

MINUTES

PLANNING COMMISSION MEETING

DECEMBER 6, 2004

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

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT: WOODS, BLACK, TURNER, HANSON-COX, AMBROSE
COMMISSIONERS ABSENT: NONE
OTHERS PRESENT: RAMIREZ, Principal Planner
FOLEY, City Attorney
ODIORNE, City Engineer
HAWLEY, Administrative Secretary
MOSSAY, Minutes Clerk

AMBROSE explains the mission of the Planning Commission and the proper procedure for speaking before the Commission and asks for proper decorum during the meeting.

MINUTES OF 11/01/04: Motion by TURNER, second by BLACK to approve the Minutes of November 1, 2004 pro forma; carries 5-0.

MINUTES OF 11/15/04: Motion by TURNER, second by BLACK to approve the Minutes of November 15, 2004 pro forma; carries 4-0, AMBROSE abstains due to his absence at that meeting.

AMENDMENT OF CONDITIONAL USE PERMIT 1563 – Karmo

(continued public hearing) Resolution No. 10055

P.C. Meeting 12/06/04

The subject property is located on the south side of Broadway between North First Street and North Mollison Avenue, and addressed as 1031 Broadway; APN 484-294-23; General Plan Designation: General Retail Commercial.

Request to add 800-sq. ft. storage space to an existing commercial building in the C-2 (General Commercial) zone. *Continued from the meeting of October 18, 2004.*

RAMIREZ states this public hearing was continued from the Planning Commission's meeting of October 18, 2004. The applicant asked for more time to review the staff report and the recommended conditions of approval. Since its initial evaluation of the proposed addition, the staff has had concerns about the use of the proposed storage building and its appearance. The floor plan of the storage addition shows doors on the front as well as the rear and a door to the adjacent liquor store. Staff's opinion is the ordinance allows the added storage area to benefit an onsite tenant and not to be potentially available to anyone else. As staff understands it, this applicant may want to rent the storage area to an off-site tenant or use the storage area for his own personal belongings.

In the letter dated November 18, 2004, the applicant's attorney explains why Mr. Karmo wants doors on both the front and the rear of the storage addition. Staff agrees that having a rear door to access the rear of the property for maintenance might be justified even though each of the three tenants already has a rear door. Staff believes the front door, however, will be an attraction to lease the storage space for some other purpose. The staff has recommended a relatively short life or term for this conditional use permit (five years), because there has been little experience on the part of the City with these storage additions. The applicant is requesting that that condition be deleted entirely. There must be a term to all conditional use permits by code, so the condition cannot be eliminated. Staff recommends that it be retained unchanged.

In summary, the staff believes the City should be very careful with these storage-only additions and recommends no changes in its previously recommended conditions of approval, except to allow a rear door.

The public hearing is now open.

Freddie GARMO, 124 W. Main Street, Suite 200, El Cajon 92020, is the applicant's attorney. He has reviewed the recommendations and agrees with all of the recommendations except the two that staff mentioned earlier. He wishes to explain why they are asking for the conditions to be modified and/or removed. The first sentence of Condition No. 2 reads, "The front door of the proposed storage addition shall be deleted". From the drawing on the board, you see the existing building and where the 800 square foot addition is going to be constructed. It makes little sense not to have a way to get into the storage from the front door because of all the deliveries. Mr. Karmo has three tenants in this commercial building—a furniture store, a liquor store and a video store. They will each be using the storage facility and each will require some type of access instead of the rear access. If there was only a rear door, you would have to walk more than 100-150 yards to get to the back of the building to actually use the storage facility. If you eliminate the front access, it doesn't make the storage functional or usable at all. The front door is imperative to have access to the front of the storage. If staff is concerned about the storage addition being used for some other type of improper or illegal use, the applicant will agree in writing that he is not going to lease it to anyone else and that it won't be used for public space and will only be used for storage purposes.

Condition No. 10 recommends the life of the conditional use permit be for five years. GARMO understands how it is a case of first impression for the staff and they don't want to go long term with the conditional use permit. This is a request to build a shell, a small storage to store some of the personal items. The applicant is not asking to sell alcoholic beverages or to allow a private club to operate. This is a building with no windows, no air conditioning, no heating, nothing else but four walls with a couple of doors in it. He is puzzled as to what is going to be requested when they come back in five years and say they are here to renew their permit. The applicant is asking for a longer term of maybe 20 years or something more reasonable. If the five-year term is imposed, he asks for a waiver of the fees. Mr. Karmo has already paid the \$3600 twice to be here tonight. Again, it is a use that will stay permanent and is for storage use only. He doesn't think a five-year term is reasonable under these circumstances.

HANSON-COX asks if the applicant is planning to put a fence from the southwest corner of the building all the way to the back?

GARMO thinks that the applicant is planning to enclose the entire back and nobody will have access to it except for those with a key.

HANSON-COX wants to make sure that the applicant is proposing the storage building and then a fence from that southwest corner all the way to the back to alleviate anyone from coming around.

AMBROSE asks if the applicant is asking for three doors to this facility--one door from the interior from the adjacent store, one from the front and one from the rear?

GARMO believes a metal side door already exists from the liquor store. He has no problem with even sealing that door off. The applicant is just requesting a door from the front and one from the back only.

AMBROSE states GARMO made his case for a door for the front and asks why there is a need for a door at the back? If it is such a long way to access, it doesn't seem like the other stores are even going to access it from the back.

GARMO thinks for safety reasons another access is needed besides the one door. There will be a little area in the back, a small alley behind the entire building. It may need to be cleaned. There have been problems with this building, as the Commission may recall--homeless people storing their items there. They want to eliminate that by enclosing everything and at the same time they want to have access to the back in the event they have to clean or something needs to be replaced. There are lights in the back that will need to be maintained. It is not absolutely imperative to have it, but it just makes sense to have another door from the front and the back.

Michael SITTO, 11125 New Morning Road, La Mesa 91941, is the architect and is here to explain the layout and why they put in the front door. If you visit any retail store you

will see loading and unloading. Graphic Standards and Timesaver are the books that architects go by, and there are references to loading and unloading. When you come into the front door, you go to the storage instead of going to the main retail stores. This way you have a cross function and better traffic flow. That is the only reason, in his opinion, that the front door should be put in.

He spoke with the fire marshal at an earlier time. There is another door that is at the back for the exit; however the code does not require that. Whether or not it is put in, it is not needed for code. The door between the two buildings is already there and they decided to leave it because it exists and can be used by the liquor store. That is the only reason they put that in. It is functional more than anything else.

In response to AMBROSE, RAMIREZ states as far as the door location, she is a little perplexed how three tenants would share one storage area, regardless of how many entrances there are, if each one is using it for storage of business merchandise. Staff doesn't have a floor plan showing how the building might be divided up inside for the security of each tenant's belongings. Aside from that, she thinks a rear door is reasonable. Staff still would oppose the use of a front door at all. There is no designated loading or unloading space marked on the paved area in front of that storage addition that would support Mr. Sitto's comment that it is needed for loading purposes.

SITTO returns to the podium and states that the storage is not going to be used for all three retails. It is going to be used for one of them not for all three. The purpose is not to divide the storage into three spaces. It doesn't make sense to do that.

Motion by TURNER, second by HANSON-COX to close the public hearing; carries 5-0.

AMBROSE tends to be a little sympathetic to the applicant regarding the front door. Even though it is not a designated loading space, he thinks it makes sense to have a door on the front. He is reluctant to extend the life beyond five years, though, because there is no track record.

HANSON-COX agrees with the five-year term. We need to be able to come back and revisit this in five years. She is glad the architect mentioned that the storage addition is really for the use of one tenant. She had read in the minutes that it would basically be used by the owner for his personal belongings. She is still concerned that if there is going to be a door in the front and a door in the back, why would you have a door into the liquor store, too? If she were the owner, she would be nervous about security and someone going in and stealing items. She agrees with staff that if it is going to be used for one business, and it looks more likely that it would be used by the liquor store, why would they need a front door? There are two sides of the coin here. What is it really going to be used for? Will it be used for the liquor store? Will it be used for the owner's personal belongings? If it is to be used by the owner, then she would say the front door is okay. If it is to be used for the liquor store, she would say the front door is not okay.

TURNER thinks the staff has a real concern about the front door because of it being used for storage, which makes sense. If the liquor store is going to be the sole user of the storage addition, she can understand them having the side door and the back door. Where the doors are to be located and who is going to use the storage addition are the big questions. Normally, you wouldn't want front access for storage, because most storage loading and unloading is done in the back part of the building and you would use the back door. It just depends on who is going to be using the storage. Staff seems to have an issue with all these door locations. She would like to have staff work with the applicant on the location of the doors.

AMBROSE thinks having a front door makes more sense than a back door because a front door is visible from the public area. If you are concerned about access by people that you don't want breaking in, you wouldn't want to have a back door to the storage.

HANSON-COX asks if AMBROSE is thinking that if they have it gated off, about having a fence in the gated part of it so they can get access in there because she can see people storing some things behind the building. If that is the case, she agrees with AMBROSE.

AMBROSE thinks that because of the way this addition is configured, it would be a long hike around to the back.

TURNER thought staff was thinking of moving the storage addition further back toward the back end of the building instead of keeping it at the front.

HANSON-COX and TURNER think that would make more sense.

WOODS sees the need for the back door and doesn't see the need for the front door.

HANSON-COX asks if the public hearing could be reopened to ask the architect or the owner the reason why they wouldn't be willing to move the addition back.

