CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

CONTINUED PUBLIC HEARING:	January 25, 2011
SUBJECT:	Design Overlay Review No. 1337-09 Variance No. 506-09
APPLICANT:	3 Men's Suits $129.99 Attn: David Dupetit 20775 S. Avalon Boulevard Carson, CA 90746
REQUEST:	Revocation of permits to construct a freeway-oriented sign and exceed the maximum allowable sign area for the Avalon Plaza shopping center
PROPERTY INVOLVED:	20761-20775 S. Avalon Boulevard

COMMISSION ACTION

_____ Concurred with staff

_____ Did not concur with staff

_____ Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairperson Faletogo			Gordon
		Vice-Chair Park			Saenz
		Brimmer			Schaefer
		Diaz			Verrett
		Goolsby			

Item No. 10-A

I. Introduction

Property Owner

- 405 Avalon LLC
  Attn: Scott Hook
  2025 W. Balboa Boulevard
  Newport Beach, CA 92663

Project Applicant/Tenant

- 3 Men's Suits $129.99
  Attn: David Dupetit
  20775 S. Avalon Boulevard
  Carson, CA 90746

Discussion

On January 11, 2011, the Planning Commission opened the public hearing, took public testimony, and considered this item to revoke Design Overlay Review (DOR) No. 1337-09 and Variance (VAR) No. 506-09. The permits were approved by the Planning Commission on November 10, 2009 to allow for the installation of a freeway-oriented business sign and to exceed the total allowable sign area permitted for the commercial center, respectively. After failing to adopt a motion due to lack of a majority, the Planning Commission continued this item to January 25, 2011.

II. Background

The subject property is approximately one acre in size and located in central Carson northeast of the 405 Freeway. The Avalon Plaza shopping center is a single-story, 15,940-square-foot building built in 1980. The shopping center currently consists of the following 10 businesses:

- 3 Men's Suits $129.99
- Supreme Donuts
- Optical Dentist
- Sprint
- Texture Color Hair Art
- Krazee Grill
- Payday Advance
- Pledge Insurance Brokers
- Venus Nails & Spa
- Foot Reflexology

In December 2005, the applicant began operating at the Avalon Plaza shopping center as *Suits Warehouse Inc.* (business license changed to *SW Suits Inc.* in October 2007). In 2006, the applicant began displaying unpermitted banners for an extended amount of time along the back wall facing the freeway. This generated involvement by the Code Enforcement Division, the City Manager's office, and the City Prosecutor's office. The applicant was advised that banners approved by the Planning Division were allowed up to 60 calendar days and that a formal application was needed in order to receive approval of permanent signage along the back wall.

On November 8, 2006, the applicant submitted for a freeway-oriented advertising sign/banner in back of the building (Design Overlay Review No. 979-06). On May 8,

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2007, the applicant submitted a variance request to exceed the total allowable sign area permitted for the shopping center (Variance No. 494-07). Due to issues with the application, processing was delayed for over two years, but banners were essentially displayed continuously during that period.

On April 23, 2009, the applicant requested an ordinance amendment to allow for a permanent banner facing the freeway. On May 12, 2009, the applicant withdrew the DOR and VAR applications in order to focus on the ordinance amendment. On June 17, 2009, the City Council Sign Ordinance Subcommittee reviewed the requested ordinance amendment. The Subcommittee and staff advised that the ordinance amendment would not be supported because of the impacts and precedence it would create for other properties. After discussion, the applicant, Mr. David Dupetit, suggested he would like to display permanent channel letters since much of his business is generated by freeway visibility. Mr. Dupetit provided a sample of what could be installed. The Subcommittee recommended that Mr. Dupetit work quickly with the property owner on the design plans and that Mr. Dupetit get the property owner's approval on the plans in a timely manner in order to expedite his proposal. The applicant was advised that the architectural embellishments be located in back of the applicant's tenant space and appear as an integral part of the building. Subsequently, the applicant withdrew the ordinance amendment in favor of the Subcommittee's direction.

On September 23, 2009, the applicant submitted Design Overlay Review No. 1337-09 for a permanent channel letter sign on the back wall and Variance No. 506-09 to exceed the total allowable sign area for the property. The new submittal resembled the 2007 application which was withdrawn to pursue the ordinance amendment. However, the new plan included architectural embellishments and landscaping as discussed at the June 17, 2009 Subcommittee meeting.

On October 27, 2009, the Planning Commission held a public hearing for the new application. At the public hearing, the applicant indicated that a three-foot-high by 30-foot-wide sign facing the freeway was adequate. The Planning Commission discussed issues including the architectural enhancements and consistency with the business signs at the front of the store. The public hearing was continued so that the applicant and staff could resolve certain issues. Subsequently, in November the applicant filed a fictitious business name with the Los Angeles County Recorder's office to do business as "3 Men's Suits $129.99" (filed as "THREE MENS SUIT 129 99" in the County record) so the signs could effectively serve as advertising. On November 10, 2009, the Planning Commission approved the applicant's proposal for a three-foot-high by 30-foot-wide freeway-oriented sign with conditions requiring that a metal trellis be installed at the back wall, graffiti be removed within three days of written notification by the City, and all signage including those at the front entrance reflect the new fictitious business name, "3 Men's Suits $129.99."

Following the November 10, 2009 public hearing, staff followed up with the applicant by sending a letter dated November 12, 2009 to discuss upcoming procedures. The letter was meant to assist the applicant in obtaining a building permit and meeting the

required conditions of approval. The letter indicated that updated plans were necessary prior to submitting to the Building and Safety Division for plan check. Prior to obtaining a building permit, the applicant needed to remove all illegal banners and excess window signs throughout the shopping center, and receive approval of the improvement plans showing the metal trellis, landscaping and irrigation. Furthermore, a sign program for the shopping center needed to be submitted within 60 days of Planning Commission approval.

