



***“Vice Chair Hinojosa adjourned the Planning Commission at 6:58 p.m.”***

***And the Minutes of September 9, 2013 with the correction on page two as follows:***

***“Planning Commissioners Present: Chair Virginia Sanderson, Krystal Hinojosa, Kerry Motts, Greg Baatrup and Thomas Westerman.”***

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

### **END OF CONSENT CALENDAR**

### **NEW PUBLIC HEARING**

- 2. UP-13-03 – Panda Express** requests a use permit for a 2,230 sf freestanding restaurant building with a drive-thru that would be located on a 29,622 sf site carved out of the northwest corner of the existing Lowe’s Home Improvement Warehouse Store parking lot, including a request for a Tentative Minor Subdivision Map, a Use Permit and Design Review for the proposed drive-thru restaurant. The project is located north of State Route 4 at the northeastern corner of the intersection of Somersville Road and Mahogany Way (APN 074-370-029). An Initial Study/Mitigated Negative Declaration is also proposed for adoption.

City Attorney Nerland stated that there is a supplemental item on the dais modifying conditions of approval number 15 and 61 for this item and she confirmed with the applicant that it was ok to proceed with this item without an audio recording.

Contract Planner Cindy Gnos provided a summary of the staff report dated October 10, 2013.

Commissioner Pinto asked staff if it is possible to tie some kind of condition to this project that a percentage of the employees are residents of Antioch to which CA Nerland responded that the applicant may want to expand about hiring but that the City’s ability to have an ordinance regarding social policies is limited and that this is certainly not something the City has done previously.

Commissioner Baatrup asked the consultant if she could elaborate on the trash enclosure not meeting the design review conditions to which Ms. Gnos said that guidelines require that the trash enclosure be covered which was not proposed.

Vice Chair Hinojosa asked staff if there was a drain inside the trash enclosure to which SP Gentry said that would be caught in the plan check process; however it was in the Commission’s purview to add it as a condition.

Vice Chair Hinojosa asked if the lack of compliance was due to site constraints to locate the drive thru away from the street frontage, to screen the drive thru by a low wall or vegetation and about the bio swale proposed. The Consultant responded that the bio swale would incorporate the two together with shrubs and a berm and that the wall can be designed for drainage.

Commissioner Baatrup asked if the routing of the drive thru away from the street was due to space issues to which the consultant stated that although the parking lot is big enough, the drive thru locations are existing and that the engineer can explain in detail.

Commissioner Baatrup stated that there is a loss of aesthetic value looking from the road, that perhaps outdoor dining can be put in, and said that he will ask the applicant.

### **OPENED PUBLIC HEARING**

Applicant, Lupe Sandoval, introduced herself as representing Panda Express and said that she could answer any questions.

Commissioner Baatrup questioned applicant about the location of the drive thru being located near the main road instead of the parking lot area. Ms. Sandoval responded that the corner is set by the existing driveway and the existing pylon sign, that this works best with the circulation of Lowes and that they do have a proposed exterior patio with a red canopy.

Commissioner Baatrup stated that it appears hidden where people won't notice it and questioned how much work went into finding a design to meet the conditions given that this is a premier corner and not taking advantage of that.

Commissioner Motts confirmed with the applicant that there are existing Panda Express locations with a drive thru.

Commissioner Pinto asked applicant if architects had looked at turning the building around for the drive thru to be on the inside and the patio on the outside. Ms. Sandoval responded that they would have to go back and look at it to see if that would work; that it is a challenging process negotiating with Lowes.

Commissioner Miller questioned applicant about the proposed landscaping to which Ms. Sandoval stated that the landscaping plan provided is what is proposed.

Vice Chair Hinojosa discussed the site plan showing the subdivision of the parcel with the applicant and clarified that this is the initial layout which was discussed with SP Gentry.

Commissioner Motts confirmed with applicant that traffic flow was the constraint of putting the drive thru in the back.

Commissioner Baatrup clarified with applicant that the north elevation would be the parking lot. Commissioner Baatrup said that the south elevation has the highest volume

of regular traffic, that he does not see that the treatment of the wall is aesthetically pleasing and that he cannot support this type of treatment for this corner. He said that if this were to be brought back, applicant may want to come back with color selections and finishes. He said that the west elevation fronting Somersville Road needs additional treatments as it looks like the back of the building facing a highly traveled road.

Commissioner Miller asked applicant if there were any proposals or thoughts of foregoing the drive thru altogether to which Ms. Sandoval responded that the drive thru was needed.

### **CLOSED PUBLIC HEARING**

Commissioner Motts said that he believes the drive thru is essential, that he is ok with the landscaping and the small wall to block it from public view given different treatments on the wall and the building and other than that he is inclined to be in favor of the project.