Motion by TURNER, second by HANSON-COX to re-open the public hearing; motion carries 5-0.

SITTO returns to the podium.

HANSON-COX asks SITTO if there is a reason why the addition was proposed to be even with the front of the building? If the addition were designed to be flush with the back of the building, and if there were a front door, there would be room for a loading area.

In SITTO's opinion, architecturally, it would look much better the way it is designed now. He understands the Commission's concerns and thinks it is possible to move the storage to the back; however, it won't look as nice, but it is something that can be worked on. He doesn't think he can bring the addition all the way to the back and be

flush with the building, because the door that already exists will be missed. The addition would need to be maybe 10 feet away from the back wall so that the door that already exists could be part of the storage.

HANSON-COX confirms that SITTO is saying he wants the door into the liquor store to have access into the storage area.

SITTO leaves the podium and speaks with the owner. He returns and informs the Commission that the owner agrees to have the addition flush with the back of the wall and that there is no reason for the existing door to be part of the building.

HANSON-COX says that way it will allow him to have an actual loading/unloading area.

No one else comes forward to speak on this item.

Motion by TURNER, second by HANSON-COX to close the public hearing; motion carries 5-0.

AMBROSE thinks there is direction now and asks for a motion.

TURNER asks if the Commission is going to have staff work with the applicant on moving the location of the addition?

AMBROSE thinks that it is okay to slide the addition back and the owner didn't need to have access between the liquor store directly into the building, so that wasn't an issue.

HANSON-COX states they will eliminate the back door and keep the front door.

Motion by TURNER, second by HANSON-COX to grant Amendment of Conditional Use Permit 1563 in accordance with the staff report, modifying the first sentence of Condition No. 2 to read: "The rear door of the proposed storage addition shall be deleted."

WOODS confirms retaining the prohibition of the restroom and plumbing in Condition No. 2.

TURNER asks staff about adding a condition for moving the storage addition to the back.

RAMIREZ suggests a Condition No. 13 with the wording as stated below.

TURNER continues the motion: Add a Condition No. 13 to read, "The applicant shall submit a revised site plan showing the location of the storage addition to be flush with the rear of the existing building." Motion carries 5-0.

This is final action unless appealed to the City Council. The appeal period ends December 20, 2004 at 5PM.

PLANNED UNIT DEVELOPMENT 251 – Lund Street, LLC

(public hearing) Resolution No. 10066

(CC Mtg 1-11-05)

P.C. meeting 12/06/04

The subject property is located on the east side of Fanita Drive between Prospect Avenue and Weld Boulevard, and addressed as 2525-85 Lund Street; APN 386-330-24; General Plan Designation: Low Density Residential.

Request to convert an existing 40-unit apartment complex to a common-interest development in the R-2-H (Two Family/Hillside Overlay) zone.

AND

TENTATIVE SUBDIVISION MAP 565 – Lund Street, LLC

(public hearing) Resolution No. 10067

(CC Mtg 1-11-05)

P.C. Meeting 12/06/04

The subject property is located on the east side of Fanita Drive between Prospect Avenue and Weld Boulevard, and addressed as 2525-85 Lund Street; APN 386-330-24; General Plan Designation: Low Density Residential.

Request a one-lot subdivision map in the R-2-H (Two Family/Hillside Overlay) zone.

RAMIREZ states this is a request to convert an existing 40-unit apartment complex to a common interest development. The companion item, TSM 565 is a request for a one-lot subdivision on the subject property where ownership would be conveyed in the form of air space units. Individual lots will not be created for each unit. The units that are to be converted are 19 years old and are located in four, two-story buildings on a 4-½ acre site.

This applicant has specifically requested that staff inform the Planning Commission of their future plans to construct four new condominiums units, four garages, a manager's office, and a recreation room at a time not yet identified.

The proposed conversion of apartments to condominiums provides increased opportunities for home ownership, which is a stated objective in the General Plan text. By helping to achieve this objective, staff believes that the proposed conversion is consistent with the General Plan.

To date, this applicant has met City and State requirements for tenant notification of intent to convert the apartments in this development to condominiums. Future notification requirements must be met prior to the sale of units.

With regard to development standards, the applicant's plan shows 65 parking spaces currently available on the site. This results in approximately 1.6 spaces per unit, which is acceptable under the current conversion standards. There are several acceptable forms of common recreation or open space areas that may be provided in the project in order to meet this requirement for conversion. The existing development on the subject property provides both active and passive areas, including a pool and spa. The Commission, with the concurrence of the City Council, shall determine the adequacy of the proposed facilities.

A Physical Elements Report for this development was prepared by National Assessment Corporation. The report is signed by Mark Prock, a licensed civil engineer. The report identifies the condition of the property and states a course of action for each physical element inspected. Tables 1 and 2 from that report are attached to the PUD staff report. These tables outline the details and phasing of numerous repairs and replacements. The recommended conditions of approval have modified the phasing to require that all HVAC units be replaced and that water heaters and kitchen appliances be replaced if they do not have a reasonable remaining useful lifetime. Most of the proposed improvements are considered deferred maintenance items. The Physical Elements Report does not address the presence or absence of the required one-hour fire-rated separations between units. This is a standard requirement for condominium units and is included in the recommended conditions of approval. If the applicant determines that fire-rated separations between units are existing, they must be verified and documented by a City building inspector.

Staff recommends that the applicant's Physical Elements Report preparer inspect and certify all required upgrades for which no City permit is required and that they have been completed prior to the recordation of the subdivision map. Other items that must be provided by the applicant include separate electric, gas and venting service to each unit, and CC&R's for the management and maintenance of all common maintenance facilities.

Staff's recommendation on the PUD is for approval of the conversion of these 40 units, subject to conditions contained in the staff report. The proposed Tentative Subdivision Map 565 is a typical one-lot subdivision made in conjunction with the request to convert units. It will provide the opportunity for condominium ownership of each unit. The proposed subdivision is in conformance with the General Plan "Medium Density

Residential” category and staff is recommending approval of the map as presented, subject to conditions.

The public hearing is now open.

Chris CHRISTENSEN, P.O. Box 1243, La Mesa 91944, is the applicant’s representative, and is here to respond to any questions or comments. In response to AMBROSE, CHRISTENSEN agrees with the recommended conditions, with two exceptions. He notes Condition No. 12, the undergrounding for new and existing utility distribution. It specifically says the requirement is waived for the existing overhead distribution facilities along Fanita Drive and Lund Street. With that condition in place, the applicant accepts that.

On Condition No. 16, the staff has requested that energy-efficient appliances be installed where existing appliances are determined to have a remaining useful life of less than 10 years. They would like that modified to exclude refrigerators, because that will be offered as an optional appliance in the units.

AMBROSE doesn’t understand how excluding refrigerators would be important for the applicant?

CHRISTENSEN answers that the appliances, refrigerators typically, add a cost of about \$500-1000 per unit and it is usually something that is an option that is left up to the homebuyer. They will provide that under a separate arrangement if that is what is required, but in many cases, people have their own refrigerators or have other appliances that they bring in, so to make it a requirement in some cases is redundant with the eventual homebuyers.

That is what AMBROSE was wondering, because most units are sold without refrigerators, so he doesn’t know why that would bother the applicant.

CHRISTENSEN says that when the developer puts in appliances, they just wanted to specifically exclude refrigerators from that requirement.

AMBROSE still does not understand why that would matter one way or the other.

CHRISTENSEN says it is just one more requirement that is redundant only in the sense that some people already have refrigerators. Those that don’t have them are provided them under a separate agreement during the purchase and sale of the end units.

CHRISTENSEN comments on Condition No. 7 – “Prior to terminating tenancy (the 180-day notice) the applicant shall provide proof....”. He wants to clarify that the 180-day notice is not a notice to terminate tenancy. It simply is a state-required notice under the Subdivision Map Act separate from the 30-day or 60-day notice that would be delivered to the tenants for the termination of tenants. It creates some ambiguity with respect to the relocation assistance. He asks for clarification on that item.

RAMIREZ states on the noticing, they would refer to the excerpt of the conversion standard and she believes CHRISTENSEN has a legitimate concern. Staff is not intending that the 180-day notice be the same as the 60-day notice that is required under State law.

CHRISTENSEN thinks it just opens the question that if the applicant were to issue a 180-day notice under the State Subdivision Map Act, then tenants may think that under this condition, they would be eligible for relocation assistance at that time. That is not the way the Relocation Ordinance reads. The applicant requests to strike the language, specifically just the part in parentheses (“180-day notice”). Of course, prior to terminating tenancy, the applicant shall provide all of the required notice to the Planning Division and relocation assistance payments.

In response to AMBROSE, RAMIREZ states there is no objection from staff to strike the words “180-day notice” in Condition No. 7.

Peggy FERNANDEZ, 2369 Farrington Drive, El Cajon 92020, is a neighbor to the proposed project. She thinks it is an excellent idea to convert the apartments to condominiums. However, she has a question regarding the vacant land where the additional condos, the garages and the recreation area will be built. She would like to see a picture or sketch of that and to know what is involved as far as the access. Will there be an additional street added? Is there going to be a lot of grading? How tall will the buildings be? This will have an impact on her neighborhood.

AMBROSE responds that the Commission would like to know what it looks like, too, but that was not part of this proposal. The applicant just wanted to alert the Commission that that was their future plans. There are no plans, at this time, to approve additional condominium units to be built on that hillside.

FERNANDEZ asks if the neighbors will receive a notice like they did for this agenda item?