On April 19, 2010, after demonstrating the ability to meet those requirements, the applicant was issued a building permit to start installation of the freeway-oriented sign, which was completed shortly afterwards.

On July 1, 2010, after more than two months of receiving the building permit, staff sent the applicant a follow-up letter as a reminder to complete the other required conditions, including removal of one business sign in the front of the building, providing for consistent signage that displayed the new business name, "3 Men's Suits $129.99," continuing to remove all banners and excess window signs throughout the shopping center, and providing architectural enhancements, landscaping, and irrigation along the back wall of the tenant space. Staff also noted that phone messages were left for the applicant regarding the outstanding issues, but the messages were not returned and the applicant was not responsive.

On October 19, 2010, staff contacted the applicant for an update. The applicant indicated the costs for the improvements were too expensive and was contemplating on whether or not to complete the requirements. The applicant indicated the sign was too small and not effective in luring customers from the freeway. Later that day the applicant indicated his contractor would be working on the improvements the following week. Staff followed up to discover no work had been completed.

On November 8, 2010, the applicant called to indicate the sign facing Avalon Boulevard would be removed, the materials for the improvements would be purchased that day, and work would commence that week. Staff verified that the sign facing Avalon Boulevard was indeed removed, however, the improvements to the rear of the building were not completed.

During the Thanksgiving weekend (end of November), staff noted an illegal banner had been erected over the rear channel letters facing the freeway. The banner was promptly removed the following Monday only to reappear the following weekend. This routine continued the following weekends into December. On or about the second week in December, the banner was displayed continuously throughout the holidays.

On December 21, 2010, staff contacted the applicant and the property owner to indicate more than enough time has been given to complete the improvements and a revocation hearing would be scheduled because of noncompliance. On December 22, 2010, staff met the applicant at his business and presented him with the public hearing notices to be posted on the property. The applicant indicated once again that

the channel letter sign facing the freeway was ineffective and was contemplating removal prior to the revocation hearing.

The applicant is seeking input from the Council Commercial & Public Signage Subcommittee to consider possible long-term banner displays. The Commercial & Public Signage Subcommittee meeting to discuss the banner program concept is scheduled for January 25, 2011. The applicant is aware that the DOR and VAR permits approved by the Planning Commission are a separate issue from any proposed banner program and any possible discussion by the City Council or Council subcommittee will not remove or postpone the applicant's responsibilities in meeting the required conditions of approval under the direct authority of the Planning Commission.

III. Analysis

Issues of Concern

At the January 11, 2011 Planning Commission meeting, there were a number of issues raised. The Planning Commission considered three motions that all failed due to a lack of a majority vote. The following is additional information and insight to help the Planning Commission in making a decision.

Issue – Sign Size: The applicant stated that the three-foot-high channel letters are too small to be seen from the freeway. However, at the November 10, 2009 hearing, the applicant indicated the sign would be adequate. Staff had recommended 24- to 30-inch channel letters in lieu of the three-foot-high channel letters requested by the applicant because the smaller letters would be consistent with other businesses in the area. After receiving approval for the three-foot-high channel letters which the applicant requested, the letters were installed on or around April 2010. Afterwards, the applicant contends the signs were still too small. However, instead of requesting a modification to increase the size of the sign or providing the architectural embellishments and landscaping that would have framed the sign and drew attention to it, the applicant decided to display a banner over the channel letters during the peak shopping season.

First, the applicant did not complete the improvements that would have distinguished the tenant space from other tenants, created a unique corner apart from the rest of the shopping center, and framed the channel letters to draw attention to it. Secondly, by covering the channel letters with a banner during the peak shopping season, it cannot be determined how effective the channel letters could have been. It can be expected that business improved during the display of the banner because of the time of year: the peak shopping season. In fact, business may have improved regardless of any sign being displayed along the back wall due to the peak shopping season. Regardless, the Planning Commission approved the three-foot-high by 30-foot-wide, 90-square-foot sign requested by the applicant in 2009. It is staff's

opinion that the sign could have been more effective if it were "framed" with architectural embellishments and landscaping as required in the conditions of approval.

Lastly, increasing the size of the sign would not be consistent with other signs in the area comparable to the subject business. The following chart lists nearby businesses and the size of their signs. At a size of 90 square feet, 3 feet high by 30 feet wide, the subject sign is larger than comparable signs for other businesses.

TABLE 1: SIGN SIZE COMPARISON

	Location	Height	Width	Square feet	No. of Copy
3 Men's Suits $129.99 (back wall only)	**Avalon Plaza**	**3'**	**30'**	**90**	**1**
Chase	Mall	30"	25'-10"	51.7	1
Five Guys Burgers and Fries	Mall	4'	19'-6"	78.0	2
Radio Shack	Mall	24"	18'-1"	36.17	1
Chile Verde Mexican Food	Mall	2'-9 ½"	16'-4"	38.34	2
Panera Bread w/logo	Mall	46"	13'-2 ½ "	49.79	2
Wing-Stop	Mall	2'	15'-5 ½"	31.0	1
San Sai Japanese Grill	Mall	3'-9"	9'-5 ½"	35.6	2
Children's Dental Group	Mall	24"	31'	62.0	1
T-Mobile (north) T-Mobile (West)	Mall	3' 1'-6"	20'-11 3/8" 8'-11 ¾"	63.0 13.50	1
24Hour Fitness Magic Johnson Sport	Mall	5'	18'-6 ½"	133.5	3
(A)Starbucks Coffee w/ (E)Logo (B)Starbucks Coffee (D)Drive Thru	20810 Dom/Ava	1'-6" 2'1" 3' 1'-10"	24'-3" 7'-9" 12' 6'-10 ½"	36.44 39.90	--
Quiznos Sub	20810 Dom/Ava	2'	15'-4"	30.6	3
GameStop	20810 Dom/Ava	24"	11'	22.0	2
AT&T	20810 Dom/Ava	40.14"	121.9"-0.75x	34	2
FedEx Office	20820 - Dom/Ava	24"	13'-2"	26.40	3
Verizon	20820 - Dom/Ava	20"	19'-5 ¼"	32.5	1