Commissioner Baatrup asked staff if the approvals can be broken up to which SP Gentry stated that applicant can be asked if this could be continued to the next hearing on November 6<sup>th</sup>, that the project was presented as one resolution and therefore difficult to carve out and that it would be staff's recommendation to continue to the next hearing.

CA Nerland said that the drive thru is an issue which could affect the map, and if this were continued the City would appreciate as much direction as possible.

Commissioner Baatrup clarified with staff that alternatives to the proposed drive thru were discussed but that applicant did not want to relocate the drive thru and that site circulation and queuing were issues as well.

Vice Chair Hinojosa confirmed with staff that there would be no variance required and the drive thru is proposed to increase the customer base.

Commissioner Pinto asked about the distance from Auto Center Drive to the edge of the curb of the drive thru.

### **REOPENED PUBLIC HEARING**

Rod Scacalosi, Landscape Architect, said that the distance is approximately 18 to 20 feet and on Mahogany 16 feet would be the shortest location. He said that there will be shrubs with minimal berming, that there are existing utility boxes and existing trees, that he can understand why the drive thru is where it is and that this is the best layout.

Commissioner Pinto clarified with applicant that the slope for the sidewalk to the drive thru lane curb is a maximum 3 to 1 slope. Commissioner Pinto said that graffiti is an issue with walls, walls can collapse, he does not favor a tall wall and there may be a solution with changing the types of plants. Applicant responded that increasing the amount of plants could be negotiated with Lowe's.

**RECLOSED PUBLIC HEARING**

Vice Chair Hinojosa asked staff if applicant is given more time for alternate designs, will this affect CEQA and the traffic study if a different layout is a substantial change. SP Gentry said that traffic would change but that hopefully the design is similar and staff can fit the new design into the current CEQA rather than recirculate the document for public comment. She said that for CEQA this would have to be a new significant impact to trigger another review depending on what they propose but that staff would attempt to work with the applicant to not extend timelines.

Commissioner Baatrup said that there are three options available: to approve the resolution as presented with minor changes, to continue to a future date, or to deny the resolution. He asked if there was a sense of timing or concern of which is more desirable.

SP Gentry said that applicant can best answer.

CA Nerland interjected that this is not a recommendation to City Council and if it were denied, it could be appealed to City Council.

**REOPENED PUBLIC HEARING**

Applicant said that she would need to report back to Panda but that most likely a continuance would be best and that she is estimating the time frame to address the concerns to be one to two months.

**RECLOSED PUBLIC HEARING**

Commissioner Motts said that the applicant had a valid concern with reorienting the drive thru, that he is ok with the efforts made to enhance the view and space between the drive thru and Somersville Road, and that a continuance would be ok for some of the other concerns.

Vice Chair Hinojosa thanked applicant and said that she liked the design in terms of scheme and uniqueness with the bamboo. She said that she thinks there could be more treatments to elevations especially fronting major roadways, that she is happy with the addition of the condition for a roof and an independent drain to the trash enclosure and screening of the drive thru with vegetation and a low wall. She said that she is concerned that the Commission is asking the applicant to go back which could affect other documents.

Commissioner Miller stated that he thinks that moving the drive thru is going to break up the flow but possibly Panda can get enough land to move back and that they could get more vegetation.

Commissioner Baatrup said that he is a little concerned that the architect can only limit the berm with constraints they are confronting, that it doesn't meet the guidelines, and

that he would like to see more effort to be consistent with that given that many businesses put drive thrus around the back side of buildings. He said that this is a prominent corner and there are strong reasons why he thinks it should be brought back.

Commissioner Pinto said that he could support this project with the condition that they relocation of the drive thru and moving it away 20 to 25 feet which would improve the visual affect from Auto Center Drive or by improving the landscaping which competitors have done.

Commissioner Baatrup said that he saw a design for a Chick-Fil-A in Fairfield with a double drive thru lane not passing through the front of the building to circulate traffic, and that it can be done.

Vice Chair Hinojosa said that she supports a continuation.

***On motion by Commissioner Baatrup and seconded by Commissioner Pinto, the Planning Commission continued the item to November 20, 2013.***

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

**3. UP-13-07 – Mesa Outdoor** requests the approval of a Use Permit to construct a billboard. The billboard is proposed to be 48 feet in length and 14 feet wide on a 46 foot tall cylindrical column, which would have an overall height of 60 feet from finished grade. The project site is located on the northeast corner of Delta Fair Boulevard and Century Way (APN 074-080-029). The project is exempt from the California Environmental Quality Act.

CA Nerland confirmed with applicant that it was ok to continue without an audio recording.

SP Gentry provided a summary of the staff report dated October 10, 2013.