AMBROSE answers yes. If the applicants come back and file a plan with the Planning Division to expand that site and add those additional units, the neighbors will be noticed, because that would be a change to this PUD and tentative map.

FERNANDEZ understands and asks about the additional land the developer is adding to the existing land, making it one lot.

AMBROSE shows FERNANDEZ the plan on the board and says there is a large part that has no buildings on it. That will remain exactly the same with no changes at this time.

FERNANDEZ asks if that land is already a part of the apartment complex?

AMBROSE answers that it is.

No one else comes forward on these items.

Motion by HANSON-COX, second by TURNER to close the public hearings on Planned Unit Development 251 and Tentative Subdivision Map 565; carries 5-0.

Under discussion, AMBROSE thinks this is a fairly straightforward project. He visited the site and it was one of the nicer looking buildings, was a little newer construction and has a lot to offer.

Motion on PUD 251

Motion by BLACK, second by HANSON-COX to recommend approval of Planned Unit Development 251 in accordance with the staff report and modifying Condition No. 7 to remove the words "180-day notice".

Regarding the refrigerator issue, AMBROSE did not understand why that would matter and asks if another commissioner might have more understanding of this issue. He doesn't think it matters. If someone buys the unit, and the owner will sell them a new refrigerator, so it would be new anyway, otherwise, the occupant or buyer is going bring their own refrigerator, so what difference does it make?

HANSON-COX says if she were going to buy a condo that was upstairs, she would not haul a refrigerator up there. She would rather buy one with a refrigerator in it. Not everyone has refrigerators. This is to promote home ownership and some of these buyers are not going to have existing refrigerators. She would like to leave it in and sees no reason to take it out.

TURNER agrees with HANSON-COX.

BLACK states the one concern about refrigerators or any of the appliances is that they overload the circuitry and the existing conditions and wiring. The existing wiring is set for a certain load. If somebody brings in a super huge refrigerator, it could cause problems and overload the electrical. He doesn't think anyone would do that. This carries over to the owners, right?

AMBROSE says this is just for the developer.

The commissioners agree to leave in the wording.

WOODS asks if the developer is required to provide a refrigerator?

RAMIREZ answers that there is no such requirement in the conversion ordinance. In fact, the only reason replacement of appliances is being discussed is to bring the unit up to new or like-new condition. In staff's opinion, if the refrigerator is not included because the people marketing the property wish to not include it or make it an option, then it is not an issue to the staff. For those items that are typically there, such as the

stovetop, oven, dishwasher, staff would like to see them replaced with the energy-efficient units.

WOODS wants to make sure that this would ensure that if there is a refrigerator, it is energy-efficient and is new.

RAMIREZ answers yes. She thinks CHRISTENSEN was looking for some clarification in the record that would acknowledge their choice to market that as an option.

WOODS agrees with keeping the wording in Condition No.16.

The vote is now taken on PUD 251; carries 5-0.

Motion on TSM 565

Motion by BLACK, second by WOODS to recommend approval of Tentative Subdivision Map 565 in accordance with the staff report; carries 5-0.

These are recommendations to the City Council. The City Council will hold public hearings on these items on January 11, 2005.

PLANNED UNIT DEVELOPMENT 254 – Westone Management Consultants for Wasatch Acquisitions & Capitol Inc. for Las Brisas Holdings, LLC

(public hearing) Resolution No. 10068

(CC Mtg 1-11-05)

P.C. Meeting 12/06/04

The subject property is located on the west side of Chambers Street between West Main Street and Manor Drive, and addressed as 150-210 Chambers Street; APN 487-160-14; existing LUC 1141A, proposed 1142B; General Plan Designation: High Density Residential.

Request to convert an existing 178-unit apartment complex to a common-interest development in the R-3 (Multiple Family) zone.

AND

TENTATIVE SUBDIVISION MAP 568 – Westone Management Consultants for Wasatch Acquisitions & Capitol Inc. for Las Brisas Holdings, LLC

(public hearing) Resolution No. 10069

(CC Mtg 1-11-05)

P.C. Meeting 12/06/04

The subject property is located on the west side of Chambers Street between West Main Street and Manor Drive, and addressed as 150-210 Chambers Street; APN 487-160-14; existing LUC 1141A, proposed 1142B; General Plan Designation: High Density Residential.

Request for a one-lot subdivision map in the R-3 (Multiple Family) zone.

RAMIREZ states this is a request to convert an existing 178-unit apartment complex to a common interest subdivision. The companion tentative map is scheduled on this agenda as well. If the request is granted, the common interest subdivision will result in 178 air space units. Individual lots are not proposed to be created.

The units to be converted are about 18 years old, located in eight two-story buildings on a 7.7-acre site. The proposed conversion of apartments to condominiums provides increased opportunities for home ownership and supports the General Plan objective in that regard.

To date, this applicant has met City and State requirements for tenant notification of their intent to convert the apartments in this development to condos. The future notice requirements must be met before the final map is allowed to record. With regard to development standards, the applicant's plan shows that 269 parking spaces are currently available on the site. This results in a ratio of approximately 1-½ spaces per unit, which is acceptable under the current code.

Several forms of common recreation and open space areas may be provided in a project in order to meet the conversion ordinance requirements. The existing development on the subject property provides active and passive areas. In a centrally located area, residents have access to over 4,000 square feet of amenities, which include a pool, spa, clubhouse, barbeque, shaded patio seating area, picnic tables, and a tot lot. The Planning Commission, with concurrence of the City Council, shall determine the adequacy of these facilities. The applicant is proposing to also install new shrubs and shade trees in the existing landscape areas around that central area.

In conjunction with an application to convert, the City requires a Physical Elements Report. The report discloses the status of the condition of all major components and infrastructure systems to ensure that subsequent homeowners do not inherit any problems. The Physical Elements Report for this development and the addendum, were prepared by J.C.P. Huang Consulting Engineers, Inc. The report identifies the condition of the property and states a course of action for each physical element

inspected. Many of the improvements considered health and safety items are included as conditions of approval.

Staff has also noted that the applicant plans to upgrade the property's street-side appearance by installing new wrought iron gates and fencing, stone-clad concrete columns, entry trellis and accent lighting. Commissioners should refer to the design review packet provided by the applicant, which was distributed with the staff reports.

Due to the age of this development, it is not likely that the units have the required one-hour firewall separations between units. This is a standard requirement for conversion to condos and is included in the recommended conditions of approval.

Staff recommends that the applicant's Physical Elements Report preparer inspect and certify all required repairs and upgrades for which no City permit is required and that they be completed prior to the recordation of the final map. Other items which must be provided by the applicant include separate utilities, and CC&R's for the management and maintenance of all common areas. Staff's recommendation on the PUD is for approval of the conversion of the 178 units, subject to conditions contained in the staff report.

The proposed Tentative Subdivision Map 568 is the typical one-lot subdivision made in conjunction with the request to convert units to condos. It provides the opportunity for ownership of each unit. The proposed subdivision is in conformance with the General Plan "High Density Residential" category and staff is recommending approval of the tentative map as presented, subject to conditions.

AMBROSE comments that this applicant has really gone above and beyond in their submittal package and in the quality of the materials submitted. He is very impressed.

TURNER agrees with AMBROSE and suggests using this as an example.

HANSON-COX says you know exactly where the developer is heading and what they want to do. It was so easy to look at and to visualize the project.

The public hearing is now open.

Joseph SCARLATTI, Westone Management Consultants, 1640 Broadway, Suite A, San Diego 92101, represents the developer. He has reviewed the staff report and agrees with it in its entirety. He is here to answer questions.

AMBROSE thanks SCARLATTI for the quality of the presentation. It is easy to read, the Commission can understand what is being proposed and the color key for the various units is very helpful. The project looks like it is in fairly good condition when he visited the site. It should be a great project. This is one of those projects where there is plenty of open space and recreation opportunities within it, so the Commission is not scraping, looking for something to cobble together to create some decent open space.

SCARLATTI responds that is true. This particular project gave the developer something to work with going in.

HANSON-COX adds what a great location. People are going to be able to walk downtown and with is being done in the downtown area, it is going to be a great location to buy one of those units. She asks for clarification on the color key, the "before" picture has a light fixture by the front doors, but on the new design, the light fixtures are no longer there. Was this in error?

SCARLATTI says that was an error. The exterior lighting package is being replaced in its entirety. They certainly wouldn't take existing lighting away.

HANSON-COX asks about the color chart showing what color the buildings were going to be painted. She thought that was great, but when she was reading the proposed renovations it said the building color is Western Beige and goes on the trim. She thinks that sounds like all the buildings are going to be painted the same color, and asks if that is accurate?

SCARLATTI says he noted in the design review package and for whatever reason, that particular sheet did not reproduce properly. He advises that commissioners will have to match the coding on that footprint to the color palette that is on the board.

HANSON-COX asks for clarification where it says the laundry room will be converted to a community gym and new washers and dryers will be installed in all units. In the report it says washer and dryer hookups are available for some dwelling units. Does that mean all the dwelling units will be set up for hookups for washer and dryers?

SCARLATTI states the one-bedroom units are quite large and he believes it is the developer's intent, if they can find the appropriate place for it, to put washers and dryers in all the units.

No further comments are offered.

Motion by TURNER, second by BLACK to close the public hearings; carries 5-0.

Under discussion, AMBROSE states this is a great project and thinks staff has called it correctly. He is willing to support staff's recommendation.

WOODS agrees and states this is the best-looking conversion project yet.