Issue – Compliance/Follow-Through: At the January 11 meeting, the applicant indicated no intention of keeping the permanent channel letters. Instead, the applicant would like to install a long-term banner that is substantially larger than the permanent signs for other businesses because a long-term banner is cheaper in cost and can be changed out regularly depending on the season or type of promotion. However, long-term banners

are not permitted at this shopping center. The Carson Municipal Code (CMC) allows approved banners to be displayed for up to 60 calendar days per year with approval by the Planning Division.

Thus, staff is concerned that modifying the permits would not bring the sign into conformance and instead may set a negative precedence for other businesses. The applicant has submitted a banner program proposal to the City Council Signs Subcommittee that will be considered on January 25, 2011. However, even if acted upon, the program would still require action by the Planning Commission and City Council through an ordinance amendment.

Staff does not believe the applicant is willing to comply with the requirements for a permanent sign, even with larger channel letters. At the Planning Commission's discretion, a condition may be added that a building permit for new channel letters not be issued until the applicant demonstrates fulfillment of complying with the conditions of approval. This would, in essence, prohibit the installation of any sign along the back wall until all improvements to the shopping center, including architectural embellishments and landscaping, are completed. It is staff's opinion that this is a fair compromise from revoking the permit and would give the applicant an opportunity to install appropriate signage in the future if he so chooses without having to apply for a new DOR and VAR. The condition would read as follows:

- The applicant shall not reinstall a sign on the back wall of the building until such time as it can be demonstrated that all the conditions of approval relating to site improvements, landscaping, and architectural embellishments contained in Resolution No. 09-2274 be complied with and completed to the satisfaction of the Planning Division. Failure to complete the conditions of approval within six (6) months shall render these permits null and void.

IV. Environmental Review

Pursuant to Section 15321(a) of the California Environmental Quality Act (CEQA) Guidelines, the enforcement action by a regulatory agency to revoke entitlements is categorically exempt.

V. Conclusion

Staff is concerned that revocation would not benefit the applicant and may be cumbersome for all parties if the owner wishes to reapply for a permit at a later time. Although the applicant has expressed a willingness to display a banner rather than a permanent channel-letter sign, adding a condition would allow the applicant flexibility in case he wishes to move forward with an appropriate sign. Alternatively, the Planning Commission may revoke the permits prohibiting any sign from being installed along the back wall.

Recommendation

That the Planning Commission consider one of two options:

Option A

- **AMEND** Resolution No. 09-2274 approving Design Overlay Review No. 1337-09 and Variance No. 506-09 by adding the following condition:
    - "The applicant shall not reinstall a sign on the back wall of the building until such time as it can be demonstrated that all the conditions of approval relating to site improvements, landscaping, and architectural embellishments contained in Resolution No. 09-2274 be complied with and completed to the satisfaction of the Planning Division. Failure to complete the conditions of approval within six (6) months shall render these permits null and void"; and
- **WAIVE** further reading and **ADOPT** a minute resolution amending Resolution No. 09-2274.

Option B

- **REVOKE** approval of Design Overlay Review No. 1337-09 and Variance No. 506-09; and
- **WAIVE** further reading and **ADOPT** Resolution No._____, entitled "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON REVOKING APPROVAL OF DESIGN OVERLAY REVIEW NO. 1337-09 AND VARIANCE NO. 506-09 FOR A FREEWAY-ORIENTED WALL SIGN AND A VARIANCE REQUEST TO EXCEED THE TOTAL ALLOWABLE SIGN AREA FOR A SHOPPING CENTER LOCATED AT 20761-20775 S. AVALON BOULEVARD."

VI. Exhibits

1. Proposed resolution for revocation
2. Approved Resolution No. 09-2274
3. Minutes of the October 27, 2009 Planning Commission meeting
4. Minutes of the November 10, 2009 Planning Commission meeting

Prepared by: _____
John F. Signo, AICP, Senior Planner

Reviewed and Approved by: _____
Sheri Repp Loadsman, Planning Officer

CITY OF CARSON

PLANNING COMMISSION

RESOLUTION NO. 11-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON REVOKING APPROVAL OF DESIGN OVERLAY REVIEW NO. 1337-09 AND VARIANCE NO. 506-09 FOR A FREEWAY-ORIENTED WALL SIGN AND A VARIANCE REQUEST TO EXCEED THE TOTAL ALLOWABLE SIGN AREA FOR A SHOPPING CENTER LOCATED AT 20761-20775 S. AVALON BOULEVARD

THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by the applicant, David Dupetit, on behalf of 3 Men's Suits $129.99 (SW Suits Inc.), with respect to real property located at 20761-20775 S. Avalon Boulevard and described in Exhibit "A" attached hereto, for Design Overlay Review No. 1337-09 and Variance No. 506-09 to install a freeway-oriented business sign on the back wall of the building of an existing commercial center in the CR-D (Commercial, Regional – Design Overlay) zoning district.

The Planning Commission held a duly noticed public hearing on October 27, 2009 and November 10, 2009, at 6:30 P.M. at City Hall, Council Chambers, 701 East Carson Street, Carson, California. At the conclusion of the public hearing, the Planning Commission adopted Resolution No. 09-2274 approving DOR No. 1337-09 and VAR No. 506-09.

