

CITY COUNCIL

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APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: _____

Date: February 24, 2010

TO: Honorable Mayor and Members of the City Council

FROM: Jonathan H. Brindle, Director of Community Development

SUBJECT: Appeal of Planning Commission Decision to Deny an Amendment to the South Escondido Boulevard Area Plan and Conditional Use Permit (2004-02-AZ, 2004-66-CUP)

STAFF RECOMMENDATION:

It is requested that Council approve the applicant's appeal and adopt Resolution No. 2010-05 and introduce Ordinance 2010-02 approving the proposed Conditional Use Permit and Amendment to the South Escondido Boulevard Area Plan.

PLANNING COMMISSION RECOMMENDATION:

On January 26, 2010, the Planning Commission voted 3-2 (Weber and Winton opposed, McQuead absent) to deny the proposed Amendment to the South Escondido Boulevard Area Plan and Conditional Use Permit.

PROJECT DESCRIPTION:

Appeal of a Planning Commission decision to deny an amendment to the South Escondido Boulevard Area Plan to conditionally allow carwashes in Area 'B,' and denial of a Conditional Use Permit for an approximately 5,500 SF automated carwash and oil change facility with a 4,150 SF restaurant on a 1.34-acre site.

LOCATION:

The site is on the northwestern corner of the intersection of Brotherton Road and Centre City Parkway, addressed as 400 Brotherton Road.

FISCAL ANALYSIS:

None.

GENERAL PLAN ANALYSIS:

The City of Escondido General Plan designates the proposed project site as General Commercial, which is characterized by a broad range of retail and service activities in local commercial, community shopping/office complexes and regional shopping centers. The site is regulated by the development standards listed for Area "B" of the South Escondido Boulevard Area Plan.

ENVIRONMENTAL REVIEW:

A Revised Mitigated Negative Declaration, City Log No. ER 2004-33 was issued on December 10, 2009. Mitigation measures were developed to reduce potential land use, transportation/traffic, air quality and noise impacts to a less than significant level.

PREVIOUS ACTION:

The City Council considered a slightly different version of the project on March 4, 2009. The project included the same land uses and buildings as currently proposed; but the buildings were shown in different locations. After a considerable amount of public testimony and discussion, the Council voted unanimously to refer the project back to the Planning Commission with direction to the applicant to consider alternative uses or site design to reduce potential impacts to the adjacent residential neighborhood.

The proposed car wash is not a permitted use on the site and would require an amendment to the South Escondido Boulevard Area Plan. On January 21, 2004, the City Council voted 3-1 (Newman opposed, Waldron absent) to initiate for further study the applicant's request for an amendment to the South Escondido Boulevard Area Plan.

BACKGROUND:

A different version of this project was reviewed by the Planning Commission and City Council early last year. The proposal at that time had the carwash building on the western half of the property and the restaurant building on the northeastern corner of the site. The Planning Commission voted 6-1 (Weber opposed) to recommend denial of the project on January 27, 2009. The City Council considered the project on March 4, 2009, and voted unanimously to refer the project back to the Planning Commission with direction to the applicant to consider alternative uses or site design to reduce potential impacts to the adjacent residential neighborhood.

The applicant responded by changing the location of the buildings on the site. The carwash building was shifted to the eastern property line with the carwash tunnel located closest to Centre City Parkway. The restaurant building was moved from the northeastern corner to the southwestern corner of the site. On June 25, 2009, the Design Review Board voted 6-0 to recommend approval of the relocated building design. The Planning Commission reviewed the current project design on January 26, 2010. The Planning Commission voted 3-2 (Weber and Winton opposed, McQuead absent) to again deny the proposed Amendment to the South Escondido Boulevard Area Plan and

Conditional Use Permit. On February 1, 2010, the applicant appealed the Planning Commission's decision to the City Council.

The applicant initially presented a conceptual plan for an auto services and restaurant development in October of 2003. The development consisted of three buildings including a gas station/mini-mart, carwash/oil change facility, and a restaurant. Several meetings were conducted to discuss the plan and the applicant was informed the property was located within the South Escondido Boulevard Area Plan. The area plan allows restaurants as a permitted use and allows a gas station and oil change facility subject to a Conditional Use Permit, but does not allow carwash facilities. The applicant was notified that an amendment to the area plan would be necessary to accommodate his project and that staff could not accept the necessary amendment request until it was initiated by the City Council. On January 21, 2004, the City Council voted 3-1 (Newman opposed, Waldron absent) to initiate for further study the applicant's request for an amendment to the South Escondido Boulevard Area Plan.

The proposed area plan amendment and Conditional Use Permit for the project were submitted in September of 2004. A neighborhood meeting was held on November 16, 2004, where the project was criticized by surrounding neighbors as being incompatible with nearby residential development. During a March 24, 2005, Design Review Board meeting, the applicant was directed to redesign the project and there followed a long period where the applicant considered alternative designs and worked towards completing the required technical studies.

