

**CITY OF ANTIOCH
PLANNING COMMISSION MINUTES**

**Regular Meeting
6:30 p.m.**

**March 5, 2014
City Council Chambers**

CALL TO ORDER

Vice Chair Motts called the meeting to order at 6:30 p.m. on Wednesday, March 5, 2014, in the City Council Chambers. He stated that 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 decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on Thursday, March 13, 2014.

ROLL CALL

Present: Commissioners Pinto, Miller, Baatrup and Westerman
Vice Chair Motts
Absent: Chair Hinojosa
Staff: Community Development Director, Tina Wehrmeister
City Attorney, Lynn Tracy Nerland
Minutes Clerk, Cheryl Hammers

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

None.

CONSENT CALENDAR

1. **Approval of Minutes:** February 5, 2014

On motion by Vice Chair Westerman, and seconded by Commissioner Miller, the Planning Commission approved the Minutes of February 5, 2014.

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

END OF CONSENT CALENDAR

NEW PUBLIC HEARINGS

2. Steven Geller, on behalf of John Hamm, is appealing the administrative decision to deny the requested home occupation use permit (HOUP) at 5269 Mohican Way (**APN: 055-380-002**).

CDD Wehrmeister provided a summary of the staff report dated February 27, 2014.

Vice Chair Motts asked staff about the weight of the vehicle, mentioned the picture of another similar truck in the neighborhood and asked if staff was concerned that this will open the door to others having larger trucks asking for a variance.

CDD Wehrmeister said that the intent of the Code was to allow standard sized vehicles associated with a business to be parked at a home, and that Code did not provide a provision to allow staff to administratively approve the request. She said that this issue has not come up previously and that they have not approved a tool truck of this size to her knowledge. She said that while this is uncommon and unusual, anyone can come in and make a request, that staff would have to deny them and that they would have to appeal the decision. She said that staff could also start a Code update process to look at this issue in the future.

Commissioner Pinto asked staff about enforcement, if there was a maximum weight limit and if their decision tonight would impact HOA areas in the City.

CDD Wehrmeister said that all enforcement by Code Enforcement would be complaint driven, that resources don't allow pro-active enforcement currently, that if an Ordinance were drafted a maximum would be proposed and that the City does not enforce HOA requirements. She said that if there is an active HOA, they have their own enforcement abilities.

Commissioner Baatrup confirmed with staff that this is a one time variance that does not change the code and that future applicants would have to go through the procedure to pursue because this is not amending the code.

Commissioner Miller clarified with staff that the code pertains to commercial vehicles, that RVs do not fall under the code as they are not commercial vehicles and that RVs are still required under the code to be on an improved surface and behind a fence but that there is no limitation on the size of an RV.

OPEN PUBLIC HEARING

Applicant, Steve Geller on behalf of John Hamm, said that they are asking for a variance, and provided the Planning Commissioners with a packet of information containing pictures of Mr. Hamm's truck, various trailers and RVs in the neighborhood and a petition signed by many of the neighbors of Mr. Ham in support of his application. He said that the City sent a notice to Mr. Hamm that he needed a business license, that he applied for the HOUP where he fulfilled everything, that the only reason it was denied was that his truck exceeds one ton, and that they are asking for a variance. That Mr. Hamm has tools in the truck worth a significant amount, that the intent of the Code is to make sure that the neighborhood remains protected in character and that parking the truck will not change the character of the neighborhood. That the truck is not a safety hazard and that if Mr. Hamm has to park in a storage yard, the truck may

be burglarized. He said that the truck is hidden away and locked and that it is not much different than pickup trucks out there today.

In response to Vice Chair Motts asking about truck yards where semis are stored being unsafe, applicant said that there have been recent burglaries in yards and that Mr. Hamm will be able to keep an eye on the truck if it is in his yard.

Commissioner Pinto confirmed with applicant that pending this appeal that the truck is parked in his yard in violation of the City code.

Chris Dutra, neighbor who also wrote a letter to the Planning Commission, spoke to say that on the side street of Chinook, there are no houses that face that direction and that landscaping was put there by the developer but that John redid his side yard and landscaping which are far superior. He said that he has had several independent truck drivers working for him with basic trucks and trailers, that vandalism happened quite frequently and that with John's truck having equipment inside it becomes a target. That when friends stop by to visit they don't know the truck is there, that it is not an eye sore, that John is the most courteous driver in the neighborhood and that he supports John.

