

MINUTES

CITY OF CARSON REGULAR MEETING OF THE PLANNING COMMISSION



*Executive Conference Room, 2ND Floor
701 East Carson Street, Carson, CA 90745*

October 27, 2015 – 6:30 P.M.

1. **CALL TO ORDER**

Vice-Chairman Madrigal called the meeting to order at *6:55 P.M. (*recording issue)
2. **PLEDGE OF ALLEGIANCE**

The Salute to the Flag was led by Commissioner Cinco.
3. **ROLL CALL**

Planning Commissioners Present:
*Andrews, Faletogo, *Guidry, Madrigal, Mitoma, Post, *Thomas

Alternates Present: Cinco, Pimentel

*(Commissioner Andrews arrived at 7:11 P.M.)

Planning Commissioners Absent:
Diaz and Schaefer (both excused)

Planning Commissioners Departed Early: Guidry (8:10 p.m.), Thomas (9:33 p.m.)

Planning Staff Present: Planning Manager Naaseh, Assistant City Attorney Gerli, Senior Planner Rojas, Associate Planner Gonzalez, Recording Secretary Bothe
4. **AGENDA POSTING CERTIFICATION**

Recording Secretary Bothe indicated that all posting requirements had been met.
5. **AGENDA APPROVAL**

Commissioner Thomas moved, seconded by Commissioner Post, to approve the Agenda as submitted. Motion carried, 8-0 (Commissioner Andrews had not yet arrived; absent Commissioners Diaz and Schaefer).
6. **INSTRUCTIONS TO WITNESSES**

Vice-Chairman Madrigal requested that all persons wishing to provide testimony stand for the oath, complete the general information card at the podium, and submit it to the secretary for recordation.

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| 7. | SWEARING OF WITNESSES | Assistant City Attorney Elena Gerli |
| 8. | ORAL COMMUNICATIONS | For items NOT on the agenda. Speakers are limited to three minutes. None |
| 9. | CONSENT CALENDAR | None |
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10. CONTINUED PUBLIC HEARING

A) Conditional Use Permit No. 971-15

Applicant's Request:

The applicant, Steve Rawlings of Alcoholic Beverage Consulting and representative for Century Theatres, Inc., is requesting to sell beer and wine for onsite consumption within a movie theater at the SouthBay Pavilion. The subject property is located at 20700 S. Avalon Boulevard.

Staff Recommendation:

Continue indefinitely

Steve Rawlings, applicant's representative, stated that this theater has been well received; highlighted the theater's upgrades to further enhance the experience; advised that they have internally surveyed whether there are any types of incidents or issues that need to be addressed in terms of their operations; expressed his belief that this venue can appropriately manage the sale of beer/wine; explained that this company has successfully put in place a national operational control system that works well; and that they have taken some time to observe what specific demographic/crowds are frequenting this theater. Mr. Rawlings stated this venue is serving a lot of families, with their typical core demographic being adults between the ages of 30 and 60; that the kids are typically accompanied by adults; and that they are seeing small groups of young people. He added that they are seeing more adults than kids at this venue.

Commissioner Thomas asked if the applicant is changing their approach to where alcohol can be consumed.

Mr. Rawlings stated they are continuing to seek the consumption of alcohol in all auditoriums, but they have changed their request from a maximum of 3 drinks to a maximum of 2 drinks; and, additionally, they are amenable to creating a specific condition which allows the Community Development Director and/or police department personnel to review the operations in the initial 6-month period and, if necessary, to either make recommendations for additional conditions or put in place different operational controls/procedures that would facilitate the ability to closely monitor the activity and/or bring it back to the Planning Commission for discussion. He stated there have not been any incidents since they have opened; and urged the City to allow them to go forward with their ideal model of serving the entire community's interests with this theater experience.

Commissioner Thomas asked what that threshold would be.

Mr. Rawlings stated they are willing to make it open-ended; and that if the Community Development Director and/or police department believes there are public safety concerns, they can use their discretion to put in place additional conditions.

Commissioner Mitoma asked if the Planning Commission can pass this for 6 months as a test operation.

Assistant City Attorney Gerli explained that the Planning Commission can include a condition for a 6-month review of the conditional use permit (CUP) or annual review; and that additional conditions of approval can be added.

Commissioner Faletogo asked if the indefinite continuance was the applicant's request.

Mr. Rawlings stated they asked for a continuance to allow them to further analyze this issue.

