

CITY OF ESCONDIDO

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

December 9, 2014

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

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

Commissioners absent: None.

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

MINUTES:

Moved by Commissioner Watson, seconded by Chairman Weber, to approve the minutes of the October 28, 2014, meeting. Motion carried. Ayes: Spann, Johns, McQuead, and Weber. Noes: None. Abstained: Winton, Hale, and Watson. (4-0-3)

WRITTEN COMMUNICATIONS – Received.

FUTURE NEIGHBORHOOD MEETINGS – None.

ORAL COMMUNICATIONS – None.

PUBLIC HEARINGS:

1. CONDITIONAL USE PERMIT – PHG 14-0027:

REQUEST: A Conditional Use Permit (CUP) to allow a public charter high school (Diego Hills Charter School) in a ±3,028-SF office within an existing shopping center. Although the applicant expects an enrollment of 200 students, as well as eight teachers and four support employees; due to the independent-

study format, only 14 people total are expected on-site at any given time. Each student would meet with a teacher for a weekly one-hour appointment to discuss assignments, and would complete his/her work at home or at another off-site location. The project includes interior modifications, including the installation of walls to separate the space into individual rooms. No exterior modifications are proposed. The proposal also includes the adoption of the environmental determination prepared for the project.

LOCATION: The subject property is 9.35 acres and the building to be occupied is addressed as 800 West Valley Parkway.

Ann Dolmage, Associate Planner, referenced the staff report and noted that staff issues were whether an independent-study charter school is an appropriate use within the Gateway Center, whether the specific building to be occupied by the applicant can comply with all building and fire codes applicable to an educational facility, and whether the existing parking supply in the center is sufficient to accommodate the school as well as the other commercial and office uses. Staff recommended approval based on the following: 1) The Gateway Center was originally approved under 2000-75-PPL. As a condition of approval, the applicant was required to provide a minimum of 30,000 SF of office floor area in the combined area of Buildings 1 and 2, with the remaining floor area of these two buildings available for retail or food-service use. In most situations, a charter school would be considered an educational use, not an office use, but the applicant for PHG 14-0022 has demonstrated that this particular charter school will more closely resemble an office use than a traditional high school. Each student will visit the facility once a week for a scheduled appointment with his or her teacher. This time is intended for the discussion of assignments and participation in assessments, and most schoolwork will be completed at home or another off-site location. The applicant has indicated that they expect no more than 14 occupants in the school at any one time (four teachers, four support staff, and six students); 2) Building Division staff have reviewed the project application and the furniture plan provided by the applicant, and have determined that the applicant would be required to provide proper fire separation between the school space and the other tenants, per California Building Code (CBC) Section 508, including a one-hour rated wall assembly (for buildings with an approved fire sprinkler system) or a two-hour rated wall assembly (for buildings without sprinklers). Opening protection would also be required for any doors or openings into the adjacent occupancy, per CBC Table 716.5. The applicant was notified of these requirements and indicated that they could comply and wanted to proceed. All requirements from the Building Department have been incorporated in the conditions of approval; and 3) Gateway Center is required to provide 544 parking spaces under the terms of 2000-75-PPL and subsequent modifications. The applicant has demonstrated that 544 spaces currently exist, so parking supply is

sufficient if the center is used as originally intended. For public or private senior high schools, the Zoning Code provides an off-street parking standard of one parking space for each employee and one for each three students for which the facility is designed. If the proposed charter school were required to use the same parking standard for 200 students, eight teachers, and four staff members, it would need to provide 79 spaces, a significant portion of the existing lot for Gateway Center. Designating this many spaces for the school alone could result in either the need for additional parking, or limitations on the use of the remainder of the center. Given that the applicant expects no more than 14 people in the school facility at any time (a capacity more characteristic of an office than a school) and also expects most students to arrive by public transportation, staff feels the 1:200 ratio for the original shopping center could continue to apply, and no additional parking should be required.

Commissioner Spann asked about the area the school served and whether students would be coming from outside the city.

Commissioner Hale asked what the justification was for limiting the students to 200. Ms. Dolmage noted that this was the number provided by the applicant.

Commissioner Hale asked what the occupancy would be. Mr. Martin noted that the occupancy of the tenant space would change to an "E" for building code purposes and the number of students would be limited to the number requested by the applicant.

Chairman Weber and staff discussed the process for the proposed signage for the project.

Dawna Gray, Escondido, noted her business was located across the hallway in the same building and was opposed to mixing a school environment with a professional environment. She expressed her concern with the project creating potential parking and transient issues. She also expressed her concern for her female employees having issues with sharing the restrooms with students.

Commissioner Winton asked Ms. Gray what type of business she operated. Ms. Gray noted that she operated an employee benefit plan business. Commissioner Winton asked Ms. Gray if her business relied on walk-in clients. Ms. Gray replied in the negative but noted that the tenant above her did.

James Hamilton, Escondido, Century Partners, representing the owners of the building at 800 West Valley Parkway, stated that the subject use was more similar to a tutoring environment and would not conflict with the professional office uses in the building. He stated that the parking was more than adequate to

handle the use at 5 parking spaces per 1,000 SF. He also felt comfortable that the restrooms would be adequate to handle the use.

