted, could this property be turned into a group home, transitional housing or something else that doesn't have the educational component.

Contract Planner Hamilton responded he wrote Condition #10-11 to address this concern. He read aloud “the Conditional Use Permit only allows the use of the site as an educational facility with housing for students and teachers, no other use, such as exclusive residential use, shall be permitted beyond what is depicted on the plans reviewed and approved by the Planning Commission at this hearing”. He noted he can’t guarantee that’s legally defensible, but he was trying to close the loophole to make sure the only available use was what was approved tonight.

Commissioner Hemming asked if legal staff had reviewed this because they are not here tonight.

Contract Planner Hamilton responded he routed it to them and hasn’t heard back.

Development Services Director Suarez interjected that he spoke with legal earlier and he didn’t have any comments about #11. He stated the condition should address Commissioner Hemming’s concern; however, if the Commission wants, it can add clarity to address the prohibition of any group homes unless in compliance with City codes.

Commissioner Hemming responded she doesn’t think #11 addresses her concerns, because you could have families with kids. She stated she doesn’t know because she can’t ask legal.

Development Services Director Suarez responded these are standard questions pertaining to the way the Condition should read and she could make it more detailed if preferred.

Chair Brown added that there is reference in the preamble about the resolution being a Civic and Cultural use as an education facility, so there may be additional specification there as well.

Contract Planner Hamilton replied its staff’s strong belief that to use this as a group home would require a modification of the Conditional Use Permit. He stated staff would resist any effort by the applicant to obtain a Certificate of Occupancy or a Business License to operate in such a very different way and insist that they come back to the Commission for a modification.

Commissioner Grajeda spoke about adding a condition regarding AQMD findings. He noted this agency is outside of the City and the City is ultimately responsible for its people. He asked how many students will be residing on the property.

Contract Planner Hamilton responded they are hoping for 300 students initially, with up to about 30 teachers and administrative staff.

Commissioner Grajeda spoke about foreign students having parents visiting and asked where the parents be accommodated.

Contract Planner Hamilton responded the applicant has made no presentation to the idea that parents would be staying the night and reassured him multiple times that very few parents would be visiting. He noted parents staying on site would not be consistent with the Conditional Use Permit language. He stated if the Commission could add language into the Conditions of Approval to address this.

Commissioner Grajeda recommended the Commission explore that option, because he would visit his kids, no matter which country they went to.

Chair Brown clarified that the only difference in the resolution distributed tonight was the inclusion of the Water Resources Department conditions.

Contract Planner Hamilton replied yes, there are four (4) Water Resources Conditions and he changed the Chairman’s name.

Chair Brown opened the public hearing.

Wayne Gan, Oakcrest Academy, stated Oakcrest Academy is fully accredited and operating in several cities in Los Angeles County in conjunction with an overseas private school. He commented he feels very lucky to have found this site as the future home of their International School program. He stated the program is for Grades 6-12, and includes

curriculum to come to the United States to experience America and some American curriculum. He stated they will use the existing buildings as classrooms, labs, and dormitories. He noted an existing cafeteria and a professional kitchen and there is no need to add square footage or demolish. He reported two buildings need some interior modification to accommodate a dormitory for girls, boys and residential teachers and they will be doing some work to update the outside of the buildings and landscaping. He spoke about offering their STEAM program to the local schools, by sharing facilities or offering afterschool programs, as well as, having space for community events. He confirmed parents may visit occasionally and noted there are several hotels adjacent to the property (Motel 6, Comfort Suites, and International Hotel) to accommodate. In response to AQMD he reported three rounds of tests for asbestos where completed in the drywall, all fireproofing materials, carpets, insulation, and air ducts and none of those materials tested positive. He stated the only place asbestos was found was two layers underneath some tile, in a very limited area and they have already hired a professional to clean it up and have been issued a clearance. He requested the Commission approve this project to bring new business, revenue and economic development to the City of Pomona.

Sabrina Gan, spoke about received clearance for the proper disposal of the asbestos. She noted asbestos is only dangerous when disturbed, which in their case, it was found three layers below old tile in the mastic, which has been covered and not disturbed. She reported they hired certified and licensed contractors to do the abatement.

