

CITY OF ESCONDIDO

**MINUTES OF THE REGULAR MEETING OF THE
ESCONDIDO PLANNING COMMISSION**

August 12, 2014

The meeting of the Escondido Planning Commission was called to order at 7:00 p.m. by Vice-chairman McQuead in the City Council Chambers, 201 North Broadway, Escondido, California.

Commissioners present: Bob McQuead, Vice-chairman; Gregory Johns, Commissioner; James Spann; Commissioner; Merle Watson, Commissioner and Guy Winton III, Commissioner.

Commissioners absent: Jeffery Weber, Chairman; and Ed Hale, Commissioner.

Staff present: Bill Martin, Deputy Planning Director; Jay Petrek, Assistant Planning Director; Owen Tunnell, Principal Engineer; Adam Phillips, Deputy City Attorney; and Ty Paulson, Minutes Clerk.

MINUTES:

Moved by Commissioner Spann, seconded by Commissioner Watson, to approve the minutes of the July 22, 2014, meeting. Motion carried. Ayes: Winton, Watson, McQuead, and Spann. Noes: None. Abstained: Johns. (4-0-1)

WRITTEN COMMUNICATIONS – Received.

FUTURE NEIGHBORHOOD MEETINGS – None.

ORAL COMMUNICATIONS – None.

PUBLIC HEARINGS:

**1. TENTATIVE MAP, ANNEXATION AND DEVELOPMENT AGREEMENT –
SUB 13-0011; PHG 13-0043; PHG 13-0044 AND ENV 13-0015:**

REQUEST: Annexation totaling 5.7 acres involving development of a 13-lot Tentative Tract Map with grading exemptions for peripheral fill slopes up to 13 feet in height, demolition of one single family dwelling, related storage structures, and on-site vegetation in the R-1-10 prezone (single-family units – 10,000 SF minimum lot size) on 4.2 acres, and annexation of three adjacent vacant

properties (no development proposed) on 1.5 acres. The request includes detachment from County Special District 135, construction of various on and off-site streets and utilities infrastructure on portions of Ash Street, Stanley and Lehner Avenues fronting the project. A Development Agreement is also proposed with a five-year term that authorizes construction in exchange for upgrading existing water, street and drainage infrastructure in the area as well as additional fees toward future construction of priority street and drainage improvements in the North Broadway area. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: 2056 N. Ash Street, in addition to three vacant properties (APNs: 224-142-26, 27, 28) including fronting roadways of Stanley and Lehner Avenues.

Jay Petrek, Assistant Planning Director, referenced the staff report and noted staff issues were the appropriateness of the proposed grading exemptions and alternative mass grading plan, whether the proposed Development Agreement adequately addresses infrastructure deficiencies in the area, and whether the proposed annexation is an appropriate expansion for the City. Staff recommended approval based on the following: 1) The applicant was proposing one Grading Exemption up to 13 feet in height for a small portion of a graded slope area that exceeds 10 feet in height within 50 feet of the property boundaries near the corner of Stanley Avenue and Ash Street. The slope areas would be most visible from western properties across Ash Street. Staff feels the proposed exemption would be appropriate given its limited height and the screening that will occur, combined with limited view opportunities from existing nearby residences; 2) Staff felt the Deficiency Fee and other terms proposed in the Development Agreement are reasonable and prudent since the agreement would allow the construction of the residential development and street and water line improvements in a coordinated fashion that will result in reduced costs while maximizing public and private resources to construct necessary public infrastructure at the earliest practicable time; and 3) The annexation area was located in the City's Sphere of Influence within an 'island' of unincorporated territory surrounded by Escondido's corporate boundaries. Including this territory with the City will reduce the fragmented jurisdictional boundaries and enhance efficiencies for providing services to affected residents by consolidating public services.

Commissioner Johns and Mr. Petrek discussed the proposed grading plan in relation to the amount of lots being proposed.

Mark Ferarro, Escondido, thanked staff for their help on this project, noting that this would be a quality project for the North Broadway area.

Kent Wilson, Escondido, expressed his concern with potential traffic and water retention issues that could be associated with the proposed project, noting his concern with the newly installed stop sign at Lehner Avenue and Ash creating traffic backups during school hours. He felt an east/west turn lane should be provided at both Lehner and Stanley. He also felt the project would have issues with water running off and impacting Lehner Avenue. He expressed his concern with the project having limited access.

Vice-chairman McQuead asked staff to comment on Mr. Wilson's concerns regarding traffic and water retention impacts. Mr. Tunnell noted that the project was conditioned to improve the intersections of Ash and Lehner and Vista. He also noted that the project was conditioned to mitigate water issues by utilizing a 66-inch storm drain along Lehner Avenue for high flows, with low flows being collected in the basin for treatment and sent to the 66-inch storm drain.