Chairman Weber asked Mr. Hamilton if they had a reciprocal parking agreement. Mr. Hamilton replied in the negative.

Chairman Weber and Mr. Hamilton discussed the occupancy rate for the facility.

Commissioner Hale and Tres Simi (representing Learn 4 Life) discussed the proposed school operations.

Commissioner Hale was opposed to limiting the enrollment to 200 students, noting that it would be similar to the Commission limiting the number of customers that a business could have.

Commissioner Johns asked Mr. Simi where he thought the student base would come from. Mr. Simi felt the students would come from Escondido and surrounding jurisdictions.

Commissioner Johns expressed concern with students loitering before and after drop-offs and pick-ups. Mr. Simi stated the school would be providing a security guard who would prevent loitering from occurring with regard to their students and others on the property.

Commissioner Winton asked if some of the students were juvenile delinquents. Mr. Simi replied in the affirmative.

Commissioner Johns asked what the drop out rate was. Mr. Simi stated that they had approximately a 25% drop out rate.

Chairman Weber asked if the hours of operation took into consideration extra curricular activities and open houses. Mr. Simi replied those were not typical functions and would be very limited. He also stated that they would provide their own restrooms as part of the project.

Commissioner Hale expressed concern with limiting the enrollment and the number of people in the school facility when it was not related to the physical occupancy of the space.

Commissioner Hale motioned to approve staff's recommendation with an amendment to eliminate the cap on enrollment and expand the number of persons allowed in the school facility to the number permitted by the standard occupant load for the tenant space. Motion did not carry due to lack of a second.

Commissioner Johns asked what the reason was for limiting the enrollment. Mr. Martin noted that the enrollment cap was recommended so as not to create issues with existing businesses in the commercial center, which was the reason the use was conditionally permitted.

Commissioner Spann asked if the applicant would have to come back to the Commission if they wanted to increase their occupancy cap. Mr. Martin noted that the Commission could modify the conditions to allow for an administrative approval.

Commissioner Hale felt that limiting the number of students was the same as limiting the number of customers a business could serve.

Commissioner Johns agreed with Commissioner Hale but noted that while he disagreed with the condition limiting enrollment, he supported the proposed school and did not want to vote against it.

ACTION:

Moved by Commissioner Watson, seconded by Chairman Weber, to approve staff's recommendation. Motion carried unanimously. (7-0)

2. ZONING CODE AMENDMENT – AZ 14-0003 and CONDITIONAL USE PERMIT – PHG 14-0029:

REQUEST: An amendment to Article 26 of the Escondido Zoning Code to allow dog boarding as a Conditional Use within the Light Industrial (M-1) and General Industrial (M-2) zones. The request also includes a Conditional Use Permit to allow a dog-boarding facility within an approximately 3,600 SF suite in an industrial building in the M-2 zone. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY LOCATION: Citywide (Zoning Code Amendment) and 2750 Auto Park Way, Suite 22 (APN 228-381-75)

Jay Paul, Associate Planner, referenced the staff report and noted staff issues were the appropriateness of the code amendment to allow dog boarding within the industrial zones (M1 and M2); and 2) whether the subject industrial site is appropriate for dog boarding and whether the operation would impact adjacent uses. Staff recommended approval based on the following: 1) Staff felt industrial zones were appropriate for dog boarding and training as a primary use because

incidental animal boarding already was allowed within the M-1 and M-2 zones. Allowing animal boarding within the industrial zones also reduces the potential for conflicts with non-compatible adjacent land uses; and 2) staff felt the subject site was appropriate for dog boarding because the size of the suite is large enough to reasonably accommodate all of the uses proposed by the applicant; dogs would be boarded indoors; additional noise insulation has been incorporated into the kennels; and there were no adjacent uses/businesses that would be adversely affected by the boarding of dogs on the site.

Commissioner Johns was opposed to allowing boarding for extended periods of time, noting his concern for the property not having any open space. Mr. Paul responded that there was no cap proposed on the boarding time.

Commissioner McQuead and staff discussed the definition for shelters. Commissioner McQuead suggested clarifying the term “shelter”.

Commissioner Winton asked how this item came to the attention of the City. Mr. Paul noted that this item came about as a result of the subject facility advertising dog boarding and a code enforcement complaint being filed.

Penny Diloreto, Escondido, applicant, noted that the only dog boarding options in Escondido were Petco, Pet Smart, or veterinarians, which only had interior boarding. She stated that their dogs are walked once an hour, segregated by size, and well taken care of. She stated that they always intended on providing boarding, noting she thought this was covered under her current license.

