

## MINUTES

### PLANNING COMMISSION MEETING

NOVEMBER 24, 2003

The meeting of the El Cajon City Planning Commission is called to order at 7:00 PM.

#### PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: TURNER, HANSON-COX, AGURS, AMBROSE

COMMISSIONERS ABSENT: NONE

OTHERS PRESENT: RAMIREZ, Senior Planner  
GALLAGHER, Staff Attorney  
ALVEY, Assistant Planner  
O'BRIANT, Admin. Secretary

MINUTES OF 11/10/03      Motion by TURNER second by HANSON-COX to approve the Minutes of November 10, 2003, pro forma; carries 4-0, fifth seat vacant (BURGERT having resigned).

#### **CONDITIONAL USE PERMIT 1910 – Planning Commission (Paden & Epsten)**

(continued public hearing) Resolution No. 9871

P. C. Meeting 11/24/03

The subject property is vacant and located on the west end of Oakdale Avenue, west of North Second Street; APN 489-310-20; General Plan Designation: General Retail Commercial.

Request consideration of possible revocation of conditional use permit for temporary storage and sale or rental of manufactured homes and modular or mobile offices due to noncompliance with conditions of approval, in the C-2 (General Commercial) zone. *Continued from the meeting of September 22, 2003.*

Since this is an Administrative Hearing, ATTORNEY GALLAGHER instructs anyone wishing to speak, including staff, to stand and be sworn in. Four persons in the audience and one staff member stand and take the oath.

RAMIREZ states this is a continued Administrative Hearing to consider possible revocation of Conditional Use Permit (CUP) 1910, which was approved for temporary storage and sale or rental of manufactured homes and modular or mobile offices. The

Commission may recall that at its September 22 hearing, much testimony was given. That hearing was initiated due to noncompliance with conditions of approval. At that time, commissioners expressed numerous concerns including the fact that the applicant and property owner had more than 18 months to satisfy the conditions. Other issues included accumulated trash and the use of the subject property by homeless people.

When the commissioners voted unanimously to continue the hearing for approximately 60 days to this evening, it was expected that the applicant and the property by now would be in full compliance and that possibly the use would be established. Staff's report advises the Planning Commission that this has not happened and therefore recommends revocation. Staff did make a field check of the property today and found that there were no changes from the way it was described in the staff report.

The public hearing is still open.

**Tom PADEN, 1143 E. Main St., El Cajon CA 92021**, was the one who asked for the extension last time because of circumstances. They have the water and electric in, they have cleaned the lot and hauled in the aggregate, and have paid the fees to get the sewer in. It took over two weeks to find a plumber to put the sewer in. He gave him the contract and he has paid the fees and bond, and reported to PADEN last week that it would be put in the first week of December. The reason that they weren't putting it in sooner was that the staff that does the inspection said they would be shorthanded this coming week and it would be better to wait until December.

He has the home [caretaker's unit] but can't take it in until all the trenching is done for the sewer and everything else, because it would be in the way.

The staff report complained that they didn't have a night watchman all this time. They couldn't have one because he didn't have the house there for him to live in. Staff complained about a couple of units that he put on the lot. Number one, there was a unit that came that belonged to the Navy from San Clemente Island and it was going up north somewhere. The trucker called and asked if he could store it there a few days until the fire (Cedar fire) was over. He didn't see any problem so he let him do it. Then, the fire was over and he had used units all over and every one of them sold for people's temporary housing. He even pulled two units back that were going to Mexico. A friend of his that owns a park in Winterhaven said he had a couple of units he could bring over. He brought a unit over and there wasn't anywhere to put it, so he put it there. It is for emergency use only. He also brought a new unit in for that purpose. They are trying to get this done and he thought he could get it done in 60 days, but it isn't quite done.

AMBROSE says it sounds like they were a little tardy in getting in to see staff right after the last hearing on this issue.

PADEN replies that he went in to see staff but not until he could give an update of everything to be done.

AMBROSE states staff said they didn't see PADEN or Mr. Polis for at least five weeks.

PADEN states that at the time he couldn't tell him (planner) that he had paid the fees and hired a contractor to do the sewer.

AMBROSE knows that, but he still should have communicated with staff and let them know what was going on. Staff thinks he is just "bagging" them.

PADEN has spent a lot of money cleaning the property and hauling in aggregate. He has brought the water and power in.

AMBROSE states the fifth wheel is still out there.

PADEN responds that he thinks it belongs to a man who lives in the condos. He parks it on the street and had made arrangements to park it on PADEN's lot. PADEN had him take it off and he said he would like to put it back.

AMBROSE asks what happened to the 'No Trespassing' signs.

PADEN states they don't have them up yet. They wouldn't do any good.

AMBROSE states at least he would have had a start. There are just a number of issues in front of the Planning Commission that looks like PADEN didn't really try hard enough. The signs would have been a simple thing to do.

PADEN says that without getting a night watchman out there, the signs would be worthless.

AMBROSE says it would show that he is trying to abide by the CUP, which is basically a contract.

PADEN states the signs would probably cost ten or fifteen dollars for all the signs, and he paid for the trench, paid to put the water in, paid the water fee, paid the gas and electric company, and paid a man to put the pole in and to bring the wire in, paid a man to clean the lot and haul all the stuff and the aggregate, and he paid all the sewer fees and bond fees and everything else to the City. He was trying to get the important things done.

AMBROSE asks if PADEN has receipts for all those things.

PADEN replies yes. He has receipts from the City. He showed them to the staff when he had a meeting with them.