On January 11 and January 25, 2011, the Planning Commission held a duly noticed public hearing at 6:30 P.M. at the Juanita Millendar McDonald Community Center, Adult Activity Room, 801 East Carson Street and at City Hall, Council Chambers, 701 East Carson Street, Carson, California, respectively, to consider revocation of Resolution No. 09-2274 approving DOR No. 1337-09 and VAR No. 506-09. A notice of time, place and purpose of the aforesaid meeting was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. Pursuant to Section 9172.28 of the Carson Municipal Code (CMC), the Planning Commission shall conduct a hearing with proper noticing for a revocation. After the hearing, the Planning Commission may, by resolution, revoke the permits if any of the following are found:

1. Approval was obtained by fraud, deceit or misrepresentation.
2. The property is or has in the recent past been used or developed in violation of the conditions of approval or of other laws or regulations.
3. The property is or has in the recent past been used or developed in a manner materially detrimental to the public health, safety or welfare, or constitutes a public nuisance.

The Planning Commission finds that the applicant has been given ample time, but has been unwilling to meet the required conditions of approval. The applicant has had the privilege of displaying a freeway-oriented channel letter sign promoting the business for approximately eight months and has complied with the obligation of providing architectural embellishments

and landscaping along the rear of the building. Furthermore, the applicant has reverted to displaying illegal banners over the freeway-oriented channel letter sign.

Condition No. 6 of Resolution No. 09-2274 states:

> "It is further made a condition of this approval that if any condition is violated or if any law, statute or ordinance is violated, the permits shall be determined to be automatically revoked, provided the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty days."

The applicant was made aware of the required conditions of approval on December 7, 2009, and the applicant and property owner signed the Agreement Accepting Conditions indicating they would abide by all requirements. On July 1, 2010, staff sent a letter to the applicant indicating it is imperative that the outstanding issues be resolved and the conditions be met. The applicant has been given ample time to provide architectural embellishments and landscaping and meet all other requirements in the conditions of approval. However, subsequent communications with the applicant reveal an unwillingness to comply with the conditions of approval and a desire to display illegal banners along the back wall oriented towards the freeway, contrary to the requirements of the CMC.

Section 4. Pursuant to Section 15321(a) of the California Environmental Quality Act (CEQA) Guidelines, the enforcement action by a regulatory agency to revoke entitlements is categorically exempt.

Section 5. Based on the aforementioned findings, the Commission hereby revokes Resolution No. 09-2274 and revokes approval of Design Overlay Review No. 1337-09 and Variance No. 506-09 with respect to the property described in Section 1 hereof.

Section 6. The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.

Section 7. This action shall become final and effective fifteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of the Carson Zoning Ordinance.

PASSED, APPROVED AND ADOPTED THIS 11TH DAY OF JANUARY, 2011.

_____
CHAIRMAN

ATTEST:

_____
SECRETARY

LEGAL DESCRIPTION

PARCEL 1:

PARCEL 1 OF PARCEL MAP NO. 5453, IN THE CITY OF CARSON, AS PER MAP FILED IN BOOK 60 PAGE 63 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT 100 PERCENT OF THE OIL, GAS, PETROLEUM AND OTHER HYDROCARBON SUBSTANCES WHICH LIE BELOW A PLANE PARALLEL TO AND 500 FEET BELOW THE NATURAL SURFACE OF SAID LAND, WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF SAID LAND TO EXPLORE FOR, DEVELOP. OR REMOVE SAID SUBSTANCES, BUT WITH FULL RIGHT TO EXPLORE FOR, DEVELOP AND REMOVE THE SAME BY MEANS OF WELLS OR EQUIPMENT, HAVING SURFACE LOCATIONS OUTSIDE THE OUTER BOUNDARIES OF SAID REAL PROPERTY, AS EXCEPTED IN THE DEED FROM DEL AMO ESTATE COMPANY, A CORPORATION, RECORDED NOVEMBER 8, 1963 IN BOOK D2250 PAGE 752, OFFICIAL RECORDS.

ALSO EXCEPT THEREFROM ALL OIL, GAS, PETROLEUM AND OTHER HYDROCARBONS AND MINERALS, BUT WITHOUT RIGHT OF ENTRY TO THE SURFACE OF SAID LAND, AS RESERVED BY LOS ANGELES FLOOD CONTROL DISTRICT, IN DEED RECORDED JULY 13, 1973 AS INSTRUMENT NO. 4359, OF OFFICIAL RECORDS.

PARCEL 2:

A NON-EXCLUSIVE INGRESS AND EGRESS EASEMENT OVER AND ACROSS THAT PORTION OF PARCEL 2, PARCEL MAP NO. 2538, IN THE CITY OF CARSON, AS PER MAP FILED IN BOOK 38 PAGE 5 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID PARCEL 2; THENCE RADIALLY ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 2, SOUTH 83° 04' 33" WEST 50.00 FEET; THENCE .NORTH 56° 24' 52" EAST 55.71 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF AVALON BOULEVARD, A RADIAL LINE TO SAID POINT BEARS NORTH 82° 05' 17" EAST; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE OF AVALON BOULEVARD, HAVING A RADIUS OF 1,450.00 FEET, AN ARC DISTANCE OF 25.00 FEET THROUGH A CENTRAL ANGLE 0° 59' 16" TO THE POINT OF BEGINNING.