Motion on PUD 254

Motion by WOODS, second by TURNER to recommend approval of Planned Unit Development 254 in accordance with the staff report; carries 5-0.

Motion on TSM 568

Motion by WOODS, second by TURNER to recommend approval of Tentative Subdivision Map 568 in accordance with the staff report; carries 5-0.

These are recommendations to the City Council and will be heard by the City Council on January 11, 2005.

CONDITIONAL USE PERMIT 1996 – San Diego Auto Connection for Westfield

(public hearing) Resolution No. 10070

P.C. Meeting 12/06/04

The subject property is located on the southeast corner of Fletcher Parkway and North Johnson Avenue; APN 482-270-33; existing LUC 5310B, proposed LUC 5312C/5310B; General Plan Designation: Regional Retail Commercial.

Request for multiple used car sales events during the year 2005 in the C-R (Regional Commercial) zone.

RAMIREZ states the Commissioners should note a piece of correspondence was added to the record comprised of a letter on letterhead from Rock Automotive Group signed by Shawn Sagart and includes an attachment on City of San Diego letterhead. It was submitted via FAX and is a letter in opposition to the approval of Conditional Use Permit 1996.

RAMIREZ states this is a request for multiple-use car tent sales at Parkway Plaza in the calendar year 2005. The applicant is proposing a total of 10 car sales events between January and October. Each event is scheduled for 13 days. The events are separated from prior events by more than two weeks. The dates requested are included as an attachment to this report. As the Commission may be aware, in the past there have been many complaints from local car dealers about the parking lot sales events held in El Cajon by out of town dealers. The City Attorney advised the City Council that it could not prohibit just out of town car dealers from conducting these sales events. Any prohibition would have to be a total prohibition of off-site car sales events. The City Council chose not to prohibit them.

This applicant is proposing to have all of the parking lot sales in the northwest corner of the Parkway Plaza Shopping Center parking lot where N. Johnson Avenue and Fletcher Parkway intersect. This is the portion of the lot that is adjacent to the World Savings Bank building. The proposed sales area will not conflict with any driveways that provide access to the shopping center. The applicant's previous events at this same location did not generate complaints from other businesses with regard to on-site parking.

Within the planned fenced sales area, the applicant will have four small canopies and one large tent. There will also be two portable restroom facilities, two light towers, inflatable balloons and banners and an inflatable that is shown to have a height of 125 feet. Staff has included FAA approval as a condition for the balloon height as it is within close proximity to the Gillespie Field airport. Also, all temporary signs including inflatables and balloons must be contained within the fenced sales area boundary, including the air space above the sale area.

Staff is recommending approval for the calendar of events included in the staff report and subject to the conditions contained in the report.

AMBROSE has a question regarding the number of days the sale is proposed. It is for four months total and he is concerned that over time these events have grown and keep getting larger and larger as far as the amount of days. He thinks earlier sales were only 3 or 4 times a year, and now they are 8 or 9 times a year. Is this growing, or is it his imagination?

RAMIREZ states staff shares the same concerns. In 2004, staff considered two conditional use permits--one from this applicant and one from another car dealer who were sharing the property at Parkway Plaza. Those events were approved for 21 days each with 7 days "dark" or free of any car sales. The concern at that time was that this had become like a permanent use.

The other issue AMBROSE has is that the parking lot has been full ever since Wal Mart opened. He knows it has been the holiday season, but it has not been easy to find parking there. Even at 7 AM these last few days during the holiday sales times, it has been incredible.

TURNER states the applicant has not scheduled anything in November or December. She knows it has been very busy since Wal Mart opened and since Thanksgiving, but thinks the applicant took this into consideration with their proposed schedule.

WOODS asks if there is concern that the tent sales will affect the businesses in the mall, because it is harder for shoppers to find parking spaces?

RAMIREZ answers that the arrangement for the site is between the applicant and Westfield, who manages the shopping center. She thinks that Westfield believes this is in the best interest of the center as a whole and would probably not be agreeing to the terms and conditions of such a lease if they thought they would be getting complaints or have problems with any of their tenants.

The public hearing is now open.

Ed STRUIKSMA, 9350 Waxie Way, San Diego 92123, is the applicant's representative. He would like to make comments and then reserve what time he has left to address

concerns that may be voiced here because he is not, at this point in time, aware of them.

STRUIKSMA thanks staff for the time spent working with them. They are in agreement with staff recommendations and accept all the conditions that staff is suggesting be attached to this permit.

STRUIKSMA addresses AMBROSE's remarks. What they are proposing this year is roughly 120 days of automobile sales and last year the Commission saw 210 days of sales. There is a substantial reduction. As staff has mentioned, one of the things the sales do is bring business into the center and that is one of the reasons why the center wants them there. As it relates to the holiday season, if you look at the schedule of events, historically, the car dealers know they don't belong there and the shopping center doesn't want them there during that time to add to any holiday confusion. STRUIKSMA looks forward to a successful upcoming year.

Shawn SAGART, 1150 San Lori Lane, El Cajon 92019, is the owner of Suzuki of El Cajon, Rock Automotive Group and Auto Warehouse, all of which are operated out of the city of El Cajon. He is here on behalf of all El Cajon car dealers. Two years ago, all El Cajon auto dealers that were opposing the tent sales came to the city and asked to not allow out of town auto dealers to come to the city of El Cajon. After careful review by the City Attorney, the Council came to the conclusion that because of free trade, NAFTA and unfair business practices, the city would invite lawsuits if only out of town auto dealerships were banned. The local car dealers let the City Attorney know at that time that the city of National City only allows these sales three days and only for National City dealers. In Chula Vista it is the same thing; however, in the year 2004, they banned all tent sales with the exception of three at Coors Amphitheater for a total of three days each. The city of Escondido only allows four tent sales for Escondido dealers and as you see in the letter mentioned earlier by staff, the city of San Diego has also joined the other cities by banning the tent sales simply because they are getting longer and longer. This makes the city of El Cajon the final destination and a magnet for out of town dealers to rush to El Cajon.

This conditional use permit is only a beginning. On behalf of all El Cajon car dealers, he is asking for a complete ban on all parking lot sales. In their opinion, there are several legal issues that need to be addressed. For example, the same dealer comes to the same location ten months out of the year. Each sale is 13 days, and when you add one day for moving in, another day for moving out, it is up to 15 days. It is simply too long for the dealer to be there. Most tent sales at Qualcomm or the ones that are permitted in the city of San Diego are three days only. Therefore, it makes the dealer almost a fulltime dealer and they should, therefore, comply with all the rules and regulations that are required by the city of El Cajon for all the El Cajon car dealers. Tent sale operators, by paying \$3600 a year for a conditional use permit, get an opportunity to get around all the requirements that are required by the city of El Cajon for all the car dealers in El Cajon. They are also able to have 38-foot balloons.

SAGART's time at the podium expires and he requests another few minutes because he is speaking on behalf of three other dealers.

AMBROSE states that he may have more time and asks who the other dealers are.

SAGART says the Price is Right and Auto Finance Specialists. He continues that tent sale operators paying \$3600 a year can get around this and can have 38-foot gorillas, several inflatables 125 feet in the air, numerous banners and no handicapped parking required on-site within the parking area of the tent sale. They also don't have any handicapped bathrooms. It just seems like a fulltime business that only has to pay \$3600 each year to be able to get around all of this.

He has lived here since 1979 and has worked in El Cajon. He has seen signs in El Cajon that say "Buy in El Cajon". Businesses including Parkway Plaza, all dealers in El Cajon and the city of El Cajon should play a role to enforce this because this is a common goal for all of us. El Cajon dealers mostly live in El Cajon and employ people in El Cajon. They pay property taxes, and most importantly generate most of the sales tax revenues for the city of El Cajon because they sell big-ticket items. As big as Parkway Plaza is, they should set an example for the rest of the city. But the fact is, Parkway Plaza won't even allow an El Cajon dealer to have a tent sale at their location for the year 2005. He and three other dealers asked Parkway Plaza, and they said it is not an exclusive but yet, when you look at the CUP, you see that it is an exclusive for an out-of-town dealer.

Both Parkway Plaza and San Diego Auto Connection claim they generate a lot of sales tax through selling these big-ticket items. SAGART has spoken with Mrs. Krueger, who was behind generating the letter from the city of San Diego. They did an intense study that showed there are 7,500 cars sold per month by the tent sale in San Diego. It doesn't really increase or decrease the total sales; all it does is shift sales from one company to the other company. They also claim that they spend a lot of money to advertise to get a lot of people from out-of-town to the area and they end up shopping at Parkway Plaza. SAGART was at Parkway Plaza last year with San Diego Auto Connection, working closely together to put the tent sales up. The main idea of a tent sale is that you rely on the traffic that the shopping center is generating. They spent minimal money to generate traffic from other places to come to Parkway Plaza. In case they don't buy a car, they can buy a hamburger at Parkway Plaza and generate some sales tax. Sales tax generated by tent sales is sales tax lost by an El Cajon auto dealership.

SAGART is asking the city of El Cajon to join all El Cajon car dealers and ban all off-site tent sales and protect local dealers. Let's send a strong message to all out-of-town car dealers that if you want to do business in the city of El Cajon, almost a fulltime business, you must abide by all rules and regulations that all car dealers have to abide by. Let's send a message that you cannot pay \$3600 a year to the city of El Cajon and not have a legitimate place of business in the city of El Cajon. This is not even offered to the El Cajon car dealers that by paying the fee, they are able to have elephants and gorillas up

in the air. Please close this loophole for all out of town dealers. Please make it easy for all El Cajon car dealers to continue doing business and to continue employing people that live here in El Cajon and spend their money in El Cajon.