Commissioner Winton asked if the project was conditioned to pay its proportionate share toward a traffic signal. Mr. Tunnell replied in the affirmative.

ACTION:

Moved by Commissioner Watson, seconded by Commissioner Winton, to approve staff's recommendation. Motion carried unanimously. (5-0)

2. APPEAL OF AN ADMINISTRATIVE DECISION – ADM 14-0121:

REQUEST: An appeal of a Land Use Determination made by the Director of Community Development. The Director has determined that a 99 Cents Only Store proposed in the former Fresh and Easy building located within the East Valley Parkway Area Plan is a "retail use with across the board maximum pricing or 'everything under' pricing," and is therefore not allowed within the East Valley Parkway Area Plan.

PROPERTY SIZE AND LOCATION: The approximately 1.56-acre site is located on the western side of Ash Street, between Washington Avenue and East Valley Parkway, addressed as 415 N. Ash Street.

Vice-chairman McQuead recused himself from Item 2.

Bill Martin, Principal Planner, referenced the staff report and noted staff issues were whether or not the land use determination made by the Director of Community Development was in accordance with the East Valley Parkway Area Plan that prohibits "retail uses with across the board maximum pricing or 'everything under'

pricing" (Section 4.7 Prohibited Uses), and whether recent City Council action on a similar appeal and anticipated changes to the East Valley Parkway Area Plan could justifiably lead to an alternative determination. Staff asked the Planning Commission to consider the following points: 1) The Determination made by the Director of Community Development to not allow the proposed land use was based on a strict interpretation of the current language in the East Valley Parkway Area Plan that prohibits "retail uses with across the board maximum pricing or 'everything under' pricing." 2) Based on a recent City Council approval of a 99 Cents Only Store in an area governed by the exact same code language as in the East Valley Parkway Area Plan, staff feels the Planning Commission has wide latitude to consider this precedent when reviewing this appeal; and 3) Staff intends to prepare an update to the East Valley Parkway Area Plan as part of the on-going General Plan Implementation Program. It is anticipated that the staff recommendations will include the elimination of the current prohibition on national retailers with maximum pricing strategies.

Commissioner Winton referenced Item (g) in the staff report under prohibited uses (East Valley Parkway Area Plan - Section 4.7) and questioned whether approving this project could make the rest of the prohibitions in the area unenforceable. Mr. Martin replied in the negative, noting that the applicant's representatives have disputed that they did not fall into the subject category since they sold items for a variety of prices.

James Crone, Escondido, applicant, stated that City Council made the determination that 99 Cents Only Store did not fit into the Category (g) as outlined in the staff report. He then provided the background history for the subject property and noted that the site had access and site visibility constraints and as such the property had been vacant for over a year. He indicated that the subject business was a national retailer and asked that the Commission approve their request.

Chris Post, Escondido, CEO of ATC Design Group for 99 Cents Only Store, provided the background history for the 99 Cents Only Store and noted that they had upgraded their aesthetics and product mix by introducing groceries and fresh produce delivered daily. He stated that 80% of their product mix was named brands which sold for various prices. He also stated that it would be too difficult to change the 99 Cents Only Store name, noting they were no different than Wal-Mart or Vons.

Commissioner Winton stated that he accepted the testimony that the store sold merchandise at various prices. He questioned whether the corporation at some point would consider rebranding.

Mr. Post stated that their feeling was that customers shopped at their stores based on the value and not the name.

Rick Fleck, Escondido, stated changing the name would be like asking Jack in the Box to change their name, noting the name had nothing to do with hamburgers. He also indicated that some of the 99 Cents Only Stores were located right next to higher end national retailers like Nordstrom.

Commissioner Spann supported the applicant's request, feeling the subject use was appropriate for the property in question.

Commissioner Watson felt it was wrong for a City to legislate price on retailers. He stated that the site had poor access, feeling it was fortunate to have a national retailer willing to come into the site. He supported the applicant's request.

ACTION:

Moved by Commissioner Winton, seconded by Commissioner Watson, to overturn the Director's decision with a specific finding that a 99 Cents Only Store was not a "retail use with across the board maximum pricing on 'everything under' pricing" as defined by Section 4.7(g) in the East Valley Parkway Area Plan. Motion carried. Ayes: Winton, Watson, Johns, and Spann. Noes: None. Abstained: McQuead. (4-0-1)

CURRENT BUSINESS: None.

ORAL COMMUNATIONS: None.

PLANNING COMMISSIONERS: No comments.

ADJOURNMENT:

Commissioner Hale adjourned the meeting at 7:57 p.m. The next meeting was scheduled for September 9, 2014, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Bill Martin, Secretary to the Escondido
Planning Commission

Ty Paulson, Minutes Clerk