In response to AMBROSE, PADEN hands the receipts to the City Attorney. Staff will make copies tomorrow for the file and PADEN can pick up the originals.

In reply to Attorney GALLAGHER, AMBROSE says the Planning Commission would like to see the receipts.

HANSON-COX understands that the units that are on PADEN's lot now are not the same ones that were on the lot the last time the Commission saw him.

PADEN replies that is correct. All the units that were on his lot belonged to the other fellow, and he made him get everything off. Of the two units that are there now, one was brought over from Winterhaven, and he ordered a new unit because he is supplying houses to burnout people.

HANSON-COX asks if he is donating them or selling them.

PADEN is selling them.

AMBROSE asks if he has contacted Caltrans about the fence issue.

PADEN says no. Mr. Polis says he has talked to Caltrans before and never could get them to do anything.

AMBROSE suggests that maybe PADEN needs to put up a fence on his side. That might solve that issue.

**Harry POLIS, 1339 Horsemill Rd., El Cajon CA 92021**, states the property is completely clean now. They will have all the permits. The City was supposed to clean the ditch but they didn't, he did. POLIS did call Caltrans and they said they would call him back. He never heard from them. He worked at the place [near the subject property] for 18 years and every time he calls them, they say they will be there. He wants the eucalyptus trees cut down because it completely covers the signs. They don't do anything about it. They just ignore them. Probably if the City would call them, they would do something about the fence.

AMBROSE doubts it.

POLIS spoke to RAMIREZ and took his grant deed in because they [the City] wanted five more feet of property. He left it with the City and they made a copy. He did call Caltrans. He doesn't know what else he can do. He put up 'No Trespassing' signs for years. He puts them up one day and the next day they are gone. He owned the hotel also and had the same trouble. He was sued by handicapped people. He went to court three times over it. He kept putting signs up and the next day they were gone. People just take them out. People used to dump trash there. He put a fence around the place. He spent a lot of money on that lot. He can't stop people. He can't sit there all day long and watch them.

In reply to AMBROSE, POLIS states the fifth wheel belongs to one of the people in the apartments. He doesn't know anything about it. He (the owner of the fifth wheel) has never spoken to POLIS.

AMBROSE asks when it will be gone.

POLIS says he will make it be gone tomorrow if it is bothering anybody. The man just parks it there to get it off the street.

AMBROSE states it is not supposed to be there. POLIS knows that. It is part of the permit.

POLIS will have it gone tomorrow. It is better there than sitting on the street.

AMBROSE states it is not part of this conditional use permit.

POLIS reiterates it will be off tomorrow. He will talk to him himself. He knows him very well.

AMBROSE asks if POLIS doesn't get any satisfaction from Caltrans, what is he going to do about the fence?

POLIS replies they will have a night watchman there.

AMBROSE asks what about a fence.

POLIS supposes he could put another fence inside that.

AMBROSE thinks if he isn't going to get any satisfaction from Caltrans, and it doesn't look like he is, he needs to be prepared to put up his own fence.

POLIS asks if they can wait until they get the night watchman there to see if that will control it.

AMBROSE asks how the rest of the Commission feels.

POLIS asks why he should spend \$2,000 to put a fence inside the Caltrans fence.

AMBROSE wants to see how far POLIS is willing to go to make this conditional use permit survive. Right now, it doesn't look like it is going to survive.

POLIS says he will put it in if that is what is required.

TURNER asks if POLIS sent a letter to Caltrans or just phoned.

POLIS replies he did not (send a letter). He spoke to them on the phone.

TURNER understands he never sent a letter telling Caltrans that this is part of his conditional use permit.

POLIS states Caltrans doesn't care. He didn't send a letter, but he spoke to two different people. He doesn't know where to send a letter.

TURNER thought he just said he worked there [at Caltrans].

POLIS says he didn't work there. He worked on the premises. He had a restaurant there. He used to call them once a month. They used to come to eat in the restaurant.

**Robert LEHRKE, 560-B Oakdale Lane, El Cajon CA 92021**, lives only 50 feet from the fence. The day before yesterday, he took some pictures of the place and it is so much better than it was when he first moved there, and he has lived there 25 years. He wouldn't want anybody to let it get back to the former condition, which was just a junk pile. He submits the pictures to the City Attorney.

LEHRKE says they got approval for an extension to the motel in that lot. He thinks that has fallen through. At least they have cleaned it up and put a fence around it. It looks pretty good. He sees that place a couple of times a day; he can't go out of his house without seeing it. He thinks he is the authority on whether it is improved in its present condition.

In response to AMBROSE, LEHRKE is very happy with the way it is right now.

**Ethne JOHNSON, 551-C Oakdale Lane, El Cajon CA 92021**, represents all the homeowners in 84 units. Their units are selling for \$250,000, at the end of the cul-de-sac. This piece of property is an ongoing problem. These men have had many, many months and over a year to take care of their problems, and they do not abide with what the Planning Commission has presented to them. People are still climbing over the walls and the 5-ft. cyclone fence and are walking through their property. She called Tom Paden in October and talked to his brother Bob, because people were climbing over. The door to the unit that he had put on the property was wide open. She could see the furniture. No one came out to do anything about it. The units that are there now have just been moved on. One has been there for quite some time. A pickup truck has been there for over a year. She doesn't know what that is being stored for. As to the fifth wheeler, it is true that the owner parks it on the street. She has been on Neighborhood Watch for twelve years and she called the police to have it removed. He often detaches it from his pickup truck and leaves it parked on the street. Harry (POLIS) has done the neighbors a favor to move the fifth wheeler off the street, but that is not the homeowners' problems. They have taken down two sections of bushes by the cyclone fence because now their bushes are going through the cyclone fence and they cannot get into that property for their contractor to trim it. They have had to completely cut down the bushes from that area.