Planning Manager Naaseh advised that the applicant requested a continuance to January, but stated that staff is suggesting it be indefinitely continued because it's been continued many times and that it is typical for staff to suggest an indefinite continuance in those instances. He advised that when it is ready to return for full consideration, this item will be re-noticed pursuant to the public hearing process.

Commissioner Guidry stated she is not opposed to the sale of beer and wine and stated that a 6-month review condition would be appropriate; and she suggested that the conditions could also include the hours for the sale of alcohol.

Commissioner Andrews stated that he has been with the L.A. Police Department for 26 years; noted his opposition to the sale of alcohol at theaters and also how the applicant proposes the consumption of alcohol at this theater; and noted his concerns with security and adequate monitoring. He expressed his belief that fights usually take place when people are drinking alcohol out of plastic cups; and stated that the facility should have been designed for alcohol sales if that was their intent all along, believing the building as currently designed does not adequately accommodate alcohol sales.

Commissioner Mitoma asked if Cinemark has other theaters that sell liquor and if so, are there design differences.

Mr. Rawlings stated that yes, Cinemark has two southland facilities which have more of a designated bar setup, but stated that the remainder of their establishments are safely providing alcohol service with the exact configuration they have with this model in Carson. He pointed out that Alcohol Beverage Control requires the alcohol to be served in clear plastic cups at these facilities; and he added that many other movie theater chains have similar concession stands for alcohol sales as the one they are proposing for this facility.

Commissioner Andrews mentioned that Carson supports Red Ribbon Week, a program which addresses drug/alcohol abuse, noting some discomfort with selling alcohol at a family venue.

Mr. Rawlings stated that Cinemark Theaters is a terrific establishment for family entertainment; pointed out that they would certainly not jeopardize the safety and well-being of their customers with any public nuisance; and stated they are not looking at becoming a controversial business in this community. He asked that this matter be continued to January.

Commissioner Guidry noted her support of continuing this matter to January, suggesting the applicant pay for the re-noticing activity for this item which should alleviate staff's concern with multiple continuances.

Vice-Chairman Madrigal asked if a designated alcohol drinking area would take space away from the lobby area.

Mr. Rawlings indicated yes.

Vice-Chairman Madrigal noted his concern with the visibility/crowding of everybody buying refreshments, making it noisier and a lot less enjoyable; pointed out that if someone is being required to consume the alcohol in that designated area in the lobby, they are more likely to guzzle down the alcohol because they don't want to miss the movie; and stated that drinking alcohol in a hurry is worse than having people just walk into the auditorium of their choice and enjoy their drink while being with their family. He added that he would much rather enjoy drinking a cup of beer/wine in the movie auditorium as opposed to watching 25 or 30 kids run around Chuck E Cheese, which serves alcohol across the hallway. He pointed out that various entertainment, family-oriented venues sell alcohol, such as Dodger Stadium and Disneyland; and expressed his belief this City is being too conservative with this request.

Commissioner Thomas stated that what is missing here are statements from the public noting their support for the sale of beer/wine at this establishment.

Commissioner Pimentel pointed out that Chuck E Cheese sells alcohol, which is located across the hallway from this business; noted she enjoys being able to have a drink while being at the movies with her family; and stated that there is nothing wrong with enjoying wine/beer while watching a movie at the theater. She pointed out that alcohol is also served at most family restaurants.

Commissioner Faleto go stated it was City Council's direction for the Planning Commission to consider allowing a 2-drink maximum at this theater, to address a possible designated area, but stated he is opposed to a designated area, believing that won't work. He stated that would create a bar space at the theater and keep family members from enjoying their outing together, watching the movie together. He asked that if a patron must drink alcohol in a designated area, why bother leaving the house to watch a movie.

Commissioner Faleto go pointed out that the applicant has provided a very nice venue for the citizens of this community to enjoy themselves and that being allowed to enjoy 1 or 2 alcohol beverages should not be prohibited/limited in designated areas because kids are running around. He added that this matter has been prolonged enough and that no new information has been presented.

Planning Commission Decision:

Commissioner Faleto go moved, seconded by Vice-Chairman Madrigal, to approve the applicant's request for the sale of alcohol with a 2-drink maximum with no designated area; and that the sale of alcohol be re-evaluated in 6 months. (This motion was ultimately withdrawn.)

