

CITY OF SAN DIMAS PLANNING COMMISSION MINUTES

Regularly Scheduled Meeting
Wednesday, November 19, 2008 at 7:00 p.m.
245 East Bonita Avenue, Council Chambers

Present

Chairman James Schoonover
Commissioner David Bratt
Commissioner John Davis
Commissioner Stephen Ensberg
Commissioner M. Yunus Rahi
Director of Development Services Dan Coleman
Planning Manager Craig Hensley
Associate Planner Marco Espinoza
Associate Planner Kristi Grabow

CALL TO ORDER AND FLAG SALUTE

Chairman Schoonover called the regular meeting of the Planning Commission to order at 7:00 p.m. and Commissioner Bratt led the flag salute.

CONSENT CALENDAR

1. Approval of Minutes: November 5, 2008

MOTION: Moved by Bratt, seconded by Ensberg to approve the Consent Calendar. Motion carried unanimously, 5-0.

PUBLIC HEARINGS

2. **CONSIDERATION OF CONDITIONAL USE PERMIT 08-04** – A Request to Allow Outdoor Display of Merchandise in the SP-2 (Specific Plan 2) Zone, located at 1379 West Arrow Highway. APN: 8383-016-016

Staff report presented by *Associate Planner Kristi Grabow*, who stated this was a proposal to allow three mannequins within the landscape setback area as outdoor display for a casual clothing store. She explained the code amendment in 1998 to make conditionally permitted uses in the CH and SP-2 zones consistent with the conditionally permitted uses within the CN zone. The section pertaining to outdoor sale, storage or display of merchandise has typically been applied to such uses as nursery stock, automobile display, lumber yards and other products that are typically stored and displayed outdoors. Staff was concerned that allowing this permit would set a precedent for all commercial zones within the City. Another issue is

whether the mannequins are used as advertising in contradiction to the San Dimas Sign Ordinance. Staff is recommending denial of the Conditional Use Permit as submitted.

Commissioner Davis asked if the issue is the request to have the mannequins in the landscape common area. If they were located next to the window, would staff then be in support.

Associate Planner Grabow stated that is part of it, but also that the mannequins are being used to advertise the business, which is inconsistent with the Sign Ordinance.

Planning Manager Craig Hensley stated typically outdoor display is not allowed but there is a provision in Specific Plan 2 to make it consistent with the CH zone using a conditional use permit. In the past this provision has been used for uses that are allowed in a heavier commercial zone. The Commission needs to determine if the outdoor display of merchandise is appropriate with this business or is it advertising. In reality, the display of the mannequins may be more consistent with advertising and should be addressed through an amendment to the Sign Ordinance instead of the use permit process.

Commissioner Davis asked if newsstands located in front of stores fall within the regulations.

Director of Development Services Dan Coleman stated they are different because that involves First Amendment rights.

Commissioner Ensberg asked if this was different than when grocery stores put bins of products in front of their stores.

Director Coleman stated the CH, CN and SP-2 are the only zones that are impacted by this application. If approved, other stores could apply for similar approval, such as pet stores stacking bags of food outside, or auto parts stores stacking cases of motor oil outside. If the Commission desired, they could modify the application to restrict the display to the sidewalk outside the storefront under the overhang.

Commissioner Davis asked if it was a violation when Von's puts bins of product in front of their store.

Director Coleman stated it could be, but it could also be part of a temporary use permit. The request tonight is for a permanent display.

Commissioner Davis stated then the question they are considering is can the display be out in front of the window, and secondly, is it appropriate to be located in the common area of the shopping center.

Commissioner Ensberg asked if the shopping center controls the common area, and if so, have they chosen not to enforce this as a violation of their regulations.

Planning Manager Hensley stated the shopping center does, via their property manager.

Director Coleman stated they have indicated they support this application.

Commissioner Rahi asked if there are any other types of signs the applicant can use to identify their business as he noticed in the pictures that they had a moveable sign in front of the store. It appeared from the letters that people use the mannequins like a sign to locate the store. He also asked if the City had received complaints in regards to the mannequins.

Associate Planner Grabow stated the only other sign that is permitted is the monument sign for the center; the moveable signs shown in the pictures are not permitted under the Sign Ordinance.

Director Coleman stated complaints were received and Code Enforcement has been out on more than one occasion to ask them to remove the mannequins.

Commissioner Ensberg asked if any safety issues were involved.

Director Coleman stated the mannequins are not on the public sidewalk and do not block line of sight from any of the driveways.

Chairman Schoonover stated that ten letters have been received in support of the application. He opened the meeting for public hearing. Addressing the Commission were:

Yesenia Guzman-Harris, applicant, stated she didn't understand why she was being singled out and wanted to know if it was because she was a woman or a minority. When she removed the mannequins at the City's request, her business dropped by 60%. Her customers are from the entire region and she provides personal service to each customer. She felt her store was too far back from the street for anyone to see it without the mannequins as the speed limit on Arrow Highway is 45 m.p.h. She thinks there are numerous violations in other parts of the City and didn't understand why someone would complain about her store.

Commissioner Davis asked if the mannequins are back out now, and if so, did it have an impact on her sales.

Yesenia Guzman-Harris stated she was allowed to place them outside again during the appeal period. She stated her sales have started improving slowly, but it took about a week to do so after she was allowed to place them on the sidewalk again.

Commissioner Rahi asked if the mannequins would be a permanent installation.

Yesenia Guzman-Harris stated they will be removed nightly, and that the clothing displays will be constantly updated.

Commissioner Ensberg asked if she has tried putting the mannequins back by the store windows.

Yesenia Guzman-Harris stated when she first opened the store that is where she placed the mannequins for several months, but people still could not see her store as they drove by.

Amy Harris stated she hoped the Commission would approve her mother's request so that she would not be sad any longer.