ASSESSOR'S PARCEL NO: 7339-018-001

END OF LEGAL DESCRIPTION

CITY OF CARSON

PLANNING COMMISSION

RESOLUTION NO. 09-2274

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON APPROVING DESIGN OVERLAY REVIEW NO. 1337-09 AND VARIANCE NO. 506-09 FOR A FREEWAY-ORIENTED WALL SIGN AND A VARIANCE REQUEST TO EXCEED THE TOTAL ALLOWABLE SIGN AREA FOR A SHOPPING CENTER LOCATED AT 20761-20775 S. AVALON BOULEVARD

THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by the applicant, David Dupetit, on behalf of SW Suits Inc., with respect to real property located at 20761-20775 S. Avalon Boulevard and described in Exhibit "A" attached hereto, requesting the approval of Case numberDesign Overlay Review No. 1337-09 and Variance No. 506-09 to install a freeway-oriented business sign on the back wall of the building of an existing commercial center in the CR-D (Commercial, Regional – Design Overlay) zoning district.

The Planning Commission held a duly noticed public hearing on October 27, 2009 and November 10, 2009, at 6:30 P.M. at City Hall, Council Chambers, 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid meeting was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. Pursuant to Section 9172.23 of the Carson Municipal Code (CMC), Site Plan and Design Review, and Section 9172.22, Variance, the Planning Commission finds:

a) The General Plan designates the subject properties as Regional Commercial. The property is currently zoned CR-D (Commercial, Regional – Design Overlay), which is consistent with the General Plan land use designation. The subject property is developed with a shopping center which is compatible with surrounding uses. There is no specific plan for this area.

b) The existing building was built and completed in 1980. Most buildings in the surrounding area were built in the mid- to late-1970s. Much of the existing development has kept its original form, with some notable exceptions, such as the major remodel and redesign of the South Bay Pavilion (formerly the Carson Mall) and newer development at the southeastern corner of Dominguez Street and Avalon Boulevard. Architectural enhancements such as columns and a trim will improve the appearance of the building as viewed from the 405 Freeway. The proposed sign will be made of channel letters and will be compatible with the building.

c) The proposed sign will not be located in an area accessible to pedestrians or vehicles. However, it will be visible to vehicles on the 405 Freeway, but is not expected to create a safety hazard or create an unnecessary distraction since it will be a static sign.

d) A sign program for the entire shopping center will be required as a condition of approval. The new wall sign will display the business name for the main tenant and no other wall signs in the back of the building will be permitted. With approval of the variance request, the signs will be code compliant in terms of size, location and total number. Unpermitted signs will be removed. As a requirement of the sign program, tenants will be required to obtain owner and city approval for any proposed sign changes.

e) All of the required findings pursuant to Section 9173.23(d), "Site Plan and Design Review, Approval Authority and Findings and Decision", can be made in the affirmative if conditions of approval are implemented.

f) The subject property has a special circumstance in that it is triangularly-shaped and located on a major highway with freeway visibility. The subject property is also developed with 10 tenant spaces, all of which require signage. Because of the necessity of signage, the total allowable sign area must be divided for all 10 tenants. This creates a hardship on the tenants as compared with a similar-sized lot with a single tenant. Furthermore, since the property has freeway visibility, erecting a sign on the back wall of the building would be advantageous for the main tenant. This would not only improve the economic vitality of the main tenant, but would also improve the appearance of the building as viewed from the freeway because of the proposed architectural enhancements. Approval of the variance request to exceed the total allowable sign area would allow the main tenant to be competitive with other similar businesses on freeway-visible properties.

Section 4. Pursuant to Section 15311(a), "Accessory Structures," of the California Environmental Quality Act (CEQA), the proposed interior/sign to an existing commercial building does not have the potential for to causeing a significant effect on the environment and is found to be categorically exempt.

Section 5. Based on the aforementioned findings, the Commission hereby grants Design Overlay Review No. 1337-09 and Variance No. 506-09 with respect to the property described in Section 1 hereof, subject to the conditions set forth in Exhibit "B" attached hereto.

Section 6. The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.

Section 7. This action shall become final and effective fifteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of the Carson Zoning Ordinance.

PASSED, APPROVED AND ADOPTED THIS 10th DAY OF NOVEMBER, 2009.

CHAIRMAN

ATTEST:

SECRETARY

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ASSESSOR'S PARCEL NO: 7339-018-001

END OF LEGAL DESCRIPTION

CITY OF CARSON

ECONOMIC DEVELOPMENT

PLANNING DIVISION

EXHIBIT "B"

CONDITIONS OF APPROVAL

DESIGN OVERLAY REVIEW NO. 1337-09

VARIANCE NO. 506-09

GENERAL CONDITIONS

1. If Design Overlay Review No. 1337-09 and Variance No. 506-09, are not used within one year of their effective date, said permits shall be declared null and void unless an extension of time is previously approved by the Planning Commission.

2. The approved Resolution, including the Conditions of Approval contained herein, and signed Affidavit of Acceptance, shall be copied in their entirely and placed directly onto a separate plan sheet behind the cover sheet of the development plans prior to Building and Safety plan check submittal. Said copies shall be included in all development plan submittals, including any revisions and the final working drawings.

3. The applicant shall comply with all city, county, state and federal regulations applicable to this project.

4. The applicant shall make any necessary site plan and design revisions to the site plan and elevations approved by the Planning Commission in order to comply with all the conditions of approval and applicable Zoning Ordinance provisions. Substantial revisions will require review and approval by the Planning Commission. Any revisions shall be approved by the Planning Division prior to Building and Safety plan check submittal.

5. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.

6. It is further made a condition of this approval that if any condition is violated or if any law, statute or ordinance is violated, the permits shall be determined to be automatically revoked, provided the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty days.