Assistant City Attorney Gerli explained that this item was noticed for continuance and that it would have to be noticed in accordance with the public hearing process; and added that new Commissioners will have to familiarize themselves with the entirety of

the record dealing with this matter before participating in a vote, including the viewing of videotapes from prior meetings.

Commissioner Mitoma moved, seconded by Commissioner Faletofo, to continue this item to the next fully noticed Planning Commission meeting. (This motion was superseded by the substitute motion).

Commissioner Post asked why Commissioners are seeking to rush this item when the applicant is requesting a January hearing date.

By way of a substitute motion, Commissioner Post moved, seconded by Commissioner Thomas, to continue this matter to January 12, 2016. This motion carried, 7-2, as follows:

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| AYES: | Andrews, Cinco, Faletofo, Mitoma, Pimentel, Post, Thomas |
| NOES: | Guidry, Madrigal |
| ABSTAIN: | None |
| ABSENT: | Diaz, Schaefer |

11. PUBLIC HEARING

A) Design Overlay Review No. 1577-15

Applicant's Request:

The applicant, Matthew Simon, AIA, is requesting to demolish three existing buildings totaling 186,000 square feet and construct a new 210,000-square-foot warehouse building to be occupied by Fed Ex. The subject property is located at 17110-17120 S. Main Street.

Staff Report and Recommendation:

Associate Planner Gonzalez presented staff report and the recommendation to APPROVE Design Overlay Review No. 1577-15 subject to the conditions attached as Exhibit "B" to the Resolution; ADOPT a Mitigated Negative Declaration; and WAIVE further reading and adopt Resolution No. 15-2552, approving Design Overlay Review No. 1577-15 for the new construction of a 210,000-square-foot light industrial warehouse building, including 8,000 square feet of office space, to be located at 17110-17120 S. Main Street.

Commissioner Mitoma stated that where possible, the City should strive to work with applicants to put in place solar energy on new/rehabbed buildings.

Vice-Chairman Madrigal opened the public hearing.

John Meyer, property owner, stated that Fed Ex Trade Network, a division of Fed Ex, has secured a lease of this property, along with the office building to the south, noting they are currently located in Torrance; and advised that Fed Ex will be moving their entire 180-white collar/corporate staff to this location. He noted there will be approximately 24 warehouse areas and office space; explained that this division of Fed Ex handles all the imports for Fed Ex that comes into the country by way of the Port of L.A. or Long Beach; and noted that while most of the product goes to the airport, some

of it will come to this location and be repackaged and sent out to their customers. He noted his concurrence with the conditions of approval; and he stated they would like construction to be complete by the second quarter of next year.

Mr. Meyer explained that the warehouse will have skylights which will provide enough daytime lighting for operational use and that there will be minimal energy use; added that they will consider the implementation of solar energy at this site and evaluate how they would have to structure that benefit going to their tenants; but pointed out it would be a capital outlay which would benefit the business leasing the building and paying their own utility bill. He added that both the warehouse and offices will have low energy LED lighting.

Commissioner Mitoma noted some concern with the proximity to the residents and this 24/7 operation.

Mr. Meyer stated the 24/7 operation will have minimal truck activity, moving approximately 20 trailers a day from the port, based on Fed Ex operational notes; and advised that there is a 120-foot buffer from the residents, plus an 8-foot wall to further mitigate onsite activity. He added that the CEQA study found there is very little impact over ambient noise levels at that point in the residential neighborhood and from a noise standard, it will be no different than what's existing there today; he added that the access to/from this site is not through any residential neighborhood; and that they are less than 200 feet from the 91 Freeway.

Dywane Oliver, resident, stated that he lives near this site and asked the following questions: is this a multi-story facility; what type of external lighting will be used and will it be facing the homes; what will be done to prevent more noise/pollution; will trucks be allowed to idle and for how long; will truckers be allowed to honk their horns; and will there be any outside speaker system. He noted his concerns with hearing noise at 3:00 a.m.

Mr. Meyers expressed his belief the trucks cannot idle any longer than 5 or 10 minutes, noting he will have to check with Fed Ex on their regulations; and explained that once their trucks pull up to the dock, they will cut their idling.

Staff noted that state law allows for a maximum 5-minute idling at one time.