As of Friday, she saw no indication of any power going to that property. The pole is there and she did not see any indication of connection of any power to that area. Conditional Use Permit 1910 needs to be revoked. The property needs to be cleared and walls put up to give the neighbors some peace from that property. It has been nothing but a problem for the neighbors. These gentlemen need to start over with some other proposal that the Planning Commission will have them adhere to.

POLIS returns. Nobody appointed JOHNSON to be a night watchman, as far as he knows. The wind blew down the fence she was talking about, the condominium fence. He called JOHNSON and asked her if the insurance would put the fence up and she said she didn't think so because they had already burdened their insurance too much. Therefore, they didn't want to put it on there. POLIS said fine, and he put a fence there, at his own expense, to replace the condominium's fence. He doesn't know where JOHNSON is coming up with all these things, but that is the truth. The pictures show that the property is clean.

JOHNSON returns and says that was the condominium wooden fence. They put it up three times. It did blow over during a storm. They have had Mr. Polis open the gates because the homeless people were knocking all the boards out climbing in and going over. They had to continually patch it on their side. They were having problems with the wooden fence. There was patch after patch and broken wooden fences that POLIS permitted them to repair. They agreed not to put it down because they didn't know what was going to happen to that property.

No one else comes forward to speak on this item.

Motion by TURNER, second by HANSON-COX to close the public hearing; carries 4-0, fifth seat vacant (BURGERT having resigned).

AMBROSE says it sounds like Mr. Paden has been making a snail's rate of progress. The Commission was hoping to see a lot more. However, he does have receipts that he has made some progress. AMBROSE is disappointed that it is not completely done. There are some small things that would have made him feel better.

TURNER asks if the storage of these units is a special use in the C-2 zone.

RAMIREZ replies that an interpretation was made by the Director of Community Development to allow this application to even be submitted. She would like to acknowledge Mr. Paden's efforts in providing replacement living units for those people who suffered a loss in the recent fire. At the same time, staff feels the obligation to point out that using the property to store those units, even if it was for a short period of time, is still unauthorized until the staff agrees that the responsible parties have fully complied with all of the conditions of approval. Staff still has to say that has not yet happened.

AMBROSE says that is his concern.

TURNER states that is why she was asking to clarify that special accommodations were made to get this in the zone.

RAMIREZ agrees with that. To go beyond that, the applicant was given a deferral by the City Council on the construction of a solid masonry wall on two of the four property lines. In summary, staff is of the position that not enough happened soon enough during the 60-day continuance and now it has been 20 months, not 18, and not the original 12. Still staff is being given a number of reasons why things haven't been accomplished by the business owner and/or the property owner.

HANSON-COX says as can be seen from the pictures, there has been some progress, but it has been very slow. She feels the Commission has already generously given PADEN two extensions to adhere to the conditions. From reading the minutes of the last meeting, even the City Attorney made mention for them to immediately get into the Public Works department, and they did not do that. According to staff's notes, they didn't do it until two or three weeks ago. That concerns her. PADEN and POLIS were both responsible to make sure all the things were done. Even Mr. Polis guaranteed the Commission, as the property owner, and she quotes: that he would "get the sewer and get the work done if the Planning Commission would grant the extension". The Commission did grant it, based on his word, and it is still not done. She wonders if they were given another 30 or 60 days if they would wait until the last minute to finish the rest. She thinks the neighboring property owners were very generous last time during the Planning Commission meeting. Most of them asked for a night watchman because their main concern was the homeless. She saw in the notes that even Commissioner Turner and Chairman Ambrose recommended that some type of security be on site during the 60 days, and that never happened. The signs never happened. There are so many things. It is not like there was one condition that was never fulfilled; quite a few were not fulfilled. These things give her some concern. She is not sure she is willing to give them any more time.

No further comments are offered.

Motion by TURNER, second by HANSON-COX to REVOKE Conditional Use Permit 1910 in accordance with the staff report; carries 4-0, fifth seat vacant (BURGERT having resigned).

AMBROSE states this is final action unless appealed to the City Council. The appeal period ends on December 8, 2003, at 5 PM. It must be made in writing to the City Clerk's office.

**SPECIFIC PLAN 495 – Velocitel for AT&T for Rink**  
(public hearing) Resolution No. 9872

P. C. Meeting 11/24/03

The subject property is a vacant lot on the south side of East Main Street between Greenfield and Pepper Drives; APN 507-211-03; existing LUC 5811, proposed LUC 5811/4712B; General Plan Designation: General Retail Commercial.

Request a 52-foot-high monopalm wireless communication facility in C-2 (General Commercial) zone.

AND

**CONDITIONAL USE PERMIT 1973 – Velocitel for AT&T for Rink**

(public hearing) Resolution No. 9873

P. C. Meeting 11/24/03

The subject property is a vacant lot on the south side of East Main Street between Greenfield and Pepper Drives; APN 507-211-03; existing LUC 5811, proposed LUC 5811/4712B; General Plan Designation: General Retail Commercial.

Request wireless communication facility in C-2 (General Commercial) zone.