7. All buildings, grounds, parking areas and landscaping shall be maintained in a neat and orderly manner at all times.

8. The applicant shall submit two complete sets of plans that conform to all the Conditions of Approval to be reviewed and approved by the Planning Division prior to the issuance of a building permit.

9. Decision of the Planning Commission shall become effective and final 15 days after the date of its action unless an appeal is filed in accordance with Section 9173.4 of the Zoning Ordinance.

10. A modification of the conditions of this permit, including additions or deletions, may be considered upon filing of an application by the owner of the subject property or his/her authorized representative in accordance with Section 9173.1 of the Zoning Ordinance.

11. The Applicant shall defend, indemnify and hold harmless the City of Carson, its agents, officers, or employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul, and approval of the City, its advisory agencies, appeal boards, or legislative body concerning Design Overlay Review No. 1337-09 and Variance No. 506-09. The City will promptly notify the Applicant of any such claim, action, or proceeding against the City and the Applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. The City will cooperate fully in the defense. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the Applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

PARKING

12. The required parking shall meet all applicable standards as outlined in Part 6, Division 2 of the Carson Zoning Ordinance.

13. All parking areas and driveways shall remain clear. No encroachment into parking areas and/or driveways shall be permitted.

14. All areas used for the movement of parking, loading, repair or storage of vehicles shall be paved with either:

    a. Concrete or asphaltic concrete to a minimum thickness of three and on-half inches over four inches of crushed aggregate base; or

    b. Other surfacing material which, in the opinion of the Director of Engineering Services, provides equivalent life, service and appearance.

LANDSCAPING/IRRIGATION

15. All landscaped areas shall be maintained in good condition at all times.

16. All landscaped shall be on the subject property and outside of any future dedications or right-of-ways.

UTILITIES

17. All utilities and aboveground equipment shall be constructed and located pursuant to Section 9126.8 of the Zoning Ordinance, unless otherwise provided for in these conditions.

18. All roof mounted equipment shall be screened from public view or incorporated into the design of the structure or building.

AESTHETICS

19. The specification of all colors and materials must be submitted and approved by the Planning Division prior to the issuance of any building permits.

20. The subject property shall be maintained at all times to present an attractive appearance to the satisfaction of the Planning Division.

21. The architectural enhancements shall be modified so that the pillars extend from the ground to the top of the building. A crown molding shall be installed at the top of the building. Landscaping shall be provided at the base of the building. Prior to Building plan check submittal, the applicant shall submit an improvement plan that shows all the issues described in this condition. Review and approval shall be made by the Planning Division prior to issuance of a building permit.

SIGNS

22. A sign program shall be submitted by the property owner that regulates the size, shape, location, colors, materials, and other details of all signs at the shopping center. The sign program shall be submitted within 60 days of approval of Design Overlay Review No. 1337-09 and Variance No. 506-09.

23. The applicant shall submit a sign plan that shows the size, colors, material, etc. of the proposed sign on the back wall of the building. The signs shall be made of channel letters and shall be reviewed and approved by the Planning Division prior to Building plan check submittal.

24. The freeway-oriented sign on the back wall of the building shall only display the major tenant business name at the shopping center and/or the shopping center name.

25. Raceway shall not be permitted. All channel letters must be flush against the building wall. Electrical conduit shall be properly concealed.

26. One business sign in the front of the building shall be removed prior to finalizing a building permit for the freeway-oriented rear wall sign, to the satisfaction of the Planning Division.

27. Prior to obtaining a building permit, the business record on file at the Revenue Division at the City of Carson shall be updated to show the proper business name. The new sign shall only show the business name and all existing business signs shall be identical (business name only).

28. In the event the business name changes, a new building permit shall be issued prior to installation of new lettering or sign face subject to review and approval by the Planning Division.

29. All illegal banners and window signs shall be removed prior to issuance of a building permit, subject to the satisfaction of the Planning Division and Code Enforcement Division.

LIGHTING

30. All exterior lighting shall be provided in compliance with the standards as provided for in Section 9137.1 (Commercial Zones) of the Zoning Ordinance.

31. Low level exterior lights shall be installed and be directed on-site in such a manner as to not create a nuisance or hazard to adjacent street and properties, subject to the approval of the Planning Division. A photometric study may be required and approved by the Planning Division prior to the issuance of building permits.

BUILDING AND SAFETY

32. Appropriate permits shall be obtained for work that has been done on the property without required permits, or said work shall be removed. All work shall be brought into compliance with applicable codes.

BUSINESS LICENSE DEPARTMENT - CITY OF CARSON

33. Per section 6310 of the Carson Municipal Code, all parties involved in the project, including but not limited to contractors and subcontractors, will need to obtain a City Business License.

GRAFFITI

34. Graffiti shall be removed from all project areas within 3 days of written notification by the City of Carson. Should the graffiti problem persist more than twice in any calendar year, the matter may be brought before the Planning Commission for review and further consideration of site modifications (i.e., fencing, landscaping, chemical treatment, etc.).

Steven Eichberg, representing the property owner, questioned the applicant's acquiescence to the condition which requires they provide used motor oil recycling tanks for use by the public; stated that this business should be exempt from this CUP process because Carson's Code 9138.11 states that minor uses are to be exempt from the ordinance, expressing his belief that changing tires/rims is a minor automotive use; and he stated that other automotive repairs are not done at this business, questioning what can be more minor than changing tires/rims. With regard to Condition No. 10, he pointed out that the majority of the front lot is cement and that they do not want to slurry over the cement, noting they are willing to fix the front potholes. With regard to the tall pole sign, he expressed his opposition to being treated differently than Just Tires, noting the Planning Commission allowed that business to maintain the height of their tall sign; he stated that the Planning Commission has given Just Tires an advantage over others who have to lower their signage; and he encouraged the Planning Commission to be consistent when considering signage with all auto-related uses. With regard to the easement, he noted that the applicant has already secured the air encroachment, pointing out they only need to have that paperwork notarized.