Mr. Meyer stated that these trucks have to be in compliance with the new green standards implemented at the ports; that they are only working with 20 trucks a day, but he indicated he does not know what times those are most active; and stated that a CEQA study was conducted for both noise as well as pollution for this project, noting that Mr. Oliver is welcome to view those CEQA documents. He added that those documents indicate, based on existing conditions, there were negligible impacts to the surrounding area; and stated that it was studied both onsite as well as within the neighborhood where Mr. Oliver resides.

Mr. Meyer stated this is a single-story building, 45 feet high; that all lights must be directed away from the residential area; and that no loud speaker system or horn honking will be permitted. He reminded everyone that this 24/7 operation will not be an intensive use, noting the majority of their employees will be inside the office building.

Commissioner Andrews asked for clarification on whether trucks utilizing this site will be required to be retrofitted to meet the new green port standards and asked what the environmental laws are for the trucking community coming into Carson.

Planning Manager Naaseh stated that staff will report back to the Commission on that request for clarification.

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

Planning Commission Decision:

Commissioner Faletogo moved, seconded by Commissioner Andrews, to concur with staff recommendation, thus adopting Resolution No. 15-2552. Motion unanimously carried, 9-0 (absent Commissioners Diaz and Schaefer).

Commissioner Guidry departed the meeting at 8:10 p.m.

11. PUBLIC HEARING

B) Modification No. 2 to Conditional Use Permit No. 877-11

Applicant's Request:

The applicant, KL Fenix Corporation, is requesting to approve a modification to a conditional use permit (CUP) to modify the operating hours for a truck yard from 8:00 a.m. to 6:00 p.m., Monday to Friday, to a 24-hour operation. The subject property is located at 19101 S. Broadway Street.

Staff Report and Recommendation:

Senior Planner Rojas presented staff report and the recommendation to WAIVE further reading and ADOPT Resolution No. 15-2553, approving Modification No. 2 to CUP No. 877-11 to modify the operating hours for a truck yard from 8:00 a.m. to 6:00 p.m., Monday to Friday, to a 24-hour operation to be located at 19101 S. Broadway.

Commissioner Andrews asked how soon the applicant would have to comply if this area were to be rezoned for residential and a project were to be proposed/built.

Planning Manager Naaseh stated that staff would expect it to be done immediately if the land use changes and a residential development built, noting this area is mostly industrial; but added that the City would work with the applicant if that were to ever happen to make sure there is a proper transition period for the applicant to comply.

Commissioner Mitoma expressed his belief it won't be rezoned to residential because of the nearby large bus depot.

Senior Planner Rojas highlighted the truck routes to be used and the nearby freeways.

Vice-Chairman Madrigal noted his concern with the high speed of truck traffic he sees on Alameda and he noted some concern with creating a problem for the local freeways or Main Street.

Planning Manager Naaseh stated he will discuss the high speed issue with the City's traffic engineer.

Vice-Chairman Madrigal opened the public hearing.

Felipe Segovia, property owner, stated that he works next door to this property and stated the last thing he wants to do is create a negative impact in this area; explained that most of the containers they pick up are from the Port of L.A. or Long Beach, noting most of those go directly to their destination and not to this site; however, the reason for this site is that sometimes, they pick up containers during new port hours where the destination warehouse is closed; advised that the yard is set up for a small number of containers that are seeing activity past 6:00 p.m.; and that they have 76 spaces but only 45 spaces are needed on a peak day. He added they are seeking new hours to accommodate the new port hours, Monday through Friday, 6:30 to 3:00 a.m., noting that the last truck goes in at 3:00 a.m. during the weekday and 4:30 a.m. on Saturday, which is the reason they are requesting a 24/7 operation. He pointed out that there will not be a whole lot of activity surrounding this site; and that this extension is only for the straggler containers that come in which can't be delivered immediately to their destination warehouse. He pointed out this site is within 700 feet of freeway access and that there is no residential within 750 feet; and that they use the freeway system because it is the fastest route. He stated that drivers are directed not to go up Broadway, reiterating their fastest and easiest routes are the freeways; and that the traffic they generate will be insignificant when compared with the bus depot, noting the surrounding area is zoned industrial.

Mr. Segovia noted for Commissioner Andrews that this business is driven by the hours at the ports, reiterating the last truck to leave will be at 4:30 a.m.; that the majority of their trucks will operate between 8:00 a.m. to 6:00 p.m., which is the bulk of their business; and he noted that all their trucks are in compliance with the green port regulations. He noted that the rig and the container will stay overnight.