RAMIREZ states this is a request for a 52-foot-high monopalm wireless telecommunications facility in the C-2 zone. The maximum height limit in that zone is 35 ft. unless a specific plan approves it for a greater height. A stand-alone wireless communication facility requires a conditional use permit (CUP) and is the subject of the companion item, CUP 1973, as AMBROSE stated.

The proposal includes a stealth design that incorporates antenna panels into a proposed fake palm tree. The Planning Commission may hear both items (SP 495 & CUP 1973) concurrently.

The proposed monopalm is to be sited at the northeastern corner of the subject property. The increased height is believed to be necessary to obtain desirable reception and transmission of these facilities in this area. The equipment needed to operate this site would be located in metal cabinets and screened by a 9-ft. masonry wall surrounded by landscaping.

There are eight antennas included in this request. The first type consists of six panel antennas to be located among the fronds on the faux palm. The second type of antenna is a flat panel to be located on the trunk of the fake tree. The third type is a stealth antenna located inside the equipment structure.

RAMIREZ says that staff has some concern about the proposed flat panel antenna that is shown high on the trunk of this tree. This aspect of the proposal runs counter to the intent of the “stealth” concept of the Zoning Ordinance. Staff believes that the flat panel antenna needs to be removed or relocated behind the palm fronds so that it is not

visible from the surrounding area. Staff discussed this concern with the applicant's representative, who responded that the flat panel antenna will be removed.

In staff's opinion, the requirement for stealth facilities means that the proposed fake tree should be the same species as the existing palms on the subject property, which are Mexican fan palms. This recommendation to match the existing live trees is stated in condition #3.

Specific Plan 495 and Conditional Use Permit 1973 will be forwarded to the City Council for review on December 16, 2003, if they are granted by the Planning Commission this evening. Staff recommends approval of both items.

The public hearing is now open.

**Ann FORD** works with Velocitel, Inc., which is the representative for AT&T Wireless. Their offices are located at **4909 Murphy Canyon Road, San Diego CA 92123**. She has spoken with staff concerning the conditions of approval. In addition to removing the flat panel screen, they have also agreed to replace the design from the king palm frond to the Mexican fan palm. She apologizes for the inconsistency. She agrees that the reason they have requested a 52-ft. tree is to achieve the coverage objective without having to increase the number of cell site facilities in that area. This will allow them to carry up and down not only Main Street and portions of Greenfield, but also the freeway. She is available for questions.

AMBROSE asks if only AT&T will be located on this facility.

FORD replies yes, that is the plan at this time. With palm trees, it is a little more difficult to collocate; however, it is possible in certain cases. If a subsequent carrier came along, those accommodations might be made either by replacing the tree at that time or, if technology has changed somewhat, maybe incorporating a second set of antennas in the fronds. They are not opposed to collocation.

No one else comes forward to speak on this item.

Motion by AGURS, second by HANSON-COX to close the public hearings on Specific Plan 495 and Conditional Use Permit 1973; carries 4-0, fifth seat vacant (BURGERT having resigned).

AGURS asks if the 52-ft. height is in line with the height of the existing palm trees.

RAMIREZ replies it is very close to it. She believes there is a photo simulation included in the Planning Commissioners' packets that show that the existing palm trees are really very high. Staff thinks this will be compatible with what exists.

Motion by AGURS, second by TURNER to RECOMMEND APPROVAL of Specific Plan 495 in accordance with the staff report; carries 4-0, fifth seat vacant (BURGERT having resigned).

AMBROSE states this item has been joint-noticed with the City Council. The City Council public hearing will be held on December 16, 2003.

Motion by AGURS, second by HANSON-COX to GRANT Conditional Use Permit 1973 in accordance with the staff report; carries 4-0, fifth seat vacant (BURGERT having resigned).

AMBROSE states this conditional use permit will accompany Specific Plan 495 to the City Council. That meeting will be on December 16, 2003.

**AMENDMENT OF CONDITIONAL USE PERMIT 213 – Toma (Super Star Properties LLC)**

(public hearing) Resolution No. 9874  
P. C. Meeting 11/24/03

The subject property is located on the northwest side of Broadway and North First Street, and addressed as 1090 Broadway; APN 484-293-15; existing LUC 5531/1111, proposed LUC 5531/1113B; General Plan Designation: General Retail Commercial.

Request to redevelop the existing gasoline service station with mini-market, outdoor dining and an office with caretaker unit above in the C-2 (General Commercial) zone.

ALVEY states in order to redevelop the subject site, the applicant is proposing to demolish the two existing single-family homes on the property, as well as the existing gas station. These will be replaced with three pump islands, a mini-market, a caretaker's residence, and an office. During staff's review of the proposed site plan, it became apparent that all the proposed improvements do not satisfy the C-2 zone development standards.

Staff's main concern is that there is insufficient parking on the site. In order to provide the number of spaces required for the proposed uses, the applicant will need to scale back their proposal. Another concern of staff is the proposed landscape setback area along the northerly property line. In order to insure that this area is not illegally used for storage, staff has proposed that the caretaker's unit be entered through this area and that access from the mini-market to this area be removed.

Although it was not part of the applicant's initial request, staff received a written narrative that included a request for beer and wine, after the public hearing notices were mailed out. Staff was able to perform an initial evaluation of this request and determined

that the subject property does not meet the 600-ft. separation requirement from residential property.

ALVEY says that staff has proposed additional minor changes to insure compatibility with surrounding properties and compliance with the Service Station Ordinance. Although the proposed site plan does not satisfy all the Zoning Ordinance development standards, staff believes these issues can be resolved through a revised site plan.