Associate Planner Gonzalez explained that the Planning Commission allowed the tall Just Tires sign to remain because of the store's poor visibility from Avalon Boulevard; and he amended Condition No. 10 to read as follows: "The owner/applicant shall re-slurry **and/or repair** the front..."; and he noted that staff will make sure the proper easement paperwork is in order before completing this process.

Addressing Commissioner Gordon's inquiry regarding "minor use," City Attorney Wynder stated it is his opinion Condition No. 12 – "The owner/applicant shall provide for public use above-ground storage tanks to hold used automotive oil for recycling purposes in accordance to industry 'Best Management' practices. The Planning Division shall approve the location and signage for company 'used oil recycling' services" -- is reasonable and just under Section 9138.2 of the City's Code (Vehicle Service and Repair).

Chairman Faletogo closed the public hearing.

Planning Commission Decision:

Commissioner Brown moved, seconded by Commissioner Gordon, to approve the applicant's request as submitted; moved to amend Condition No. 10, "The owner/applicant shall re-slurry **and/or repair** the front..."; and moved to adopt Resolution No. 09-2273. Motion carried.

11. PUBLIC HEARING

B) Design Overlay Review No. 1337-09 and Variance No. 506-09

Applicant's Request:

The applicant, SW Suits, Inc., is requesting a freeway-oriented sign and a variance request to exceed the maximum allowable sign area for the Avalon Plaza shopping center. The property involved is 20761-20775 South Avalon Boulevard.

EXHIBIT NO. 3

Staff Report and Recommendation:

Senior Planner Signo presented staff report and noted that staff is recommending this matter be continued to allow the applicant more time to come up with an improved sign design. He mentioned it is difficult to get in touch with the property owner, but that it is staff's recommendation to work with the property owner, the applicant and the Code Enforcement division in developing an appropriate sign for the back wall and addressing signage throughout this commercial center.

Senior Planner Signo noted for Chairman Faletogo that each tenant shares their portion of the back wall facing the 405 Freeway, noting that SW Suits is the largest tenant in this shopping center. He added that the property owner never came back to complete the proposed shopping center sign program in 2003, but mentioned that the pylon sign and tenant channel letters were designed to meet the criteria in that sign program.

David Dupetit, applicant, noted that on average, the windows along Avalon Boulevard routinely get shot out by BB guns twice a month; explained that the sun damages the suits; and that for these reasons, he believes the signage in the windows helps to protect the clothing. He mentioned that the windows along Avalon Boulevard were also shot out when the prior furniture business was in this store. He expressed his belief the freeway-oriented signage is the most important signage for his business and that he would agree to remove the remaining signage if the City allows the freeway-oriented signage. He highlighted the poor economy and stated that the channel letter signage he is proposing is his preferred signage. He urged the Planning Commission to approve his request, noting he has been working with staff on this matter for four years.

In response to Commissioner Brimmer's inquiry, Senior Planner Signo confirmed that the Sign Subcommittee was in favor of the applicant's request for the freeway-oriented signage, but noted that the Planning Commission has the authority to approve the Design Overlay Review and Variance request. Senior Planner Signo noted that staff at one point suggested the tile be wrapped around the back side of his store and that columns or other vertical enhancements be added.

Planning Officer Repp indicated that staff would like to see a better design for the rear wall; explained that the architectural embellishment is important because the back wall was not designed to have signage; that if signage is placed on the back wall, it is necessary to create a unique corner unit that is different from the rest of the stores in this center; and she added that this architectural embellishment would set this unit apart from the remaining units in this center and avoid creating a precedent for others seeking to get their signage on the back wall.

Mr. Dupetit noted for Commissioner Brown that the property owner is 100 percent behind his signage request but that the property owner is not willing to pay for any of the improvements; and he mentioned that the property owner is also being negatively impacted by the poor economy.

Commissioner Verrett asked staff to clarify what they don't like about the applicant's proposed signage.

Senior Planner Signo stated that staff is recommending the applicant use the design he proposed two years ago, with a crown cornice and trellis with vines.

City Attorney Wynder stated that the proposed signage appears to be more of an advertisement for the business; and he addressed staff's recommendation for architectural embellishments, thereby avoiding precedence for other tenants to request signage on the back wall.

Mr. Dupetit stated that the prior design is too cost prohibitive to put in place at this time. He pointed out that the new name of his business is similar to the idea behind the 99 cent store.

Chairman Faletogo closed the public hearing.

Chairman Faletogo stated he is favorable to the signage being proposed by the applicant, noting the applicant is taking the proper steps to change the business name. He suggested that the property owner put up some of the money for these recommended changes.

Commissioner Park addressed his concern with excessive signage at shopping centers throughout Carson; suggested that an ordinance be written which requires shopping center owners to have sole control over their tenant signage and keeping the total square footage of signage within the allowable amount.

Commissioner Brown stated that he would prefer the applicant display generic signage, such as indicating "Men's Suits," noting that his signage won't have to be changed when the cost of the suits go up.

Commissioner Graber stated, echoed by Commissioner Brimmer, that he likes the proposed signage but stated that it needs to fall within the guidelines of the code. He stated the new name seems like it's an advertisement.

Commissioner Saenz stated that the signage needs to stay within code.

Commissioner Verrett noted her concern with the City micromanaging the proposed signage of the new business name; and stated it is imperative to have adequate signage that draws buying customers into a shopping center. She noted her concurrence with the applicant going back with staff to work on a sign design that is amenable to all.

