

FROM THE PLANNING COMMISSION MINUTES OF FEBRUARY 23, 2012

Prior to the beginning of the Public Hearing portion of the meeting, Chair Pratt announced that they did not have a full Commission today, although they did have a quorum to make decisions. He stated that Commissioner Rain had significant health issues in his family and would not be present for today's hearing. Historically, the Commission, as a courtesy, has allowed applicants before the Commission to request their item be continued to be heard by a full Commission. That request must be made before the item is started. Once the hearing is started, the applicant may not request a continuance on the grounds of not having a full Commission. At this time, they are aware that they will not have a full Commission at the next hearing, so the earliest that there may be a full Commission would be at the March 22, 2012, hearing.

10. SPECIAL USE PERMIT

d. Appeal submitted by DYANA ANDERLY of the claim made by the applicant that the permit was "deemed approved" on December 30, 2011 due to the alleged failure of the County to meet statutory time limits pursuant to the California Permit Streamlining Act (Government Code Section 65920 et. seq.) of **Special Use Permit S11-0006/Coach Lane Off-Premise Advertising Sign AND** to consider said Special Use Permit submitted by JOHN DAVID PEREIRA to construct a lighted 14 ft. by 48 ft. (672 sq. ft.) off-premises advertising sign on property identified by Assessor's Parcel Number 109-211-03, consisting of 0.87 acre, and is located on the north side of Coach Lane, approximately 400 feet east of the intersection with Cameron Park Drive along the south side of U.S. Highway 50, in the Cameron Park area, Supervisorial District 2. [*Project Planner: Aaron Mount*] (Negative Declaration prepared)* [*continued from the 2/9/12 meeting*]

Aaron Mount summarized the project and referred to the applicant-submitted photo-simulations that were requested at the last hearing and were provided for today's hearing.

John Pereira/applicant stated that a 50-foot building could be built there and he referred to Section 17.14.130 which limits the Planning Commission to review the architectural view of the building and referred to County memos dating back to 2005 indicating that limitations on any reviews of a project along Hwy 50 by Planning under Section 17.14.130 were limited to the look of the building and not the size and dimensions. He said that a 50-foot building could be placed there by right. Mr. Pereira referenced the photo-simulations that were provided, indicated that existing signs were similar to what was being proposed, and that it was a good location for a sign.

Bo Palley informed the Commission that he was available for questions regarding the photo renderings provided for review. He stated that 14 x 48 is a national standard size and that there was a 50-foot building adjacent to this parcel.

Dyana Anderly notified the Commission that she is a practicing Planner and she referenced her two handouts (General Plan Principles and a photo) she was providing to the Commission. She also made the following comments:

- Opposed project;
- Negative Declaration was lacking;
- Proliferation of signs in Cameron Park;
- Cautioned Commission if they were considering modifying the project as CEQA limits the Planning Commission's authority;
- Applicant has not agreed to the Conditions, is not changing the size of the sign; and, therefore, is making a good cause for an EIR;
- Spoke on cumulative effect being considerable;
- Billboards are not typically located in parking lots;
- Size of sign would be a distraction to drivers;
- Public is in opposition of project;
- General Plan recognizes this area as a potential scenic corridor;
- Read into the record CEQA Section 15064;
- No evidence to substantiate applicant's claim that County businesses would benefit from signs; and
- Requested Commission to deny project.

Brad Pearson, representing Shingle Springs Neighbors for Quality Living, made the following comments:

- Informed Commission that he has had previous experience from San Jose on working with billboards;
- Stated he still had the same comments that he had made at the last hearing;
- Referred to the photo-simulations that he had submitted to the Commission for review;
- Spoke on "shoe-horning";
- JimBoy's sign would remain at its location since it is an integral part of the business' success; and
- Proliferation of signs in the area, both legal and illegal.

Jane Layton, Cameron Park Design Review Committee, made the following comments:

- Felt that Dyana Anderly had delivered enough evidence to the Commission to deny the project;
- Wanted to echo public's comments that had been stated previously;
- A sign in Cameron Park of this size would be a blight on the highway and landscape;
- Trying to develop the downtown Cameron Park area;
- Strong request for a moratorium to allow Cameron Park to finalize their design guidelines;
- Site would not benefit Cameron Park businesses as it would be located past the off-ramp to Cameron Park; and
- Public opposition was not against free speech but that the local citizens want to curtail billboards in that area.

Kathleen Newell, professional photographer for 30 years, stated that billboards were ugly and would not provide a positive image for the County. She understood the need for signage, but felt

that it did not belong in the County and would like existing billboards to be removed. During Ms. Newell's presentation, she displayed various photos, which were provided for the record.

Commissioner Tolhurst indicated that he would have liked to have seen staff's recommended sign size in the photo-simulations.

County Counsel Paula Frantz recommended the Commission go into Closed Session due to Existing Litigation and Significant Exposure to Litigation pursuant to Sections 54956.9(a) and (b).

Once returning from Closed Session, County Counsel Frantz stated there was nothing to report out. She informed the audience that the Commission had inadvertently not announced at the end of the motions for Items 10.b/S11-0004 and 10.c./S11-0005 that the action could be appealed to the Board of Supervisors within 10 working days.

Commissioner Tolhurst noted some areas in the Initial Study that referenced "as conditioned" when it should have been "as proposed" (i.e., Sections 1 and 10). County Counsel Frantz responded that staff had stated that all conclusions were based on the proposed 672 square feet. Ms. Anderly interjected that the typographical error was a severe oversight and that the document should be corrected and re-circulated.

Mr. Pereira accepted staff's correction and had no issues with it since the 672 square feet had been his interpretation of what was analyzed in the Initial Study. He stated that the significant component was non-commercial speech.

