



CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES
REGULAR ADJOURNED MEETING
May 13, 2019

COUNCIL CHAMBERS
5111 Benito Street, Montclair, California 91763

CALL TO ORDER

Chair Rowley called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Commissioner Martinez led those present in the salute to the flag.

ROLL CALL

Present: Chair Rowley, Commissioners Martinez and Sahagun, City Planner/Planning Manager Diaz, Assistant Director of Housing/Planning Manager Caldwell, Associate Planner Gutierrez, and Deputy City Attorney Holdaway

Absent: Vice Chair Flores

MINUTES

No minutes were presented for approval.

ORAL AND WRITTEN COMMUNICATIONS

None.

AGENDA ITEMS

a. PUBLIC HEARING - CASE NUMBER 2019-4

Project Address: SEC Holt Blvd and Monte Vista Ave
Project Applicant: 4 the Dogs 2, LLC
Project Planner: Silvia Gutierrez, Associate Planner
Request: Conditional Use Permit and Precise Plan of Design to establish an automated, unmanned self-serve gas station

Associate Planner Gutierrez reviewed the staff report.

City Planner/Planning Manager Diaz addressed a few items in the staff report. He first clarified the statement on Page 3 of the staff report, end of the , where it reads, “share the cost of the construction of a wall that is separating this property from the adjacent property to the south and to the east.” He indicated that this did not mean that the owners share an equal amount of the cost (50-50 shared cost) of the wall construction , but, rather, that the applicant in this case will be required to coordinate with the adjacent property owner so that the wall locations are correctly plotted with respect to the property line and that the height, shape, and color of the walls so that the two adjoining walls are not mismatched. For the benefit of the property owner next door, and for the applicant, a condition was included in the proposed resolution of approval.

The next item he wanted to mention was the letter received from the Ontario Montclair School District (OMSD). The letter raised concerns about this particular use, partly because it involved the concept of an unmanned gas station facility so they wanted to make sure there were conditions of approval that would address their concerns about security and safety in case of a spill or some other issue with the property. They did ask for the City to send out a courtesy notice to all the parents of the students at Montera Elementary School. However, the City is not required by law to do that. Staff did prepare a notice for the project that met the 300 foot radius required by law for this entitlement proceeding which is how OMSD became aware of this project. We were contacted by OMSD on May 6, 2019, met with them on May 7, 2019, The OMSD letter was provided on May 9, 2019 so it could be made part of the record and for your review. In consultation with City Attorney Holdaway, the City is proposing to modify conditions 3 and 13, written drafts of which are on the dais before each commissioner and given to the applicants. The first modification we’re recommending is a replacement of the proposed condition with the revised condition before you. As you can see, the revised condition is much longer and enumerates the many requirements that this gas station has to meet in order to operate. The condition indicated at least 14 items that need to be addressed by the applicant which will now be part of the record via the revised condition.

The second modification is to condition number 13 that would add sub-point “d” to require the submittal of an emergency response plan directly addressing the District’s concerns about any particular situations it might have on that site whether it be a fire, a spill, or criminal activity or other things occurring on the site that might be of concern. The emergency plan reviewed by the Planning Division and the Director of Public Safety who is over the Fire and Police

Departments. Staff believes that the modification to the proposed set of conditions will address the concerns the OMSD. If the proposed amendments are acceptable, staff would recommend the Commission approve the project.

Deputy City Attorney Holdaway also commented on the modified conditions, saying that we are trying to address some of the community's concerns that were raised through the school district. Condition No. 3, the replacement condition, is actually the standard condition that inadvertently was not included; but now includes the applicable California Codes that may apply to the construction and operation a gas station, although this list is not intended to be comprehensive and certainly the applicant should be fully aware of any and all laws, rules and regulations of the State or County or federal government that apply to gas stations that sell petroleum products. There are a couple items that we did make mention of in the Health & Safety Code and Business & Professions Code that a little problematic in this particular application. For example, gas stations along major thoroughfares are required to provide restrooms for their customer's use and that all gas stations are also to provide free air and water to their customers. So, how the applicant is going to comply with this provisions is not clear to him, unless there is some particular exemption. However, by listing these codes we are basically saying they are responsible to comply with any and all applicable state laws or other regulations that pertain to gas stations. We cannot waive any of those on their behalf.