Tom Kelleher said that he has lived across the street since 1997 and that he has been pleased watching John prepare his back yard, redoing his curb, sidewalk, and fence. He said that the truck is unobtrusive and that he supports John 100%.

Kevin Franz, neighbor and neighborhood watch captain, said that they have not heard one complaint from the neighborhood about the truck, that variances should be on a case by case basis, on behalf of everyone he knows this is a non issue in their neighborhood and that he hopes they will consider the variance.

CLOSED PUBLIC HEARING

Commissioner Westerman said that he drove by the house on two occasions, that it is unobtrusive, that you don't really notice it driving down the road unless you are looking for it, that he thinks M. Hamm is running a positive business and thinks the Planning Commission should approve the variance.

Commissioner Pinto asked staff to clarify that these residential streets are designed for this kind of weight. CDD Wehrmeister said that although she does not have the expertise to answer that, the expectation is that there will be delivery trucks such as UPS using streets from time to time and sometimes even semi trucks.

In response to Commissioner Pinto asking about how long commercial and RVs can be in neighborhoods, CDD Wehrmeister said that if they are complying with the Code, they can be stored long term. RVs can park temporarily on the street or in the driveway 72 hours.

In response to Commissioner Pinto's concern with safety issues when the truck is backing up and the liability to the City for an accident, CDD Wehrmeister said that she believes the applicant can speak to line of sight and mirrors but that the driveway itself

received an encroachment permit from the City and that the engineers would not approve if it were too close to the intersection. She said that she would not be able to speak to sight vision for pedestrians.

REOPEN PUBLIC HEARING

Applicant clarified that the road is weight bearing that will support that, that the roadway has very little traffic to worry about and that Mr. Hamm waits until it is clear for him to back in.

Commissioner Westerman clarified with the applicant that there is a backup camera on the truck.

John Hamm thanked the Commission and said that the truck has a back up camera system and a lane change camera system, that he can back up to a foot of an object based on the vision he has with the camera, that he backs in and out of businesses where there are parked cars and people all day long every day and that he can see and hear with his microphone system.

In response to Commissioner Pinto regarding the camera system and noise Mr. Hamm said that you can hear if someone is behind the truck, that his truck is a diesel which is a state of the art clean vehicle, and that he is not the first to leave in the morning or the last to come home in the evenings.

RECLOSE PUBLIC HEARING

Commissioner Baatrup asked staff about noticing requirement to the neighborhood to which CDD Wehrmeister said that there was noticing sent out for this hearing and that when they are able to approve a HOUP administratively, notice to immediate neighbors are sent. She said that no one has protested this HOUP.

Commissioner Baatrup then asked whether Mr. Hamm could locate a bigger and better truck to replace his current one to which CDD Wehrmeister said that the Code does not have an upward limit, that this may be something for the Planning Commission to consider and that the variance resides with the property.

Vice Chair Motts said that he understands the desire to keep the property safe, that Mr. Hamm has done an exemplary job on the driveway, that there are no issues with sight line or neighbors and that the weight is not a problem for City streets. He said that he could recommend that there be an upper limit and he is prepared to support approval of the variance.

Commissioner Pinto expressed concerns with not having an upper limit and said that for him to support we need to establish a not to exceed limit; otherwise it is hard to vote as presented.

Commissioner Miller said that he is also in support of allowing a variance, that specifics of his truck can be included in the motion and if there is concern with larger trucks, can specify in the motion of that type of vehicle.

In response to Vice Chair Motts, CDD Wehrmeister said that she does not have information on the weight for City streets but that she doesn't think that City streets would be impacted by this vehicle with regular usage. She said that dimensions can be put into the conditions to define how large that is and that there are several different ways to define limitations.

Vice Chair Motts said that he is amenable to setting a standard to approve the variance.

REOPEN PUBLIC HEARING

Commissioner Baatrup asked applicant his thoughts given the variance resides with the property approved for his size and that someone could bring in something grander and more intrusive. Mr. Hamm said that he is on board with what he is saying, that in California the maximum load allowed without a permit is 80,000 pounds including residential City streets, that he is not required a special license and his truck weighs about 20,000 pounds with inventory on board, is 30'± long and maximum width just over 8'±. He said that he certainly has no plans to upgrade to a larger truck and is comfortable with defining the vehicle at 26,000 pounds.

RECLOSE PUBLIC HEARING

Commissioner Pinto made a motion to approve the proposed resolution with some conditions. That the vehicle shall not be longer than 30'±, height not to exceed 12'±, and weight fully loaded not to exceed 22,000 pounds.