If the Planning Commission is willing to delegate the revised plan review to staff, the public hearing would not need to be continued. If the Planning Commission would like to review the revised plan before it takes action, the public hearing would need to be continued to at least January 5, 2004.

Staff would also like to note that the existing single-family homes on the property are in poor condition at this point. Staff assures the Commission that steps will be taken to insure that these residences do not become a hazard or a nuisance to surrounding properties prior to beginning construction at the site.

Staff's recommendation is that the Planning Commission grant Amendment of Conditional Use Permit 213 subject to the conditions and for the reasons contained in the staff report.

AMBROSE doesn't think the beer and wine can be discussed this evening.

ALVEY says no; it would have to be renoticed.

The public hearing is now open.

**Allen DUEBER, 6280 Cresthaven Drive, La Mesa CA 91941**, represents Super Star LLC stations and the owner, Hani Toma. He is the architect of record on the project and is here to answer any questions.

Having been on La Mesa's design review board, he wants to compliment staff on their excellent job in preparing for this item. They really worked hard to get a good proposal. He and his client, even though it is not what they want, have agreed to the conditions that staff is recommending. They also found out from staff that the beer and wine is within a residential 600-ft. area and approval probably wouldn't be recommended. They are accepting staff's recommendation at this time to use the mini-mart, caretaker and gas service station with approval with conditions. They will modify their site plan to comply with the required parking and landscape requirements and the necessary conditions as outlined by staff.

AMBROSE asks if they will be open 24 hrs. a day, seven days a week.

DEUBER replies yes. Staff is recommending that it be open 24 hours.

AMBROSE asks why have a caretaker's residence when they are going to be open 24 hours a day.

DEUBER states that is the owner's decision. He decided he wanted to have a permanent guard on duty. Apparently, the two existing homes are becoming a problem. They would like to get this expedited through the process. DUEBER notes that the property is substandard; therefore, they have to go before the City Council because they don't meet the 20,000-sq. ft. minimum lot size for a gas station. They will do everything possible to clean up these two houses. They will seek out and get a demolition permit to remove the two houses as soon as the appeal period expires on the City Council meeting. They will get going on the construction as soon as they can.

In reply to AMBROSE, ALVEY explains the reason for moving on to the City Council is that the General Plan designation for the property is "Office/Non-retail". In the 1980s, when the City Council started to rezone properties to conform to the General Plan, they put forward provisions so that existing properties that were legally developed to the zone they are in could be redeveloped and expanded on the site. Am. CUP 213 will go forward to the City Council for a compatibility finding.

AMBROSE asks if it should be recommended for approval rather than granted.

RAMIREZ replies the way she reads it is the way it is stated in the staff report (to grant).

AGURS says the staff report says for new gas stations it is 20,000 sq. ft. This is an existing facility, even though it is in real bad condition, since it is an existing facility, does that 20,000 sq. ft. apply since it was a gas station before?

ALVEY responds that the existing site is 17,000 sq. ft., but in order to expand the existing facility, since they do have an approved conditional use permit at this point, they could amend that conditional use permit to reconfigure the facilities.

DEUBER says then they are providing an upgrade to the community and with their proposed development will get rid of the two deteriorating homes and the deteriorating gas station to give it a 21<sup>st</sup> Century look for the city.

AGURS asks, since they are redeveloping, is it known if there is any contamination because it currently has underground storage tanks.

DEUBER replies they have been in correspondence with the County health department and they [the County's staff] are saying that as long as they [the applicant] locate their development away from where the existing gas station is now, the health department is fine with that. It won't interfere with any current remediation on the site.

ALVEY advises that staff has also included a condition that requires authorization from the Dept. of Environmental Health prior to building permits being issued.

DEUBER understands that they can't get their permits without the County's approval.

**Paul HANSON, P. O. Box 453, Spring Valley CA 91976**, says his father owns the property on the north boundary of this proposed development. They have a residential rental home there. They are concerned about three things. Housing is tight at this time with the fire and everything. The two homes on the subject property are of an historical nature. That should be checked out, but they are already starting to demolish them. The owners, in his estimation, should have been given notice to clean the property up instead of throwing everything out in the front yard and basically making derelict houses out of the two that are there. El Cajon stands to lose one old gas station and two residential units to be replaced with the proposed design. An architect designed the yellow box he sees displayed. The wall facing the north elevation would make a good drive-in movie theater but it is terrible for them because they will see a 16-ft. blank structure.

Another concern is an outdoor dining area that is proposed adjacent to the flood control channel that runs across the back of the subject property. The condition of the flood control channel varies seasonally. It has been cleaned out at times, but it is pretty smelly and messy. Within ten feet of that channel is not the place he would want to put an outdoor eating area.

Those are their concerns. They would certainly like to see the property redeveloped but it is really a terrible situation for them.

In reply to AMBROSE, ALVEY states it hasn't been verified by staff that the existing homes are of an historical nature. Prior to building permits, that will definitely be verified, to insure that they are not on the historic list.

HANSON states that one of the homes is the original ranch house for about 40 acres.

AMBROSE says the City has a registry of all the historical houses. If it is on there, it will show up; it has already been done by the experts.

HANSON agrees to that.

AMBROSE asks ALVEY to discuss the screening for the residential area to the north.

ALVEY states that the Service Station Ordinance does require a 6-ft. masonry wall along interior property lines. That will be the case here, so there will be the 6-ft. masonry wall at the very northerly property line and a 15-ft. landscape setback area that will buffer the building from the channel.

