



**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**TUESDAY, SEPTEMBER 24, 2013, 7:00 P. M.**  
**SAN DIMAS COUNCIL CHAMBERS**  
**245 E. BONITA AVE.**

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**CITY COUNCIL:**

Mayor Curtis W. Morris  
Mayor Pro Tem Denis Bertone  
Councilmember Emmett Badar  
Councilmember John Ebiner  
Councilmember Jeff Templeman

**STAFF:**

City Manager Blaine Michaelis  
City Attorney Ken Brown  
Assistant City Manager Development Services Larry Stevens  
Assistant City Manager Administration Ken Duran  
Director of Parks and Recreation Theresa Bruns  
Director of Public Works Krishna Patel  
Deputy City Clerk Debra Black  
Senior Planner Marco Espinoza

**1. CALL TO ORDER AND FLAG SALUTE**

Mayor Morris called the meeting to order and led the flag salute at 7:00 p.m.

**2. ANNOUNCEMENTS**

- Caroyl Smith announced the annual San Dimas Parks and Recreation Department Bowser Bash event on Saturday, October 12, 2013 at Horsethief Canyon Park

- 3. ORAL COMMUNICATIONS** (Members of the audience are invited to address the City Council on any item not on the agenda. Under the provisions of the Brown Act, the legislative body is prohibited from taking or engaging in discussion on any item not appearing on the posted agenda. However, your concerns may be referred to staff or set for discussion at a later date. If you desire to address the City Council on an item on this agenda, other than a scheduled public hearing item you may do so at this time or asked to be heard when that agenda item is considered. Comments on public hearing items will be considered when that item is scheduled for discussion. The Public Comment period is limited to 30 minutes. Each speaker shall be limited to three (3) minutes.)

a. Members of the Audience

- 1) Amy Crow Acting Manager San Dimas Library announced the upcoming events planned at the library.
- 2) Margie Green announced the upcoming San Dimas Western Days events Saturday and Sunday, October 5<sup>th</sup> and 6<sup>th</sup>, 2013; the Rodeo at Horsethief Canyon Park, the Chamber of Commerce Parade and various other activities; and the Historical Society offering a variety of activities on Saturday, October 5<sup>th</sup> 2013.

**4. CONSENT CALENDAR**

(All items on the Consent Calendar are considered to be routine and will be enacted by one motion unless a member of the City Council requests separate discussion.)

It was moved by Councilmember Ebiner and seconded by Councilmember Badar and carried to accept, approve and act upon the consent calendar with the following changes:

Amend the motion in minutes of September 10, 2013 page 4 item 6 to read Councilmember Bertone opposed.

a. Resolutions read by title, further reading waived, passage and adoption recommended as follows:

(1) **RESOLUTION NO. 2013- 50**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING CERTAIN DEMANDS FOR THE MONTH OF SEPTEMBER 2013.

b. Approval of minutes for regular meeting of September 10, 2013.

c. City Consent to the Purchase of American Golf Corporation by Fortress Investment Group, LLC

END OF CONSENT CALENDAR

## 5. PUBLIC HEARINGS

- a. Item Continued from the August 27, 2013 City Council Meeting  
**C.U.P. 12-06**, continued off-site sale of beer and wine  
**C.U.P. 12-07**, Redevelopment of a new gas station  
**Appeal D.P.R.B. Case No. 12-19**, for the demolition of the existing 1,568 sq.ft.gas station attendant building/convenience store and construction of a new 2,561 sq. ft. attendant building and convenience store with take-out restaurant. The gas pump canopy will be remodeled but remain in the same location. The rest of the site will be completely remodeled and re-landscaped. 105 E. Arrow Highway (APN: 8390-018-023)

Senior Planner Marco Espinoza presented staff's report on this item with the recommendation that Council deny all three applications.

Councilmember Ebiner asked if staff's recommendation to move the canopy 10 ft. north included moving the gas pumps and if the drive aisle measurements are standard size.

Senior Planner Espinoza replied that yes the gas pumps are included and the measurements are standard.

Councilmember Badar asked if staff had an opportunity to look at the drawing the applicant submitted of a potential exit only option for the site.

Senior Planner Espinoza replied that staff received the drawing late yesterday and submitted it to the city's engineer but have not had a response yet.

Councilmember Badar asked if it would be within the Council's authority to eliminate 1 or 2 parking spaces and how would that be done.

Senior Planner Espinoza answered that the size of the building would have to be reduced.