Commissioner Mitoma suggested a 5-year review instead of a 3-year review.

Planning Manager Naaseh noted that review will be done at the Planning counter, not at the Planning Commission. He added that all noticing requirements had been met, as is done with all cases; and that no responses to those notices have been received.

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

Planning Commission Decision:

Commissioner Mitoma moved, seconded by Commissioner Post, to concur with staff recommendation; moved that Condition No. 21 be changed to once every 5 years instead of every 3 years to file with the Planning division a request for determination of compatibility; and moved to adopt Resolution No. 15-2553. Motion unanimously carried, 8-0 (absent Commissioners Diaz, Guidry and Schaefer).

11. PUBLIC HEARING

C) Design Overlay Review No. 1580-15 and Conditional Use Permit No. 982-15

Applicant/Owner Request:

The applicant, Aaron Nourollah, is requesting the demolition of an existing commercial structure and construction of a 5,153-square-foot drive-through carwash with 480 square feet of office space. The subject site is located at 22303 S. Avalon Boulevard.

Staff Report and Recommendation:

Associate Planner Gonzalez presented staff report and the recommendation to APPROVE Design Overlay Review No. 1580-15 and Conditional Use Permit No. 982-15 subject to the conditions attached as Exhibit "B" to the Resolution; ADOPT a Mitigated Negative Declaration; and WAIVE further reading and ADOPT Resolution No. 15-2554, approving Design Overlay Review No. 1580-15 and Conditional Use Permit No. 982-15 for the new construction of a 5,153-square-foot drive-through carwash with 480 square feet office space to be located at 22303 S. Avalon Boulevard.

Vice-Chairman Madrigal opened the public hearing.

Arash Nourollah, applicant's representative, noted his opposition to the following five conditions:

- Condition No. 15: request to delete, stating this is a redundant condition of failure to comply with conditions set forth and grounds for termination of the permit; that it is extremely vague and a loophole which allows amendments to be made to the permit while circumventing Planning Commission authority; stated this seems unprecedented; and that any violation would be a code enforcement issue and not the sole power within the Planning Manager's purview.
- Condition No. 16: stated they would like to be open later during the summer months and holiday season; that staff's recommendation seeks hours from 7:00 a.m. to 6:30 p.m. and to 7:30 p.m. from the end of March to the end of October, noting their Statement of Operations did not mention specific months; and that they would like the extended hours during the summer months and holiday season beyond October. He pointed out that the current business on site operates until 10:00 p.m.
- Condition No. 21: "prior to issuance of building permits, the applicant shall provide revised elevations," noting the applicant has made it clear the color red is imperative to their established branding/corporate color; stated they have two other sites being built with the red color, not the blue and gray being recommended by staff; and asked for the deletion of this condition and allow them to move forward with their branding.

Mr. Nourollah stated that their proposed project was deemed complete prior to the September 1, 2015, new architectural review mandate; therefore, they should be

exempt from the City's architectural review process and not subject to guidelines and restrictions adopted after that point. He highlighted a number of businesses in Carson which display red on their buildings, such as a bright red tile roof and striping on the McDonald's on Avalon Boulevard; and stated that all businesses should be treated fairly regardless of their corporate clout. He distributed to the Commission samples of the red aluminum composite panels (ACM) they will be using, pointing out these have a warm red and inviting tone. He stated that staff's recommendation for the proposed blue is subjective and does not seem to be typical; and he mentioned that they have built over 600 car wash facilities, many from this design. He added that graffiti cannot be cleaned off flagstone, as recommended by staff; and noted that flagstone is \$32 a square foot as opposed to \$1.25 for corrugated metal.

- Condition No. 22: asked that this condition be stricken to be consistent with the elimination of Condition No. 21, stating this would no longer be necessary.
- Condition No. 40: asked that this condition be omitted, stating it is not consistent with the City's current building code that allows for a sign not to exceed 10 feet, not the 6 feet being recommended by staff; and he highlighted the height of various signs nearby that range from 9.5 feet to 12 feet, such as McDonald's, Jack in the Box, and Rick's Lube & Tune. He stated that the current monument sign on this site is 10 feet. He expressed his belief a 6-foot sign on this corner will not provide the presence they need; and that it is vital to the success of this business to capture the attention with a 10-foot sign on this corner for those traveling on 223rd Street and Avalon Boulevard, stating those potential customers only have seconds to see a 10-foot car wash sign. He added that Condition No. 39 enforces the sign code. He clarified that the sign will be designed vertically to be visible from all four angles of the intersection.