AMBROSE sums up that SAGART's contention is basically unfair competition. That is really the bottom line here—that it is unfair to have an out-of-town dealer come in and set up four months out of the year, not comply with all the requirements El Cajon dealers must comply with, pay all the same fees and conditional use permits and everything else you have to go through to be a businessman in El Cajon.

SAGART says yes and that the 14 days is just too long—it is not a three-day sale event. Three days he can see, but 14 days is like moving in but really not moving in. If you want to move in, pay your fair share of taxes.

HANSON-COX asks when SAGART notified Westfield he was interested in having a tent sale there?

SAGART notified Westfield in November. Every year Westfield would invite the same dealers that were there the year before to talk about the upcoming year. This year, he decided not to go simply because the other car dealers in town he used to do business with have said they didn't want him to do that because he would be hurting the local car dealers. You are inviting other dealers to come here, especially since all the cities are banning the tent sales or limiting them to only a few sales and for three days maximum. He decided to not go to tent sales anymore because it was the right thing to do and in order to get along with his neighbors on El Cajon Blvd.

BLACK asks if his group of dealers conduct tent sales in other cities? Do they do the same thing and offer their cars in lots in other cities?

SAGART says he went to KMart in the year 2004 one time and he has been going to the Qualcomm tent sale that is put up by Mr. Hodsdon of the San Diego Auto Connection, the promoter. He has only been going to those sales, which are 2-½ day sales, starting on Friday at Noon and closing Sunday night.

BLACK asks if he knows the number of cars he offers at any one time at his dealership and the other dealerships?

SAGART says at his dealership he offers 400 used cars with an additional 200 new cars. He employs 48 people at his dealership.

Lauren CAMPBELL, Bob Baker Chevrolet Subaru and Bob Baker Lexus, 900 Arnele Ave, El Cajon 92020, shares some of the same concerns SAGART has. He operates under a conditional use permit at Bob Baker Chevrolet Subaru and Bob Baker Lexus and contained in that conditional use permit are very specific restrictions on parking spaces: the number of parking spaces they have to provide for customers, the number of parking spaces they have to provide for handicapped customers and employees, the

number of parking spaces that have to be available for their employees to park onsite rather than on the street. They have a number of different restrictions. It is his understanding that the staff has not done a parking analysis at Parkway Plaza yet since Wal Mart has gone in. He thinks that needs to be done before this matter be given any serious consideration.

CAMPBELL shares the same concerns that AMBROSE has about Wal Mart. Ruby's Diner is opening in a couple of months; CAMPBELL thinks parking is already nasty there even before it opens.

Regardless, he doesn't believe in the tent sale process. It is unfair to have different rules for the dealers that are here paying taxes, property taxes, and employment taxes in the city of El Cajon. He employs 140 people. He has been here since 1989. Lexus employs 50 people. They have a vested interest and are not going anywhere. He has current plans that the Commission will be seeing for a \$3 million renovation on their facility.

TURNER asks if CAMPBELL has taken part in any of the off-site tent sales, such as Qualcomm, or local ones such as Parkway Plaza or KMart?

CAMPBELL hasn't for several years. It was through some of their efforts at Bob Baker Auto Group that helped push the city of San Diego to make the same decision. Many communities across the state have been banning these sales.

BLACK is fuzzy on what is being asked. Is the 120 days too many days to allow tent sales and that maybe a three-to-five day sale would be better? He is still unclear about CAMPBELL's position.

CAMPBELL says that originally the zoning was to govern use of a property, as he understands it. What has happened is the zoning as it is written, allows two of these sidewalk sale events a year. This is actually a circumvention of the zoning process. The zoning for that C-R commercial zone is zoned for the permitted use of two times a year. He is proposing that they have an even playing field. Everybody should be able to play by the same rules and also hold the same responsibilities. They spent \$50,000 in Carlsbad to survey their dealership to develop a storm water prevention runoff plan. When you wash a car on your lot, where does the water end up? Storm water runoff and keeping the ocean clean is a prime concern and the city may even be responsible if those requirements are not met.

BLACK is still fuzzy. Are we talking about solid problems like water runoff or are we talking about sales period times? He asks if CAMPBELL is going to participate in out-of-city functions, tent sales, etc.?

CAMPBELL says his business does not participate, and they do not support tent sales. He is a reasonable person. He would consider a reasonable alternative to this tent event of 13 days at a time. It is for 4 months, which is one-third of the year. To him,

that means it is a substantial use of the property. It is not an occasional use. His desire would be for zero tent sales; however, they could probably live with three-day tent sales every couple of months. He thinks that would be tolerable. But 10 tent sales, 13 days at a time, four months out of the year is too much.

BLACK wonders what the legal ramifications would be if there were zero sales.

FOLEY states the opinion the City Attorney's office gave some time ago was that the city could not ban off-site auto sales from out-of-town dealers and favor the in-town dealers. What it sounds like San Diego is doing, and he has looked at the facts received from the Rock Automotive Group and listened to the testimony, is banning all off-site sales with two exceptions. Maybe San Diego rationalized that Qualcomm is set up better for these types of sales. He doesn't know what their rationalization is, but the city stands firm with the opinion that if you are going to ban them, you are going to ban them all. We don't have Council direction for that. Council has said they don't want to ban them all. If you are going to allow them, you are stuck with allowing them to either in-town or out-of-town dealers—whoever first comes and wants to use the facilities.

As to Mr. Campbell's comments about some of the costs and expenses they incur as an in-town dealer, FOLEY states you can't argue with that. That is just the cost of doing business. Local businesses are required to comply with the storm drain discharge requirements, as will this applicant if this conditional use permit is granted. It is one of the conditions from the Public Works Department. The out-of-town dealers will be required to do the same thing that in-town dealers are required except the only difference is when dealers construct a new facility, they are probably required to do something a little different when they have auto washing as part of their business.

Frank FARSOUDI, El Cajon Mitsubishi, 247 El Cajon Blvd, El Cajon 92020, will not be redundant and states all the concerns his colleagues voiced this evening are his concerns as well. He is the first one to admit that what Mr. Hodsdon is doing is very slick and very smart. The capacity of car sales in El Cajon and San Diego is pretty much the same. We would sell the same amount of cars regardless of what we do, how we advertise and what we promote. By Mr. Hodsdon coming to Parkway Plaza and taking business away from other dealers, it is very slick because he is saving thousands of dollars in overhead. Obviously, that would translate to why the Commission is hearing complaints about Mr. Hodsdon doing business here.

El Cajon Mitsubishi has been in the city for the last 23 years and has been doing business consistently. As a new owner, he thinks it is very unfair for an out-of-towner to come and take business away from dealers in the city of El Cajon.

AMBROSE reminds the commissioners and anyone in the audience who wants to speak, that the Planning Commission only has land use authority. They do not have economic authority, so they can only look at compatibility issues. AMBROSE asks for comments that are focused on the compatibility of this use at this site.

Tom FREDRICKSON, Auto Finance Specialists and Trick Trucks, 327 El Cajon Blvd, El Cajon, CA 92020, remembers being in front of the Commission around 1-½ years ago. He was asking for a conditional use permit to develop the property at 327 El Cajon Blvd., which is about two-thirds done. They still have a sales office and administrative building to build. They have already put probably \$3 million into that property, after everything has been said and done. They probably have another \$1.5 million to put into that building. They are spending their time, money and efforts to develop the property here in El Cajon. To have a dealer who does not put in that effort into this city, come in and take business away from them, because there is a certain amount of people who buy vehicles in El Cajon valley, and you have a certain pie. That pie is divided up among all the dealers who spend time here and their property is here. To have a dealer who comes in and takes a piece of that pie away from them, it is something that all these dealers here this evening do not appreciate. He would like to have a total ban of these tent sales.

Joe DeSTASIO, 11601 Wilshire Blvd, 11th floor, Los Angeles, CA 90025, is with Westfield Corporation and is here this evening for another agenda item. There were a few comments made by members of the audience that he would like to address. One specifically is the amount of parking on-site. A Wal Mart did just open and fortunately for them, and maybe unfortunately for some of the parkers, it is tremendously successful. He comments that the amount of supplied parking on-site is within the city-required ratio of 4.5 spaces per 1,000 square feet. That number does include the Ruby's Diner, which is scheduled to open in early 2005.

He also comments on the effect on the current tenants of having the dealers in their lot. He feels it does drive additional traffic to the center. If you go to the center to purchase a car and decide not to, you may stop at Wal Mart or somewhere else to purchase something. He feels it does benefit their tenants. It does not deter from their business whatsoever by bringing additional cars and people to the location.

AMBROSE thinks the Commission has a good sense of the situation now.

STRUIKSMA returns to the podium to address several issues and AMBROSE reminds him that this is not a debate. The Commission is just trying to get the facts.

STRUIKSMA states if the speakers were keeping comments directly to what AMBROSE had just indicated a few moments ago as to the purview, then most of the comments made would not be germane to this discussion. Given the fact that so much was said about these things, he feels compelled to at least address a couple of them.