Commissioner Sahagun asked how to word the notion to approve. Deputy City Attorney Holdaway stated the motion could simply incorporate the revised conditions numbers 3 and 13 as provided by staff this evening. One of those additional code sections, he failed to point out relates to Air Quality Management District's regulations which would definitely apply to a gas station. In fact, there is a notice requirement there that they would have to satisfy the AQMD with notice to interested parties in the vicinity. Again, that is not something that we handle, that is something they have to comply with for their permitting with AQMD.

Commissioner Martinez read that a traffic signal was required or street lighting was required. He was just curious if the applicant was responsible for that or is that something, because of the new intersection. City Planner/Planning Manager Diaz replied there are no required intersection improvements but that the City Engineer has indicated that they may need to add one or two street light fixtures to the street grid of lights. He mentioned that there was a condition addressing on-site lighting and requiring a photometric plan to ensure there is adequate lighting on the site that is consistent with our Security Ordinance. Commissioner Martinez noticed that utilities have to be undergrounded and he assumed that meant the electrical along with fuel tanks. Is there special or electric requirements so these two can co-exist just fine? City Planner/Planning Manager stated yes, there are building codes that would apply to the installation of any underground wires, including prescribed separations and depths, etc. that would apply to these types of installations.

Chair Rowley opened the public hearing.

Karl Huy, Galaxy Oil, 4430 E. Miraloma Ave #F, Anaheim, CA 92807, thanked the Commissioner and staff. They were in receipt of the staff report and the resolution along with the memorandums modifying condition numbers 3 and 13 d. They have reviewed the findings and the staff report and are in complete concurrence. There are also in concurrence with the

conditions of approval. He wanted to make a couple points of clarification. He asked for clarification on page 2, third paragraph. The double-detector check from the fire system or the water flow system identifies in two different locations the requirement to properly screen in one location that identifies that it can be done by an architectural screen roll or landscaping and in the other instance, it identifies it only as a screen wall. They understand that they have both options and they will take a look at the locations and see which way they going on that. With regard to the memorandum that has the revised condition number 3, they understand these are for this fuel center to open for business. There are numerous fuel related permits that they have to obtain from all kinds of agencies, one of them being the AQMD, along with several other ones, HAZMAT, County Fire. In response to those, items A thru M will be included and addressed in those plan preparations, the permit filings and, of course, the acquisition of those permits. There are three of them that do not apply at this point in time, they do not come into effect until they have sold their first gallon. One most notable item is Item G, which is the clean-up fund and that does not go into effect until they are actually open for business and selling gas. He asked for a clarification. Assembly Bill 2955, he was not aware of that particular one pertaining to fuel safety or the Business Code. Deputy City Attorney Holdaway replied that this was a laundry list that he pulled from another source and the source had links and unfortunately, he did not print out those links, but those could be provided. Deputy City Attorney Holdaway stated that some of them may not be applicable, this was for information purposes only. Mr. Huy asked about the addition of 13 d, the requirements there for the emergency response plan, the emergency spill plan; all of those are items they have to submit to various state and county agencies anyway so they will be in full compliance with item 13 d. Commissioner Martinez asked, based on the update memorandum, the Deputy City Attorney pointed out the conditions related to free air and water and restrooms and the reason he brought it up right now is because he knows 76 has successful stations in other cities and he read about this in a business magazine about a year ago, it was wonderful, very innovative and he would like to hear a little more about the city, in this particular business relationship, but they have experience in addressing the air and water issue and the restroom issue. How is that addressed at the other stations, Mr. Huy stated that there are two codes in the California Codes relative to providing air and water and restrooms and they specifically indicate that if a service station facility is within X distance to an interstate or a certain specific roadway classification and there are many, if you are within 1,000 feet, you have to provide the air and water, if you are within 600 feet, you have to provide a restroom and it doesn't say whether that has to be a single unisex or a multiple-stall restroom, most of that is based upon the occupancy code from the building code. They will take a look at those sections and he did not know exactly how far they were from both. Commissioner Martinez asked if at the other stations, do they apply or not apply.

