

CITY OF ESCONDIDO

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

January 14, 2014

The meeting of the Escondido Planning Commission was called to order at 7:04 p.m. by Chairman Weber in the City Council Chambers, 201 North Broadway, Escondido, California.

Commissioners present: Bob McQuead Vice-chairman; Jeffery Weber, Chairman; James Spann, Commissioner; Guy Winton, Commissioner; and Gregory Johns, Commissioner.

Commissioners absent: Merle Watson, Commissioner.

Staff present: Rozanne Cherry, Principal Planner; Barbara Redlitz, Director of Community Development; Owen Tunnell, Principal Engineer; Jay Paul, Associate Planner; and Gary McCarthy, Senior Deputy City Attorney.

MINUTES:

Moved by Commissioner McQuead, seconded by Commissioner Spann, to approve the minutes of the December 10, 2013, meeting. Motion carried. Ayes: Spann, McQuead, Weber, and Johns. Noes: None. Abstained: Winton (4-0-1)

WRITTEN COMMUNICATIONS – Received.

FUTURE NEIGHBORHOOD MEETINGS – Received.

ORAL COMMUNICATIONS – None.

PUBLIC HEARINGS:

1. APPEAL OF AN ADMINISTRATIVE DECISION – ADM 13-0168:

REQUEST: An appeal of a Land Use Determination made by the Director of Community Development that a proposed 99 Cents Only Store at the Civic Centre Plaza (Centre City Urban District of the Downtown Specific Plan) is a “retail use with across the board maximum pricing or ‘everything under’ pricing and surplus goods”, and is not allowed anywhere within the Downtown Specific Plan area.

PROPERTY LOCATION: Located on the northwest corner of West Valley Parkway and North Escondido Blvd, addressed as 355-455 N. Escondido Blvd (APN 229-332-32).

Rozanne Cherry, 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 Downtown Specific Plan that prohibits “retail uses with across the board maximum pricing or ‘everything under’ pricing and surplus goods” (pg. II-3, Figure II-2). Staff recommended denial of the appeal based on the following: 1) Based on the review of the applicants letters, the supplemental information and a site inspection of the existing 99 Cents Only Store on East Valley Parkway staff felt that the stores business model was one that operated a maximum pricing strategy across the board; and 2) The Determination made by the Director of Community Development to not allow the proposed land use was consistent with the Downtown Specific Plan that prohibited “retail uses with across the board maximum pricing or ‘everything under’ pricing and surplus goods”.

Marco Gonzales, Coast Law Group, Representing the Applicant, objected to being provided the revised Finding of Facts at the outset of the hearing, noting that they were typically provided this information in advance of the meeting. He stated that in 2008 when the Specific Plan was amended there was concern about the perceived blight and negative implications of surplus and 2nd-hand stores as well as everything that fell under those stores. He stated that other language used in the 2008 Specific Plan had to do with promoting pedestrian oriented retail and specialty uses. He noted that in 2008, “everything under stores” were different from current models. He indicated that national stores such as Ross, T.J. Max, and Marshalls were all considered discount stores. He elaborated that Old Navy was vacating the Civic Center Plaza, which encompassed over 17,000 SF. Mr. Gonzales noted that the 99 Cents Only Store was willing to take the space. He felt the statute, as written, was not detailed. He noted that 6 percent of their products sold for over a dollar, noting his view that the statute regulated marketing models. He asked that a Specific Plan amendment be prepared to better define the prohibition or to conditionally allow the subject use under a Conditional Use Permit. He then asked that the Commission approve their appeal.

Michael Ruben, Chief Operating Officer of Civic Center Plaza, noted that they were aware of the City’s intent to increase the overall quality of life in the downtown. He felt that not allowing the subject use in the center would be misguided. He stated that 99 Cent Only Stores was a strong national tenant that was located in over 90 cities in California. He asked that the Commission overturn staff’s recommendation.

Commissioner McQuead questioned why Ross vacated the subject center. Mr. Ruben noted that Ross left the center in name only, noting that Ross had put in dd’s Discounts in the center. He also stated that Smart and Final had a clause in their lease that prohibited other stores in the center they were located in from selling groceries, noting they were willing to waive this for the proposed tenant.

Chairman Weber asked Mr. Ruben if he was aware of the statutory limitations prior to negotiations. Mr. Ruben replied in the negative.

James Crone, Escondido, noted that when the subject ordinance was put in place it had posed issues with East Valley Parkway. He noted that he was originally opposed to the subject ordinance. He stated that retailers self-regulate when there are too many selling the same products. He indicated that 99 Cent Only Stores sold new products, noting his view that the statute was in essence dictating what it could sell and for how much. He elaborated that foot traffic was the key factor for centers to do well. He asked that the Commission direct staff to relook at the ordinance, noting that the proposed tenant would bring in over \$3 to \$4 million by selling new products.

Commissioner McQuead asked if Dollar Tree or 99 Cent Only Stores were well received in other jurisdictions such as Encinitas. Mr. Crone replied in the affirmative, noting that these were national tenants. He also expressed his view that Mr. Goldberg's concerns, detailed in his letter, were geared more toward losing parking.

Commissioner Johns asked if Smart and Final and Ross predated the 2008 adoption of the ordinance. Mr. Crone replied in the affirmative.

Commissioner Winton stated that discount stores were not prohibited in the City, just in this subject location. He felt that the subject location was not appropriate.

Commissioner Johns stated that the subject center already had discount stores. He was concerned with controlling the marketing initiative. He felt the ordinance should be re-examined.

Commissioner Spann noted that he was in favor of staff's recommendation.

Commissioner McQuead felt this item should go to City Council if denied.

Chairman Weber noted that the subject ordinance was crafted after significant consideration by various entities and stakeholders, noting this was his reason for supporting staff's recommendation.

ACTION:

Moved by Chairman Weber, seconded by Commissioner Winton, to approve staff's recommendation to deny the appeal. Motion carried. Ayes: Spann, McQuead, Weber, and Winton. Noes: Johns. (4-1)

2. CONDITIONAL USE PERMIT – PHG 13-0033:

REQUEST: A Conditional Use Permit to use a portion of an industrial lot for the outdoor storage of RVs, boats and other vehicles (All Secure Storage) along with adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: 1.35-acre property addressed as 520 N. Quince Street.

Jay Paul, Associate Planner, referenced the staff report and noted staff had not identified any issues with the CUP request. Staff recommended approval based on the following: 1) The facility was located within a light industrial zone and was surrounded by a variety of industrial uses; 2) The Outdoor storage of materials and equipment generally was permitted in the M-1 zone provided the performance standards for storage height, screening and materials are met; and 3) The existing six-foot-high fencing with slats and masonry wall, along with the setback from Quince Street would provide appropriate screening from adjacent street views.

Commissioner Spann and Mr. Paul discussed the proposed screening.

ACTION:

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

CURRENT BUSINESS: None.

ORAL COMMUNICATIONS: None.

PLANNING COMMISSIONERS: No comments.

ADJOURNMENT:

Chairman Weber adjourned the meeting at 8:06 p.m. The next meeting was scheduled for February 11, 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