One of the items that the Commission apparently has in a package that was handed out to the Commission is a letter from the city of San Diego dated November 26, 2004. There are a couple of things that he would call to the Commission's attention. First of all, he notes the signature at the bottom of the letter. It is signed Robert Didion, who is the Assistant Deputy Director of Development Services. STRUIKSMA talked to Mr. Didion today. He notes that this letter came from staff. It has not been heard by the

San Diego City Planning Commission and there is not a single San Diego City Councilmember who is aware, at this point in time, of this letter. Where it will go from here, he has no idea. But this is a staff decision and not a Council or Planning Commission decision. In speaking with Mr. Didion, this action was taken after a group of new car dealers paid a visit to the City Manager. There is some rationale there that he doesn't yet understand. He doesn't want the Commission to believe, at this point in time, that this is cast in stone.

STRUIKSMA states there were a number of comments made here this evening concerning the unfair competition. Besides the question that was asked of one of the local dealers, there are at least three or four gentlemen in the audience who represent organizations that sell cars in the city of San Diego. He guesses it is okay for them to come into San Diego and do their business but not okay for San Diegans to come into El Cajon and do their business. It is okay for them to sell cars and make money here, but they are not going to take a resident from the city of San Diego who walks in and wants to buy a car and tell him that it is not fair; he must buy from a San Diego dealer. Fairness is a very important question here. Listening to their arguments, it is simply not the case. The Bob Baker Group was a permanent resident at Qualcomm until his client, San Diego Auto Connection, took over the sales a year ago. Obviously, these El Cajon dealers did not want to pay the fee associated with being there, so they elected not to go. He believes that the Bob Baker Group has also conducted sales at Miramar College.

STRUIKSMA states San Diego Auto Connection pays the taxes that are generated from their sales. They have worked with Westfield Shopping Center on a number of different locations and looked at a number of different concepts throughout Southern California. Westfield wouldn't have them there if they were a detriment to their business. He thinks what the Commission is hearing are comments from a number of businessmen who, for whatever reason, chose not to participate in what Westfield offered. He was at Westfield Shopping Center at Parkway Plaza last year for half the time that sales were conducted. They were there the year before for a lesser period of time. San Diego Auto Connection obviously has impressed the management with the way they do business and their willingness to work with them. Any of the local dealers here tonight could have gone through the application process and talked to the management at Westfield and offered them the same things that he has offered them, but they chose not to. Yes, they would like to shut down tent sales, because they don't want to do them. It is not in their business plan. But don't deny somebody else who has some initiative, who has the willingness to go out and hustle and do some extra work rather than sitting in their mausoleum and waiting for somebody to come to them to make a dollar. He says his overhead is substantially less and the customer, in his opinion, is getting a better deal.

HANSON-COX asks when he notified Westfield that he was interested in having the tent sales for 2005?

STRUIKSMA answers probably in about 2003, when he got started. It is an ongoing process and what has happened in the past is other dealers have scheduled events with Westfield and then backed out. When they back out, his phone rings. They are there; they do it and do it right.

Steve HODSDON, President and CEO of San Diego Auto Connection, 12423 Figtree Street, San Diego CA 92131, will do his best not to be redundant. He wishes to bring up a couple of key points. Every dealer that approached the Commission this evening, with the exception of one, is currently under contract with him and a client at Qualcomm Stadium. Mr. Sagart, Auto Finance Specialists, and El Cajon Mitsubishi all have taken residency at Qualcomm Stadium this year on several occasions and conducted sales in the city of San Diego. Suzuki of El Cajon is under contract with him for 12 sales through 2005 at Qualcomm Stadium. Perhaps Mr. Campbell from Bob Baker Chevrolet might have been on vacation when his dealership went to Miramar College this year, but his company was at Miramar College, which is located in the city of San Diego, and conducted two or three sales this year. As it relates to being a low-overhead operation at Westfield, he would venture to bet that his lease payments at Westfield are greater than any two dealerships here this evening. They pay Westfield hundreds of thousands of dollars a year for the privilege to conduct the sales there.

AMBROSE feels the speaker has addressed a lot of the issues that are between him and some of the local dealers. The issue that the Commission must decide is whether this is a compatible use at this site. AMBROSE is having issues with the parking situation at Parkway Plaza. He has always gone to Parkway Plaza and the demand for parking there, with the opening of Wal Mart, has been incredible. He is glad for the success of Parkway Plaza, but he has just never seen it like this in the 30 years that he has lived in El Cajon.

HODSDON states that there is a clause in their agreement with Westfield that if parking does become an issue, Westfield can withdraw their license with him.

SAGART returns to the podium. He has been going to Qualcomm, as he said earlier, and will be going there every year because, unfortunately, he is under a contract. This afternoon he got a phone call from Steve Hodsdon, the CEO of San Diego Auto Connection, telling him if he gets up tonight and speaks against HODSDON coming to the city of El Cajon, that he will give him such a hard time at the tent sale at Qualcomm. He is glad he is here so he can confront him.

SAGART mentions what one of the speakers talked about regarding sitting in their beautiful homes and dealerships and wanting people to come here and not wanting the competition. They are asking the city of El Cajon to require dealers at tent sales to do the things an El Cajon dealer does. It is very simple. They are very competitive themselves and they know what to do to sell cars as well. All they are saying is 14 days is simply too long. They wish to ban all tent sales in the city of El Cajon, just like they do in Escondido, National City and the city of San Diego.

SAGART refers to the letter from the city of San Diego that the former speaker (STRUIKSMA) said he talked with the man that signed the bottom of it. SAGART talked with him twice. Once was on Friday, once was this afternoon. He was told that this is final and there will be no tent sales allowed in the city of San Diego, except Miramar College and Qualcomm Stadium.

This is a fulltime business, going around all the rules and regulations, with loopholes of not having to do the same things that an El Cajon dealer is required to do to continue doing their business. Fourteen days is too long when the same dealer comes in month in and month out. They will say they bring business to Parkway Plaza. Last year, he went to five tent sales at Parkway Plaza. For the first three sales, he paid \$50,000 just to rent the asphalt. There is another \$25,000 that goes with it to start the tent sales. The \$50,000 rent for the three weeks, then it got reduced to \$36,000 for three weeks, generates a huge income for Parkway Plaza. Of course Westfield is all for it. Of course they will tell you anything you want to hear as far as parking being adequate. There is a lot of business that comes into Parkway Plaza because of the advertising for it. The truth is that the applicant does not advertise--they rely on the people that come to Parkway Plaza on the weekends.

David STEIN, 900 Arnele, El Cajon, CA 92020, has been the used car manager for Bob Baker Chevrolet for about 2 ½ years. When he went to work there, they asked his opinion about tent sales in general. It was his opinion not to attend tent sales. Why do you think the applicants are going to these tent sales and paying all this money? Do you think customers are getting a better deal there? He doesn't think they are getting a better deal. There is nothing better about a tent sale. The best place to go is to a new car dealer or an established used car dealer where they have a vested interest and will be there tomorrow. They want to have a respectable business. With a tent sale, the tent comes up and they move away. In his 2-½ years with Bob Baker Chevrolet, he has never been to Miramar College. He has attended every sale event they have ever been to. There were a few at Qualcomm when he first started working there. But they haven't been back for at least 1-½ years. And they won't ever be attending if he has anything to say about it at his dealership.

No further comments are offered.

Motion by TURNER, second by HANSON-COX to close the public hearing; carries 5-0.

Under discussion, HANSON-COX says the applicant is asking for four inflatables and two wind dancers. She thinks there should be no more than two inflatables, especially since it is on a busy corner. She feels there shouldn't be a big gorilla and there should be something attractive. She knows the car dealers are trying to get the people to come there, but she has seen drivers looking up at the gorilla and not looking where they are going. It is too distracting and it is not beautifying the city.

Secondly, HANSON-COX has an issue with the length of the sale. She feels for the dealers and believes the city needs to support the local businesses, but by the same

token, they are taking our revenue outside the city. As the applicant is saying, it is a catch 22. They are saying one thing and then doing another also. She believes that the tent sales are feasible in that area, as a land use issue. It is revenue to the city; they are bringing revenue in and helping Parkway Plaza as the city's local dealers are taking revenue out. She does have a problem with the length of the sale. She agrees with the local dealers on that. That is why it was so important to her when she asked them when they made their contract and notified Westfield. As long as the local dealers are getting "first right of refusal", because they are local and she wants to support them. Apparently, if the local dealers are not taking advantage of it, then the city should allow someone from the outside to come in. As far as the length of the sale, she thinks reducing the days from 12 to 7 days and maybe once a month is reasonable. Maybe this is not feasible for the dealers, but thinks a compromise can be made.

AMBROSE agrees with HANSON-COX regarding the inflatables. His issue is the length of time. He thinks four months is too long at Parkway Plaza and a much shorter period of time is needed. He thinks the 7 days is even too long. The net inventory is sitting out there on the parking lot and obviously they are paying for it to be parked there, but it seems like an extraordinary period of time to be parking your used car inventory there. It doesn't seem like there is much incentive to roll it out of there quickly. He has been to those tent sales before and there are not too many good deals, unless they get the invoices wrong. The problem he is having is he sees Parkway Plaza as a congested mess and it has been getting progressively worse with the advent of Wal Mart. He would like to see a parking study done to determine if they have adequate parking there, because he doesn't know. He thinks maybe the city's requirement is not enough to handle the parking.

HANSON-COX agrees with what TURNER mentioned before about the tent sale dates scheduled not during busy times. With both the new opening of Wal Mart and this being the holidays, maybe this is the reason it is really busy.

AMBROSE agrees with HANSON-COX on the time, and knows they have decided not to have an event during the busy holiday season, but the city hasn't seen what it is like to have Wal Mart all year round, either.

