

Planning Commission
Regular Meeting
December 11, 2012
Martinez, CA

CALL TO ORDER

Meeting called to order at 7:00 p.m. with all members present except Commissioners Allen, Burt and Kelly, who were excused. Commission Alternate James Blair was also present.

Staff present included Senior Planner Corey Simon, Code Enforcement Inspector Bill Dillard, and Building Department Director Dave Scola.

ROLL CALL

PRESENT: Rachael Ford, Commissioner, Jeffrey Keller, Commissioner, Sigrid Waggener, Commissioner, Kimberley Glover, Commissioner, and James Blair, Commissioner (Alternate).

EXCUSED: None.

ABSENT: None.

AGENDA CHANGES

None.

PUBLIC COMMENT

None.

CONSENT ITEMS

1. [Minutes of November 13, 2012, meeting.](#)

On motion by Jeffrey Keller, Commissioner, seconded by James Blair, Commissioner (Alternate), to approve the Minutes of November 13, 2012, meeting. Motion unanimously passed 5 - 0. Yes: Rachael Ford, Commissioner Jeffrey Keller, Commissioner Sigrid Waggener, Commissioner Kimberley Glover, Commissioner, James Blair, Commissioner (Alternate).

REGULAR ITEMS

2. [Francis Plaza LLC/Taco Bell 12PLN-0019 Public hearing to consider approval of proposed new two-building commercial development, with an approximate 8,000 sq. ft commercial-retail \(ground floor\) and medical office \(second floor\) building, and a freestanding Taco Bell restaurant \(with Drive-thru\) requiring: a\) Use Permit to allow a](#)

drive thru facility and a maximum 44' building height, where a maximum of 30' is normally permitted, and sign program including monument signage over 20 square feet in size and signs on the rear wall (Highway 4 elevation); b) Variances to permit less than the minimum required 15' rear yard and reduced parking lot dimension/loading bay requirements; and c) a 2-lot Tentative Parcel Map; and d) Design Review approval. This project is located at 1124 Arnold Drive. Applicant: Johnson Lyman Architects; Dave Johnson (CS)

Senior Planner Corey Simon presented the staff report, discussing neighboring uses, proposed site plan, background history of the site, requested entitlements, height exception, Design Review approval, rear yard setbacks and other exceptions, and the sign program.

Chair Ford asked about a project further up the street that was previously approved; she expressed concern about traffic impacts. Mr. Simon acknowledged it is a busy street, but he noted that this site is at the crest of the hill so there will be better visibility for left turn maneuvers than at the existing shopping centers; and the number of cars that will be added as a result will be minimal. He also noted that the street will be widened to help with traffic. He confirmed that the City Engineer has seen the plans and indicated his approval.

Applicant Steve Francis discussed the background of the project and why it was being proposed now. He introduced others on the project team also in attendance. He expressed confidence that the project will be an enhancement for the City.

Commissioner Glover asked for further information about ingress and egress to the site, which the applicant provided. Chair Ford confirmed that exiting left will be allowed. She also asked about the number of parking spaces, which the applicant indicated was 57.

Commissioner Glover asked how many empty buildings were currently next door, which Mr. Francis discussed. Chair Ford asked if there were any concerns about finding good tenants, and Mr. Francis said he was confident it would not be a problem. Chair Ford said she thought it was a great project with a good design.

Chair Ford opened and closed the public hearing with no speakers coming forward.

On motion by Jeffrey Keller, Commissioner, seconded by James Blair, Commissioner (Alternate), to approve a proposed new two-building commercial development, with an approximate 8,000 sq. ft commercial-retail (ground floor) and medical office (second floor) building, and a freestanding Taco Bell restaurant (with Drive-thru) requiring: a) Use Permit to allow a drive thru facility and a maximum 44' building height, where a maximum of 30' is normally permitted, and sign program including monument signage over 20 square feet in size and signs on the rear wall (Highway 4 elevation); b) Variances to permit less than the minimum required 15' rear yard and reduced parking lot dimension/loading bay requirements; and c) a 2-lot Tentative Parcel Map; and d) Design Review; including the applicable finding that the project's exempt from CEQA requirements. Motion unanimously passed 5 - 0. Yes: Rachael Ford, Commissioner Jeffrey Keller, Commissioner Sigrid Waggener, Commissioner Kimberley

Glover, Commissioner, James Blair, Commissioner (Alternate).

3. [Richard C. Duncan Citation Appeal hearing for Administrative Citation #130, Case No. 12-2030899, M.M.C. Section 15.040.035 - regarding structures over 6 ½ ft. high or 100 sq. ft. and M.M.C. Section 8.20.101 \(C\) - storage of vehicles on private property \(per letter dated November 20, 1990 to Richard Duncan\) Staff requests the Planning Commission hear an appeal of an Administrative Citation issued to the property owner for structures over 6 ½ ft. high or 100 sq. ft and storage of vehicles on private property located at 1227/1229 Escobar Street. Applicant: Richard Duncan \(BD\)](#)

Chair Ford asked and Mr. Simon confirmed there would be no public comment on this item because it is an appeal of an Administrative Citation, not a land use entitlement.