Commissioner Tolhurst made the following comments:

- In favor of denying project;
- Project not as troublesome as the other proposed billboards if staff's recommended size was used and the height was lowered;
- Did not like the location since it made cars drive under the sign which would be a safety issue;
- Too much going on the site; and
- Cantilevering over another use.

Commissioner Mathews made the following comments:

- Would be dramatically larger than others and had wanted it more in line with what was already in the community;
- Can't ignore public outcry;
- Can only support project if it is similar to what is already there;
- Concerned that if height was lowered it would conflict with the JimBoy's drive-thru area; and
- Not in favor of project as proposed.

Commissioner Heflin stated that, as proposed, the project was incompatible and detrimental to the neighborhood, citing health and safety. He was not in favor of the project, as proposed.

Chair Pratt made the following comments:

- Renderings showed different impacts on westbound vs. eastbound traffic; Westbound blended in better whereas the eastbound dominated the landscape;
- Not many alternatives;
- Site is well-used already so there was not a lot of space; and
- Would like to see height lowered.

Commissioner Mathews inquired that since the Commission appeared to be leaning towards denial of the project, could they offer the applicant either a vote or ask the applicant to consider other options (i.e., lowering height, decreasing size). County Counsel Frantz indicated that it was within the Commission's purview to ask an applicant if they were willing to modify their project.

Mr. Pereira stated that it appeared that there wasn't any likelihood that anything he presented would be accepted by the Commission. He stated that at the last hearing, there was no mention on height and now it was an issue. He requested that the Commission take final action on the project today, instead of conceptual action, so that he could appeal all three projects at the same time.

County Counsel Frantz stated that there were no Findings for Denial. Therefore, the Commission could state their reasons for denial and trail the item to the end of the day and conceptually deny the project. She indicated that since the facts were different from the other projects, the Findings may be different and suggested a short recess to discuss timing issues with staff on returning with Findings for Denial.

Once returning from recess, County Counsel Frantz recommended the Commission state the reasons for denial prior to lunch recess and return later in the day to review Findings for Denial.

Commissioner Heflin made the following reasons for denial:

- Incompatibility;
- Health and safety of the neighborhood;
- As proposed, size is detrimental to neighborhood;
- Cumulative effect; and
- Public testimony (i.e., shoe-horning)

No further discussion was presented.

Motion #1

Motion: Commissioner Heflin moved, seconded by Commissioner Mathews, and carried (4-0), to conceptually uphold the appeal, deny S11-0006, reject the Negative Declaration and trail item to 3:00pm for staff to return with Findings for Denial.

AYES: Tolhurst, Mathews, Heflin, Pratt
NOES: None

ABSENT: Rain

[Clerk's Note: Lunch recess]

The meeting was called back to order at 3:30pm. Chair Pratt informed the audience that staff had prepared a 5-page document for Findings for Denial and the Commission would now take time to review it.

Commissioner Heflin identified typos on page 2 (“fully”), page 3 (~~site~~-sign), and page 4 (wrong project number was identified).

Chair Pratt identified a typo on page 4 (~~eastbound~~ westbound). He also stated that the height issue had been identified at the last hearing, pursuant to the minutes, despite Mr. Pereira’s comment that it had not. County Counsel Frantz stated that staff had reviewed the previous meeting and concurred that the item had been continued due to concerns on the size and height of the sign.

Mr. Mount identified typos on pages 1, 2, and 3 which referenced an incorrect square footage size.

Chair Pratt opened the item to the public for comments on the new information only, which was the Findings for Denial.

Mr. Pereira said that statements in Finding 1.1 that the area was “where a sign of reduced size and height could be considered and potentially approved” and that “the Commission was not provided with alternatives or mitigation” were not entirely accurate as staff had recommended a 200 foot sign. Also, Commissioner Tolhurst had commented that even a reduced size sign would be problematic for purposes of safety and bringing large trucks into JimBoys. He felt that the Commission’s comments made him believe that the project wouldn’t be approved no matter what other alternatives he provided.

County Counsel Frantz responded that the Commission would need to discuss this. Reviewing the tapes, it was clear that the Commission did indeed state that they would be willing to entertain a smaller sign and that they weren’t sure, without evidence, if a smaller sign would work with the drive-thru. She further stated that there were comments that a sign of the proposed size may be more appropriate on a different site that wasn’t developed, however, there were also comments that for this parcel a different area or sign size could still work.

Chair Pratt stated that both he and Commissioner Mathews had previously expressed concern on the size and height of the proposed sign. There were never any alternative sizes provided by the applicant on what he was willing to agree to. Chair Pratt referenced the photo-simulations provided by the applicant that showed sizes slightly smaller than proposed, however, staff’s recommendation was significantly smaller. He stated that the Commission can only rule on what is proposed and the applicant never proposed any modifications, therefore, he refuted the applicant’s comments on that issue. He also referenced the photo-simulations, which didn’t address his specific request to see multiple different angles which, therefore, didn’t provide him

additional information to be able to draw any other conclusions that what had already been drawn.

Commissioner Heflin felt the Commission had been very open-minded.

No further discussion was presented.

Motion #2

Motion: Commissioner Heflin moved, seconded by Commissioner Mathews, and carried (4-0), to take the following actions: 1. Uphold the appeal; 2. Deny S11-0006 based on the Findings presented in the Staff Memo dated February 23, 2012, as revised; 3. Reject the Negative Declaration; and 4. Find that the project is Statutorily Exempt from CEQA.

AYES: Tolhurst, Mathews, Heflin, Pratt

NOES: None

ABSENT: Rain

This action can be appealed to the Board of Supervisors within 10 working days.