

ITEM 3



Planning & Economic Development Department - Planning Division

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PLANNING COMMISSION MINUTES

WEDNESDAY, MARCH 9, 2011

7:00 P.M.

CITY HALL COUNCIL CHAMBERS
205 SOUTH WILLOWBROOK AVENUE

1) **PLEDGE OF ALLEGIANCE** - The Pledge of Allegiance was led by Commissioner Saunders.

2) **ROLL CALL**

Commissioners Present:

Juanita Green-Wright

Lillie Darden

Michael Hill

Kim Saunders

Staff Representatives Present:

Robert Delgadillo

Anita Aviles

3) **APPROVAL OF MINUTES** – February 9, 2011. It was moved by Commissioner Darden that the minutes of February 9, 2011 be approved. The motion was seconded by Commissioner Saunders and carried unanimously.

4) **PUBLIC HEARING ITEM(S)**

A. CONDITIONAL USE PERMIT CASE NO. 2690 - A request to sell alcohol, a type 21 alcohol license (off-site general), as an accessory use to a convenience store (7-10 II Liquor & Market) located at 200 W. Rosecrans Avenue in the Commercial Manufacturing (C-M) zone.

Commissioner Darden moved that **CONDITIONAL USE PERMIT CASE NO. 2690** be opened. The motion was seconded by Commissioner Saunders.

Staff Representative Delgadillo stated that this is a request to offer off-site alcohol sales as an accessory use to a convenience store located at 200 W. Rosecrans Avenue in the first council district. The site is located on the southwest corner of Rosecrans Avenue and Culver Avenue. The adjacent General Plan designation is Mixed Use (MU) to the North, South, East, and West. The zoning for the subject site is Commercial Manufacturing as well as to the East, West, and to the North. To the South is Parking and High Density Residential. The site is located within the Redevelopment Project Area.

Staff Representative Delgadillo stated that City records indicate that there has been a liquor store/market at the subject site since at least the early 1970's; the previous sale

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of alcohol was considered a legal non-conforming use since the sale of alcohol was established prior to the need of CUP approval; the store lost its non-conforming rights since it closed its doors and was without a business license for more than six months; the business has since changed ownership (fall of 2010) and the new owner wants reopen a convenience store with accessory sale of alcohol, a type 21 license and now needs a new CUP; on June 20, 1989, the City of Compton adopted by resolution an Alcoholic Beverage Sales Policy. The City's goal was to reduce the number of alcohol sales outlets for both on-site and off-site consumption by setting guidelines by avoiding an over-concentration of businesses with alcohol sales. According to the statistics provided by the Alcohol Beverage Control (ABC) Department, Census Tract 5426.02 is over the limit of alcohol licenses. A maximum of two (2) alcohol licenses are recommend , per ABC, in Census Tract 5426.02 and three (3) currently exist, which includes the subject site; the City's Alcohol Sales policy further states that "bars, liquor stores and convenience stores should be located at least 1,000 feet from "sensitive" uses such as schools, churches and some medical facilities". There are several "sensitive uses" near 7-10 II Liquor & Market:

- Jerry's Liquor Store located approximately 750' to the east
- Nueva Italia Bar located approximately 700' to the east
- Rosecrans Elementary School located approximately 450' to the northwest
- Curry Temple Church located approximately 500' to the west
- Dollarhide Health Center located approximately 900' to the northwest;

The City's Alcoholic Beverage Sales policy also stipulates that all alcohol related businesses should comply with all development standards (i.e. parking, accessibility, landscaping, lighting, etc.). The site is:

- ❖ Inadequately Parked: 14 parking spaces are required and 12 are provided
- ❖ Does not comply with the required front 10' setbacks along Rosecrans and Culver Ave.
- ❖ Under Landscaped: 5% or 600 sq. ft. min. on site landscaping is required and only 180 sq. ft. is provided; 10' landscaped setbacks are also required along Rosecrans and Culver Ave., and none are provided.
- ❖ Not in compliance with site illumination regulations. The exiting outdoor lighting needs to be modified to comply with the 1 foot candle minimum and to provide proper shielding for adjacent properties and public right-of-ways.