Mr. Gan reported he tested the quality of the air to see if anything was contaminated and nothing was found.

Chair Brown asked Mr. Gan if the clearance for the asbestos removal was from AQMD or a consultant.

Ms. Gan responded both. She reported AQMD did a walkthrough of the entire site.

Chair Brown asked if Ms. Gan had documentation from AQMD.

Ms. Gan replied yes. She stated AQMD provides documentation of what they have done after every visit. She reported they identified specific materials to do testing on, then she called a consultant per AQMD's instructions to do the testing and everything came back negative except for the mastic under the old tiles which has since been removed. She stated she has gotten the proper clearances and they have been submitted to AQMD.

Commissioner Grajeda asked if this program was exclusive for foreign students or if any students can join.

Mr. Gan replied the International Program is designed for students who come from outside California, as a Boarding School. He noted there are not any restrictions and the Board has discussed offering tuition scholarships to local students wanting to join their program. He spoke about not wanting to isolate their school from the community.

Commissioner Grajeda asked if the personnel will be all foreign teachers.

Mr. Gan replied no, the main curriculum teachers are all local teachers they will hire.

Commissioner Grajeda asked about the age of the 300 students.

Ms. Gan replied initially they will be middle school aged.

Commissioner Grajeda asked if the students will have access to visit Downtown Pomona and eat at the local restaurants.

Mr. Gan replied they will have busses and their program include field trips to experience America. So under supervision, the students will eat in American restaurants, visit City hall, the Court House, Sheriff, and the Jail to get to know how the system works.

Commissioner Grajeda asked about the the number of busses they will own or if they plan to rent.

Mr. Gan replied they plan to hire a local school bus and may have one small bus on site for nearby activities.

Commissioner Grajeda clarified busses will not be parked on the site just waiting.

Mr. Gan replied they have not decided that yet, but believes they will hire busses to do trips.

Ms. Gan added they spoke to Pomona Unified School District and they were happy to hear they are going to be joining the community.

Commissioner Grajeda asked if they are hoping to develop anymore outside the area.

Mr. Gan replied he wants to make sure this site works first. He spoke about wanting to blend into the community, working with the local schools and City Hall to build a relationship. He reported the international families want to their children to study abroad and America is the number one choice for their education, therefore if this program works well and there is a good experience and success in Pomona he feels there might be an opportunity to develop more programs.

Commissioner Juarez asked what countries the students will be coming from.

Mr. Gan replied they are initially they are coming from Asia, particularly China, Hong Kong, Japan, some of them from South Korea and Pacific Rim and he also has some musically talented kids coming from Europe.

Commissioner Juarez spoke the importance of collaborating with Pomona Unified School District for an exchange of language and cultures. He noted there is also a School of Arts and Enterprises in the City of Pomona and suggested they collaborate with them too.

Commissioner Hemming also encouraged Mr. Gan to get in touch with the School of Arts and Enterprise because they have a large Chinese Student Exchange program every summer with an emphasis on Arts and Music.

Commissioner Kercheval asked for more information about the east boundary, a 14 foot wall by the apartment building and if they are planning to keep the existing trees.

Ms. Gan replied the wall existed prior to them owning the property and yes they plan to keep the trees because they create a lovely landscape. Mr. Gan added they plan to move some of the marble, to make the environment very artistic for kids to enjoy.

Commissioner Kercheval asked if they plan to leave the mixture of wall and fence as it exists now.

Mr. Gan replied the existing fence line was there when they acquired the property. He commented about the importance of keeping unwanted people out and creating a safe environment for the kids. He mentioned in the future they may do something so it is better looking.

Nora Garcia, spoke in opposition. She requested the Planning Commission withhold an approval of the Conditional Use Permit for Grand Sequoia Global Holding Corp, based on the fact that the property in question is currently under open investigation by the SCAQMD for a notice of 27 counts of improper asbestos removal. She gave history of the investigation and provided the Commissioners with a printed report and an August 3rd Press release. She reported she spoke to SEAQMD earlier in the week and was assured her concerns were valid and that this was still an open investigation of which Pomona's code enforcement had been notified. She inquired why this information was not included in the staff report to the Planning Commission. She expressed concerns about the applicant's disregard for rules, procedures and the safety of the students. She reported the applicant was unable to produce documents upon request by AQMD about who they hired, construction or building permits. She requested the City monitor the situation, withholding an approval until it is confirmed that all proceedings from this point forward are legal, safe and permitted.