TURNER says there have been discussions before about the length of tent sales when it came in front of the Commission. There was an issue about the breakdown time and things like that. She remembers the Commission did allow longer sales events last year. The Westfield representative said they haven't had any serious complaints about parking and the use over there. If she goes to that mall, she knows she can always get a parking spot in that particular parking lot, because it is the furthest side towards Fletcher Parkway. Not many people park in that area. As far as compatibility, Westfield is saying it is compatible and we haven't seen any complaints. She also agrees that it might be too long. She feels for the local dealers in the area, but it doesn't sound like the Commission can make a recommendation regarding banning tent sales in this area based on the City Council. The only thing the Planning Commission can do is reduce

the number of days that they are in the parking lot, take away balloons or whatever they need to do and move it on to City Council.

BLACK sees legitimate issues on each side, but also sees that everybody competes almost in the same way. He believes that maybe some of the dealers are not doing tent sales at this time, but there is no agreement that they won't ever do that in the future. He can't see them restricting themselves to selling out of the city, anyway. If it is a point of fairness, the only issue he would concern himself with is the time issue. To be fair, he thinks the only thing the Commission could do to help the El Cajon dealers would be to reduce the time element. BLACK also supports restricting the number of inflatables. He agrees with the fact that a dealer who puts all this money and effort in El Cajon should have some say in what they are going to do about tent sales. He has listened and agrees that maybe the city is granting too much time for outsiders to come in, but fair is fair. He doesn't believe for a minute that the local dealers wouldn't do what they need to do to sell a car either here in El Cajon or in San Diego or La Mesa or wherever.

WOODS would like to see only one inflatable and thinks there needs to be more time between events. Instead of 120 sale days, WOODS suggests reducing it to 90 days.

AMBROSE is all for reduction of days, if the Commission thinks that is a good start.

HANSON-COX is thinking seven days total. She is really looking at five days, with one day to set up and one day to break down. Maybe it is not feasible for the applicant.

AMBROSE says the problem with cutting down the number of days is that the Commission doesn't know what days the applicant wants, or what the length of time is.

AMBROSE thinks the conditional use permit should be denied, because there are too many days for the tent sales. The Commission can deny it without prejudice and the applicant can turn around, revise it, resubmit it with different times, or they can appeal it to the City Council. The City Council can make the decisions on other issues that the Planning Commission cannot make--whether or not tent sales should be banned. This is eventually going to get to the City Council. Whatever happens here he thinks will be either appealed or go to City Council, one way or another. The Commission can't deal with the issue of should tent sales be banned or not. They can only deal with issues on compatibility and he thinks the Planning Commission has concerns about compatibility right now. He doesn't think the Planning Commission can determine how many days are compatible right now, because they are not sure. The Commission could pick out a number that is arbitrary but the applicant will more than likely have to appeal that to the City Council. AMBROSE believes an applicant would not be comfortable with the Commission telling them 30 days, 60 days, 90 days. The applicant wants and has asked for 120 days. That is his business plan.

TURNER agrees with this direction.

Motion by WOODS, second by TURNER to deny without prejudice Conditional Use Permit 1996 for the reasons brought up by the Commission during its deliberation; carries 5-0.

This action is final unless appealed to the City Council. The appeal period ends on December 20, 2004 at 5PM in the City Clerk's office.

RECESS FROM 9:00 to 9:08 PM

CONDITIONAL USE PERMIT 1997 – Parkway Plaza LP/Joe De Stasio (Ruby's Diner)

(public hearing) Resolution No. 10071
P.C. Meeting 12/06/04

The subject property is located on the south side of Fletcher Parkway between North Johnson Avenue and State Route 67, and addressed as 415 Parkway Plaza; APN: 482-270-52; LUC 5310B; General Plan Designation: Regional Retail Commercial.

Request for alcoholic beverage sales and outdoor dining in conjunction with a proposed restaurant in the C-R (Regional Commercial) zone.

RAMIREZ states the General Plan designation for this property is "Regional Retail Commercial". A restaurant with on-sale alcoholic beverages and outdoor dining area is consistent with the General Plan if a conditional use permit is obtained. As noted in the pertinent cases stated in the staff report, other requests for a restaurant with outdoor dining and alcoholic beverage sales at Parkway Plaza/Westfield have been granted by the Planning Commission. If this request is granted, staff believes it will be compatible with the surrounding area.

On-sale alcoholic beverage service in conjunction with a restaurant is permitted by the Zoning Ordinance by a conditional use permit if the bar area in the restaurant does not exceed the area for dining. Additionally, alcoholic beverage sales with a restaurant are exempt from the separation requirements from sensitive uses such as residential areas and schools. In this case, no separate bar area is proposed, thus on-sale alcoholic beverage service can be allowed for the proposed restaurant by conditional use permit.

The Zoning Ordinance permits outdoor dining by CUP in the C-R zone, if it is in conjunction with a permitted use and as long as it does not conflict with pedestrian or vehicular access. Though not obvious from the plans reviewed by staff for this request, the applicant has assured staff that a walkway will measure at least four feet, four inches wide and be provided along the west side of the outdoor dining area. If this request is granted, the Building Division will review the plans for compliance with ADA requirements.

Based on its experience with four other outdoor dining areas in restaurants at this shopping mall, staff believes it is safe to conclude that the proposed outdoor dining area for Ruby's Restaurant would not conflict with access. No additional off-street parking is required, as long as the outdoor dining area is no larger than the indoor dining area. In this case, the 768-square foot outdoor area is smaller than the proposed indoor area (containing about 4,680 square feet). Parkway Plaza provides substantially more parking than the Zoning Ordinance requires, so the proposed restaurant with outdoor dining will have more than enough parking to satisfy the City's minimum requirement.

Construction plans were submitted to the Building Division and are on hold awaiting the Planning Commission's decision on this CUP before building permits can be issued. Exterior elevations for the building are attached to the staff report. At this point, staff is aware that the elevations have already undergone minor alterations and have not yet been finalized. In staff's opinion, the changes have not been substantial. Staff did not receive any responses from the public to the public hearing notice. Comments from other City departments are attached and incorporated as conditions of approval. Staff recommends granting the conditional use permit for a restaurant with outdoor dining and on-sale alcoholic beverage service in the C-R zone subject to conditions stated in the staff report.

The public hearing is now open.

Joe De STASIO, 11601 Wilshire Blvd, 11th floor, Los Angeles, CA 90025, represents Westfield, and agrees with all conditions of approval for this conditional use permit and is here to answers questions.

AMBROSE asks what is a Ruby's Diner?

DeSTASIO recommends visiting Mission Valley Center in San Diego. It is a 50's style diner and serves burgers, root beer floats etc. It is going to be a great addition to this center and a much-needed additional restaurant. He thinks the exterior patio is going to be great with the climate in El Cajon. It is a very family-friendly type of restaurant.

TURNER thinks it will be a great addition to the center.

BLACK states the Ruby's Diner goes great with a movie.

DeSTASIO adds that the cinema and Ruby's play off each other very well. It is going to be great for Ruby's and great for the cinema as well.

No one else comes forward on this item.

Motion by TURNER, second by WOODS to close the public hearing; carries 5-0.

Motion by TURNER, second by BLACK to grant Conditional Use Permit 1997 in accordance with the staff report; carries 5-0.

This is final action unless appealed to the City Council by December 20, 2004 at 5PM in the City Clerk's office.

COMMON OPEN SPACE/RECREATION AREAS ON CONDO CONVERSION PROJECTS

(continued discussion) Continue indefinitely

Continued from the meetings of July 12, October 4 and November 1, 2004.

RAMIREZ states this is a status report since the Commission heard a request at the November 1, 2004 meeting to continue this topic again. The Condo Conversion Ad Hoc Committee requested opportunity to consider this subject. The Commission will recall that it agreed to continue the discussion at their request. At their October 20 meeting, the Ad Hoc Committee formed a subcommittee to further pursue discussion on this matter. The subcommittee met twice and then provided input to the Ad Hoc Committee.

Just today staff received correspondence from the Ad Hoc Committee Chair, Ron Pennock. Copies were provided to the Planning Commissioners prior to tonight's meeting. In his message to the Commission, Mr. Pennock indicates that the Committee unanimously supports the idea that conversion projects should provide the minimum open space required by the original development plan, unless open space was somehow diminished in order to comply with governmental regulations such as ADA requirements. The Committee also recommends that the existing open space should be enhanced "to the maximum benefit for new buyers".

Because this information was not available for staff evaluation prior to completing its report, staff recommends that the Commission's discussion on this topic be deferred indefinitely pending the Ad Hoc Committee's recommendation.

Recognizing that there are people present in the audience who might wish to address the Commission, staff requests that the Chair invite those individuals to offer their comments at this time. Staff will be looking for guidance from the Commission on how best to proceed from here.

AMBROSE's inclination right now is to continue this indefinitely until the Commission has the full committee's report on this, so the Commission can evaluate it and staff's response to the committee's report. That is his recommendation and if anyone is here to speak this evening and feels compelled to share something with the Commission that they don't know, the Commission would be happy to entertain their thoughts. It may, however, be better to speak the night a decision is made.

Ron PENNOCK, the Chair of the Ad Hoc Committee, concurs with RAMIREZ's comments. He commends the staff. This Committee has evolved into a very workable organization. They have looked through the ordinance completely and have had the City Attorney talk with them about the "Covenant Not to Convey" and all the elements involved with it. Staff has participated and has been very cooperative. The Commission's representative, Mr. Black, has also been involved and instrumental in what has been done. He thinks there has been some strong progress made.