Staff Representative Delgadillo stated that staff recommends that the Planning Commission deny Conditional Use Permit Case No. 2690 subject to the findings contained in the staff report. However, should the Planning Commission be inclined to approve CUP Case No. 2690, it should continue the CUP for a month to allow staff sufficient time to make the necessary findings and formulate conditions of approval.



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Commissioner Saunders asked for clarification on staff's recommendation to deny and asked if the conditions of approval are absent from the staff report.

Staff Representative Delgadillo stated that since staff is recommending denial, there is no need for conditions of approval.

Commissioner Saunders stated that in past the conditions of approval were always presented before the Commission regardless if staff was recommending denial. "That allows the Commission to make the appropriate decision" she commented.

Staff Representative Delgadillo stated that typically when staff recommends approval the conditions and finding are in the report. At that point the Commission can deny a project simply by declaring the findings in the negative and conditions won't matter since it's a denial. However, if staff recommends denial then we don't put findings in or conditions of approval because staff is recommending denial that is the course of action that staff is taking. However as indicated in the recommendation if the commission wishes not to deny it then staff will request a continuance to adopt the finding and conditions of approval.

Commissioner Saunders asked if there has been an implementation of a new process because in past that has not been the case.

Commissioner Hill agreed with Commissioner Saunders and stated that because staff is recommending denial it is important that the Commission sees what the conditions of approval would be. It is a matter of the Commission doing its due diligence in making a decision. It has been customarily that even if it's a denial, conditions of approval are included to give the Commission the opportunity to make the right decision.

Chairperson Green-Wright stated that based on the Commission's comments it seems that the Commission is requesting that the findings for approval be listed before the Commission makes a determination.

Commissioner Saunders stated that there is another issue that the Commission needs to confer with counsel on Page 3 of 5 (the middle paragraph) before the Commission moves forward with any action she wants to make sure what the City's obligation to an ABC license would be (i.e. "As previously mentioned, although the previous business (T & J Liquor) closed its doors and did not maintain a current business license their alcohol license remains active with ABC and the new owners were able to simply transfer the alcohol license over"). Commissioner Saunders stated that, that is legal language that needs to be deciphered to understand the legal responsibility to a statement like this. Is the Commission obligated to recognize that ABC carried this license over and is the



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Commission responsible for accepting that this license has been carried over to this business or is it null and void?

Deputy City Attorney Aviles stated that, that would be something that she has to look into from what seems to be going on and questions that are raised and concerns about information in the staff report. Deputy City Attorney Aviles suggest that this case be continue to allow them time to take a look at that particular legal issue and take a look at the filing, the chronology of events regarding the status of that license and transferring any funds that the new owner might have expended in this process of obtaining this property.

Chairperson Green-Wright asked Deputy City Attorney Aviles to also look into Exhibit 11, California Department of Alcoholic Beverage Control because it does have Mr. Chang as the new owner.

Deputy City Attorney Aviles stated that it appears to be the information from the California Department of Alcoholic Beverage Control database regarding the status of licenses and transfers but the question being asked is if there is any obligation if someone has come in and wants to seek a CUP for the operation of this particular business and what they've invested in the property and does the City have the duty of some sort to that person once they committed these resources to a particular project? That seems to be what is being asked for.

Chairperson Green-Wright stated that it's more about the license.

Deputy City Attorney Aviles stated that in general the conditional use permit runs with the land so if it's sold to somebody else it supposedly goes along with the property and they've taken over a license that has been transferred to them and they have invested money, do they have a vested right to the property. That is not known at this time.

Commissioner Darden commented that the issue here is a legal non-conforming because business was closed for more than six months which means that their legal non-conforming status expired.