Code Enforcement Inspector Bill Dillard presented the staff report, including case history, issuance of the Administrative Citation and subsequent appeal by Mr. Duncan. He indicated staff's recommendation is for the Planning Commission to deny the appeal and uphold the Citation that was issued.

In response to a question from Chair Ford, Building Director Dave Scola reviewed the hearing process.

Chair Ford invited Mr. Duncan to present his appeal, including an explanation as to why the structure was put up due to weather conditions and his belief that since this is a temporary structure; it should not be subject to the ordinance or Citation. Mr. Duncan also discussed past correspondence, conditions of approval never agreed to by him, his need for some structure or fence to protect his assets, and he noted that the vehicles on-site are not abandoned, as stated by staff. He expressed concern that he was being singled out for enforcement unfairly.

Commissioner Glover confirmed he would like to keep the structure up until after the end of the rainy season, but not to exceed 180 days.

Chair Ford asked if Mr. Duncan lives at the property, and he said no, but that he maintains an office at the property and that he stores his cars on the property. She also asked how many rental units there were and where the residents parked (he said 3 units, and they park on Escobar Street above). He confirmed that they all (and him) have parking permits for exception to the 2-hour restriction for on-street parking.

Chair Ford expressed concern that the three parking spaces on the site (that are required by code for the multi-family use) are not available for use by his tenants and were instead being used by the landlord to store his personal vehicles. She was also concerned about the length of time that this has been an issue - she thought that only one \$100 fine in 22 years seems reasonable.

Mr. Scola explained that the City only instituted the Code Enforcement policy/process in 2006; prior to that court action would have only been the City's only option. Mr. Duncan discussed the history of the property and his use of it since he bought it.

Chair Ford asked about the number of rental units allowed at the site, and Mr. Duncan said 3 units were allowed and 3 were there. Staff disagreed that the third unit was permitted and stated that only two units are on record.

Chair Ford commented again on the long-standing nature of the issue.

Commissioner Waggener asked whether Mr. Duncan's proposal for a fence would be possible. Mr. Simon explained that building a fence there would block access to the lot and garage from Marina Vista. Mr. Duncan said the fence would have a gate obviously. Mr. Scola stated that having a gate to open/close would present additional traffic safety issues.

Mr. Duncan said his tenants have no problem finding parking on the Escobar Street directly beside the units, which they prefer because of accessibility. Chair Ford said she was concerned that other landlords might use allotted parking for personal use, necessitating increased on-street parking.

Mr. Duncan commented on the long-existing parking situation in the area, noting that some garages are rented out for personal storage rather than for tenants. Mr. Dillard said that did happen, but Code Enforcement was instituted and the garages reinstated to the tenants.

Commissioner Waggener asked staff whether construction of an additional garage might resolve the issue. Mr. Scola said no, because of lot coverage limitations. He also disputed Mr. Duncan's contention that the ordinance does not apply to temporary structures. He stated that building permits are required even for temporary structures: no application was ever submitted, and it would not have been approved.

Commissioner Glover asked about other contact with Mr. Duncan between observance of the situation and issuance of the citation. Mr. Dillard said yes, numerous times. Mr. Duncan reiterated his desire to put up a secure fence to protect his assets from theft or damage.

Commissioner Blair commented that construction of the garage was part of the earlier compromise; yet now there is still an issue.

Commissioner Waggener asked staff if there was any other compromise that could be reached between the City and Mr. Duncan. Mr. Simon said no and explained that the possible reason for requesting a second variance to permit the additional structure would not represent a hardship to the applicant, as the difficulty has been created by the applicant's own use of the existing parking, rather than a limitation created by the lot or structure.

Chair Ford commented that continued storage of personal vehicles has already been allowed; any further requests represent unwarranted favor.

Commission comment:

Chair Ford said her inclination is to support City staff and uphold the Citation. Vice Chair Keller

agreed, noting the situation represents noncompliance with the 1990 COAs.

On motion by James Blair, Commissioner (Alternate), seconded by Rachael Ford, Commissioner, deny the appeal and uphold the Administrative Citation issued. Motion passed 4 - 1. Yes: Rachael Ford, Commissioner Jeffrey Keller, Commissioner Kimberley Glover, Commissioner, James Blair, Commissioner (Alternate), No: Sigrid Waggener, Commissioner, Absent: .

COMMISSION ITEMS

STAFF ITEMS

Staff confirmed there would be no further meetings this year; the fourth Tuesday in Jan (22nd) will be the next meeting. Staff discussed potential agenda items.

Chair Ford commended staff for the code enforcement efforts.

Commissioner Waggener expressed appreciation for staff's confirmation that there were no compromises possible with Mr. Duncan.

Commissioner Blair said he hoped staff is enforcing similar complaints equally. Mr. Scola said code enforcement is complaint-driven, with only one Code Enforcement Officer, Mr. Dillard. Mr. Scola also noted that in the years since the ordinance was instituted there have only been 6 citations issued: others usually comply when a warning notice is given.

COMMUNICATIONS

None.

The meeting was adjourned at 8:07 p.m., to the next meeting, January 22, 2013.

Respectfully submitted

Approved by the Planning Commission
Chairperson

Mary Hougey

Rachael Ford