

**ANNOTATED  
AGENDA  
CITY OF ANTIOCH PLANNING COMMISSION  
ANTIOCH COUNCIL CHAMBERS  
THIRD & "H" STREETS**

**WEDNESDAY, SEPTEMBER 3, 2014**

**6:30 P.M.**

**NO PUBLIC HEARINGS WILL BEGIN AFTER 10:00 P.M.  
UNLESS THERE IS A VOTE OF THE PLANNING COMMISSION  
TO HEAR THE MATTER**

**APPEAL**

All items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the date of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on **THURSDAY, SEPTEMBER 11, 2014.**

If you wish to speak, either during "public comments" or during an agenda item, fill out a Speaker Request Form and place in the Speaker Card Tray. This will enable us to call upon you to speak. Each speaker is limited to not more than 3 minutes. During public hearings, each side is entitled to one "main presenter" who may have not more than 10 minutes. These time limits may be modified depending on the number of speakers, number of items on the agenda or circumstances. No one may speak more than once on an agenda item or during "public comments". Groups who are here regarding an item may identify themselves by raising their hands at the appropriate time to show support for one of their speakers.

**ROLL CALL**

**6:30 P.M.**

Commissioners	Hinojosa, Chair ( <b>absent</b> )
	Motts, Vice Chair
	Baatrup
	Miller
	Westerman
	Pinto

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

**CONSENT CALENDAR**

All matters listed under Consent Calendar are considered routine and are recommended for approval by the staff. There will be one motion approving the items listed. There will be no separate discussion of these items unless members of the Commission, staff or the public request specific items to be removed from the Consent Calendar for separate action.

**1. APPROVAL OF MINUTES:**

August 6, 2014

**APPROVED**

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END OF CONSENT CALENDAR

\* \* \*

MINUTES

**NEW PUBLIC HEARINGS**

STAFF REPORT

- 2. UP-14-02 – ABC Foodmart** – Gurinder Singh requests the approval of a use permit for a 4,100 square foot convenience store. The business would sell household items, alcohol, lotto/lottery tickets, food, and other miscellaneous items as well as provide money orders and check cashing services. The project site is located at 1201 Auto Center Drive (**APN: 074-160-013**).

**RESOLUTION NO. 2014-20; 5/0**

- 3. UP-14-04 – Cole Vocational Services Expansion** – Danny Aranda, on behalf of Cole Vocational Services, requests the approval of a use permit for a 1,000 square foot expansion of an adult day care facility. The business provides vocational and independent living training programs for up to 60 adults with developmental disabilities. The project site is located at 2352 Buchanan Road, in an approximately 5,000-square foot retail unit in the Orchard Square Shopping Center (**APN: 076-432-027**).

**RESOLUTION NO. 2014-21; 5/0**

**ORAL COMMUNICATIONS**

STAFF REPORT

**WRITTEN COMMUNICATIONS**

**COMMITTEE REPORTS**

**ADJOURNMENT (7:35 pm)**

**Notice of Availability of Reports**

This agenda is a summary of the discussion items and actions proposed to be taken by the Planning Commission. For almost every agenda item, materials have been prepared by the City staff for the Planning Commission's consideration. These materials include staff reports which explain in detail the item before the Commission and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included.

All of these materials are available at the Community Development Department located on the 2<sup>nd</sup> floor of City Hall, 3<sup>rd</sup> and H Streets, Antioch, California, 94509, between the hours of 8:00 a.m. and 11:30 a.m. or by appointment only between 1:00 p.m. and 5:00 p.m. Monday through Thursday for inspection and copying (for a fee). Copies are also made available at

the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the Community Development Department, who will refer you to the appropriate person.

**Notice of Opportunity to Address the Planning Commission**

The public has the opportunity to address the Planning Commission on each agenda item. You may be requested to complete a yellow Speaker Request form. Comments regarding matters not on this Agenda may be addressed during the "Public Comment" section on the agenda.

**Accessibility**

The meetings are accessible to those with disabilities. Auxiliary aids will be made available for persons with hearing or vision disabilities upon request in advance at (925) 779-7009 or TDD (925) 779-7081.



## **NEW PUBLIC HEARINGS**

2. **UP-13-12 – Mission Hope Day Program** – Mission-Hope Day Program requests the approval of a use permit to operate an adult day care that provides services for developmentally disabled adults. The Planning Commission continued the project at the April 16, 2014 meeting. The project site is located at 10 South Lake Drive (**APNs 065-235-019**).

Senior Planner Gentry provided a summary of the staff report dated July 31, 2014.

Vice Chair Motts asked staff if the alternatives listed in the letter were viable to which SP Gentry said that they have no control over providing access via 18<sup>th</sup> Street and that staff did look at the distance the vans travel.

Commissioner Baatrup asked about the nature of the topics of the meeting between the applicant and the residents to which SP Gentry responded it was to get an idea of how they ran the facility and to address traffic concerns

Chair Hinojosa asked staff if 40 trips indicated in the traffic study was typical and asked given the study was not conducted during the normal school year how the extra counts were calculated. SP Gentry said that the General Plan provides a threshold of 50 peak trips and if that was exceeded it would require an environmental study. She stated that a formula is used for calculations.

In response to Vice Chair Motts, SP Gentry said that most of the trips would be leaving via East 18<sup>th</sup> Street, that a left hand turn only sign could be posted.

In response to Chair Hinojosa asking staff about the previous meeting minutes, SP Gentry said that they don't have control over the property adjacent to them but that a condition can be put in saying the vans would have to access the site through Alhambra Drive.

Commissioner Baatrup added that his thought was that they would leave the site turning left instead of winding through the Lake Alhambra community.

In response to Commissioner Pinto, SP Gentry said that the distance from 18<sup>th</sup> Street to the site via Alhambra Drive was approximately 800 feet.

## **OPENED PUBLIC HEARING**

Applicant, Guy Houston representing Mission Hope, said that Mission Hope has been in existence since 2001 and is currently located on Verne Roberts Circle. At the meeting in April, the biggest concerns were parking and traffic and that they supported the recommendation for a traffic study and are pleased with the results. That they feel that they don't have an overall undue impact in the area and that they want to make it clear that at no time would they ever drop off clients on South Lake Drive. He said that they

are great neighbors, that after 3:30 pm during the week, on weekends and on holidays there is zero traffic. That during the day when people are at work is the time with the most intense traffic. He said that they would not be turning right into the neighborhood, unless they were picking up a client and that there is no reason to turn right and go through the neighborhood; exiting onto Alhambra is common sense. He said that regarding the traffic report and the issue of school year trips, that with their clientele there are no school children and no trips generated from that.

In response to Vice Chair Motts, applicant said that they have two larger buses that will be phased out over time but that at no time will they be parking on South Lake.

In response to Commissioner Pinto asking about entertainment, applicant said that their program is community based, that while one-third of the clients remain at Mission Hope, many are out in the community bowling, shopping and visiting parks. He said that they are supervised with the requirement being one supervisor for three clients. Applicant stated that most groups consist of three, four or five at a time except for an occasional BBQ or picnic at various parks in the City of Antioch.