Commissioner Baatrup clarified with staff that the current zoning is Regional Commercial and there is currently a lease with ABC farms for pumpkins and Christmas trees but there has not been any developers pursuing that parcel, and that any future site designs would incorporate that area into landscaping or a parking area.

Commissioner Pinto clarified with staff that there is no sunset date for installation. SP Gentry went on to say that the use permit is in perpetuity and that if Mesa sells or abandons, the use permit is still valid.

Commissioner Pinto asked that since this is a very long term is there any way for revenue sharing for advertising on this billboard and if the type of advertising would come through the City for approval to which CA Nerland responded that this does have revenue generation abilities in the context of a lease for City Council to consider, that

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there is a mechanism to buy out if conflicting plans appear, and that advertising would be under the purview of a lease not a land issue.

Vice Chair Hinojosa asked staff why the billboard is located where it is so far from the freeway and inset in the parcel to which SP Gentry said that while the applicant is better suited to answer that question, the City does not own the property to the north and that there are certain CalTrans regulations and permit requirements for outdoor displays.

### **OPENED PUBLIC HEARING**

Applicant, Mike McCoy with Mesa Outdoor, said that they are a regional company which started business five years ago and that they have a 30 year draft City lease which has been reviewed by Economic Development and the City Attorney. He said that there is a revenue sharing agreement for \$3,000.00 a month or 25% of the revenue whichever is greater, which will grow over time, and an additional \$100,000.00 construction bonus the City will receive. Mr. McCoy said that there are content restrictions for the sign and that they try to blend the design of the sign in as much as possible with wood skirting and an illuminated sign with solar panels and LED lights. He said that the proposal for 60 feet was due to the 175 foot setback from the freeway and the CalTrans requirement of 500 feet from another sign.

Commissioner Baatrup asked applicant if the sign was going to be illuminated with flashing videos and bright lights or were they are just applying a picture posted onto a large screen illuminated by LED. Mr. McCoy said that this will not be a digital sign but that the sign will be wrapped onto the billboard.

Commissioner Baatrup clarified with applicant that the section in the report referencing conveying information on a daily basis was in error; that they were exploring a digital sign previously and that this was probably left the application materials.

Commissioner Motts asked applicant if the support poles interfere with the seasonal usage to which applicant said that the post is located behind the pumpkin area, and that the lights use one-quarter of the energy which last longer maintenance free.

Commissioner Pinto asked why the applicant chose to not use the portion of the property closer to the freeway requiring the condition to 50 feet to which Mr. McCoy said that while they prefer to locate the sign in the northwestern corner, they must meet the spacing requirement of 500 feet away from the other sign and had to move it further east.

Commissioner Pinto then asked the life span of the wood and how often it would have to have to be maintained to which applicant said that they may need to power wash the sign and refinish the wood every 10 years which would amount to approximately 3 times during the lease.

Vice Chair Hinojosa discussed with applicant the triangular shape being backed in corrugated metal with colors and textures to match the internal support.

Commissioner Pinto clarified with applicant that the 35 foot gap on the Delta Fair side would not have advertising.

**CLOSED PUBLIC HEARING**

Vice Chair Hinojosa asked staff if under the City's code proposing a maximum of 50 feet would a variance be required to which SP Gentry responded that the code allows for 25 feet above the highway, but staff is recommending a little lower similar to Pittsburg.

Vice Chair Hinojosa said that while the location of the sign on the parcel is odd, she understands the constraints, does not have any major problems with it and is inclined to support staff's recommendation of the 50 foot height.

CA Nerland clarified that this motion is pursuant to staff's conditions including the 50 foot height.

**RESOLUTION NO. 2013-14**

***On motion by Commissioner Pinto and seconded by Commissioner Motts, the Planning Commission approves UP-13-07 approving a freeway billboard on the northwest corner of Delta Fair Boulevard and Century Way, subject to all conditions.***

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

- 4. Z-13-06 – The City of Antioch** requests that the Planning Commission recommend adoption of an ordinance amending the zoning code to allow fortunetellers to be permitted by right in certain commercial zoning districts. This ordinance is exempt from the California Environmental Quality Act.

SP Gentry provided a summary of the staff report dated October 10, 2013.

Commissioner Motts confirmed with staff that this is needed for compliance and to reduce the City's legal exposure.

Commissioner Pinto asked how many fortunetelling businesses were in town and if this could be operated from a residence to which SP Gentry said that she is aware of one wanting to locate on Lone Tree Way but no others currently in town, and the use would have to fit into the recommended zoning districts and part of the Home Occupation Use Permit regulations prohibit clients from coming to the residence.

**OPENED PUBLIC HEARING**

No comments.



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**CLOSED PUBLIC HEARING**

No discussion.