A revised project design was submitted in March of 2008. The revised design eliminated the gas station/mini-mart component while retaining the carwash/oil change facility and the restaurant building. A second neighborhood meeting was held on October 20, 2008, where the project again was criticized by surrounding neighbors as being incompatible with nearby residential development. On November 6, 2008, the Design Review Board voted 7-0 to approve the project and complemented the applicant on the architecture, landscaping and extensive use of decorative pavement. The project was then forwarded to the Planning Commission and City Council with the result being a referral back to the Planning Commission where the most recent redesign that changed the location of the two buildings on the site was rejected again.

PLANNING COMMISSION RECOMMENDATION AND SUMMARY:

On January 26, 2010, the Planning Commission voted 3-2 (Weber and Winton opposed, McQuead absent) to deny the proposed Amendment to the South Escondido Boulevard Area Plan and Conditional Use Permit. Ten neighboring residents spoke against the proposed development and expressed concerns regarding potential noise from the carwash, odors from the restaurant, and the potential for more traffic through their neighborhood because there is no left turn from Brotherton onto northbound Centre City Parkway. The Planning Commission majority generally concurred with the neighbors and felt the intensity of the use was not consistent for a site located in such close proximity to a residential neighborhood. Commissioners expressed varying degrees of concern for potential noise issues from the carwash and traffic through residential neighborhoods. The majority felt the potential for conflict with the existing residential neighborhood did not justify changing the city's regulations to allow a carwash on this site. Commissioner Winton noted that he had voted against the previous design, but felt the current proposal resolved his previous concerns. He also concurred with Commissioner Weber that any project built on the site would have some level of impact on adjoining

neighbors, and a carwash restricted to daylight operating hours could be less intrusive than other potential uses.

ANALYSIS:

Amendment to the South Escondido Boulevard Area Plan

The site is zoned CG (General Commercial) and also is within Area "B" of the South Escondido Boulevard Area Plan. While the CG zoning would typically permit all three of the proposed uses (restaurant, car wash and oil change), the South Escondido Boulevard Area Plan is more restrictive.

The South Escondido Boulevard Area Plan was originally adopted in 1996 to implement strategies for the South Escondido Boulevard commercial corridor that would assist in revitalizing the neighborhood. The area plan is divided into two subareas (A and B) and is approximately 2.25 miles in length with Area "A" beginning at 5th Avenue and extending just south of Vermont Avenue, and Area "B" beginning just north of Brotherton Road and extending to the terminus of Escondido Boulevard at Centre City Parkway and Verda Avenue. The area plan includes goals and recommendations regarding existing and future land uses, development standards and regulations, and design guidelines that address issues raised by the community and chart a course of action to improve the neighborhood. As the plan was being developed and staff participated in a series of meetings with neighborhood residents and business owners, it became clear the revitalization process could not rely exclusively on the existing General Commercial zoning and some adjustments were necessary. In response to one of the guiding principles that the physical environment of the neighborhood should be more pedestrian friendly, the area plan is generally more restrictive for auto-related uses than the General Commercial zone. A 1998 amendment to the South Escondido Boulevard Area Plan permitted car washes (SLUC 6416-6417) with a Conditional Use Permit on properties where automotive businesses such as gas stations, car lots and auto service/repair have been previously located. Oil change facilities would fall under the SLUC 6419 category (Other automobile services except repair and wash) which would also require a Conditional Use Permit.

The subject property has not been previously developed with an automotive business. Therefore, the proposed carwash would not be permitted under the current South Escondido Boulevard Area Plan. The proposed oil change facility would require the issuance of a Conditional Use Permit and the proposed restaurant would be a permitted use. The applicant is proposing to amend the South Escondido Boulevard Area Plan to make carwashes a conditional use similar to the oil change facility. The applicant has suggested there are no full-service carwashes in the southern part of the city and he would be providing a service for residents in that area. Several water conservation websites estimate that home car washing can use 80 to 140 gallons of water in an uncontrolled setting. Studies prepared by the International Carwash Association indicate professional conveyor belt carwashes with onsite water recycling use an average of approximately 40 gallons per vehicle.

The site is located on the northwestern corner of the intersection of Centre City Parkway and Brotherton Road within Area "B" of the South Escondido Area Plan. This area is generally suburban in character with a mix of small commercial businesses, single-family residences and vacant land. This is in contrast to the more compact and urban Area "A" to the north, where it seems most appropriate for pedestrian policies and related land uses. While carwash operations could potentially affect neighboring land uses, staff feels the suburban nature of Area "B" coupled with the underlying

General Commercial zoning and lack of full-service carwashes in the area makes this area appropriate to consider potential carwashes on a case-by-case basis. Accordingly, staff supports modifying Area "B" of the South Escondido Boulevard Area Plan to conditionally allow carwashes. Staff feels the Conditional Use Permit process will ensure that all neighborhood compatibility issues are considered through a public hearing process and potential impacts are minimized to the extent feasible.