Martha Parsons spoke to say that she was at the meeting, that they were told that the vans went out once a day to pick up clients and bring clients back and then leave again to take them home. She said that she is assuming that the traffic control person was told the same thing and 40 trips is not true. That Lake Alhambra has a park that they use, that school children have to go through narrow streets, and that if someone parks on South Lake Drive, you have to stop. She said that some schools start at 8:00 and others start at 9:00 a.m. That this is a well established neighborhood with 50% of the residents being seniors and retired that use the walkway all the time. She said that in addition to the small vans they have buses. That for their private park most of the residents use that parking lot to park and that they have always co-existed with all businesses at that location but now they are being told no. She said that they are not good neighbors, that they want to keep the residential area residential and that while 800 feet doesn't sound like much, kids are on that every day. That it is just not feasible to have vans, buses and 20 cars coming in and out of the residential area; that it doesn't make sense.

Commissioner Westerman confirmed with Ms. Parsons that the park is straight across the street from the site.

William Leroy spoke to say that he had a son going to Mission Hope, that he has been in the facility, that those vans go in and out all day long, and that his son was half beat to death while at the site. He said that while he loves the kids and that the kids should have some place to go, this is all about saving money and that the kids deserve a better location. He said that there is no way for buses to go in and out without disruption and congestion.

Applicant responded that these are serious accusations about the beating, that if it happened a report should be filed and that they don't condone that at their facilities. He said that regarding the traffic study, the consultant did not just take their word and that they did onsite reports. That regarding the park across the street and parking, that if

there is a special event such as National Night Out, they can accommodate the local community as long as it doesn't interfere with their operations during the day. He said that if the park is a private HOA park, it would not be on their roster of sites they would use and that for larger events they obtain permits from the City. He said that they drop off internally and that there will not be a time when they stop in the street to drop off.

In response to Chair Hinojosa, applicant said that they can put together a parking agreement for special events such as National Night Out and that while their hours are 7:30 a.m. to 3:30 p.m., they do park their vehicles there after hours. They are not against a condition regulating operating hours from 7:00 a.m. to 4:00 p.m. and that at this time they have two larger buses that they are phasing out but that larger ones are needed for wheel chairs.

In response to Vice Chair Motts, applicant said that some employees are dropped off, some carpool, and others will park internally. He said that there is no reason for anyone to park on South Lake and at no time is there maximum potential to have 20 cars and buses there.

In response to Commissioner Pinto's concern with temporary parking on South Lake, applicant said that they have nine vans, that Mission Hope encourages car pooling, that the nature of their operation is picking up and that the traffic study states there is adequate parking on site.

Martha Parsons spoke again to say that there are not enough parking spaces and they will have to park on South Lake Drive. The applicant can't require the employees to carpool, and that they must provide spaces for every employee and every bus. She said that if this use permit is allowed, the complaint will be that a child was hit or a senior was hit which is a travesty. She said that they are ok with a restaurant or other businesses going in and that they have always co-existed with all businesses.

Chair Hinojosa read parts of a letter from Jimmy Bean stating his concerns with traffic and parking problems and encouraging the Planning Commission not to approve the use permit.

### **CLOSED PUBLIC HEARING**

Chair Hinojosa asked staff about the parking requirement calculations, wanted to confirm with staff that the project is able to meet the onsite parking requirements and asked about the enforceability of car pooling.

SP Gentry said that according to the traffic study there would not be a parking issue, that the City found the closest comparable use which was child care, that the study drilled it down and that the traffic engineer went out to their Brentwood facility and concluded that there was adequate parking. She said that parking onsite is adequate with potential overflow on the street. That while the issue of car pooling is not enforceable, applicant can encourage employees on an honor system and that if the City gets complaints they can be proactive.

In response to Commissioner Westerman, SP Gentry said that other types of businesses that can go in there would include medical offices by right, restaurant uses, and neighborhood oriented business with smaller commercial uses overall.

Commissioner Baatrup asked about a use by right, if that meant no restrictions on clients coming through car pooling, buses, ride sharing, etc.

SP Gentry said that by right means that they can just come in for a business license with no conditions on limitations of travel on South Lake Drive to this site.

In response to Commissioner Pinto's concern with parking, SP Gentry said that streets are public right of way available for public parking. She said that a condition can be put in requiring employees to park in the onsite parking lot and that applicant can provide a transportation plan for employees which staff can review.

Chair Hinojosa interjected that the Brentwood location did not require a use permit.

Commissioner Pinto said that the street is very narrow, that he is not sure there is any way to ensure that employees are prohibited from parking on South Lake Drive, but that is very hard to enforce.

Vice Chair Motts said that the community has become used to using those parking spaces and he is thinking that the applicant has stated they can use the parking lot for special events, and with a sign for a left turn only out of the parking lot, that it seems that some of those concerns might have been addressed.

Chair Hinojosa said that she has given this project a lot of thought and that she was very hopeful that allowing the HOA meeting with the applicant would have resolved issues. She is very sympathetic to the HOA but they have done due diligence and the traffic study and they meet onsite parking. She is prepared to put forward additional conditions.

Commissioner Baatrup confirmed with staff that this project meets the code.

Chair Hinojosa said she would like to see conditions indicating operating hours being between 7:00 a.m. to 4:00 p.m. Monday through Friday, the installation of bicycle stalls, encouraging carpooling, that all company vehicles must access the site via Alhambra with no access through the residential neighborhood, that there be no loitering with a break or smoking area behind the building, and that all parking needs to be met onsite and not on the street.

Commissioner Baatrup said that while he likes those conditions, he is not excited about limiting their operating hours. He said that he remembers going through the hearing on Auto Zone where the Planning Commission had very serious reservations about traffic issues with it being very unsafe and that they had others telling them this was not business friendly. That here is an applicant not seeking any variances and matching zoning, and that by turning it down we are being unfriendly to developmentally disabled adults.

Commissioner Westerman concurred and said that there is no telling what else may move in or maybe no one if this project is denied which could leave the building empty. He said that with the conditions discussed earlier, that they could also put conditions about residents using the parking lot and that the tenant and residents arrive at some sort of agreement for use on weekends and special events.

Chair Hinojosa said that given this is private parking she is not sure the Planning Commission can condition that.

Commissioner Pinto said that currently the building is empty, and that once applicant takes over the property, they would be subject to any liability that could occur on their property. He said that while he appreciates the conditions suggested, prohibiting employees from parking on the street is very difficult to monitor and enforce which leaves a big void for him.

Chair Hinojosa confirmed with staff that it is on the applicant to address the enforceability.

Commissioner Baatrup stated that the use permit is a revocable permit and that if the user is not complying it can be brought back and be subject to revocation or change.

CA Nerland interjected that staff has a revision to Condition F1 and SP Gentry stated the change would be to add "per day" to the end of the first sentence.

Commissioner Pinto clarified that the business could come back to expand the business and the conditions could be different, and that perhaps if applicant is amenable to put a condition that no buses but only vans can be used at this location.

Vice Chair Motts said that in general this use is fairly non invasive and given the suggested conditions he could support it.

Chair Hinojosa said that she had a reservation about the operating hours and is prepared to make a motion including operating hours.

Commissioner Westerman said that including operating hours in the motion is fine.

Chair Hinojosa made a motion to approve the project, subject to the following:

- Operating hours 7:00 a.m. to 4:00 p.m. Monday through Friday.
- Installation of bike racks or stalls pursuant to requirement of the Code and staff approval.
- All company vehicles will use Alhambra Avenue only.
- No vehicles shall travel through the residential neighborhood.
- Applicant shall design a smoking break area in the back of the building and discourage loitering in front of the building.
- All van parking must be onsite with no street parking.
- Eliminate buses and only use vans.