Virginia Madrigal, Pomona resident in District 3, expressed concerns about the safety of the property, school and foreign students. She spoke about a private school not having to abide by the licensing requirements that public school districts must adhere to. She reported they have not contacted pupil services at Pomona Unified to talk about what they are proposing.

Lori Langrell, voiced her opposition to the approval of the Conditional Use Permit sought by Grand Sequoia Global Holding. She spoke about the site being used as a high school previously, however, the buildings on the property were not used for students (only administration) and modulars were brought in. She reported the August 3rd press release with AQMD's findings states inspectors were denied entry to the site and that the judge had to issue an inspection warrant, as well as, AQMD had to forcefully go into the property. She spoke about environmental justice in this area of South Pomona and providing people the opportunity to participate in decisions about activities that may impact their

environment and/or health. She stated the public's contribution can influence regulatory agencies decisions and that is why she is here today. She spoke about the students and community members right to a safe environment, free from airborne contaminants that may cause long term health issues. She inquired who will have oversight and spoke about the City risking a lawsuit as a result of an approval of this project. She implored the Commission to obtain records from the AQMD to verify these findings and requested they deny the approval of the Conditional Use Permit until the property has been fully inspected, oversight is determined and all conditions of the law are met.

Carrie Baker, resident, expressed concerns with the proposed Conditional Use Permit for the International Boarding School, which would house 100-300 students, grades 6-12, plus staff. She spoke about the happiness and safety of the children. She expressed concerns about the safety of the building because they have been vacant for many years. She reported the buildings were rejected about 10 years ago for a proposed new Pomona Police Department because they did not meet standards for earthquake safety, and this is why Pomona Unified School District only used them only as administrative offices. She reported the water, sewer, and fire safety systems have never been tested for a large amount of occupants as a housing facility and requested the Commission add a condition that routine and repeated inspections for both safety and health take place on a regular basis.

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

Chair Brown invited the applicant to come forward to respond to public comment.

Chair Brown stated looking at the information provided in the AQMD sounds like it was the improper removal of asbestos which was construction activity that was taking place. He asked staff if that was a permitted construction activity.

Contract Planner Hamilton responded the Building Official confirmed that there was a stop work order issued on the site because general cleanup work was underway without permits.

Chair Brown asked Contract Planner Hamilton if he knew the date of the stop work order.

Contract Planner Hamilton replied he doesn't know the date.

Chair Brown asked if the stop work order was at the time of the AQMD inspection or before.

Contract Planner Hamilton replied he doesn't know; he stated he didn't know the AQMD was involved until he saw the document tonight.

Wayne Gan responded that the public comments about the removal of asbestos material and refusing AQMD are not true. He reported their attorney was working with AQMD attorney to schedule time for a formal inspection, however, for some reason they came to the property with Senior Officials to test all four buildings and were there for more than 10 hours. She spoke about the completion of a thorough inspection of the old drywall, the insulation materials for the air ducts, the steel fire resistant materials, carpet, carpet glue, trash, parking lot and garden dirt. He commented that someone with a very powerful relationship requested the inspection. He stated they had two professional companies confirm and that they provide a report to the Planning Commission. He restated the only place asbestos was found was in the laundry room in one corner, underneath three layers of tile in the mastic. He reported after the AQMD inspection they were given instructions to hire a professional cleanup, which they did and then sent a document to the attorney and AQMD.

Chair Brown asked if they have a document today to share with the Commission from AQMD that says you have no outstanding issues.

Ms. Gan responded the clearance is not issued directly from AQMD, they requested they hire a professional agency to provide that clearance.

Chair Brown do you have certified reports.

Ms. Gan replied yes, and we have sent it to AQMD per their instructions a few weeks ago.

Chair Brown confirmed Ms. Gan has not heard back from AQMD.

Ms. Gan and Mr. Gan, replied no.

Commissioner Grajeda specifically asked Mr. Gan if he was in an open investigation with the AQMD management.