Garth Rouneliotis, Galaxy Oil/Best 4 Less 76, stated that relative to their other existing stations, having an uninhabitable building generally the concept is that it does not necessitate a restroom. They do not have attendants, they do not have a building that houses a person. Therefore it is not applicable. As far as air and water goes, they are able to provide that; again, there is automation that allows for such things to occur over long distances so that has not been an issue. Commissioner Martinez read an article about a business model that was very interesting; he was not sure if it was the sales tax sharing a business model. Mr. Rouneliotis asked if it was their relationship with the City of Placentia and specifically was Commissioner Martinez asking about a revenue generator. Commissioner Martinez said it was very

interesting because it was an innovative approach that was proposed to the City. Mr. Rouneliotis stated it is a partnership with them developing on municipal land so there was tax revenue being generated to the benefit of both the developer and the City of Placentia Associate Planner Gutierrez stated that for the record, a partnership deal was never part of this project. It is strictly a private venture.

Kris Eisenman, Best 4 less, CFO of Galaxy Oil, preliminarily she said that Mr. Caiopoulos extended his sincerest apologies for not being in attendance. His attendance was required at a board of director's meeting for Phillips 66, the owner of the 76 brand and he had hoped to call in, but apparently that was not feasible. She wanted to address the concerns from the school district and what may be on the minds of some of those at the meeting. First, it is important to note that Galaxy Oil owns and operates several traditional retail service stations with convenience stores with numerous employees and has done so for the better part of 15 years. We know what works and what does not work, operationally, and despite the evolution of station technology and despite constant training, the one element that we cannot overcome is the occasional human error. The Best 4 Less model was developed with four basic principles in mind. To minimize human error as much as possible, to give our customers the best fueling experience, utilizing state of the art technology, offer best in class value for our fuel and, above all, give a safe fueling experience. How do we do that? It is important to note that there are several numerous automated fueling systems in the marketplace, 99 percent of which have been solely on the commercial side of the business. It is also important to note that those systems are held to only municipal, state and federal regulations as is any other fueling station, but not ours. We have taken the automated system, dramatically improved upon it and in doing so, are able to open it up to the general motoring public. More specifically, every operational system is monitored real time 24/7. On top of that, each operational system has a back-up system, commonly known as redundant systems. Each operational system generates what we call a heartbeat. Every second, 24/7, a signal is sent out to our listening servers. If within five seconds, a signal is not received, our system analytics identifies the offending system and either corrects the issue or shuts it down. At the same time an alert with the identified problem is sent to our maintenance group, who immediately respond. Again, 24 hours a day. Lastly, these systems are all proprietary to Galaxy Oil/Best 4 Less. It took Galaxy five years to develop our operational systems before 76 was satisfied enough to allow us to roll out at the first site. That site, what they call Placentia 1, has now been operational for over five years. This business model has proven itself to such an extent that the City of Placentia approached Galaxy to monetize a parcel of city-owned property. Placentia 2 they are proud to say, is one of the first municipal, for profit, relationships with a private business. In fact, based on their partnership, the City of Placentia has experienced a noticeable drop in the fuel costs. Now, as a result of that relationship, they have entered into the same relationship with the City of Adelanto and are in discussion with two more southern California sites. The point is that no city, given how liability adverse they are, has entered into this kind of relationship with us if our systems were not fully vetted and do exactly what we say they can do.