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- Modifying Conditions F1 to add "per day" to the end of the first sentence.

Commissioner Baatrup stated his reservation that the buses are used for wheelchair and he is not sure that vans can accommodate that.

Chair Hinojosa rescinded that condition from her motion.

Applicant stated that he will put together a transportation plan for staff and will propose a parking agreement with the HOA.

**RESOLUTION NO. 2014-\*\***

***On Motion by Commissioner Hinojosa and seconded by Commissioner Baatrup, the Planning Commission approves the Use Permit (UP-13-12) for an adult day program, subject to additions and changes as follows:***

***Modifying Condition F1 to read:***

- F.1. The use permit applies to the service of 45 developmentally disabled adults per day. A supplemental use permit shall be required to serve more than 45 clients.**

***And adding Conditions:***

- F.4. Operating hours shall be 7:00 a.m. to 4:00 p.m. Monday through Friday.**
- F.5. The applicant shall install bike racks or stalls pursuant to Code requirements and staff approval.**
- F.6. All company vehicles shall use Alhambra Drive only.**
- F.7. No company vehicles shall travel through the residential neighborhood, except to drop off or to pick up a client.**
- F.8. Applicant shall design a smoking break area in the back of the building and shall discourage loitering in the front of the building.**
- F.9. All company vehicle parking shall be onsite.**

**AYES:** *Hinojosa, Motts, Baatrup and Westerman*  
**NOES:** *Pinto*  
**ABSTAIN:** *None*  
**ABSENT:** *Miller*

3. **UP-14-03 – Antioch Produce** – Haroon Sherzai requests approval of a use permit for the Antioch Produce Market to sell locally grown fruits and vegetables seven days a week from 8:00 a.m. to 8:00 p.m. The business will also offer a variety of juices, snacks, and other general items. No alcohol, cigarettes, or tobacco will be sold at the store. The project site is located at 1625 A Street, in an approximately 3,500 square foot retail unit in the Antioch Square Shopping Center on the northeast corner of A Street and East 18<sup>th</sup> Street (**APN 065-183-035**).

SP Gentry provided a summary of the staff report dated July 31, 2014. She stated that the applicant was not present at the meeting.

CA Nerland said that the Planning Commission can take action unless it is felt that information is needed from the applicant.

In response to Vice Chair Motts asking if this project would sell convenience store items, SP Gentry said that this location would mainly contract with local produce suppliers and be a produce market.

**OPENED PUBLIC HEARING**

**CLOSED PUBLIC HEARING**

Commissioner Baatrup motioned for approval.

Commissioner Pinto asked staff if the second sentence on Condition F.1. could be eliminated. SP Gentry responded that the condition was needed to make it 100% clear, that currently there is a moratorium and by eliminating you would be removing their right to come back.

CA Nerland said that the second statement is a true statement but does not see a problem with deleting the second sentence.

Vice Chair Motts said that it was fine either way.

Chair Hinojosa said that given the applicant is not proposing to sell those things, she does not see any harm in leaving it in there.

**RESOLUTION NO. 2014-\*\***

***On Motion by Commissioner Baatrup and seconded by Commissioner Westerman, the Planning Commission approves the Use Permit (UP-14-03) for the Antioch Produce Market, subject to all conditions.***

<b>AYES:</b>	<b><i>Hinojosa, Motts, Pinto, Baatrup and Westerman</i></b>
<b>NOES:</b>	<b><i>None</i></b>
<b>ABSTAIN:</b>	<b><i>None</i></b>
<b>ABSENT:</b>	<b><i>Miller</i></b>

4. **PDP-14-04 – Oakley Knolls Preliminary Development Plan** – Discovery Builders requests the review of a preliminary development plan, which is not an entitlement, for the development of 31 single family homes on approximately 5.56 acres. The project site is located on the north side of Oakley Road approximately 875 feet east of Willow Avenue (**APNs 051-430-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014, -015 and -016**).

SP Gentry provided a summary of the staff report dated July 31, 2014.

In response to Commissioner Motts, SP Gentry said that there is no particular definition for transitional development but that this project is going to be adjacent to the Hillcrest Specific Plan area and eBART and smaller higher density lots would be transitional. She said that this site is already an approved development and that PD zoning is needed for resubdivision of this property.

Commissioner Pinto asked staff about percentages for low income to which SP Gentry said that there is a regional allocation number provided by ABAG which is mandated by the State but that cities have limited control.

Chair Hinojosa asked staff about the Community Facilities District and asked if that requirement was contained in previous reports for PDPs to which SP Gentry confirmed that it was.

Chair Hinojosa asked staff about the water line terminating at Honeynut being pretty far from the project to which SP Gentry said that the City requires that the water system be looped and that as future development comes in, reimbursement agreements can be approved by City Council.

#### **OPENED PUBLIC HEARING**

Applicant, Louis Parsons, stated that he read the report and that their request is to get feedback on their site plan which is an approved project for 16 lots. He said that going with this density is more consistent with what is out there and would provide houses up to 3000 sf, maximum. He said that he does recognize the water connection which is a considerable expense. He said under conclusion in the report, item 6 indicates a recommendation that the project's CCRs not allow RVs, boats or jet skis and that he wanted to clarify this being for recreational vehicles. He said that item 7 talks about diversion of the watershed and the possible need to divert unless otherwise approved by the County. On item 8 he understands the need however still preliminary. He said he understands the need to eliminate the retaining wall but wants to mention that they have the right from the property owner to access the adjacent property to make improvements the City approves. He said that C3 is challenging and there are some other alternatives they can look at. For setbacks, they have no issues except providing useable backyard on all lots, and wondered if there is any latitude just for single story homes. He is seeking input on density and looking forward to comments.

Commissioner Pinto asked the applicant about solar panels and landscaping. Applicant said that they will be pre-wiring for solar and making it an option. For landscaping, there are State guidelines for drought tolerant landscaping and C3 areas receive runoff to minimize irrigation.

Commissioner Pinto said that going forward they should think about alternative landscaping with maybe rocks.

Vice Chair Motts said that maybe the best way would be to use native California plants which are drought tolerant. The applicant said that he is open to any suggestions.

Chair Hinojosa asked the reason for capping the storm drain until future use to which applicant responded that as far as design, the storm drain is coming in on Oakley Road and there will be future connections to it. He said that staff's concern is that C3 is on one side but their C3 is just preliminary at this time.

Chair Hinojosa asked applicant if there are any projects that use bio retention on lots to which applicant said that yes they do have natural facilities in front yards but when you have these C3 systems, you have to develop a plan which gets a little cumbersome so they try to centrally locate them.

Chair Hinojosa asked about lot 19 or 20 showing something going through it to which applicant said that was just a slope with a grade difference.

In response to Chair Hinojosa, applicant said that they have kept the same roadway alignment. Also, it gets tough to sell single stories with limited square footage and that they would like latitude to go to 15 foot setbacks for single stories or possibly locate on lots that don't have minimum depth.

Jeff Denny, resident for over 30 years with 18 years in the Almondridge subdivision, said that they want to put 30 houses on 5 acres with current marginal services being provided by the City. He said that he was robbed two years ago, that he called the police three times and that it took four and a half hours for an officer to arrive. That this is complete madness and that he has concerns about the dust, elevations, and construction hours.