Mayor Morris opened the item up for public hearing. The following individuals addressed the Council:

- 1) Chris Klingerman Attorney representing Mr. Alpuri shared the applicants proposed changes on the canopy design. He stated that what was shown in the power point presentation was cut down to represent the size only and what they are proposing will have a peaked roof with S-tile to

match the convenience store; it will be approximately the same size. Mr. Klingerman also stated that when it is completed with the peak roof it will not have a trivial look and it will meet the 25ft. setback from Arrow Highway. Mr. Klingerman moved on to the setback issue by suggesting that Council consider reducing the setback requirement on the four corners to 15ft.; this would allow a full canopy that would have approximately 10ft. in the southerly aisle. Mr. Klingerman further stated that this change would not visually appear improper. Mr. Klingerman went on to describe the setback conditions of the other three corners: 1) westerly corner - strip mall appears to meet the setback requirement 2) south westerly corner – HOA building does meet setback requirement, but the rock wall and arbor do appear to invade into the setback area and is not inconsistent with what they are proposing 3) south easterly corner – gas station also is invading into the setback area. Mr. Klingerman expressed that the reduced sized canopy is not the best design but is using it as the only alternative at this time without having to move the gas pumps. Mr. Klingerman stated that if the gas pumps were to be moved the 10ft. that has been suggested, it would prevent the gas trucks from servicing the location. Mr. Klingerman shared that if required to move the pumps the project will fail; and not be redesigned and the existing gas station will remain. To address the parking issues the applicant is proposing an exit only on the northerly border the location which would require an easement for the city owned portion. A request was made for easement to the other northerly property owner but was declined.

- 2) Mr. Alpuri thanked Mr. Klingerman for his presentation and hoped that the Council will concur with their proposal; if not this would likely be the last meeting he would be in attendance for because economically he cannot move forward.

Mayor Morris asked Public Works Director Krishna Patel how will qualifying for the discharge permit (MS4) work and has that design been shown.

Public Works Director Krishna Patel answered that the design does not show that yet, but would be part of the requirements as part of the approval process if it moves forward.

Mayor Morris asked if any of the design for that would be occupying any of the parking spaces or any other area.

Director Patel answered that it could be occupying some parking spaces but most likely would be a chamber underground as well as existing landscape, so would not interfere with anything on the surface of the property.

Councilmember Badar asked Mr. Klingerman if anyone from staff had talked with him or Mr. Alpuri about the MS4 requirement.

Mr. Klingerman responded that there have been no discussions and his understanding is the tanks can be located underground and in the parking and landscape area and would not modify the design.

Mayor Morris asked the applicant to comment on the feasibility of giving up 1 pump aisle based on discussions during DPRB meetings of the changing nature of the business.

Mr. Klingerman answered it would seem more appropriate to eliminate the southerly aisle because it is part of the 25ft. setback issue.

Discussion and clarification on suggested design factors continued with no definitive input that lead to any action being taken.

- 3) Richard and Fred Nassar wanted the record to reflect that they have brought to the Council's

attention their contention that escrow has not closed on the buildings located on the property and would like the city to further investigate the claim. He expressed that if this matter goes through a civil process it will include the city.

Councilmember Bertone asked City Attorney Ken Brown if it was the city's responsibility to investigate this claim.

City Attorney Ken Brown confirmed the advice given by Assistant City Attorney Mark Steres at the August 27, 2013 meeting that this was a civil dispute and there was nothing then or now that prevented the Council from continuing with the analysis of the planning issue. City Attorney Brown added that he would not be surprised if the City were to become part of any civil litigation and did serve notice to Mr. Klingerman and his client that they would be indemnifying and protecting the City against any liability that may arise including all expenses and attorney's fees.

Richard Nassar pointed out the measurement corrections should be feet instead of percentages in the letter handed out at the meeting. He also pointed out that when he and his father applied for the Conditional Use Permit they were denied. He shared his opinion that the applicant does not want to move the gas pumps because of possibly not meeting AQMD requirements and this is what is driving the issue of moving the canopy.

Fred Nassar reiterated that he had applied to redesign the property when he owned it and was denied for three reasons: 1) Creative Growth Zone 2) setback 3) northerly easement. Fred Nassar stated that the Council is now considering the applicants request for redesign with all the same conditions that existed when they were denied and which subsequently led them to sell the property for lack of growth.

Councilmember Templeman asked Mr. Nassar when they applied for their redesign.

Mr. Fred Nassar answered in the late 1980's,

Mayor Morris confirmed with Assistant City Manager Larry Stevens that staff relies on the County records for record of ownership.

Assistant City Manager Stevens responded that staff relies on the Assessor Parcel information which shows the owner of the property not the business.

Mr. Klingerman responded that the date was over ten years ago and the statute of limitations have expired.

Fred Nassar responded that the date was April of 2004 and there's still six to eight months remaining.

Mayor Morris closed the public hearing.

Mayor Morris reiterated that the issue for consideration is the DPRB decision and the conditional use permits will follow based on that decision.

Councilmember Templeman expressed his concern with continuing the use of formulas when determining the number of parking spaces for the businesses. He stated that with brick and mortar businesses diminishing and sales tax going to distribution centers for on-line sales the City should find a way to be more flexible. He went on to say that he could go to 15 ft. for the setback design of the project and feels that the project makes sense.