Commissioner Gordon noted his preference to continue this matter to allow the applicant and staff to come to a design that can be recommended for approval.

Commissioner Schaeffer stated that the new name looks like an advertisement, but pointed out it is a legal business name; and expressed her belief it is unfair to ask this tenant to pay for landscaping and to modify the architecture of the entire back of this building. She pointed out that America's Tire Store has rear signage and that IKEA has freeway-oriented signage and permanent banners, noting the City should be consistent and fair to all businesses.

Chairman Faletogo noted his support for the applicant's freeway-oriented signage, but stated that signage needs to fall within code.

Planning Commission Decision:

Commissioner Brown moved, seconded by Commissioner Verrett, to continue this matter to the next Planning Commission meeting to allow staff, the applicant, and the property owner to come up with a mutually agreeable design, with staff providing the applicant with acceptable guidelines to follow. Motion carried, with Commissioners Brimmer and Graber voting no.

The meeting was recessed at 8:50 P.M. Chairman Faletogo and Commissioner Verrett departed the meeting during the break. The meeting was reconvened at 9:04 P.M.

11. PUBLIC HEARING

C) Public Hearing to discuss city of Carson response to the State Housing & Community Development comments to the Draft 2006-2014 Housing Element Update

Applicant's Request:

The applicant, city of Carson, is requesting to review, evaluate and provide comments to the city of Carson's response to the State Housing & Community Development comments on the Draft 2006-2014 Housing Element Update. Properties involved would be citywide.

Staff Report and Recommendation:

Associate Planner Gonzalez presented staff report and the recommendation to OPEN the public hearing and receive public testimony; COMPLETE review of the city of Carson's response to HCD's comments on the draft Housing Element in light of testimony received; and FORWARD the city of Carson's response to the State Housing and Community Development Department and to the City Council with a recommendation of adoption. He corrected Page 2 of staff report, under "Background," last paragraph, "The Housing Element does ~~not~~ contain significant..." and Page 5, third paragraph from the bottom, "...1,812 **housing** units..."

Housing Manager Adams briefly provided further input.

Planning Commission Decision:

Commissioner Graber moved, seconded by Commissioner Brimmer, to recommend that City Council adopt Carson's response to the State Housing and Community Development Department's comments on the draft Housing Element. Motion carried (absent Chairman Faletogo and Commissioner Verrett).

12. NEW BUSINESS DISCUSSION None

9. CONSENT CALENDAR

Minutes: October 27, 2009

MOTION: Commissioner Park moved, seconded by Commissioner Brown, to approve the October 27, 2009, Minutes as presented. Motion carried (Commissioner Brimmer had not yet arrived.)

10. CONTINUED PUBLIC HEARING

A) Design Overlay Review No. 1337-09 and Variance No. 506-09

Applicant's Request:

The applicant, SW Suits, Inc., is requesting a freeway-oriented sign and a variance request to exceed the maximum allowable sign area for the Avalon Plaza shopping center. The subject property is located at 20761-20775 South Avalon Boulevard.

Staff Report and Recommendation:

Senior Planner Signo presented staff report and the recommendation to APPROVE Design Overlay Review No. 1337-09 and Variance No. 506-09; and WAIVE further reading and ADOPT Resolution No._____, entitled, "A Resolution of the Planning Commission of the city of Carson approving Design Overlay Review No. 1337-09 and Variance No. 506-09 for a freeway-oriented wall sign and a variance request to exceed the total allowable sign area for a shopping center located at 20761-20775 South Avalon Boulevard." He added an additional condition to require the trellises be made of metal, not wood.

David Dupetit, applicant, stated that the 3" x 30" freeway-oriented sign is the preferred size.

Commissioner Brown suggested the business name be consistently reflected on the signage.

Russ Fluter, property owner, stated that he has lowered the rents in this shopping center to help the tenants during this poor economy.

There being no further input, Vice-Chairman Saenz closed the public hearing.

Planning Commission Decision:

Commissioner Verrett moved, seconded by Commissioner Gordon, to approve the applicant's request, with the additional conditions to add metal trellises and remove graffiti within 3 days of written notification.

By way of a friendly amendment, Commissioner Brown asked that a condition be included to require all signage reflect the new business name.

EXHIBIT NO. 4

The makers of the motion accepted the friendly amendment and moved to adopt Resolution No. 09-2274. Motion carried (Commissioner Graber abstained; absent Chairman Faletogo).

11. PUBLIC HEARING

A) Modification No. 1 to Relocation Review No. 3038.08

Applicant's Request:

The applicant, Marsulex – Los Angeles, is requesting to construct a 720-square-foot modular office building within the Tesoro oil refinery plant located at 2160 East Sepulveda Boulevard.

Staff's Report and Recommendation:

Associate Planner Newberg presented staff report and the recommendation to WAIVE further reading and ADOPT Resolution No._____, entitled, "A Resolution of the Planning Commission of the city of Carson approving Modification No. 1 to Relocation Review No. 3038-08 for the construction of a second 720-square-foot modular office trailer located at 2160 East Sepulveda Boulevard."

Vice-Chairman Saenz opened the public hearing.

Mark Berger, representing the applicant, noted his concurrence with the conditions of approval.

Vice-Chairman Saenz closed the public hearing.

Planning Commission Decision:

Commissioner Brown moved, seconded by Commissioner Graber, to approve the applicant's request as submitted.

By way of a friendly amendment, Commissioner Verrett asked that the word "structure" be consistently used throughout the documents when pertaining to the modular office building.

The makers of the motion accepted the friendly amendment, thus adopting Resolution No. 09-2275. Motion carried (absent Chairman Faletogo).

12. NEW BUSINESS DISCUSSION None

13. WRITTEN COMMUNICATIONS None