Duane Shoemaker said he has been in the area his whole life, living on his three acre property next door since 1978. He said that this doesn't blend in with the community that is already there; there is a lot of violence in the area; and that he has had to call the police many times. He said that he can live with 16 lots but high density doesn't belong in this area. He said that some concerns were addressed by staff but that he saw a 6" sewer line for those houses which doesn't make sense. He also doesn't see a mention of the jogging trail which is not being maintained by the City.

Chair Hinojosa said that the Commission is not taking any action this evening and that the project has existing entitlements for the 16 lots at this time.

**CLOSED PUBLIC HEARING**

Vice Chair Motts said that both speakers make a compelling argument, that there has been too many houses built without infrastructure and that economic development needs to be a part of the equation.

Commissioner Pinto said that based upon the two speakers, he thinks maybe the developer may want to take into consideration reducing the number of homes proposed here.

Chair Hinojosa said that it seems like given the conditions and requirements that some of the density may have to go down.

Commissioner Westerman concurred with Commission Pinto and said that it may be worthwhile to look at reducing the density, making this a true transitional community. He said that there are design guidelines that should be taken into account with such things as varying setbacks.

Commissioner Baatrup reiterated his concern with small lots and trying to squeeze too many residents into the area now that the market has changed. He doesn't think as a community we should suffer with a lower standard. He said that he continues to support the concept that these are too small and that it doesn't make sense to reduce back yard space and that maybe they should plot the homes to larger lots for single story homes.

Chair Hinojosa said that this project is close to the Hillcrest Specific Plan which envisions mixed uses and that they need to be open minded.

### **ORAL COMMUNICATIONS**

SP Gentry said that the next meeting is August 20 and that nothing is currently on the agenda and the meeting after that will be September 3<sup>rd</sup>. She announced that the new planner is starting on Monday.

CA Nerland said that the City Council has adopted a moratorium on large 24/7 bingo halls.

She said that Council member Agopian passed away, that funeral services will be 2:00 p.m. this Saturday, and that there will be a memorial for him next Tuesday at the City Council meeting.

Chair Hinojosa suggested adjourning tonight's meeting in his honor.

Commissioner Westerman said that he thinks Mr. Agopian was the only council member that came to a meeting just to say hello and meet them.

Chair Hinojosa said that at the last meeting she had mentioned a land use committee and said that she would like staff to consider and to come back with options for that.

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SP Gentry said that City staff is in the process of hiring a consultant for the General Plan update and that she was unaware of the suggested land use committee.

### **WRITTEN COMMUNICATIONS**

None.

### **COMMITTEE REPORTS**

Vice Chair Motts said that Transplan was cancelled.

### **ADJOURNMENT**

Chair Hinojosa adjourned the Planning Commission at 8:53 p.m. in honor of Council Member Gary Agopian.

Respectfully Submitted,  
Cheryl Hammers

**STAFF REPORT TO THE PLANNING COMMISSION  
FOR CONSIDERATION AT THE MEETING OF SEPTEMBER 3, 2014**

**Prepared by:** Mindy Gentry, Senior Planner *MG*  
**Date:** August 28, 2014  
**Subject:** UP-14-02 – Use Permit for a Convenience Store

**RECOMMENDATION**

It is recommended that the Planning Commission adopt the attached resolution denying a use permit for a 4,100 square foot convenience store (UP-14-02).

**REQUEST**

Gurinder Singh requests the approval of a use permit for a 4,100 square foot convenience store. The business would sell household items, alcohol, lotto/lottery tickets, food, and other miscellaneous items as well as provide money orders and check cashing services. The project site is located at 1201 Auto Center Drive (**APN: 074-160-013**) (Attachment "A").

**BACKGROUND**

The existing building is approximately 16,640 square feet and was originally constructed in 1976 as a commercial building that allows a wide variety of retail uses.

The proposed produce market will occupy a 4,100-square-foot unit of the existing 16,640-square-foot commercial building that was most recently used as an airsoft gun retail store.

The applicant also runs a Valero gas station and minimart in Oakley.

**ENVIRONMENTAL**

The project is Categorically Exempt from the provisions of CEQA, pursuant to section 15301 – Existing Facilities. This section of CEQA exempts projects that involve negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

**ANALYSIS**

**Issue #1: Project Overview**

The applicant is proposing a convenience store which will offer kids toys, grocery items, school supplies, western union services, money orders, payment of utilities, check cashing, lotto/lottery tickets, alcohol, and tobacco products. The store will be open seven days a week from 6:00 AM to 9:00 PM.

A use permit is required per section 9-5.3803 of the Antioch Municipal Code, which defines the proposed use as a "convenience store," which is "an establishment with a sales area of 5,000 square feet or less which sells primarily food, household, and personal convenience items." The proposed convenience store would be in an existing commercial building which is consistent with the development of the site as a shopping center. The applicant's project description is included as Attachment "B".

## **Issue #2: General Plan, Zoning Consistency, and Land Use**

The General Plan designation of the property is Commercial within the Somersville Road Corridor Focus Area. The site is zoned Neighborhood/Community Commercial (C-2) and a convenience store requires a use permit in this zoning designation. The surrounding land use designations are as noted below:

<b>North:</b>	Various automotive and commercial uses (C-2 and PBC)
<b>South:</b>	Various commercial uses and single family homes (C-2 and R-6 respectively)
<b>East:</b>	Single family homes (R-6)
<b>West:</b>	Vacant land and various commercial uses (PBC)

## **Issue #3: Alcohol and Tobacco**

Alcohol: Part of the applicant's proposal includes the sale of alcohol. The Department of Alcoholic Beverage Control (ABC) was contacted by staff and received information that the request to sell alcohol was in an area of undue concentration. According to a Licensing Representative at the ABC, under Census Tract 3050 there are 5 off-sale licenses allowed and there are 11 active licenses and 8 on-sale licenses allowed and 25 are active (off-sale license establishments sell alcohol to be consumed off-site such as a grocery or convenience store; on-sale license establishments sell alcohol to be consumed on-site such as a restaurant or bar). The convenience store use would be an off-sale license because the alcohol would not be consumed onsite. The ABC would require the applicant to obtain a ruling that the alcohol sale would be a Public Convenience or Necessity.

In 1995, the State of California Legislature amended the Penal Code and required the ABC to deny an application for a liquor license "if issuance of that license would tend to create a law enforcement problem, or if the issuance would result in or add to an undue concentration of liquor licenses. Undue concentration is defined as follows:

"The premises of the proposed license is located in an area that has 20 percent more reported crimes than the average number of reported crimes for the City as a whole, or

The premises of the proposed license is located in a census tract where the ratio of existing retail on-sale/retail off-sale licenses to population in the census tract exceeds the ratio of retail on-sale/retail off-sale licenses to population in the County of the proposed premise."

If the ABC determines that your application falls within one or both of the above described conditions then the applicant will have to request that the City grant a Determination of Public Convenience or Necessary Permit based on "public convenience or necessity." Given the number of active off-sale licenses and the number of licenses that are allowed, staff believes that an additional license will just perpetuate a condition of undue concentration for alcohol sales. Further, since convenience stores tend to have higher calls for service and given the staffing constraints of the Antioch Police Department, staff believes there has not been a demonstration of public convenience or necessity by the applicant that outweighs public safety concerns.