Chair Rowley asked about the response time if it was noted that there was a problem. What is the estimated response time? Mr. Rouneliotis replied that with their systems, if a heartbeat has not been heard in a certain amount of time, he receives an alert, their techs receive an alert, their maintenance people receive an alert; it goes by email and by text. Within that timeframe, it is coordinated and dispatched, all within five to ten minutes. Commissioner

Rowley asked where they will be coming from, how long it will take them to get to that property. Mr. Rouneliotis replied that everyone is local and they can respond generally within ten to twenty minutes be on-spot.

Bruce Culp, resident, 9016 Sycamore Ave, Montclair, California, commented he was in attendance to speak in opposition of the fuel dispensary whose product is explosive and is being placed within 100 feet of an elementary school and probably closer to the school's playground where hundreds of school children congregate. There are many reasons to oppose a fuel dispensary. Reading through the staff report, it appears there will be about 35,000 gallons of this combustible material with electricity, which is an ignition source, running throughout this property. For fires started on this unmanned property, whether intentionally or by accident, there is no way someone could arrive soon enough before all this would explode into a huge fire ball, hurtling large chunks of fire and debris hundreds of feet in the air, raining down onto unsuspecting school children and starting other fires. Just across the street there is another fuel dispensary, an ARCO station with another 35,000 gallons, which backs right up into a residential neighborhood. If we had a natural disaster such as a huge earthquake that caused these tanks to explode, there would be a huge crater that we used to call south Montclair. Of course, another reason to oppose this is that it is a fossil fuel and is contributing to our global climate change. The process of extracting it, refining it into fuel and the fuel itself and then the burning of all this gas, produces harmful chemical compounds. Just across the street is an elementary school, children will be exposed to the harmful fumes coming from the exhaust of cars and trucks coming to fill up and then after starting their vehicles, they will immediately be producing again the harmful exhaust within a few feet of these children. There have been recent reports of the harmful effects and the health costs associated with it. Montclair is in an especially polluted area in the San Gabriel Basin and feel this fuel dispensary will contribute to our polluted air and associated health costs. It is now known that there is a marked increase in the childhood asthma in these areas. It doesn't make sense to compromise our children's health by increasing the number of fuel dispensaries so close to where they spend a good portion of their day. Even the Ontario-Montclair School District was concerned enough about the children that they answered your public notice. One needs to look no further than what happened on September 9, 2010, to see what kind of devastation can happen. This is when a gas pipeline in San Bruno exploded, killing eight people, and setting off a shockwave that registered 1.1 as an earthquake and had a wall flame of 1,000 feet high. It also left a crater 27 feet wide, 47 feet deep; that is big enough that if it occurred at this station, it would have hit the elementary school. He proposed that instead of a fuel dispensary, we create an electrical fuel charging station with solar panels, this will support the electric car market and provide a zero carbon footprint on the area. It can be placed where the school children can learn how to change the future and inspire them to do their part to reduce greenhouse gases.

Rick Chavez, resident, 4913 Manzanita Avenue, Montclair, California, stated he was before the Planning Commission quite a few years ago, he was the first person to put together a planned unit development over on Whitewater and Rodeo, 33 single-story homes. He has lived here a long time and he agreed with Mr. Culp, we do not need another gas station like that; no bathrooms and who is going to monitor the homeless people. His wife cannot go out to get gas because every time she does, everyone is pan handling her. There is going to be waste, there is going to be people, needles, robbing; he has seen this before. Maybe something else.