**RESOLUTION NO. 2013-15**

***On motion by Commissioner Baatrup and seconded by Commissioner Miller, the Planning Commission recommends that the City Council adopt the ordinance amending the Antioch Municipal Code to permit fortunetellers by right in certain zoning districts (Z-13-06).***

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

- 5. Z-12-02 – The City of Antioch** requests that the Planning Commission recommend adoption of an ordinance establishing zoning regulations for computer gaming and internet access businesses. This ordinance is exempt from the California Environmental Quality Act.

SP Gentry provided a summary of the staff report dated October 10, 2013.

Commissioner Motts asked staff if the Commission was just changing zoning and asked if it is known how other cities are handling this situation.

CA Nerland said that these have been a use that has caused a significant impact on the police and while many cities have been influx on how to deal with these issues and have taken different approaches, Antioch is looking at the middle road.

Commissioner Motts clarified with staff that the proposed usage in C3 zoning is in some of the highest crime areas. Staff clarified C3 zoning is on major arterials in regional retail areas, which draw consumers from beyond Antioch and are also located near freeways, and the desire is not to locate these uses in neighborhood commercial areas.

Commissioner Pinto discussed with the City Attorney incorporating language from the State to be sure applicants know the consequences and what is prohibited. CA Nerland said that there are two places in the Municipal Code that would address this and that the City wants to keep the definition broad.

Commissioner Pinto then asked if as a City can there be a policy for the total number that will be issued to which CA Nerland said that while this is a possibility, zoning is restrictive enough.

Commissioner Pinto asked staff about the 500 foot buffer zone to which CA Nerland said that the 500 foot buffer zone is used with other challenging uses and trying to walk that fine line between respecting first amendment rights and addressing impacts with the businesses in the City.

Commissioner Baatrup stated that he was surprised that there is no one in the audience to weigh in.

CA Nerland said that the two business previously located in Antioch have lost their leases and are no longer located here.

Vice Chair Hinojosa and CA Nerland discussed computer gaming uses being ancillary to other businesses, non-profit definitions and sensitive uses being defined in the Code. CA Nerland said that the actual ordinance language is contained after the staff report.

**OPENED PUBLIC HEARING**

Captain Orman stated that everything had been covered sufficiently.

Commissioner Motts asked Captain Orman if he felt this resolution would help with control to which Captain Orman said that yes, while there is a memo in there with calls for service, it does not capture surrounding impacts at other addresses.

Commissioner Pinto asked staff how Pittsburg is getting away with banning to which CA Nerland said that they have not been challenged yet. She went on to say that if this was not approved that the moratorium would lapse, the City would have no land use regulations, and that the City would have licensing requirements but nothing indicating where these businesses could go.

**CLOSED PUBLIC HEARING**

Commissioner Motts said that this is a good step in the right direction which allows the City more control and that he is in favor of the resolution.

Vice Chair Hinojosa said that she is happy to have an ordinance regulating these things and that she is definitely in support of the ordinance.

Commissioner Pinto said that he is in support as well.

**RESOLUTION NO. 2013-16**

***On motion by Commissioner Pinto and seconded by Commissioner Baatrup, the Planning Commission recommends that the City Council adopt the ordinance establishing regulations for Computer Gaming and Internet Access Businesses (Z-12-02).***

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

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**NEW ITEM**

**6. Election of Chair**

Commissioner Motts nominated Hinojosa and Commissioner Miller seconded the motion.

Vice Chair Hinojosa said that she would like to have a good vice chair due to her traveling.

CA Nerland said that the vice chair can be decided at the next Planning Commission meeting, as well as the appointment of a representative for Transplan.

The Commissioners and staff discussed meetings for December currently being the first and third Wednesday of every month, with meetings scheduled for December 4<sup>th</sup> and 18<sup>th</sup>.

CA Nerland said that she would expect that there would not be a meeting on January 1<sup>st</sup>.

Vice Chair Hinojosa said that she will be out of town on November 20<sup>th</sup>.

**On motion by Commissioner Motts, seconded by Commissioner Miller, the Planning Commission members present appointed Vice Chair Hinojosa as Chair.**

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

**ORAL COMMUNICATIONS**

City Attorney Nerland stated that the City Council approved the Exclusive Parking District ordinance.

SP Gentry said that there is still one vacancy on the Planning Commission and that she will keep the Commission posted.

Vice Chair Hinojosa said that Gil Azevedo was awarded a plaque for his service on Transplan.

**WRITTEN COMMUNICATIONS**

None.

**COMMITTEE REPORTS**

None.

**ADJOURNMENT**

Vice Chair Hinojosa adjourned the Planning Commission at 9:09 p.m.

Respectfully Submitted,  
Cheryl Hammers