Regarding the issue of open space, the Committee took to heart how to handle it. They have had four separate meetings with a great number of people involved. They have basically come to the conclusion that they want to find ways to come back and insure that is what there is enhanced, but they can't find ways in which to provide areas if they are not there. If the space is not there, he thinks it will be the Committee's continuing conclusion that it should not be a prime motivating factor for excluding the project from the conversion process. It is an area that needs to be improved and worked on to have consistency there.

PENNOCK continues, noting that if an open space area existed when the apartments were built, then it should still remain in that same area as far as square footage and so forth. If there are other things taken away from that original list, they can go back and enhance those areas. PENNOCK strongly encourages all his clients to come up with methods of enhancing the open space for the livability and quality of life of the new buyers. It is just that they have a real problem when it comes to eliminating projects because they don't meet a minimum number of square feet of open space.

AMBROSE has two responses. The first is that maybe not all apartments should be converted to condominiums. Maybe some apartments just don't make good condominiums.

AMBROSE's second response is to encourage the Committee to think about if a developer can't create open space within the project, to be creative. Perhaps as a trade off, there is a contribution to putting in some street trees on a part of El Cajon that needs improvement or some other things that help make our city look a little better. That is what we want: Each project as it comes along adds to the quality of El Cajon.

PENNOCK states the Committee concurs completely with what AMBROSE recommends. There are some units in El Cajon that should remain apartments. The Committee's response to that is they don't really see using strictly a number of square feet of open space as the primary determining factor of whether they should remain apartments. Also, they had a discussion on "park in lieu" fees, but without specific numbers and without specific criteria.

The Committee also agrees with AMBROSE's second comment that there are things that can be done--if not onsite, then off-site--to enhance the city and enhance the area. Some of them they were talking about that may not have the square footage and may

be near a park or school or other things. There are other things that can be done and they are going to continue to study the question. It is more difficult than what they originally envisioned to come up with a set of standards to give the Planning Commission.

HANSON-COX says that is why they gave the job to the Committee.

TURNER thought the original task force was to come back with some ideas about the open space. It concerns her to hear that if the open space was sufficient for the original permitting of apartments, it will be sufficient for the homeowners. The use is being changed. It is going to be homeownership and people that live in apartments don't expect the same as people that are going to buy something. Once again, she thinks they were trying to improve the open spaces for homeownership, be it trees, a barbeque, benches—something to give the homeowner and to change it from apartment living.

PENNOCK responds there are many things that enter into that.

TURNER understands that. But they are trying to make it into homeownership and change it from apartment living, so they need to give it something more. For some of the projects the Commission has seen, even the exteriors aren't being changed; those projects shouldn't even be in front of the Commission.

PENNOCK says that is why they say they are fully in favor of enhancing it, but you can't make a consistent set of statements that everyone should have a tree or a bench.

TURNER thinks that there are creative things that can be done with those projects.

PENNOCK agrees with that. The Committee is just trying to come up with a consistent set of guidelines. Their general overview is that they are trying to do everything they can to enhance each particular project. HANSON-COX talked about a cement slab in an earlier project and taking the slab up and putting in some plants in its place. We can say that and agree with that, but to put that into a guideline to come back to the Commission is very difficult to do. We can talk about what we would like to enhance and would like to make every project a more desirable project for the new buyers. The Committee is wrestling with the fact of how to put that into consistent guidelines.

BLACK states if the "in lieu" fee becomes part of the policy, he thinks it should be very difficult for the developer to do that because there might be an easy way just to dodge the whole issue. We are looking for quality improvement for people that are going to live there for 20 to 30 years. If there is a financial trade off, he thinks it should be very hard to do. The whole idea is to enhance the property, not collect fees.

AMBROSE thinks the good news is that we are all on the same side of the river as Mr. Pennock and the committee. He thinks PENNOCK understands the Commission's concern about open space and that El Cajon just doesn't have enough parks. Their

goal is to make these apartments, once they are converted to condos, as livable and as comfortable as possible and to create as nice an open space environment within them as possible.

PENNOCK says they are making three or four strong suggestions back to the Council, which are recommendations on elevations. The proper elevations that they are going to suggest at the time of submission, which are going to help the Planning Commission and goes along with that. They have a recommendation back on parking. They have really looked at it and are planning one other recommendation as they continue this task force.

WOODS would be opposed to the fees. He would rather have affordable housing with all the enhancements being discussed and elevations. He doesn't want to see money taken from these houses to improve another street that would be a distance from where the condos are located.

PENNOCK says there are four items the subcommittee recommended back to the overall task force. One of them was looking at the "park in lieu" fees. But the overall task force considered that same thing and their recommendation of the "in lieu" fees was "not without significant further study".

WOODS would like to see that.

AMBROSE thinks PENNOCK has gotten a flavor of how the Commission thinks.

HANSON-COX thanks PENNOCK for all his time and effort in trying to do this. It is such an important item.

Motion by TURNER, second by WOODS to continue the discussion indefinitely in order for the Ad Hoc Condo Conversion Committee to come forward with its recommendation; carries 5-0.

RESOLUTION OF INTENTION #10052

(discussion) Resolution No. 10052

To set to public hearing Conditional Use Permit 571 for consideration of possible revocation.

RAMIREZ states the operator of the business seems to have not given much importance to correspondence from the Planning office, insisting that he cease auto repair operations where they are being conducted illegally. This action gives cause for staff to ask the Commission to set this resolution. Unfortunately, we are looking at taking the next step of setting a public hearing in February, 2005, to consider revoking

the conditional use permit for the entire gas station (the property where the auto repair business is being conducted).

Motion by TURNER, second by HANSON-COX to adopt Resolution No. 10052 to set to public hearing Conditional Use Permit 571 for consideration of possible revocation; carries 5-0.

RESOLUTION OF INTENTION #10054

(discussion) Resolution No. 10054

To set to public hearing Specific Plan 182 regarding mixed-use development and density restrictions.

RAMIREZ comments that staff pushed the public hearing date for this consideration quite far in the future because staff suspects it will take some time to coordinate with the Community Development Corporation, and to pull together some ideas on density and mixed-use developments.

Motion by TURNER, second by HANSON-COX to adopt Resolution No. 10054 to set to public hearing Specific Plan 182 regarding mixed-use development and density restrictions; carries 5-0.

PREDRAFTED RESOLUTIONS

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

Motion by TURNER, second by WOODS to adopt Resolution Nos. 10055, 10066, 10067, 10068, 10069, 10070 and 10071 pro forma; carries 5-0.

ORAL COMMUNICATIONS

HANSON-COX discusses the shopping cart problem at WalMart. They are sitting inside the mall and in the parking area. Is there something the City can do to eliminate the problem? She volunteers to research what Grossmont Shopping Center does at the Target store. It is starting to look trashy inside and is taking up parking spaces.

TURNER thinks the CUP addressed the cart issue and suggests looking into it.

In response to AMBROSE, RAMIREZ thinks that SP 19 had a six-month clause when it was amended to substitute the footprint for the fifth anchor store. She suggests keeping an eye on it for six months and bring it back in March or April with any evidence the commissioners have, such as photographs of where the carts are ending up, how they are not be collected in a timely fashion and taken into the corrals or the WalMart store. It would be good to know what Grossmont Center is doing, if HANSON-COX would like to follow up on that.

HANSON-COX states, regarding condominium conversions, the term “phasing replacements” concerns her. She mentions a speaker in the past had said they were selling the conversion units “as is”, without anyone knowing about the upgrades. It says in the Minutes that the preparer will be responsible to inspect the units, but what steps can be taken to ensure the preparer is going to inspect them?

Discussion ensues regarding the cost and quality of converted units.

FOLEY informs the Commission that they are deliberating on things in the future. The Commission needs to make their communications and then move on.

AMBROSE states the Mayor asked if the Planning Commission would like to have television coverage of Planning Commission meetings.

BLACK thinks it is a good idea for people who can't attend the meetings and should be privy to the knowledge. Future developers and sellers would have the opportunity to tune in and learn things.

AMBROSE agrees with having the Planning Commission meeting televised.

Attorney FOLEY suggests it be put on the next agenda in January and that the Commission direct staff to bring back a letter that would support that idea. No action can be taken tonight.

AMBROSE congratulates and thanks HANSON-COX for her service on the Planning Commission and wishes her well on the City Council.

HANSON-COX thanks the Commission and staff for their guidance.

RAMIREZ reminds the Commission about the nomination forms to be turned in for the “Star in El Cajon” program. If more forms are needed, she will get them to the commissioners.

RAMIREZ thanks Attorney FOLEY for being here this evening and representing the Attorney's office. FOLEY states Deputy City Attorney Jennifer Lyon will be attending the Planning Commission meetings after she returns from family leave. She will begin the second meeting in January 2005.

RAMIREZ welcomes Belinda HAWLEY, the replacement for Carol O'Briant.

On behalf of the Community Development Department staff, RAMIREZ wishes the Commission happy holidays. She thanks Jillian HANSON-COX for her hard work, diligence, commitment and loyalty. Staff will miss her and has enjoyed working with her.

CORRESPONDENCE

There was none.

ADJOURNMENT

The meeting of the El Cajon City Planning Commission adjourned at 9:47 PM this 6th day of December 2004.

Anthony AMBROSE, Chair

ATTEST:

James S. GRIFFIN, Secretary