Deputy City Attorney Aviles stated that that could be.

Chairperson Green-Wright stated that the issue that Commissioner Saunders brought up is the license itself.

Commissioner Saunders stated that it is the liquor license. The business license was cancelled but was the liquor license cancelled. The liquor license appears to be



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transferred so if the liquor license was transferred, legally can the City cancelled that out “we may or may not be able to” she stated. The decision would be based on the legality of the liquor license and the business continuing it, if they purchased the business and the liquor license is still active.

Deputy City Attorney stated that she would look into that and the interplay of the non-conforming.

The Applicant, Joseph Chang and son, 10 Kepler, Irvine, stated they have business receipts during the time the store was closed.

Commissioner Hill asked if those receipts indicate if they were actually doing retail sales of liquor at that time.

Mr. Chang stated that they are purchasing receipts.

Commissioner Hill asked if there is any way to show what they were doing with those purchases.

Mr. Chang stated that they were in business and fully operating. No one knew that the business license had expired.

Commissioner Hill asked the applicant if he knew the exact circumstances as to why the business was closed.

Mr. Chang stated that it was not because of any legal issues. It was tough times for management and it went on short sale.

Commissioner Hill asked how he became aware of the situation.

Mr. Chang stated that his father was actually searching for a new location

Chairperson Green-Wright asked the applicant if he was aware of the proximately of the school, health center, the church, and the two other liquor stores.

Mr. Chang stated that while doing his due diligence in market research prior to the acquisition of the property they drove around to seek for possible competition and sensitive use areas. That is one of the reasons why they came up with a proposal to mitigate those effects. One was to severely limit the proportion of display that will be dedicated for alcohol displays and the other is the operating hours of opening at 7:00 a.m. and closing at 8:00 p.m. both of which will be inconceivable if it was a true liquor



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store. What his father's intention is, is to open a convenience store or multi combination store, he has already installed an alkaline water filtration dispensing station and has the intention to put a Red Box DVD rental system, as well as propane exchange area and freezers for ice. The sale of liquor would only be limited to a small portion of inventory to improve the sales.

Chairperson Green-Wright asked if they were unable to sell liquor would they still be opening the convenience store or is liquor paramount to their business.

Mr. Chang stated that beer and wine, and liquor is paramount to the business not just because of the volume of sales that alcohol provides because the volume is very small for any convenience store other than a dedicated liquor store. It is all the incidental purchases that come about by having that.

Commissioner Saunders stated that when he speaks in terms of alcohol sales as being such small margin of sales and then other sales are attached in the store as incidental then it changes the focus because if the alcohol sales is just a small percentage and other sales just becomes incidental then the focus is on the alcohol. As a retail expert she is aware that there are destination shoppers and they come into the store for a purpose, so is their destination coming into the store for alcohol or for food products. If you say the business can't be successful if it doesn't have alcohol then the primary concern is alcohol because the product assortment can't meet the needs of the community meaning that alcohol is being made the primary focus. The clear intent from what is being presented is for alcohol sales and from a community prospective, the community and the City of Compton is quite sensitive about having liquor stores in their community and having them close to schools and by churches. The situation is quite difficult because it looks like Mr. Chang bought a business that he thought everything was transferrable but there seems to be a stoppage of business at some point with the cancellation of the business license which he should have been aware of which of because of due diligence but at the same time the Commission wants to follow the City's ordinance and protect the citizens of the community.

Commission Hill asked the applicant if he recalled when he applied for the conditional use permit.

Mr. Chang stated that it was November 30, 2010. (inaudible)

Chairperson Green-Wright asked staff to go back into the presentation and pull the map of the sensitive uses.



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Chairperson Green-Wright mentioned to the applicant that the map shows all of the sensitive uses within the 1000 mile radius and stated that the Commission is very concern when it relates to alcohol.

Commissioner Darden asked the applicant if had come to the Planning Department before the purchased of the property to find out the policies and procedures related to the property.