AMBROSE notices that it looks pretty stark back there, with no trees.

ALVEY responds that a required condition would be a landscape and irrigation plan that is prepared in accordance with the City Council's landscape policy. Trees would be provided and evenly distributed throughout the site according to the approved plan.

HANSON asks if there are any health issues with the drainage ditch.

AMBROSE doesn't know. That is a public facility that needs to be cleaned out.

RAMIREZ advises that public facilities like that are on a regular maintenance program with the Public Works Dept. If it is something that needs immediate attention, the speaker has the option of calling the City Manager's office to file a formal complaint and have that specifically looked at in the short term. She asks if the Chair would get the speaker's mailing address for the record.

DEUBER responds that they intend to be a good neighbor if they are in the historic inventory. He was serving on historic sites for the City of La Mesa and is aware of the procedures involved with being sensitive to historic issues. If this site is in that inventory, they will comply with whatever the City ordinance is in regard to demolition and permitting of that. They will make every effort to remove those structures and replace them if possible. They also intend on being a good neighbor. Besides the 6-ft. wall next to the drainage ditch, they are going to heavily landscape that area.

He tells staff that there is no way they can provide the required parking with the outdoor dining area, and it has been omitted from their intent. They might have a bench or two sitting outside, but the outdoor dining will require additional parking requirements that they, at this time, are not going to be able to provide.

As far as the "yellow box" issue, it is going to be white stucco and there are windows and door openings now on the north elevation that will go into a private caretaker's patio area that will have trees. It will be screened from the northerly neighbor with the wall [on the property line], and heavily landscaped with trees.

**Hani TOMA, 1110 E. Main Street, El Cajon CA 92021**, is the property owner. The homeless are living there every day at the two houses. He has been there by himself and opened the door, and found a homeless person with his girlfriend living inside the house. There is actually nothing he can do. The only thing he can do is tear the two houses down, but the process for the approval is taking a long time. They cleaned the property the day they took over the property, and the garbage came the second day. He has no control over it. As soon as they get approval to take the houses out, he thinks in 48 hours there will be no house there.

HANSON-COX states TOMA has been in business for a long time. It is nice to see a small business expanding. She congratulates him. She is familiar with the area and thinks it will be a big improvement.

TOMA says they have a gas station in El Cajon at Main and First. It was the worst gas station before they bought it, and now it is the busiest and best gas station in El Cajon. They are lowering the price in El Cajon.

HANSON-COX has a house there so always has to drive by. She always wondered if someone was going to do something. She is happy to see this plan.

HANSON returns. He thinks there should be a board and secure ordinance that requires someone to board places up. They don't have a permit to demolish yet. They have moved furniture and trash, and the front yard is full of garbage. By the owner's admission, there are street people in there. Everyone has a problem with that. He reiterates that it should be boarded and secured.

AMBROSE asks staff what the applicant can do to take care of the homeless problem.

RAMIREZ thinks the previous speaker made a good suggestion that the premises should be secured in some way. Certainly, it behooves everyone with an interest in this project moving forward to check the Historic Inventory and understand quickly what the status of those structures is so that demolition can move forward right away. Perhaps the Planning Commission would want to find out if Mr. Toma is prepared to do so.

AMBROSE asks if he is prepared to board and secure the houses.

TOMA responds affirmatively. There was a fence around the station that they just took out. They need to do a lot of fencing when they take the houses out. He has hired a company that will take the houses as soon as TOMA gets approval.

AMBROSE states in the meantime, the houses could be secured better to keep out the homeless.

TOMA says he could put a fence in the front but it doesn't make sense. The neighbor on Broadway has a fence that is very easy to break, so the homeless can go from there and get inside the houses [on TOMA's property]. He did secure the window and doors so nobody could get in, but the next day it was broken. The police officers came to his station and told him to sign the documents so they can arrest the people. But it will not work. What are you going to do with them? If it was back home, where he is from, if he went to his house and somebody was there he would shoot the guy, but this is the United States. He gets scared of this guy. If a homeless person gets hurt inside the house, maybe TOMA will get sued.

RAMIREZ would like the Planning Commission to know directly from the staff that staff sincerely appreciates the amount of patience that TOMA and his architect have had in the many conversations that they have had about this property. They have talked a lot and they have been very open-minded along the way, and taken to heart all of the suggestions staff has made. In fact, Mr. Deuber this afternoon produced a plan that

appears to respond to the conditions recommended in the staff report. She thanks both gentlemen.

No one else comes forward to speak on this item.

Motion by AGURS, second by HANSON-COX to close the public hearing; carries 4-0, fifth seat vacant (BURGERT having resigned).

AMBROSE thinks this is a good project and that staff has done a good job. The fact that there is a caretaker actually adds to it and will help make the transition to a residential neighborhood much better. It is a tough neighborhood. He thinks this is a major change and hopes to see some of the homeless go somewhere else after this; hopefully, out of the city.

AGURS states this has been a blighted property for a long time. His office is in the next block down and the subject property has been an ugly eyesore. It is about time something is done to correct that property for the entire community. He likes the project and thinks it will work well. There is some mixed use there also. He thinks once the Historic Registry is checked, this should be pushed along as fast as possible to turn that whole situation around.

Motion by AGURS, second by HANSON-COX to GRANT Amendment of Conditional Use Permit 213 in accordance with the staff report; carries 4-0, fifth seat vacant (BURGERT having resigned).

AMBROSE advises there will be a separate noticed public hearing for a City Council public hearing. That will be in about 30 days.