Mr. Gan replied they had very intensive testing because somebody complained, but that AQMD left stating nothing was found. He stated the issue is still hanging in the air because AQMD hasn't responded to them; however, they have two full reports, the clearance and the air testing. He responded to the neighbors concerns about air and shared they tested all the buildings and it was negative.

Commissioner Grajeda clarified they haven't been given an answer if they are still under investigation.

Ms. Gan replied they followed their instructions, submitted the paperwork with proof but AQMD hasn't gotten back to them.

Commissioner Grajeda asked if they are really in communication with the School District.

Mr. Gan and Ms. Gan replied yes. She stated they have had several meetings with the Superintendant, Mr. Martinez and Dr. Barnes and their attorney who represents them, Kirk Pelsner.

Commissioner Grajeda asked if they would mind continuing until the Commission can research the findings with AQMD management.

Mr. Gan expressed concerns with this decision because they didn't expect the Conditional Use Permit to take this long and they have already had to postpone the original school contract to Spring (February). He stated they are willing to work the City Permit Department and AQMD, but without Conditional Use Permit he doesn't know if their dream is good and he stated the kids have to get a Visa and other documents. He requested that the Commission grant the Conditional Use Permit subject to building safety and inspections.

Motion by Commissioner Juarez to close the public hearing, seconded by Commissioner Hemming.

Chair Brown closed the public hearing.

Chair Brown commented the Planning Staff seem unaware of the documentation related to this issue from AQMD and the Commission doesn't know the status of the case.

Development Services Director Suarez responded he knows an inspection was attempted by the City's building official but his inspectors were not allowed access to the site. He stated Oakcrest Academy was doing reroofing work to address the rain and the City issued two stop work orders informing them not to do any further work and requesting a work plan within two weeks. He reported at this point, City staff does not know what is happening on the property. He stated the Commission has the option to continue to October 24, 2018 so staff can look into this further and that if they want to consider approval he has prepared conditions of approval. He stated he will try to work closely with the applicant in the two week time period to access the property and he will make a phone call to AQMD to confirm the status of the inspections.

Chair Brown responded he will discuss with the Commission and stated he is hesitant to take any action given the uncertainty of the open case with the State agency, AQMD.

Commissioner Juarez stated without an actual certified report he can't see going forward with the approval, there is not enough information.

Commissioner Hemming responded the AQMD reports provided are three months old and the violation dated July 6, 2018 stated a need to provide the contract showing they used an approved asbestos abatement company to remove, if any existed. She clarified the applicant is saying that they gave that contract to AQMD. She expressed concerns that the report is three months old and wondering why staff hasn't looked at the condition of the property or checked to see if AQMD filed a response. She noted the violation dated August 2, 2018 was for the improper removal, which means they removed it and didn't submit the proper contract. She added she doesn't see any document that says there is damaging asbestos on the property. She expressed concerns that AQMD or the inspectors the City hires hasn't done their job.

She asked City Engineer Guerrero if there was a request to add lighting to Olive.

City Engineer Guerrero responded he doesn't believe there is a condition asking for any additional lighting, but the Commission can add that.

Commissioner Hemming asked if the existing lights were the standard feet apart. She commented it seems very dark on that corner.

City Engineer Guerrero responded he can't answer that question for Olive, but he knows the lights on Garey Ave meet standards. He reported they are exploring converting the lights on Garey to LED heads and if the street lights on Olive are within that project funding he can look at doing those as well.

Commissioner Hemming stated she wouldn't oppose continuing this item for a couple of weeks, but feels it has been on the backburner long enough and the project needs to move forward. She asked if AQMD would notify the City if it has a problem with a property in Pomona.

Development Services Director Suarez responded AQMD should have provided notice to the City and stated staff may have to reestablish contacts with AQMD to make sure the appropriate reporting is getting done and that they are communication with current staff. He suggested a continuance.

Chair Brown agreed with most of what Commissioner Hemming said, however, he clarified the AQMD documents were clear that there was asbestos and it had been improperly removed. He commented the Commission does not know the impacts or consequences of that removal and what AQMD is doing about it so that uncertainty makes him hesitate.

Commissioner Kercheval asked if the history of the building with the School District not housing kids there because of earthquake safety was true.