Tobacco: The applicant's proposal also includes the sale of tobacco products. On April 22, 2014, the City Council passed an ordinance extending a moratorium on the establishment and operation of Tobacco and Paraphernalia Retailer businesses within the City (Attachment "C"). Tobacco and Paraphernalia Retailer is defined as any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition. The moratorium will be in effect for up to one year from the date of adoption; therefore, the Planning Commission would not even be able to consider this element of the application at this time.

## **CONCLUSION**

Based on the undue concentration of alcohol licenses within the census tract, a lack of public convenience or necessity, and the moratorium on tobacco and paraphernalia, staff is recommending denial of the use permit.

## **ATTACHMENTS**

- A: Aerial Photo
- B: Applicant's Summary
- C: Ordinance Extending a Moratorium of the Establishment and Operation of Tobacco and Paraphernalia Retailer Businesses

**CITY OF ANTIOCH PLANNING COMMISSION  
RESOLUTION NO. 2014-\*\***

**RESOLUTION OF THE CITY OF ANTIOCH PLANNING COMMISSION  
DENYING A USE PERMIT FOR A CONVENIENCE STORE AT 1201 AUTO CENTER  
DRIVE**

**WHEREAS**, the City of Antioch received a request from Gurinder Singh for a use permit for a 4,100 square foot convenience store. The project site is located at 1201 Auto Center Drive (**APN: 074-160-013**)

**WHEREAS**, this project is exempt from the provisions of CEQA pursuant to CEQA Guideline Section 15301 – Existing Facilities; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and,

**WHEREAS**, the Planning Commission on September 3, 2014, duly held a public hearing, received, and considered evidence, both oral and documentary, and

**WHEREAS**, the Planning Commission could not make three out of the five findings and does determine:

1. The granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

The use will be detrimental to the public health or welfare or injurious to the property or improvements because the use would sell alcohol in an area of undue concentration, which could place a drain on public safety due to an increase in calls for service. A determination of public convenience or necessity for alcohol sales has not been demonstrated and currently there is a moratorium on tobacco sales within the City.

2. The use applied at the location indicated is properly one for which a use permit is authorized.

The site is zoned Neighborhood/Community Commercial (C-2) and per the Municipal Code, convenience stores require a use permit. The use will not operate in a capacity that is compatible with surrounding uses or adjoining properties due to the undue concentration of alcohol licenses and the current moratorium on tobacco sales.

3. That the site for the proposed use is adequate in size and shape to accommodate such use, and all yards, fences, parking, loading, landscaping, and other features required, to other uses in the neighborhood.

The site is adequate in size and shape to accommodate a convenience store. The site has adequate yards, fences, parking and landscaping to accommodate the proposed use.

4. That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

The site is located on Auto Center Drive, which is adequate in width and pavement type to carry the traffic generated by the use.

5. That the granting of such use permit will not adversely affect the comprehensive General Plan.

The use is a convenience store that could cause an impact to public safety due to the sale of alcohol in an area of undue concentration which will adversely affect the comprehensive General Plan.

**NOW THEREFORE BE IT RESOLVED** the Planning Commission of the City of Antioch does hereby **DENY** the use permit (UP-14-02) for a 4,100 square foot convenience store.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 3<sup>rd</sup> day of September 2014.

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
TINA WEHRMEISTER, SECRETARY TO THE  
PLANNING COMMISSION

# ATTACHMENT "A"

Aerial Photo



# ATTACHMENT "B"

## ABC Food Mart

- Business Trade Name : ABC FOOD MART
- Business Type : Convenience Store
- Hours Of Operation : 6 AM To 9 PM
- Number Of Employees : 3 To 5
- Products: We would like to make a family one stop shop in the neighborhood, By opening a convenience store in the neighborhood where you can buy something for everyone in the household like kids toys, soft drinks, chips, soda, school supply, western union service, money orders, pay utility bills, check cashing, California lotto/lottery coffee, beer, liquor, wine, cigarettes, cigar and grocery, milk etc. And will also be accepting EBT Cards
- Experience: Operating a retail business since 2002 and since 2006 successfully running a Valero gas station with mini mart in Oakley and never file or had one single complaint against me or the business with city of Oakley or with sheriff dept.
- Area Coverage : Total 4100 Square Feet , Around 1500sqf will be used for storage and restroom
- Parking Lot : Need around 3 to 5 parking spaces with handicap parking ,which site has more than 10 parking spaces with ADA parking.

**RECEIVED**

FEB 25 2014

CITY OF ANTIOCH  
COMMUNITY DEVELOPMENT

B1

# ATTACHMENT "C"

## ORDINANCE NO. 2086-C-S

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF TOBACCO AND PARAPHERNALIA RETAILER BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO THE ANTIOCH MUNICIPAL CODE

The City Council of the City of Antioch does ordain as follows:

**SECTION 1. Interim Urgency Zoning Ordinance.** This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

**SECTION 2. Findings.** The Antioch City Council hereby finds, determines and declares as follows:

**A.** The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

**B.** The City has received and anticipates additional requests for the construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Tobacco and Paraphernalia Retailer businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

**C.** Tobacco and Paraphernalia Retailer businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians, not to mention use of tobacco products or illegal substances. Seven of the twelve Tobacco and Paraphernalia Retailers listed below are located within several blocks of schools. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

**D.** The City Council of the City of Antioch is concerned with exposure of youth to tobacco products and prevalence of smoking among youth:

1. In California, 11.9% of the adult population<sup>1</sup> and 14.6% of teenagers<sup>2</sup> currently smoke.

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<sup>1</sup> Cal. Dep't Health Servs, Tobacco Control Program, Smoking Prevalence Among California Adults (April 2011).

<sup>2</sup> Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (September 2009).

2. Although it is unlawful to sell tobacco products and/or tobacco paraphernalia to minors,<sup>3</sup> 5.6% of California retailers surveyed do sell to minors.<sup>4</sup> These numbers are more concerning locally. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%<sup>5</sup>. In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

**E.** The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Tobacco and Paraphernalia Retailers. The City of Antioch needs additional time to study this issue and determine if concentration and/or location of Tobacco and Paraphernalia Retailers in close proximity to other uses with generally high rates of calls for service such as bars or liquor stores would exasperate these concerns. The City of Antioch is also concerned about uses with high rates of calls for service in proximity to youth including schools and parks.

**F.** The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Tobacco and Paraphernalia Retailers, including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. For example, the Antioch Police Department has documented a significant amount of calls for service involving a variety of crimes in these businesses and within the shopping centers in which Tobacco and Paraphernalia Retailers are located. Included below as findings are representational incidents associated with Tobacco and Paraphernalia Retailers for the 12 month period from May 9, 2012 – May 9, 2013 (not all businesses were in operation for the entire period) when this moratorium was initially adopted by the City Council on May 28, 2013. Under each address in *italics* is updated information on calls for service for the period of May 9, 2013 to present:

1. Cigarette 4 Less, 3142 Contra Loma Blvd: two (2) calls for service related to an alarm and an alleged fight between juveniles in the area.

*Seven (7) calls for service related to alarms and suspicious subjects.*

2. Cigarette 4 Less, 2549 San Jose Drive: eleven (11) calls for service related to alarms, petty thefts, a civil complaint and an assault.

*Six (6) calls for service related to alarms, assault, theft, and requests for extra patrol.*

3. Smoke Shop, 4532 Lone Tree Way: five (5) calls for service related to a robbery, petty thefts, unfounded 911 call and a fight inside the store.