He wishes the applicant good luck on the project. He thinks it will be a good addition to the community.

## **SECOND FAMILY UNITS: REQUIREMENTS FOR SEPARATE UTILITIES**

(discussion) Letter

P. C. Meeting 11/24/03

(Report requested on 9/22/03 by Planning Commission.)

RAMIREZ states at the Planning Commission hearing on September 22nd this year, to consider changing the requirement for separate water meters for the conversion of apartments to condominiums, a speaker brought up the issue of the requirements for separate utilities for second family units. Since that issue was not under consideration at the time, the Planning Commission was advised by the City Attorney's office that it could not be discussed at that meeting. The Commission asked that the item come back on a subsequent agenda; hence, this report.

As a matter of background, the City's original ordinance for second family units was first enacted in January of 1984. That original ordinance did not contain language that required separate utility connections and separate utility meters. The City later amended its ordinance after a comprehensive review of the initial applications had been considered. Even though the original ordinance allowed second family units to be attached to the main dwelling, or detached from it, this amendment added the requirement for separate utility connections and separate utility meters. The implied purpose for the requirement was to permit the easier removal of a second family unit if a conditional use permit for that unit was revoked. In this case, it would be possible for the water meter, gas and other utilities for the second family unit to be suspended or removed without disrupting the service to the original unit.

Prior to the hearing and the speaker at the September 22 meeting, staff had received no objections to the separate meter and utility requirements for second family units. Staff sees no reason at this time to set the ordinance to public hearing and therefore recommends that the Planning Commission take no action on this discussion item tonight.

AMBROSE agrees that this is the first complaint. He invites comments from the audience on this discussion item.

**Clint WORLEY, 1808 E. Madison Ave., El Cajon CA 92019**, owns a guest house [*sic*, second family unit] on the same property, which is addressed as 1800 E. Madison Ave. While he was building the guest house, he had a conditional use permit and it mentioned that he had to have separate meters. At the time, he called Helix Water District and the person he talked to told him that they would not grant him a separate water meter, that he would need to submeter the main meter to the main residence. That made perfect sense to him and he did that. When he went for a final on the guest house, he was told by the inspector that he needed to have a separate meter that belonged to Helix Water District. He again contacted Helix Water District and they again told him they don't do that. He talked to the Planning office at the City and was issued a letter stating that he would be required to do this. He took that letter to Helix and they subsequently started the whole process of installing his water meter. At this point in his project, he had all his street improvements done. It was quite an expense for him. He not only had to pay for the water meter expense to Helix but he had to retrofit it into his property. For a property that cost maybe \$50,000 to build (a small guest house of about 620 sq. ft.), the water meter amounts to about \$10,000 dollars of that. That is a significant percentage.

WORLEY states he thought the City's original intent in allowing second-family residences to be built was to make affordable homes or affordable living for a family or as a rental unit for the original owner of the property. It doesn't seem like adding that percentage of expense to a project is conducive to that.

He knows the Planning Commission has been talking about this in regard to condominiums; he also sees three-on-ones and four-on-ones as needing relief from the separate meter requirement. For a second-family residence, it seems that if the problem is an environmental issue (conserving water), there are only two people to look to for water waste: either the main house or the guest house. It is going to be in the best interest of the property owner, who more than likely will be living in the main house, to find out where the leak or waste of water is coming from. It will be self-regulating. He doesn't see the need for the second meter.

He received a billing for his guest house water meter and it was somewhere in the neighborhood of \$45. Twenty-five dollars of that is the maintenance fee from Helix, so there was minimal water usage. He doesn't see the reason for this added expense to these projects.

AMBROSE states that WORLEY is the only one that has complained. Quite honestly, it gives the City an enforcement tool because not everybody in the city tries to work their way through the process and do things legally. They try to bootleg things in and then the City has very few tools to make them get rid of that extra unit. He thinks this is a great tool for the City to have as an enforcement mechanism. If more people were clamoring about the cost, he would be a little more sympathetic to WORLEY's plight, but it is a difficult leap for him to make to say that the ordinance needs to be changed over one person's concern.

WORLEY states when he spoke to Helix Water District about this, they seemed surprised. They hadn't heard of this. He wonders how many second-family residences out there actually do have a separate meter.

AMBROSE replies a number of them have come through since he has been here.

**Steven WORLEY, 15131 Picturesque Point, El Cajon CA 92021**, is the general contractor who built the houses [referred to by previous speaker]. He thanks the Commission for having him here. He was a little surprised to be asked back. They were done with their project and had their meters in. They are not here to cry over spilt milk. They were a little at a loss as to why. He is hearing for the first time tonight some of the reasons (the enforcement issue). He would like to address that. Most other cities only require one meter for multiple residences. The better enforcement tool is to remove the electric meter. Installing an additional electric meter on a house is a \$500 expense. A building permit is always required for the electric company to install it. All the City has to do is make a quick phone call to the electric company, they come out and pop the meter out, and then there is no electricity for that second unit.

Of the \$10,000 expense, actually the meter itself and the fees for the meter amount to about \$4,000 to \$5,000, and the cost of digging up the street is where the real expense is. He thinks that most cities use the electric meter and the gas meter for enforcement to close down residences, to force tenants or property owners to do whatever they desire. They don't necessarily use the water meter. As far as nobody else complaining, the

reason why nobody has complained is that up until they [the Worleys] installed their meters, there were very few that had actually been enforced. He thinks that many people are not as savvy with this information. The Worleys have numerous properties in different cities and have dealt with this water situation many times with mobile home parks, apartment units and condominium units. They are not here to try to reverse anything that they have already done. He just wants to point out that the cost makes second-family units very expensive. It is not a “green” [environmental] issue because he understands that on a condo there are hundreds of units and it is hard to identify somebody wasting water. That is not the situation when there is a single-family residence with a granny flat. The owner will complain about the water usage.