Commissioner Post expressed her belief the proposed red is gaudy and stated the City is attempting to improve areas in Carson.

Mr. Nourollah explained that their proposal for the tower element is only 16 feet by 30 feet and will be tastefully built.

Commissioner Thomas asked if there are any other locations with the same design.

Mr. Nourollah stated they have a total of 3 with this design in the southland (including this project), 2 of them already under construction with this red color scheme.

Commissioner Faletogo asked if the residents were approached by the teriyaki business and Burger King when they located to this site.

Planning Manager Naaseh stated that he is not aware of what outreach took place with that business because he was not with the City at that time. He added that a CUP is being requested for this site because currently, this type business is not allowed by code at this site; explained that Condition No. 15 also protects the nearby residents, including the residential area across the street; and that this condition strives to ensure there are no issues of concern once this project is up and running and that this business is operating in a manner that causes no concerns for the neighbors. He suggested that if the applicant doesn't feel comfortable with the Planning Manager making the 6-month

confirmation that they're complying with all conditions placed on this project, the condition could be changed instead to Planning Commission review. He clarified that the review process is to mitigate any problems/concerns.

Mr. Nourollah stated that he met one-on-one with the neighbors; stated that while he is exempt from doing a CEQA study, he did one anyways and also did a traffic analysis study and met with the City Traffic Engineer, who raised no concerns. He stated that the 6-foot masonry wall will be constructed to provide further mitigation, but stated that this project will have less of an impact on the neighbors than the prior businesses on this site.

Senior Planner Rojas explained that because this carwash will have vacuums, staff believes the 6-month review will be necessary to make sure the residents are not impacted by the noise, parking lot lighting, or hours of operation, noting that staff would like the flexibility to make some adjustment to those hours of operation should it become necessary.

Mr. Nourollah advised that the CEQA study rated all their equipment and how their business will be operating, pointing out that they have spared no expense in purchasing equipment rated for lower noise. He added that this is also in an enclosure.

Vice-Chairman Madrigal expressed his belief that this is a good location for this car wash, stating there are no such facilities near the east side of the city.

Mr. Nourollah added that this is a self-service facility and announced that they will utilize a reclaimed water system, a system that reclaims the used water, cleans it and recycles it for use again.

Commissioner Faletogo stated that this intersection is in need of revitalizing and that he prefers the applicant's design (red) over what is being recommended by staff (blue/gray).

Planning Manager Naaseh agreed that this intersection needs to be revitalized; and mentioned that Yellow Basket may be coming in for a new design, stating that project will also go through the architectural design process.

Assistant City Attorney Gerli explained that the intent of Condition No. 15 is not to revoke the CUP; noted that the last sentence is redundant and can be deleted; and pointed out that any amendment proposed by staff would have to be approved by the Planning Commission; she further explained that this condition was placed to address possible problems that might arise from operations; and that any issues that do arise could be addressed early on and save everybody time and money with this process.

Staff noted that Condition No. 16 was placed to protect the adjacent neighbors from bothersome noise.

Vice-Chairman Madrigal stated that during the summer months, the heat often continues after 6:00 p.m., and that if he needs to wash his car, he is likely to wait until later in the day/evening to do that activity when it gets cooler.

Mr. Nourollah stated that the later hours are necessary for those getting off at 6:00 p.m., giving them some time to wash their cars; and he added that staying open during the holiday season at the end of the year would also provide a convenience for the community. He stated that he'd like to stay open until 7:30 p.m. and that if there are no customers, then the later hour wouldn't be necessary.

Commissioner Faletogo stated that this should be simplified by closing at 7:30 p.m. all throughout the year, pointing out there's not much of a difference.

Commissioner Post noted her concern with the close proximity of this business to the residents and the impacts of noise, especially when the residents are trying to enjoy family time; and stated that the Commission should agree with staff recommendation.

(Vice-Chairman Madrigal recessed the meeting at 9:20 p.m. and reconvened the meeting at 9:25 p.m.)

Planning Manager Naaseh stated that if the Commission is interested in extending the hours to 7:30 p.m. year-round, it would be advisable to maintain the 6-month review condition to make sure any complaints by the neighbors are adequately addressed. He suggested that a condition be placed that if the neighbors do complain about the noise within this 6-month review period, the Planning Manager may amend the hours of operation back to the original recommendation of 7:00 a.m. to 6:30 p.m. and to 7:30 p.m. from the end of March to the end of October.