He loves the Montclair Police Department but there are times when they do not get to us. But if there is criminal activity across the street, how long is it going to take for them to get there. He has had his car broken into, had his Jeep stolen, the neighbor across the street has had his truck stolen, they have dropped off stolen cars there. Down the street, they broke into a lady's house. This criminal element is going to get worse. An unmanned gas station should not be there, especially near children. He was opposed to it and mentioned statistics about the crime element. Last week, there were five thefts, in the last 30 days, there was nine thefts; for the last six months, there were 45 thefts. We have a robbery of one, a burglary in the last six months; it is going to get worse, homeless people are attracted to those places to ask people for money, they're panhandlers. What happens if someone starts to put up tents in the surrounding area? He does not want to be a victim. Vandalism: 14, shootings: 4, arsons: 1, arrests: 60 and the list goes on and he only went back 45 days. Others: 190; assault: 25. He was at a gas station here down the street and there was a gentleman that snuck behind him and he almost got hit. He does not want that type of stuff here. He is having trouble with the ARCO station; there is graffiti, cars doing donuts late at night, they're racing out into the street, a number of accidents there. He was ashamed there were not more people present at the meeting to protest this.

Hearing no other comments, Chair Rowley closed the public hearing.

Commissioner Sahagun asked how many security cameras will be there and will they be connected directly to the Police Department. City Planner/Planning Manager Diaz stated the Police Department has provided a number of conditions listed at the end of the Resolution, conditions 148 thru 153, which address the requirement for having the property appropriately surveilled with the capability of recording events up to 90 days. The applicant has indicated that they have 24/7 monitoring and our conditions requires that they coordinate with Police Department's requirements. In addition, the Fire Department Station No. 2 is located just south of the site over the Monte Vista bridge, not more than ½ mile away. The Monte Vista Bridge will be completed before this project is done and there will be no delay anymore caused by the railroad tracks. Many things have improved in that area with buildings and construction which have been successful in significantly changing the look of the area.

Commissioner Sahagun commented that north and south bound traffic have no protected turn pockets at the intersection. City Planner/Planning Manager stated that the City Engineer is aware of the situation and can make adjustments to the signals if needed to ensure that that traffic flows appropriately through the intersection. One of the City Engineer's conditions of approval requires the installation of a yellow stripe design on Monte Vista Avenue to prohibit left turns in and out of the site

Commissioner Martinez thanked the folks who came to speak about this project. He wanted to share his thoughts: (1) the school was built after the ARCO gas station was already there and the relevancy is that the safety and technology have improved to ensure things are genuinely safe. If that was not the case, the school would not have built across. It is not a poor choice or poor planning decision. I also believe Mr. Chavez made a good point about the present ARCO station. The current ARCO station layout and the whole strip center are little decrepit but the new ARCO station project is a major improvement, as is the new bridge going through, and other new e all new development on the south side of Holt Boulevard. The area

is going to be nicer, cleaner, and have much more visibility. He believed higher visibility would improve the issues of homeless and other crime problems. A nod to the Montclair Police Department; we are a little city and Holt Boulevard is not perfect, but it sure is a lot better now. Hang in there, it's not a negative thing.

Mr. Chavez commented that he was glad that they are upgrading the ARCO gas station; however, he would like to see a police officer go by there, maybe every couple hours because his wife has gone over there and there are people urinating on the gas station wall, the trash cans, they have seen them sleeping there, defecating there. He's okay with the ARCO station being there before the school. He has a problem with the new one across the street might set something else off. This is the problem he has. If we can get the Police to go there but he does not want panhandlers or people using the parking lot for a bathroom. Also, he did not think they should be turning anything on that is loud until about 9:00 AM; he has had open heart surgery, his wife has had back surgery but the landscape guys and their blowers are there very early and wake his wife up.

Commissioner Sahagun moved that based upon evidence submitted the project is deemed categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the State CEQA Guidelines (Class 3 – New Construction or Conversion of Small Structures). Commissioner Martinez seconded, there being no opposition to the motion, the motion passed 3-0.

Commissioner Martinez moved to approve the Conditional Use Permit and Precise Plan of Design request for the site plan, floor plan, elevations, colors, materials, conceptual landscape plan, with revised conditions 3, 11 and 13 (d), per conditions of approval contained in Resolution No. 19-1929, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 3-0.

INFORMATION ITEMS

None.

Chair Rowley adjourned the meeting at 8:02 p.m.

Respectfully submitted,



Laura Embree
Recording Secretary