Potential Effect on Neighboring Properties

The site is located on the northwestern corner of the intersection of Centre City Parkway and Brotherton Road. The northern and western sides of the site are bordered by the backyards of single-family residences located on lots approximately 4,500 SF to 5,000 SF in size. The homes on the western side are located on Charise Street and include a mix of one and two-story homes that are situated approximately nine feet to 18 feet higher than the project site. The residences along the northern boundary are on Cara Street and also include one- and two-story homes that are approximately 16 feet to 18 feet higher than the project site. Each residential backyard has a wood fence located at the top of a fill slope constructed as part of the residential development that runs down to the retaining wall on the project site's northern and western property lines. The fill slope separating the residential lots from the proposed commercial development is landscaped with numerous ornamental trees and is owned and maintained by the residential HOA.

Both of the neighborhood meetings were attended by about 20 residents and the neighbors were united in their opposition to the project. Issues were raised regarding potential increases in traffic on their neighborhood streets, lighting spillover from the parking lot lights into their backyards, and the potential negative effect on their property values and southern views. Of the issues raised by neighbors, staff felt the potential increase in noise, odors and light spillover could have the most significant impact on the neighborhood. The neighbors noted that the site is situated like a bowl or amphitheatre which enhances the potential for smoke, odors and noise to adversely affect their daily lives. These issues were analyzed and addressed during the environmental review for the project. While the environmental review concluded the effects could be mitigated to a less than significant level, it also indicated that nuisance levels could remain discernible by neighboring residents.

Noise

The project design previously reviewed by the Planning Commission and City Council had the auto services building located on the western portion of the property with the carwash tunnel in a north to south alignment near the center of the site. Noise impacts from the carwash and HVAC units required the placement of a noise wall along a portion of the northern boundary of the site to comply with noise limits for the residences to the north. Most of the noise currently occurring on the site is generated from vehicles traveling on Centre City Parkway. The recent change to the building locations has had the advantageous effect of relocating the highest generating noise source (carwash) further away from most nearby residences and adjacent to Centre City Parkway. As described below, this has reduced potential noise impacts to the point where noise walls are no longer required.

According to the Noise Impact Analysis prepared by Eiler Associates, dated March 14, 2007, and updated on September 16, 2009 for the new building locations, the measured daytime ambient noise

level on the site is 54.8 dBA near the center of the property. The proposed project is expected to produce two types of significant noise sources, which are the carwash dryer unit and the restaurant building HVAC equipment. The proposed carwash facility is expected to utilize a new Aerodry Advantage dryer system to be installed within the carwash tunnel and set back about six feet from the exit on the southern side of the building. The manufacturer has indicated the unit has an unmitigated noise level of 82.5 dBA measured at five feet from the source. The proposed restaurant building is expected to utilize four ground-mounted Carrier 25HBB360 (or similar model with equal or less noise emissions) HVAC units installed on the eastern side of the building. These units are expected to produce an unmitigated noise level of 70.9 dBA per unit.

The Noise Impact Analysis assumed a worst case scenario for operations consisting of 30 minutes per hour for the carwash dryer based on the anticipated number of carwash cycles per hour for a busy facility. The ground-mounted HVAC units were considered to be in constant operation for the purposes of the analysis. Based on the project information studied in the analysis, the project equipment noise levels are not expected to exceed City of Escondido property line noise limits at any surrounding property line provided the equipment is installed as specified and the carwash equipment is only operational during daytime hours (as defined in Escondido Noise Ordinance). Combined daytime noise levels at the western and northern property lines would range up to 47 dBA and 50 dBA respectively, which is consistent with City of Escondido noise standards for residential zones and no noise attenuation walls are required. Noise levels at the southern and eastern property lines would be consistent with City of Escondido noise standards for commercial zones.

Mitigation will be required to ensure potential noise impacts identified in the analysis are reduced to a less than significant level and meet City of Escondido property line noise limits. The Noise Impact Analysis concludes the exterior HVAC equipment has to be specifically located for each building and the carwash dryer system has to be set back within the carwash tunnel approximately six feet from the exit allowing the tunnel structure to function as a sound attenuation barrier. Once these mitigation measures have been constructed as part of the project, the calculated noise levels would be consistent with Noise Ordinance limits for residential zones.

Smoke and Odors

The proposed development includes a 4,150 SF restaurant that is expected to offer "family-style" dining, but would not be limited as to the type of cuisine. It is expected that grilling or other cooking methods could potentially generate noticeable odors from the exhaust vents on the roof of the building. The proposed restaurant is located in northeastern corner of the site with the closest residence being located about 70 feet north of the restaurant. The elevated nature of the residential properties also put them more in line with the anticipated height of the exhaust vents.