Mr. Nourollah stated that is a fair compromise.

Planning Manager Naaseh stated that the City's architectural design consultant believes there is too much red in the applicant's proposed design, that it is too bright; he stated that the City's architectural consultant has recommended a much better design; and noted that he has not met with the applicant's architect. He added that he does not agree with the applicant's comment that his project should be exempt from architectural review because his application was deemed complete before September, explaining that the applicant and staff discussed some of these issues before he submitted for design review.

Planning Manager Naaseh explained that staff and the applicant are at an impasse and that the applicant had insisted this matter come before the Commission this evening, noting that is why staff is not able to answer all the design inquiries related to the City's architectural consultant's recommendations; but stated that the proposed conditions of approval are acceptable to staff.

Vice-Chairman Madrigal noted his support for the applicant's design and color theme, noting this modern design will be a great enhancement for this intersection.

Mr. Nourollah noted for Commissioner Andrews that most of their materials are anti-graffiti proof and that should any graffiti take place on site, it will be removed immediately.

Commissioner Mitoma pointed out the need for the Planning Commission to be reasonable, agreeing that design can be very subjective and that there should be

different design themes throughout a community. He reiterated that he likes what the applicant is proposing.

Mr. Nourollah asked that Condition No. 40 be deleted, stating they are seeking to keep the 10-foot height of this sign.

Commissioner Mitoma asked if the City's code allows 10 feet in height.

Mr. Nourollah clarified that the actual signage area is only 7 feet.

Planning Manager Naaseh stated that the planter needs to be changed and redesigned. He explained that as a matter of policy, staff has not been approving 10-foot high signs for a long while; that staff believes the code allows for design review and limiting its height; and noted his concern that allowing the 10 feet will set a precedent with this policy and future arguments for taller signs.

Commissioner Mitoma stated if this is the intent of staff, then the code should be changed.

Planning Manager Naaseh explained that it's been staff's policy to limit the height of signs; and that staff is seeking to change those codes to be in line with policy. He added that the current sign was approved in the 60's, noting his desire to get away from those dated design practices.

Vice-Chairman Madrigal noted the importance of signs being visible to traffic and the success of their business.

Planning Commission Decision:

Commissioner Post moved to concur with staff recommendation. This motion died due to the lack of a second.

Commissioner Faletogo moved, seconded by Commissioner Mitoma, to approve the project as requested by the applicant, making the following changes to the conditions of approval:

Condition No. 15: "The applicant shall submit a request to the Planning Manager to review the conditional use permit within 6 months from the day the Certificate of Occupancy is issued. The Planning Manager shall ensure all conditions of approval are met regarding the operation of the project. If there are complaints received from the residents, the Planning Manager may amend the hours of operation back to the original recommendation of 7:00 a.m. to 6:30 p.m. and to 7:30 p.m. from the end of March to the end of October. Applicant's failure to submit the request may result in the revocation process of the conditional use permit";

Condition No. 16: The hours of operation shall be from 7:00 a.m. to 7:30 p.m. year-round. This condition may be amended if complaints are received from the residents (see Condition No. 15);

Delete Condition Nos. 21 and 22 and renumber accordingly;

Condition 40: allow for a 10-foot monument sign; and

Moved to adopt Resolution No. 15-2554. This motion carried as follows, 6-1:

AYES: Andrews, Cinco, Faletogo, Mitoma, Pimentel, Madrigal

NOES: Post

ABSTAIN: None

ABSENT: Diaz, Guidry, Schaefer, Thomas

12. WRITTEN COMMUNICATIONS None

13. MANAGER'S REPORT None

14. COMMISSIONERS' REPORTS

Commissioner Mitoma complimented Planning staff on their Planning Commission website, stating it's easy to navigate.

Commissioner Faletogo thanked Assistant City Attorney Gerli for her email reminding the Commission of the Brown Act and email responses.

Vice-Chairman Madrigal stated that he will not be present at the November 10th Planning Commission meeting.

15. ADJOURNMENT

At 10:24 p.m., the meeting was formally adjourned to Tuesday, November 10, 2015, 6:30 p.m., Helen Kawagoe Council Chambers.

Chairman

Attest By:

Secretary