*Two (2) calls for service related to petty theft.*

4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: two (2) calls for service related to an armed robbery and false alarm.

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<sup>3</sup> Cal. Penal Code § 308

<sup>4</sup> Cal. Dep't Health Servs, Tobacco Control Sec., Youth Tobacco Purchase Survey 1995-2011

<sup>5</sup> California Department of Health Services Food and Drug Branch Compliance Checks, 2003.

*Four (4) calls for service related to burglary, armed robbery, counterfeit bills, and an unattended child.*

5. Cigarette 4 Less, 2727 Hillcrest Ave: five (5) calls for service related to alarms, a threat complaint, armed robbery and a suspicious circumstance.

*Five (5) calls for service related to suspicious persons, counterfeit bills, alarms, and robbery.*

6. Sycamore Smoke & More, 1096 Sycamore Drive: thirty-one (31) calls for service related to unwanted guests, loitering complaints, assaults, panhandling and fighting.

*Seventeen (17) calls for service related to loitering, disturbances, gambling, drug dealing, suspicious subjects, and 911 hang up.*

7. Cigarette 4 Less, 3708 Lone Tree Way: six (6) calls for service related to alarms, juvenile disturbance and a burglary of the business.

*Two (2) call for service related to an alarm and assault.*

8. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: five (5) calls for service related to an armed robbery, petty theft and 911 hang-up.

*One (1) call for service related to an unwanted guest.*

9. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: eight (8) calls for service related to alarms, armed robbery, petty theft, harassment and suspicious persons.

*Seven (7) calls for service related to alarms, armed robbery, and disturbances.*

10. Smoke Shop Mini Market, 1515 A Street: eleven (11) calls for service related to threats, loitering, juvenile disturbance, panhandling, stolen cars, an alarm, counterfeit bill and petty theft.

*Five (5) calls for service related to alarms, disturbances, assault, theft, and robbery.*

11. Discount Cigarette & Cigar Store, 1615 A Street: nine (9) calls for service related to an alarm, a fight in the parking lot in front of the business, medical call, burglary, unwanted guest, a suspicious person, a suspicious circumstance and a fraud (counterfeit) complaint.

*Three (3) calls for service related to alarms, theft, and harassment.*

12. Fusion Novelties, 1336 Sunset Drive: one (1) call for service related to a vandalism – broken window.

*Zero. This business closed during the reporting period.*

**G.** In addition to the increased calls for service and increasing reports of violent criminal behavior described above, the City Council is also concerned that Tobacco and Paraphernalia Retailers are not complying with applicable State and local laws related to tobacco and paraphernalia sales. Code Enforcement staff inspected the businesses listed above and found violations of California Health and Safety Code 11364.5 and Antioch Municipal Code Title 5, Chapter 16 related to paraphernalia sales; Municipal Code Section 9-5.519 related to tobacco advertising; Municipal Code 9-5.508 related to general advertising; and California Business and Professions Code 22962 and Municipal Code 6-8.13 related to self service display of tobacco.

**H.** Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements, which would allow additional Tobacco and Paraphernalia Retailers that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public health, safety, and welfare from dangers caused by Tobacco and Paraphernalia Retailers. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement, concentration and operation of Tobacco and Paraphernalia Retailers so that such regulations are applied in a nondiscriminatory manner.

**I.** In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

**J.** Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Tobacco and Paraphernalia Retailers in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

**K.** The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Tobacco and Paraphernalia Retailer business.

**L.** The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

**SECTION 3. Interim Regulations.** The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Tobacco and Paraphernalia Retailers. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

**A. Restricted Activities.** For a period of one additional year (12 months) following the enactment of this Ordinance, no person shall be issued a permit, license or land use

entitlement for the construction, placement, or operation of new Tobacco and Paraphernalia Retailer businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Tobacco and Paraphernalia Retailer business. These prohibitions shall remain in effect during the 12 months following enactment of this Ordinance. Tobacco and Paraphernalia Retailer businesses existing on May 28, 2013 when the first urgency ordinance prohibiting these uses was adopted by the City Council may continue to operate at their current locations provided that they are in compliance with State law and the Antioch Municipal Code.

**B. Definitions.** In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. **TOBACCO AND PARAPHERNALIA RETAILER** shall mean any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition.
2. **PARAPHERNALIA** shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.

**SECTION 4. CEQA.** This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

**SECTION 5. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 6. Effective Date.** This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 12 months from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

**SECTION 7. Report of Council.** Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

**SECTION 8. Declaration of Urgency.** This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

**SECTION 9. Publication; Certification.** The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 22nd day of April, 2014, by the following vote:

**AYES:** Council Members Wilson, Rocha, Tiscareno, Agopian and Mayor Harper

**NOES:** None.

**ABSENT:** None.

**ABSTAIN:** None.

/s/ Wade Harper  
Wade Harper, Mayor of the City of Antioch

**ATTEST:**

/s/ Arne Simonsen  
Arne Simonsen, City Clerk of the City of Antioch

**STAFF REPORT TO THE PLANNING COMMISSION  
FOR CONSIDERATION AT THE MEETING OF SEPTEMBER 3, 2014**

**Prepared by:** Mindy Gentry, Senior Planner *MG*

**Date:** August 28, 2014

**Subject:** UP-14-04 – Use Permit for Adult Day Program Expansion

**RECOMMENDATION**

It is recommended that the Planning Commission approve a use permit for the expansion of an adult day program that provides services for developmentally disabled adults (UP-14-04), subject to the conditions contained in the attached resolution.

**REQUEST**

Danny Aranda, on behalf of Cole Vocational Services (CVS), requests the approval of a use permit for a 1,000 square foot expansion of an adult day care facility. The business provides vocational and independent living training programs for up to 60 adults with developmental disabilities. The project is located at 2352 Buchanan Road, in an approximately 5,000-square foot retail unit in the Orchard Square Shopping Center (APN: 076-432-027) (Attachment "A").

**BACKGROUND**

Cole Vocational Services has been established at the subject location since August of 2000; however, a use permit was never considered. Staff does not have any information regarding the lack of a use permit; however, there is a valid business license on file with the City.

The tenant space, which is currently approximately 3,800 s.f., is located in an inline shop at the Orchard Square Shopping Center.

**ENVIRONMENTAL**

The project is Categorically Exempt from the provisions of CEQA, pursuant to section 15301 – Existing Facilities. This section of CEQA exempts projects that involve negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

**ANALYSIS**

**Issue #1: Project Overview**

CVS is funded and licensed by the State of California through the Department of Developmental Services. The applicant proposes using the subject site for an adult day program that provides vocational and living skills training for developmentally disabled adults. The activities include training on personal hygiene, interviewing, and computers skills as well as recreational activities such as gardening, arts and crafts, hobby development, exercise, and meal preparation. The applicant's project description is included as Attachment "B".

The program will provide services to approximately 60 developmentally disabled adults Monday through Friday from 7:30 AM to 5:00 PM. The ratio of employees to clients is at a minimum of 1 to 3 and may be less depending on the clients' needs. The clients are transferred to the facility by vans provided by an outside agency. The facility uses personal vehicles and public transportation to transport clients to and from their jobs and other community resources. The facility does have one van to shuttle clients during program hours; however, the van is parked off-site during non-program hours.