Mr. Chang stated that when he looked at the property it was fully operational and did not felt it necessary to go through that.

Mr. Chang replied to Chairperson Green-Wright comment regarding the sensitive uses within the 1000 mile radius. (inaudible)

Commissioner Hill stated that he believes that a business can still be very successful without the sale of alcohol.

Mr. Chang responded (inaudible)

Chairperson Green-Wright asked how many employees will be hired.

Mr. Chang stated that a minimum of 5 employees.

Chairperson Green-Wright asked if those employees are hired through the City's WorkSource Center.

Mr. Chang stated that if the Commission requests that he do so but for the most part it comes from word to mouth. Mr. Chang stated that the individual that will be running the convenience store was present.

Mr. Tyrone Nettles, 159 W. 126th Street, Los Angeles.

Chairperson Green-Wright asked if he had run a convenience store before.

Mr. Nettles stated that he worked for the other owners and has worked in the community for many years.

Mr. Young Jee (inaudible).

Chairperson Green-Wright stated that if this case is approved the minimum of 14 parking spaces are required.



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Mr. Jee (inaudible)

Chairperson Green-Wright asked if he had spoken to the Planning Department regarding it.

Mr. Jee (inaudible)

Commission Saunders stated that in the package there was Exhibit 13 that included recommendation from the Development Review Committee Meeting regarding parking. She asked if those recommendations were presented to the applicant.

Staff Representative Delgadillo stated that he was not aware. The project manager for the project attended that meeting.

Commissioner Saunders stated that even though that the Development Review Committee recommended denial they still considered conditions for approval.

Mr. Chang (inaudible)

Commissioner Saunders moved to continue **CONDITIONAL USE PERMIT CASE NO. 2690** to April 13, 2011 and seconded by Commissioner Darden. **CONDITIONAL USE PERMIT CASE NO. 2690** was continued unanimously.

Citizen, Irving Bennett, 124 E. Bennett was concerned regarding another liquor store coming into the City.

5) INFORMATIONAL ITEMS (A Report of Previously Approved Cases)

6) OLD BUSINESS

- General Plan 2030

Staff Representative Delgadillo gave an update on the status of the General Plan 2030.

- General Plan to the Commission in May
- Had four community meetings at four different parks where a presentation was given to the public i.e. Gonzalez, McDonald, Kelly, and Burrell Parks.
- One senior meeting at Dollarhide which was held on March 8, 2011. At this meeting staff was encourage to attend another meeting at Dollarhide hosted by the Commission on Aging which will be held April 14th.
- The youth Compton are also being involved along with the Compton Elementary schools a poster contest were they will create a vision of what Compton should be like in their eyes.



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- For the middle schools will be a one page essay contest. Some of the winning contestants for the poster and essay contests will also be included in the General Plan.
- For the Compton high schools here in the Council Chambers on March 24, 2011 there will be a combination student government meeting where there will be representatives from student governments from all the high schools to talk about the role of the General Plan and how they can participate in the process as well as give comments.
- The department is also in the process of bringing on board a translator to translate the General Plan into Spanish to make it more accessible to the Spanish speaking population of the City.

Chairperson Green-Wright asked staff to bring to the attention of the responsible party for the property at Dwight Ave and Compton Blvd regarding the overgrown weeds.

7) NEW BUSINESS

Commissioner Hill gave a report on the status of street improvements within the City.

Commissioner Saunders (inaudible).

Staff Representative Delgadillo handed out invitations to the Willowbrook Railroad Right-of-Way Enhancement Dedication Ceremony which will be held on Saturday, March 12, 2011.

8) COMMISSION COMMENTS

None

9) AUDIENCE COMMENTS

None

It was moved by Commissioner Hill that the meeting be adjourned. The motion was seconded by Commissioner Saunders and carried unanimously.

**ROBERT DELGADILLO, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT**

**JUANITA GREEN-WRIGHT,
CHAIRPERSON**