ACTION:

Moved by Commissioner Winton, seconded by Commissioner Spann, to approve staff’s recommendation. Motion carried. Ayes: Spann, McQuead, Weber, Watson, Hales, and Winton. Noes: Johns. (6-1)

3. AMENDMENT TO THE ESCONDIDO MUNICIPAL AND ZONING CODES – AZ 14-0004:

REQUEST: A Zoning Code Amendment to establish permitted locations, standards, definitions, and processing procedures for massage establishments in concert with recent state legislation effective January 2015. The amendment would: 1) Establish Article 38 pertaining to ‘Massage Establishments,’ 2) Amend Article 16 of the Zoning Code (Commercial Zones), 3) Amend Article 39 of the Zoning Code (Off-Street Parking), 4) Amend the East Valley Parkway, South Escondido Boulevard Area Plans, and Downtown Specific Plan. The project also involves

amending Section 16A of the Escondido Municipal Code pertaining to Massage Establishments that will be considered separately by the City Council. The proposal also includes the adoption of the environmental determination prepared for the project.

LOCATION: Citywide

ENVIRONMENTAL STATUS: Pursuant to Section 15061(b)(3), "General Rule," the project is exempt from the California Environmental Quality Act (CEQA)

Jay Petrek, Assistant Planning Director, referenced the staff report and noted staff issues were whether the proposed amendment is in conformance with AB 1147, whether defining a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage is appropriate, and whether the proposed locational requirements will mitigate adverse secondary impacts associated with illicit massage establishments. Staff recommended approval based on the following: 1) The proposed amendment represents the most recent and legally-defensible provisions pertaining to massage establishments, based on extensive study and analysis of AB 1147. The proposed amendments comply with AB 1147 and are appropriate based on analysis and comparison with other adopted ordinances, case law, and judicial rulings; 2) Escondido businesses were permitted to involve ancillary uses constituting a distinct minority percentage of the establishment's activities. Staff has historically defined 15% as an appropriate limitation for ancillary activities associated with a business's primary use; 3) identifying appropriate locations for establishing massage businesses as a permitted use within well-maintained, heavily trafficked commercial shopping centers totaling approximately 180 acres will provide sufficient opportunities for legitimate establishments to operate. Requiring a conditional use permit (CUP) for massage establishments seeking to locate in the General Commercial (CG) zone elsewhere in the community allows the city to individually regulate the operating characteristics of the business with the intent to protect the community from potential adverse effects of illicit massage establishments.

Commissioner McQuead asked if chiropractors would be subject to the proposed amendment. Mr. Petrek replied in the negative.

Discussion ensued regarding a clarification of the certification process.

Chairman Weber asked if you the Police Department had witnessed a mix of certified and uncertified masseuses. Captain James Stuard, Escondido Police Department, replied in the affirmative.

Chairman Weber questioned whether the subject amendment would help stop the illicit businesses. Captain Stuard noted that the amendment would provide a higher degree of regulation and allow for better enforcement.

Commissioner Hale, Captain Stuard, and Mr. Petrek discussed the location criteria for massage businesses.

Commissioner Winton asked if the subject amendment would create additional work for the Police Department. Captain Stuard noted that the amendment would provide better tools for enforcement.

Discussion ensued regarding a clarification for the process for issuing a business license to a massage technician.

Commissioner Winton asked if the owner of a massage business needed to have a massage technician license. Mr. Petrek replied in the negative.

ACTION:

Moved by Commissioner Spann, seconded by Commissioner McQuead, to approve staff's recommendation. Motion carried unanimously. (7-0)

CURRENT BUSINESS:

- 1. Design Review of a new freestanding menu-board sign (case PHG 11-0007) proposed for the ARCO AM/PM carwash. The proposed sign would be 8 feet in height consisting of three separate sign panels with a total sign area of 33.5 square feet.**

Location: 450 W. El Norte Pkwy

Jay Paul, Associate Planner, referenced the staff report and noted that staff recommended approval of the menu-board sign with the installation of additional landscaping around the entire pay station area and subject to the recommended conditions.

Commissioner Watson asked if the landscaping on the subject property would be updated. Mr. Paul noted that the landscaping along the street frontages would be replaced where needed as part of this project.

Commissioner Johns asked if the height, design, and size of the sign were appropriate. Mr. Paul noted that staff felt the design, height and size would be compatible with the scale of the carwash building and appropriate for the site.

Discussion ensued regarding a clarification of the size and types of plants being proposed for the project. Additional discussion ensued regarding the status of the property at 3rd Avenue and Escondido Boulevard.

Mark Watson, Escondido, applicant, thanked Mr. Paul for his help and stated that they wanted to provide landscaping that would provide screening for the sign to the City's satisfaction.

Discussion ensued regarding a clarification of the area of the sign where the actual advertising would be allowed.

ACTION:

Moved by Commissioner Hale, seconded by Chairman Weber, to approve staff's recommendation with a modification to Condition No. 4 that the back of the signage could not be used for signage or advertising. Motion carried unanimously. (7-0)

ORAL COMMUNATIONS: None.

PLANNING COMMISSIONERS:

Commissioner Watson noted that this would be his last meeting as a commissioner because he was moving away from the area and had submitted his resignation. Mr. Martin thanked Commissioner Watson for his years of service on both the Planning Commission and the Design Review Board.

ADJOURNMENT:

Chairman Weber adjourned the meeting at 8:40 p.m. The next meeting was scheduled for January 13, 2015, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Bill Martin

Bill Martin, Secretary to the Escondido
Planning Commission

Ty Paulson

Ty Paulson, Minutes Clerk