#### **Issue #2: General Plan, Zoning Consistency, and Land Use**

The General Plan designation of the property is Regional Commercial within the Somersville Road Corridor Focus Area. The site is zoned Regional Commercial (C-3) and day care requires a use permit in this zoning designation. The surrounding land use designations are as noted below:

**North:** Various commercial uses (C-3)  
**South:** Various office and commercial uses (C-3)  
**East:** Various commercial uses (C-3)  
**West:** Various commercial uses (C-3)

#### **Issue #3: Parking**

The subject use is proposed in a larger shopping center which provides parking for all tenants within the shopping center. The code requirement for parking within shopping centers is 1 parking space per 200 square feet of gross floor area. The applicant is stating that only 26 parking spaces will be needed for the proposed use; 24 for employees and 2 handicapped spaces. Based on the square footage of the proposed tenant space and assuming the use is retail, the amount of parking that would be required would be 25 spaces. Considering the clients will be dropped off and the van will be parked off-site during non-program hours, staff does not have concerns in regards to the use having an impact on parking. Further, the existing retail uses in the shopping center will have peak times during the non-program hours and therefore not creating a parking conflict.

#### **ATTACHMENTS**

A: Aerial Photo  
B: Applicant's Summary

**CITY OF ANTIOCH PLANNING COMMISSION  
RESOLUTION NO. 2014-\*\***

**RESOLUTION OF THE CITY OF ANTIOCH PLANNING COMMISSION  
APPROVING A USE PERMIT FOR AN ADULT DAY PROGRAM**

**WHEREAS**, the City of Antioch received a request from Danny Aranda, on behalf of Cole Vocational Services, for a use permit for an adult day program that provides services for developmentally disabled adults. The use provides vocational and independent living training programs for up to 60 adults with developmental disabilities. The project is located at 2352 Buchanan Road, in an approximately 5,000-square foot retail unit in the Orchard Square Shopping Center (**APN: 076-432-027**).

**WHEREAS**, this project is exempt from the provisions of CEQA pursuant to CEQA Guideline Section 15301 – Existing Facilities; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and,

**WHEREAS**, the Planning Commission on September 3, 2014, duly held a public hearing, received, and considered evidence, both oral and documentary, and

**WHEREAS**, the Planning Commission does determine:

1. The granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

The use will not be detrimental to the public health or welfare or injurious to the property or improvements because the use will occupy an existing building large enough to accommodate the use.

2. The use applied at the location indicated is properly one for which a use permit is authorized.

The site is zoned Regional Commercial (C-3) and per the Municipal Code, adult day programs are allowed with a use permit. The use and the site meet the standards of the Antioch Municipal Code.

3. That the site for the proposed use is adequate in size and shape to accommodate such use, and all yards, fences, parking, loading, landscaping, and other features required, to other uses in the neighborhood.

The site is adequate in size and shape to accommodate an adult day program. The site has adequate yards, fences, parking and landscaping to accommodate the proposed use.

4. That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

The site is located on Buchanan Road, which is adequate in width and pavement type to carry the traffic generated by the use.

5. That the granting of such use permit will not adversely affect the comprehensive General Plan.

The use is considered an adult day program which will not adversely affect the comprehensive General Plan.

**NOW THEREFORE BE IT RESOLVED** the Planning Commission of the City of Antioch does hereby **APPROVE** the use permit (UP-14-04) for an adult day program, subject to the following conditions and the findings for the conditions, which are attached to this resolution as Exhibit A:

**A. GENERAL CONDITIONS**

1. The project shall comply with the Antioch Municipal Code.
2. Conditions required by the Planning Commission, which call for a modification or any change to the site plan submitted, be corrected to show those conditions and all standards and requirements of the City of Antioch prior to any submittal for a building permit. No building permit will be issued unless the site plan meets the requirements stipulated by the Planning Commission and the standards of the City.
3. City staff shall inspect the site for compliance with the conditions of approval prior to final building inspection.
4. This approval expires two years from the date of approval (Expires September 3, 2016), unless a building permit has been issued and construction has diligently commenced thereon and has not expired, or an extension has been approved by the Zoning Administrator. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one year extension shall be granted.

5. The applicant shall defend, indemnify and hold harmless the City in any action brought by a third party to challenge the land use entitlement. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.
6. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments and any other payments that are due.
7. The applicant shall obtain an encroachment permit for all work to be done within the public right-of-way.
8. This approval supersedes previous approvals that have been granted for this site.
9. All required easements or rights-of-way for off tract improvements shall be obtained by the applicant at no cost to the City of Antioch. Advance permission shall be obtained from any property or easement holders for any work done within such property or easements.

**B. CONSTRUCTION CONDITIONS**

1. The use of construction equipment shall be restricted to weekdays between the hours 8:00 A.M. and 5:00 P.M., or as approved in writing by the City Manager.
2. The project shall be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and Demolition Debris Recycling.
3. Building permits shall be secured for all proposed construction associated with this facility, including any interior improvements not expressly evident on the plans submitted.

**C. FIRE REQUIREMENTS**

1. All requirements of the Contra Costa County Fire Protection District shall be met:
  - a. The developer shall submit a minimum of two (2) complete sets of tenant improvement plans and specifications of the subject project, including plans for any of the following required deferred submittals, to the Fire District for review and approval prior to construction to ensure compliance with minimum requirements related to fire and life safety. (105.4.1) CFC, (901.2) CFC, (107) CBC.

- b. Plan review and inspection fees shall be submitted at the time of plan review submittal. Checks may be made payable to "CCCFPD" (Contra Costa Fire Protection District).

**D. FEES**

1. The applicant shall pay all fees as required by the City Council.

**E. PROPERTY MAINTENANCE**

1. A parking lot sweeping program shall be implemented that, at a minimum, provides for sweeping immediately prior to, and once during, the storm season.
2. The project shall comply with Property Maintenance Ordinance Section 5-1.204. No final landscape and irrigation plan shall be considered to be complete without an approved maintenance agreement reflective of standards contained in Section 5-1.204 (G).
3. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.
4. No signs shall be installed on this site without prior City approval.

**F. USE REQUIREMENTS**

1. The use permit applies to the service of 60 developmentally disabled adults. A supplemental use permit shall be required to serve more than 60 clients.
2. The hours of operation shall be Monday through Friday 7:30 AM to 5:00 PM.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 3<sup>rd</sup> day of September 2014.

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
TINA WEHRMEISTER, SECRETARY TO THE  
PLANNING COMMISSION

**EXHIBIT A**

**COLE VOCATIONAL SERVICES ADULT DAY PROGRAM (UP-14-04)**

**FINDINGS IN SUPPORT OF CONDITIONS OF APPROVAL**

**A. GENERAL CONDITIONS**

1. The City of Antioch has established a Municipal Code to protect the public health, safety, and welfare of the citizens within the City. This condition of approval is necessary for the developer to mitigate any project impacts that may threaten the health, safety, or welfare of its citizens.
- 2-3. In order for the project to be constructed to the City's approved standards, the plans need to adequately reflect the changes made by the Planning Commission and City staff needs to inspect the site for compliance with the conditions of approval prior to final inspection approval. These conditions protect the public safety, health, and general welfare of the residents of the project and surrounding residential and other uses by providing an adequate reflection of the approved project prior to the issuance of building permits and a follow up site inspection to ensure the Project was built as conditioned.
4. The regulatory environment of land development and base line conditions change frequently; therefore, this condition is necessary to ensure any project going forward is subject to the most current regulations in order to promote the public health, safety, and welfare in the City of Antioch.
5. The project is being pursued by a developer and the City's responsibility is to promote orderly development within the City. This condition is necessary to protect the City from the financial and time expenses for defending challenges to land use entitlements or environmental reviews that are financially benefitting the applicant, particularly given the City's own financial challenges.
- 6-7. The project takes City time and staff to process development applications through the land use entitlement process. The development of property is at the benefit of the applicant; therefore, the conditions are necessary to ensure the applicant pays the expenses to process the application rather than having that burden placed on the taxpayers for another's benefit and satisfies all necessary requirements to make use of public lands that serve the project site.
8. It is necessary to ensure administrative consistency and avoid confusion between plan versions by identifying the most recent entitlements that govern site development and use.