Angelina Diaz, 2248 Cienega Avenue, stated she became a customer of Aniche Boutique after she saw the mannequins. She refers her clients to the store and always tells them to look for the mannequins at the State Bros. shopping center.

Marta Yuseffian stated she has referred many of her friends to the store, and they all know of it as the store with the mannequins.

Cheryl Rafter, 975 Cormant Avenue, Covina, stated she started coming to the shop when it opened and has also helped there. She stated business only picked up once the mannequins were placed outside and felt it was important to the success of the business that they be allowed to remain.

Mindy Evans, 1403 Manchester, stated you can't tell if the store is open from the parking lot and the only way she knows is if the mannequins are outside. She felt it was a fantastic store and should be supported.

Assan Harris stated the store would be busy when the mannequins are outside and that the trees block the sign from the street. He stated having this store allowed his family to spend more time together and hoped the Commission would support his mother. He did not think it was fair that other businesses were not being charged with violating the same code.

Laurie Bando, 2178 E. Cypress, Covina, stated she has lived in this area for seven years and didn't even know there was a tenant space in that location. She didn't see the boutique until the mannequins were placed outside and stated she would rather support a small business than go to the mall and hoped the Commission would support the application.

Derrec Harris, 2034 E. Benwood, Covina, stated it is important as a small business to be innovative to create prosperity. He did not feel that their business was any different than Lowe's or a car lot. He has spoken with the owner of the center and was told there have been multiple businesses in that location that have failed, and believed it was because they cannot be seen from the street. He felt the Stater Bros. sign pulls attention away from the other stores in the center. If they were to move the mannequins directly in front of the window, they might as well be in the store. Customers only find them because of the mannequins, and when they are not out front, they see a serious decrease in business. He stated there are a lot of obstacles facing small businesses, and if they are not allowed to put the mannequins out, they will probably go out of business.

There being no further comments, the public hearing was closed.

Commissioner Bratt asked what the application specifically asks for, and would the easel type sign shown in the last picture be included in the request.

Associate Planner Grabow stated the Conditional Use Permit would be for outdoor display of merchandise only; the signs seen in the pictures are not permitted under the Sign Ordinance and the applicant has been advised of that.

Commissioner Bratt felt no action has been taken in a discriminatory manner; Staff needs to follow the City's regulations and enforce them. The placement of the business is not ideal and receives no benefit from being part of the shopping center. While he was concerned about setting precedence, he was inclined to allow the display.

Commissioner Davis asked what happens if they approve this application; and how is the hardware store in the downtown regulated.

Associate Planner Grabow stated approving the application will change the intent of how the section was written for commercial zones, and could open the way for any retail business to display merchandise outside. In regards to the hardware store, the downtown area has a specific policy for outdoor display of merchandise that is not applicable in other parts of San Dimas.

Commissioner Ensberg stated he did not support the applicant's argument that they should be allowed to have outdoor display because other businesses may be doing so in violation of the code. He also felt that when a business owner is looking at a potential location, visibility of the site should be one of the major factors considered before choosing a space, and it appears the applicant did not take that into consideration. Normally the major tenant would regulate outdoor displays as being detrimental to the center, but in this case they do not seem to have a problem. He felt the placement of mannequins fell with the reach of the statute and would be inclined to support the application.

Commissioner Rahi concurred, but felt there could be a problem with the sign code. He did not want to set a precedent that would be in violation of the sign code and felt the resolution should be worded in such a way as to avoid that.

Chairman Schoonover felt the mannequins were a sign, but agreed that the location had poor visibility from the street. Possibly the CUP could be granted based on hardship when they consider how to allow the display. He also wanted to be sure the resolution was worded so it did not conflict with current code.

RESOLUTION PC-1388

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN DIMAS DENYING CONDITIONAL USE PERMIT 08-04, A REQUEST TO ALLOW OUTDOOR DISPLAY OF MERCHANDISE AS AN ACCESSORY USE LOCATED AT 1379 ARROW HIGHWAY (APN: 8383-016-016)

MOTION: Moved by Davis, seconded by Bratt to continue the public hearing to the December 3, 2008 meeting and direct staff to bring back a resolution approving the request for Conditional Use Permit 08-04.

Commissioner Ensberg felt they should not evaluate the economic standing of the business when making their decision.

Director Coleman stated he appreciated all the comments from the Commission. He stated Staff's concern is how do you show there is a greater hardship for a street facing storefront over one that is located further back in the center with no street frontage at all. It will be a challenge to address that and keep control over who can have outdoor displays and where.

Commissioner Ensberg stated they could try to address that concern by setting a distance limit from the storefront to where the display is located.

Chairman Schoonover stated the business name is not on the monument sign so they are not associated with the center, and if you are in the parking lot, the business still isn't visible, so that could be considered a hardship.

Motion carried unanimously, 5-0.

ORAL COMMUNICATION

3. Planning Manager

Planning Manager Hensley stated it has been a pleasure working with the Commission. The Walker House is only a few weeks from completion; Grove Station is in the framing stage for buildings 2 and 3; demolition is complete at the Bonita Canyon Gateway project; and the new office building on Foothill and Dixie is in progress.

4. Members of the Audience

No communications were made.

5. Planning Commission

The Commissioners expressed their appreciation for Planning Manager Hensley's support and insight and congratulated him on his new position in Duarte.

ADJOURNMENT

MOTION: Moved by Ensberg, seconded by Bratt to adjourn. Motion carried 5-0. The meeting adjourned at 8:05.m. to the regular Planning Commission meeting scheduled for December 3, 2008, at 7:00 p.m.

James Schoonover, Chairman
San Dimas Planning Commission

ATTEST:

Dan Coleman, Director of Development of Services

Approved: December 3, 2008