AMBROSE states this is a discussion item and not a public hearing. The question is whether the Planning Commission wants to carry this to the next level and consider changing the ordinance. He is not willing to change the ordinance right now. If there were a hue and cry from more people, he would be more willing to do that.

AGURS brings up the dissenting viewpoint. He agrees with everything the speaker said. He knows for a fact that is how enforcement is done. They remove the electric meter and it brings people into compliance. There has been a lot of debate at the regional and state levels about second units and granny flats. Not being able to submeter is a very significant amount of expense when talking about putting a second unit on a property. He thinks whether there is a hue and cry from a thousand people in El Cajon or just one, just from being good stewards, he thinks the Planning Commission has an obligation to look at the issue.

AMBROSE doesn't mind spending some more time looking at it. He is not ready to send it on to the City Council in terms of making an amendment to the Zoning Ordinance. His other concern is that somebody will build a second family unit and rent it out, and that becomes a little windfall for them. They get to build a little cheaper and the rent will be the same.

AGURS replies that the second unit actually is a state-mandated thing that cities can't deny. Whether their grandparents, their kids or their brother-in-law is going to live there, or whether it is going to become a rental property, he doesn't want to second-guess and encroach upon private property rights. A lot of people move expanded family members in, and some people turn second-family units into rental properties. He doesn't feel comfortable encroaching on property rights like that. He thinks the issue should be looked at without assuming that they will be rental units.

TURNER suggests looking at other cities' ordinances regarding granny flats. She thinks that will come up more in the future.

AMBROSE agrees. Maybe the Commission should see how other cities handle the separate meter issue and see if El Cajon is the only city with this ordinance in place or are all the cities about the same. Maybe staff should also contact Helix Water District and talk to them about this issue.

In response to Steven WORLEY's remark that Helix was surprised when they were asked to respond to the City's requirement for a second water meter on the property, RAMIREZ states that City staff in the Planning Division was equally surprised to know that was the reaction from Helix Water District. The Planning Commission has approved second family units all over El Cajon with the requirement for separate meters and separate utilities. Staff didn't understand why it was a problem all of a sudden; she still doesn't.

TURNER thinks people know the requirement for a second meter and go ahead and pay that fee. It doesn't make it right to have that meter. If she were to have her parents live on her property and had to build a granny flat, that would be a big expense. The City is trying to provide affordable housing, etc. She agrees with AGURS. She thinks other cities' ordinances should be looked at.

AMBROSE says just be aware that if somebody has the intention to rent that- - -

TURNER thinks we are going to have that anyway.

AMBROSE knows that, but the City would be giving them a windfall if their sole intent was to create a rental. He thinks at this point that the Commission is ready to direct staff to research other cities' ordinances, and to contact Helix Water District about other metering options that are available, and bring back a report for discussion on a future agenda.

RAMIREZ states staff will explore what other options Helix Water District has available, and will contact other jurisdictions.

Steven WORLEY returns and says there are several compromises that could be worked out. He is an engineering contractor as well as a general contractor. The cost is in the street work. Helix Water District drags their feet in installing these meters because they don't want additional copper pipes hooked up to the main line. Those are a source of maintenance and potential leaks in the future. There is another way this could be worked out. He would be glad to spend a little time with staff and work something out to show them how maybe both objectives can be accomplished, to reduce the cost and provide the second meter.

AMBROSE suggests WORLEY write his suggestions in a letter and send it to Barbara RAMIREZ' attention. There is a good possibility she will contact WORLEY and discuss his suggestions at length.

In reply to AMBROSE, RAMIREZ states the direction the Planning Commission has given is sufficient. Staff will take the time to do the research and put it back on an agenda when it is most appropriate.

This is satisfactory with the other commissioners.

## **PREDRAFTED RESOLUTIONS**

To reflect the actions of the Planning Commission on tonight's agenda items.

Motion by TURNER, second by HANSON-COX to adopt Resolution Nos. 9871, 9872, 9873 & 9874 pro forma; carries 4-0, fifth seat vacant (BURGERT having resigned).

## **ORAL COMMUNICATIONS**

RAMIREZ reminds the Planning Commission that the next meeting is December 8, 2003. It will be a heavy-duty agenda because that is the only meeting in December, with the next one being on January 5, 2004.

RAMIREZ and the Planning Commission wish everyone happy holidays.

AMBROSE states there was a Brown Bag Lunch with the City Council a couple of weeks ago at which they discussed land uses in the industrial zones. There has been a request to the Council to set up a Blue Ribbon Committee to check on the health of the industrial land in El Cajon. He invites other commissioners to serve if they are interested. AMBROSE requests staff provide him with the names of those who served on the Industrial Zones Committee. RAMIREZ says staff will do that.

AMBROSE wishes everyone a happy Thanksgiving.

AGURS and HANSON-COX want to be on the Committee.

## **CORRESPONDENCE**

There was none.

## **ADJOURNMENT**

The meeting of the El Cajon City Planning Commission adjourned at 8:28 PM this 24th day of November, 2003.

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Anthony AMBROSE, Chair

ATTEST:

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James S. GRIFFIN, Secretary