While the prevailing winds generally blow easterly away from the residential neighborhood, there is a high likelihood that during unsettled weather or Santa Ana events, smoke and odors from the restaurant could negatively impact nearby residents if not effectively filtered. In recent years, several technologies have been developed to allow restaurants to be good neighbors by effectively controlling their emissions. The most common kitchen emission filtration method involves the use of electrostatic precipitation. Kitchen smoke and grease vapors are pulled up into the hood through fireproof ducts leading to a filtration unit where electrostatic precipitation occurs. Dual-stage electrostatic precipitators include two parts: the charging and the collecting sections. In the charging

section, the incoming smoke, grease, mist and other particulates pass by ionizer wires which impart a positive electrical charge to these contaminants. The positively charged contaminants are then drawn through the collection section which contains a secondary electrical field with negatively charged aluminum plates. Since opposite charges attract, the positively charged contaminants collect on the negatively charged aluminum plates, removing them from the air stream. Clean air then flows out of the filtration unit and out through the exhaust fan. A condition has been added to require a kitchen emission filtration system for the restaurant building.

Light Spillover

The applicant is proposing site lighting consisting of 70 watt metal halide lamps on pole fixtures that are 20 feet above grade. According to the photometric plan provided by the applicant prior to the hearings last year, the site lighting would result in approximately 0.3 to 0.8 foot candle at the northern property line and approximately 0.7 to 1.7 foot candles at the western property line. Up to 1.5 foot candles is similar to what would be expected of a typical city street light. Actual light levels at the adjacent residential property lines are expected to be less than the measured levels on-site due to the width of the HOA slope area between the project and the residences as well as the height of the slope. All lighting will be required to comply with the City's Outdoor Lighting Ordinance. A condition has been added to require a new photometric plan be submitted for review prior to issuance of building permits. Pole heights, fixture shielding and low wattage lamps will be evaluated at that time to ensure the most appropriate combination that provides sufficient on-site security while minimizing potential light spillover to the extent feasible.

Traffic in Residential Neighborhood

An existing median in Centre City Parkway at the intersection with Brotherton Road means vehicles exiting the proposed commercial development have no direct way to go north on Centre City Parkway. Residents of the adjacent 57-lot residential neighborhood on the northern and western sides of the project have suggested that exiting vehicles desiring to go north will travel through their residential streets to reach southbound Centre City Parkway where they can proceed south for a short distance before doing a u-turn north. To accomplish this, vehicles exiting the development would have to turn right on Brotherton and then right on Charise Street before proceeding through the neighborhood.

A Traffic Impact Analysis for the project prepared by Linscott Law & Greenspan, dated December 23, 2008, was criticized by neighbors for conducting traffic counts during the summer when schools were not in session, and not directly reviewing potential traffic increases in the adjacent residential neighborhood. The traffic consultant has recently revised the study (dated 2/15/10) based on new traffic counts conducted a couple of weeks ago during school hours, and included a travel time analysis of several potential exit routes from the development to northbound Centre City Parkway.

The revised traffic analysis shows that traffic volumes on Brotherton Road have actually decreased by approximately 300 daily trips from 2008, even with schools in session. The project would add approximately 215 daily trips to this segment west of the project site allowing it to continue to operate at an acceptable Level of Service "C" with the project. The number of vehicles exiting the project site needing access to northbound Centre City Parkway is estimated to be 296 each day. Three different routes were observed and traveled to analyze this movement. Two routes went through the

residential neighborhood and one went south on Centre City Parkway to a u-turn at Citracado Parkway. The differences in travel time were not substantial enough to clearly favor one route over another. The traffic consultant concluded that the most likely drivers using the neighborhood routes would be those familiar with the neighborhood since it is not much shorter, faster, or convenient. If half of the project traffic used the neighborhood streets to travel north, the traffic in the neighborhood would increase by 148 vehicles over an entire day. This would be well within the capacity of the neighborhood streets and would not substantially change traffic operations in the neighborhood.

CONCLUSION:

Staff feels the proposed amendment to the area plan to allow carwashes as conditional uses is appropriate given the underlying commercial zoning, the mix of small commercial businesses in the area, the lack of full-service carwashes in the area, and the CUP process enabling review on a case-by-case basis, similar to the other auto-related uses that are conditionally-allowable in Area "B". Staff also feels that any commercial development on the property could potentially result in neighborhood concerns pertaining to noise, traffic, lighting, and odors; however the proposed CUP uses have been designed and conditioned to address these concerns in order to minimize impacts to the adjacent neighborhood.

Respectfully submitted,

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Bill Martin
Principal Planner