Development Services Director Suarez responded it falls to the occupancy permit inspection. He stated a change of occupancy requires a review and for the applicant to provide appropriate building plans; to include a seismic review, as well as, asbestos and mold. He expressed concerns that the City was not allowed access during a recent inspection and he would like to address this with the owner. He noted if this was continued until the first meeting in November, it would give staff at least thirty (30) days to address the Commission's concerns.

Commissioner Arias reiterated that there is misinformation here and that someone didn't communicate which is a big issue that needs to be addressed.

Commissioner Hemming mentioned that if Pomona Unified School District wanted to use these buildings they wouldn't have to come before the Planning Commission. She commented that 90% of the City has schools that are 1970 or older so she doesn't know if this alone would be a condition.

Commissioner Juarez motioned to continue this item to the first meeting in November when further documentation can be presented to the Commission, seconded by Commissioner Hemming to a date certain.

Motion by Commissioner Juarez, seconded by Commissioner Hemming, carried by a unanimous vote of the members present (6-0-0-1), to continue this item to November 14, 2018.

ITEM G:
PLANNING COMMISSION COMMUNICATION:

Commissioner Arias shared he is the Chair of the Pomona Christmas Parade. He invited everyone to attend or participate on December 8, 2018 at 6:00 p.m. He reported the theme is the Sounds of Christmas and the Grand Marshall is Mr. Herald Ray Brown, musician from War. He announced the 2nd Saturday Art Walk is this Saturday.

Commissioner Grajeda commented he is still seeing real estate signs in District 5 every Thursday through Sunday. He expressed concerns with the number of Measure PG signs on walking areas.

Development Services Director Suarez responded code enforcement should be calling Commissioner Grajeda tomorrow.

Chair Brown stated for the record his frustration that legal representation was not present this evening. He stated there were a couple of situations it would have been good to have legal input.

Development Services Director Suarez replied Mr. Jared was pulled to another meeting and called to say he may not be able to attend.

ITEM H:
DEVELOPMENT SERVICES DIRECTOR COMMUNICATION:

Development Services Director Suarez provided an update:

- He stated he noted of the property maintenance issue and explains to all applicants the importance of cleaning the property before going to public hearing. He stated he will inform/train staff.
- He reported they are in process of interviewing for the Planning Manager position and hopes to find someone within the next thirty days; however, in the meantime he will be wearing two hats. He noted Mr. Gluba is helping with code compliance during the transition period.
- He reported he is keeping tallies to measure what's going on in the Planning Department and is currently checking on current status of entitlements.
- He reported staff will be doing some additional trainings for historic preservation, as well as, he is trying to get the cultural arts activity lined up because it has not been addressed for over a year.
- He is creating new space and moving the entire Planning Division to the west side of the building.
- The Housing Element is moving forward to the October 15th City Council Meeting to prepare a final draft with comments before October 24th. During that next thirty (30) day review period he will be scheduling a study session with the Planning Commission (late October or early November).
- He reported he is looking at an amendment to the Specific Plan for the Downtown and has a draft for review, as well as, a comprehensive Zoning Ordinance update, including a map (December or January).
- He spoke about working to bring a proposal forward on the Accessory Dwelling Unit ordinance because the department is starting to receive applications for five bedrooms and the City currently doesn't have any code to control that kind of proposal. He reported he has been in communication with the City Manager and City Attorney's office to see what staff can do to move that forward.
- He reported the American Planning Association State Conference ended this week and he was able to attend one day. He stated if the Commissioners didn't attend he will make sure to find other training where possible.
- He stated at the next meeting he hopes to report on the status of several new projects.
- He encouraged the Commissioners to continue their comments, as lessons are learned and passed along to staff.
- He shared he made a suggestion to the City Manager that once the new Planning Manager is on board, they should have a half day tour of the City with the Planning Commission and a presentation introducing people and new staff.

Chair Brown thanked Development Services Director Suarez and stated he would appreciate an update on the long term projects. He mentioned he had an opportunity to meet with Director Suarez and have a tour of the process staff goes through to bring projects to the Commissioner. He commented he was very impressed.

ADJOURNMENT:

The Planning Commission meeting was motion to adjourn by Chairperson Brown at 10:12 p.m., to the regular scheduled meeting of October 24, 2018 in the City Council Chambers.

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.