CA Nerland clarified with Commissioner Pinto that the motion would be to uphold the appeal and approve the variance.

Commissioner Westerman seconded the motion to include the three conditions in the document on the dais, plus conditions on length and dimensions.

RESOLUTION NO. 2014-08

On Motion by Commissioner Pinto and seconded by Commissioner Westerman, the Planning Commission approves the appeal of the home occupation use permit.

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

RESOLUTION NO. 2014-09

On Motion by Commissioner Pinto and seconded by Commissioner Westerman, the Planning Commission approves a variance to park a commercial vehicle over one ton at 5269 Mohican Way, subject to the three conditions contained in the Resolution, and adding:

- 4. That the vehicle shall not be longer than 30'5", height not to exceed 12'6", and weight fully loaded not to exceed 22,000 pounds.***

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

- 3. PD-13-03 .** A.I. Holdings, LLC is proposing to add Retail to the permitted use of an area designated medical/professional office within the Williamson Ranch Plaza. The applicant owns and represents 4851 Lone Tree Way. City staff is recommending that the Planning Commission consider amending the permitted uses for similarly situated properties at 4849, 4847, and 4839 Lone Tree Way. **(APN: 055-011-048, -055, -056, -057).**

CDD, Wehrmeister, provided a summary of the staff report dated February 26, 2014.

Commissioner Baatrup asked staff how this proposal addresses proximity concerns with liquor and tobacco to which CDD Wehrmeister said that the buildings in question would be subject to the allowed use list already adopted for the center, that these buildings are too close to Prewett Park to allow alcohol sales, to establish the permitted uses that we are recommending states that 24 convenience market is a use that requires a Use Permit if they meet criteria and while there are tobacco sales established there in error, they would not be able to relocate there after their lease expires. She said that there is currently an urgency ordinance by City council on smoke shops, that City Council will consider a regular ordinance and that they will look at distance from sensitive areas.

Commissioner Pinto asked staff if we go ahead with this, are we setting ourselves up for future requests and how do we defend if we choose one area and not another to which CDD Wehrmeister said that this is a very unique situation, that she doesn't see that it is going to have a precedence issue in other areas of town and she pointed out that the zone change would not preclude medical office use.

OPENED PUBLIC HEARING

Applicant, Jamie Abhari, owner of the property of almost 5 years, said that they have really tried to lease and that they currently have one tenant. They said that their agent is here, that they are trying to promote business and trying to clean it up; that a zoning change is the last resort and that they are happy to answer questions.

Linda Martin, owner of commercial brokerage in Brentwood, said that she has been under contract to find tenants for a year and a half and that it has been a real struggle with very little demand for office space. She said that she was marketing for retail and office and then discovered it was not an approved use and has not had one inquiry for medical use. That she believes that if zoning could be more flexible that she could possibly find tenants.

In response to Commissioner Pinto, Ms. Martin said that the rate they are offering is below market, that the property owners are very motivated and that there is flexibility.

CLOSED PUBLIC HEARING

Commissioner Baatrup said that he thinks this is a good step forward, that limiting these buildings to just office or medical is not really warranted, and that he is willing to make a motion.

Vice Chair Motts said that he feels like this is the way to go and can support this change.

RESOLUTION NO. 2014-10

On motion by Commissioner Westerman and seconded by Commissioner Baatrup, the Planning Commission recommends to City Council adoption of the ordinance to amend the Williamson Ranch PD standards by eliminating the medical/professional office restriction at 4851, 4849, 4847, and 4839 Lone Tree Way (APNs: 055-011-048, -055, -056, -057).

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

ORAL COMMUNICATIONS

CDD Wehrmeister said that no items are scheduled for March 19th and that the meeting will be cancelled. She said that annexation of Areas 1 and 2b are complete and that they are working through annexation of 2a with LAFCO. She said that coming up for City Council on March 11, will be reviewing and adopting the Dev. Impact Fee and recommendation on the RDA ordinance.

Vice Chair Motts asked staff about the vacant Planning Commission member coming from that area to which CDD Wehrmeister said that the Mayor wanted residents from that area to be able to apply so we can now move forward in filling the vacancy.

Vice Chair Motts said that he attended a meeting today and brought some paperwork to pass on to staff.

WRITTEN COMMUNICATIONS

None.

COMMITTEE REPORTS

None.

ADJOURNMENT

Vice Chair adjourned the Planning Commission at 8:00 p.m.

Respectfully Submitted,
Cheryl Hammers