9. The project requires the use of public lands in order to provide access and extend infrastructure to the project site. These conditions are necessary to allow the project sponsors to make use of public lands to benefit the project.

**B. CONSTRUCTION CONDITIONS**

- 1-3. Construction activities will produce impacts related to noise, dust, vibrations, and traffic that must be addressed and mitigated. In addition, the City is under a State-wide mandate to divert its waste by 50% and thus the City has adopted an ordinance to reduce construction and demolition debris from going to the landfill. The City also has adopted the State of California Building Code; therefore, a building permit must be pulled for work performed inside the building even if it is not expressly on the plans. These conditions of approval are necessary to address these impacts from the project to ensure the public health, safety, and welfare of the Antioch community are protected and that development in the City occurs in an orderly fashion consistent with the City's General Plan and Municipal Code and to not create temporary or permanent nuisances.

**C. FIRE REQUIREMENTS**

1. The Contra Costa Fire Protection District provides fire services for the City of Antioch and follows the California Fire Code. The conditions of approval are necessary on the Project to protect the public health and provide for the safety and welfare of life and property from fire and explosion hazards or dangerous conditions in new buildings and existing buildings; structures and premises; and to provide safety and assistance to fire fighters and emergency responders during emergency operations.

**D. FEES**

1. The City of Antioch provide existing infrastructure such as streets, utilities, traffic signals, schools, public right-of-way, parks, flood mitigation improvements, parks, and police services. The fees required by the condition of approval serve two functions: 1) the funds will provide mitigation for the project's fair share impact and the project's responsibility of costs for the existing infrastructure due to the increase in population and 2) to mitigate the costs of additional infrastructure and maintenance necessary due to the impact of the project. The conditions of approval are necessary to mitigate impacts to public infrastructure from deterioration as well as provide additional infrastructure to serve the additional population.

**E. PROPERTY MAINTENANCE**

- 1-4. These conditions are necessary to ensure that the project site is kept in good working order to ensure adequate trash collection, to avoid localized flooding, reduce fire risks, and ensure the continued health, safety and welfare of the project environs.

**F. USE REQUIREMENTS**

- 1-2. The use contemplated under this use permit only analyzed serving 60 people; additional people could result in impacts not contemplated by this use permit. A change in the hours of operation could potentially affect the parking onsite; therefore the condition is required to minimize and impacts to the surrounding businesses.

# ATTACHMENT "A"

Aerial Photo





# ATTACHMENT "B"

## Cole Vocational • First Step • Unlimited Quest

### Cole Vocational Services

**Corporate: 9166 Anaheim Place Ste.200 Rancho Cucamonga, CA 91730**  
**Telephone: (909) 483-2505 Fax: (909) 484-2899**

RECEIVED

**Site Location: 2352 Buchanan Road Antioch, CA 94509**

APR 28 2014

### PROPOSED USE OF SITE

CITY OF ANTIOCH  
COMMUNITY DEVELOPMENT

We are funded by the State of California, Department of Developmental Services to provide vocational and independent living training programs for adults with developmental disabilities. The program will be licensed for (60) clients through the Department of Social Services – Community Care Licensing (CCL). There are two managers to supervise and provide training for the support staff.

The office hours of operation are 7:30am – 5:00pm Monday through Friday. The clients will arrive in vans provided by an outside agency. We use employee personal vehicles and public transportation to transport clients to and from the community to their paid/volunteer jobs, and other community resources of interest.

### DESCRIPTION of SERVICES

This program will serve up to 60 individuals in a center-based environment. The center shall be accessible to community resources, shopping, recreation, and transportation. The ratio of staff to clients shall be 1 to 3, though the actual ratio may be higher depending on the needs of the individual, the recommendation of the Support Team, and funding availability. All clients are expected to participate in activities outside of the center at a minimum of 2 times per week for 2 hours, though Cole Vocational Services anticipates that actual time in the community will be higher. Support hours are flexible according to the needs of the individual though most consumers receive services between the hours of 8:00 AM and 2:00 PM.

Based on the consumer's need, Cole Vocational Services uses several instructional approaches in training. Cole Vocational Services believes there is always another way to accomplish a task. Staff, and the interaction with the consumers served, provides an atmosphere of "trial and error" that is conducive to a positive and suitable learning and growth experience.

Consumers have the opportunity to interact with people with diverse skills and personalities. The group process provides an arena for personal interaction with participation in activities that establish partnerships and satisfy each person's individual service plan objectives.

Our clients learn how to access community resources such as volunteer/paid jobs, public transportation, libraries, banks, post offices, colleges, and recreational centers. At the program, our staff works with the clients to train on personal hygiene, interviewing and computer skills, gardening, arts and crafts, hobby development, exercise, movement and fitness, and meal preparation.



## Cole Vocational • First Step • Unlimited Quest

Cole Vocational Services emphasizes continuous staff interaction with each consumer served, provision of opportunities for choice making and incorporation of personal preferences into activities. Frequent positive verbal praise, modeling, and the principles of partial and active participation are used. Prompt hierarchy is utilized as the teaching strategy of choice, e.g. natural cue to full physical assistance.

### **SERVICE DAYS and HOURS of OPERATION:**

Consumers receive five (5) hours of support per day, five days per week. (Monday through Friday), 12 months a year, excluding the major holidays. The hours of services are between 8:00am to 2:00pm, Monday through Friday.

### **STAFFING RATIO:**

The staffing ratio is 1:3 – one support staff (employee) with three clients. Enriched staffing ratio is also available based on the consumer's individual need.

### **TRANSPORTATION:**

Clients arrive to the program in vans provided by an outside agency. The clients access the program site and the community throughout the day at our program. We use employee personal vehicles and public transportation to transport clients to and from the community to their paid or volunteer jobs and other community resources of interest. Our clients arrive in buses and vans that do not remain on site. Cole Vocational Services has one van that is parked offsite in a secure location during non-program hours and is also used to transport our clients during program hours. Our clients do not transport themselves to our facilities.

### **PARKING:**

Our needs only require no more than (26) parking spaces. Our parking needs consists of (24) parking spaces for our employees and (2) handicap space with a loading/unloading area near the entrance.

The designated loading and unloading area will accommodate three vans during peak times of staff and client arrival times.

### **PUBLIC SAFETY**

Cole Vocational Services is aware of public safety issues that neighboring business and city officials may have with our type of usage in this commercial/residential area. We currently operate 50 similar facilities throughout California. The programs are located in commercial offices, multi-use office/industrial parks, and retail/commercial locations. We have been successful in providing our services to our clients with no adverse impact on neighboring businesses.

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