Councilmember Badar added that this is an opportunity to improve the site and would like staff and the applicant to work on alleviating the problem with the exit.

Councilmember Bertone stated that the City has rules and regulations in place for a reason and we should not change them whenever a new project comes along.

Councilmember Ebner shared that if the Council is willing to look at changing the setback, then the underlying principles of the scenic highway should be looked at. He asked staff if we could get by on the canopy design with the three sides. He stated that he is open to some ideas, and that using the City easement is an encouraging sign.

Assistant City Manager Stevens responded if Council liked the design but wanted to reduce the setback, staff would need to go back through the hearing procedure.

Mayor Morris stated that Council should give their impressions of what they would like the DPRB to take as policy and refer this back to them for further review. He went on to say that he would be comfortable with referring this back to DPRB for determination as to whether the exit works.

Assistant City Manager Stevens understood the consensus to be that the current design could not be approved and the options are to deny the appeal and associated use permits; or an opportunity to redesign rather than deny. He continued on to say that staff would need a clear understanding as to what design issues need to be considered in the referral to DPRB and Planning Commission. He outlined what he believed the issues to be evaluated as:

- Connection to alley driveway on the north with proper evaluation for safety, grade and circulation consideration
- What to do with 25ft. setback
- Options for parking
- Architecture of canopy

Discussion continued on the parking and setback issues.

**MOTION:** A recommended motion was made by Councilmember Templeman to continue the 2 C.U.P. items to a date to be determined later and schedule them for rehearing in conjuncture with any subsequent code amendment and or reconsideration of the DPRB case; and to refer DPRB Case No.12-19 back to the DPRB to evaluate the revised plan for the north driveway connection, look at options which can include reduction of the landscape setback along Arrow Highway at all four corners, and to further evaluate other canopy designs and site changes. It was seconded by Councilmember Bertone. The motion passed unanimously.

## **6. PLANNING/DEVELOPMENT SERVICES**

- a. **M.C.T.A. 13-04** - Consideration of a City initiated request for Municipal Code Text Amendment Case No. 13-04 to make alterations to San Dimas Municipal Code Section 18.184 Home Occupations

**ORDINANCE 1224 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS ADOPTING MUNICIPAL CODE TEXT AMENDMENT 13-04, AMENDING CHAPTER 18.184 OF THE SAN DIMAS MUNICIPAL ZONING CODE  
SECOND READING AND APPROVAL**

Councilmember Bertone stated that he now supports this amendment change and will vote in favor.

**MOTION:** A motion was made by Councilmember Bertone and seconded by Councilmember Ebner to waive further reading and adopt Ordinance 1224. The motion passed unanimously.

- b. **M.C.T.A. 10-06** - A request to delete the reverse/turn around gas station design from the Creative Growth Zone, Area 3A

**ORDINANCE 1225 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS ADOPTING MUNICIPAL CODE TEXT AMENDMENT 10-06, DELETING THE REVERSE/TURN AROUND GAS STATION DESIGN WITHIN THE CREATIVE-GROWTH, AREA 3A ZONE - SECOND READING AND APPROVAL**

**MOTION:** A motion was made by Councilmember Badar and seconded by Councilmember Ebner to waive further reading and adopt Ordinance 1225. Motion carried by vote of four to one (4 to 1) with Councilmember Bertone voting against.

- c. Preliminary review of the Housing Element

Assistant City Manager of Development Services Larry Stevens presented staff's report on this item.

## **7. OTHER BUSINESS**

- a. Discussion of MOU between the City of San Dimas and the Watershed Conservation Authority for the Walnut Creek Habitat & Open Space Project.

Assistant City Manager Stevens presented staff's report on this item.

**MOTION:** Councilmember Bertone moved approval of the MOU in concept and authorization for the City Manager to execute, seconded by Councilmember Ebner. Motion carried unanimously.

## **8. ORAL COMMUNICATIONS**

- a. Members of the Audience (Speakers are limited to five (5) minutes or as may be determined by the Chair.)

No one came forward.

- b. City Manager

Mayor's call in show Thursday, September 26, 2013 at 6:00 p.m.

- c. City Attorney

Nothing to report.

- d. Members of the City Council

- 1) Councilmembers' report on meetings attended at the expense of the local agency.

Councilmember Badar commented on the discussions had at the League of California Cities Conference regarding the big box stores, downtown businesses and parking.

Councilmember Templeman attended the League Conference as well and shared how impressed he was with the BAE Consultant and the recommends hiring in the future.

Mayor Morris commented on how well attended the Conference was an indication of the economy picking up.

2) Individual Members' comments and updates.

Councilmember Ebiner announced the upcoming San Dimas 5k and 1 mile Family Fun Run.

## **9. ADJOURNMENT**

The meeting adjourned at 9:53 p.m.

Respectfully submitted,



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Debra Black, Deputy City Clerk