

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY
City Council Chambers
Regular Meeting - January 20, 2004
7:00 PM

Mayor Pendergrass opened the meeting at 7:00 p.m.

Reverend David Kast led the invocation.

Police Chief Klein led the Pledge of Allegiance.

Present: Councilmember Jerry Blackwelder
Vice-Mayor Mary Ann Kline
Councilmember Craig Hubler
Councilmember Todd Kruper
Mayor David Pendergrass

Staff: Kelly Morgan, City Administrator
Steve Matarazzo, Community Development Director
J.Michael Klein, Police Chief
Jim Heisinger, City Attorney
Stan Kulakow, City Engineer
Charles Pooler, Associate Planner

AGENDA ITEM 4, COMMUNICATIONS:

- A. The additional written communications distributed to the City Council this evening included the staff memo on item 7-C (CUP application) and 7-D (CUP application).
- B. The floor was opened at 7:01 p.m., but there were no oral communications from the public.

AGENDA ITEM 5, CONSENT CALENDAR:

The Consent Agenda consists of routine items for which City Council approval can be taken with a single motion and vote. A Councilmember may request that any item be placed on the Regular Agenda for separate consideration.

- A. There was no discussion of the January 6, 2004 Minutes.
- B. There was no discussion of the Monthly Police Department Report, December 2003 and Five-Year Overview.

- C. There was no discussion of the Monthly Fort Ord Reuse Authority (FORA) Report, January.
- D. There was no discussion of the City **RESOLUTION Authorizing a Contract Extension for Services Relating to Quarterly Investment Reports with Centration Management Advisors and Consultants.** This contract renewal is an ongoing arrangement, and the fee for each quarterly report is \$1,000.
- E. There was no discussion of the Redevelopment Agency **RESOLUTION Approving a Contract Extension with Linda Norwood to Provide Relocation Assistance Services (Relocation Plan) for the South of Tioga Redevelopment Project.** This is a time extension only, the fees remain the same.
- F. There was no discussion of the City **RESOLUTION Rescinding Resolution SC 04-05.** The previous City resolution for the Business of the Year award recipient was incorrect, and a proclamation from the Mayor was prepared and delivered to the Monterey Peninsula Chamber of Commerce. This resolution needs to be formally rescinded.

Motion to approve Consent Calendar was made by Agency/Councilmember Kline, seconded by Councilmember Kruper. AYES: All members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

AGENDA ITEM 6, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR:

No items.

AGENDA ITEM 7, PUBLIC HEARING(S):

[Due to residing within 500' of the project site, Councilmembers Blackwelder, Hubler and Kruper have a conflict of interest and had to draw straws to retain a quorum. As a result of that drawing, Councilmembers Kruper and Blackwelder abstained and left the dais.]

- A. Associate Planner Pooler presented the Conditional Use Permit application by Robert Serrano, general contractor for Motorella & Serrano Development to utilize a commercial building at 431 Ortiz Avenue (APN 011-177-019, 020 and 021) for a building contractor with limited on-site light carpentry and cabinet fabrication for job locations, on-site storage, and office; and corresponding **City RESOLUTION.** The project qualifies as a categorical exemption under State CEQA Guidelines, Section 15301, and is within a non-coastal Planned Mixed-Use zoning district. This property is the old Burkleo Roofing building. The new use is for light manufacturing and storage with accessory office and reception area. On-site manufacturing will be limited to light carpentry and

cabinet fabrication for home construction projects, but most work is performed at the contract job sites. Staff recommends that the dust collector system be required a condition of approval, and that the roll up doors be kept closed when any manufacturing is occurring mitigating a noise nuisance. The fenced yard has adequate area to provide for on-site loading/unloading of materials and equipment. There is adequate parking, and no allocation of water is necessary.

7:05 P.M. Floor Open for Public Comment

ROBERT SERRANO (Applicant): Accepted the conditions as outlined in the application. There was minor discussion of the dust collecting requirements.

7:06 P.M. Floor Closed to Public Comment

Councilmember Kline requested that the application be amended to include staff's condition on the dust collector system.

Motion to approve Resolution by title only, as amended, was made by Councilmember Hubler, seconded by Councilmember Kline. AYES: Councilmembers Kline, Hubler, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Councilmembers Blackwelder, Kruper. Motion carried.

[Councilmembers Blackwelder and Kruper returned to the dais.]

- B. Associate Planner Pooler presented the Conditional Use Permit application by Patrick Randolph of DGAS Inc. to establish a heating and plumbing service in a portion of an existing building at 679 Redwood Avenue (APN 011-194-007 & 008) for light manufacturing, storage and office, and corresponding **City RESOLUTION**. The project qualifies as a categorical exemption under State CEQA Guidelines, Section 15301, and is within a non-coastal Planned Mixed-Use zoning district. This is one of three conditional use permit applications for this building for commercial use. The upper level is a vacant warehouse area and residential dwelling. This plumbing/heating business will use the building for storage, office, and light manufacturing of plenums and duct work for contract jobs. Most of the work is performed at various job sites. This type of service operation qualifies as a Group I use category, therefore no additional water credit needs to be allocated.

The property currently provides parking along the Redwood Avenue frontage, with adequate width for eleven parking spaces for all uses. The applicant's unit requires a minimum of three on-site parking spaces. The parking area is the only space on the property able to accommodate loading/unloading and staff strongly discourages this occurring in the Redwood Avenue right-of-way, with a complete prohibition within Holly Street. Otherwise, all loading/unloading should be confined to either the inside of the unit or the

parking stall in front of the applicant's roll up door. There will be occasional shipments of furnaces and flat metal. This type of service commercial contractor operation of light manufacturing, with the proper restrictions, is compatible with a mixed-use environment.

Street improvements were installed along Holly Street several years back as part of a Redevelopment Agency project. However, the Redwood Avenue frontage of this property does not have adequate street improvements. The driveway apron consists of asphalt up to the concrete parking pavement on the property. The City Engineer stated that the property owner should enter into an Owner Participation Agreement (OPA) for street improvements along the Redwood Avenue frontage of this property, and should also incorporate the concepts discussed in the City's Parking & Urban Design Study.

7:20 P.M. Floor Open to Public Comments

PATRICK RANDOLPH (Applicant): His business has 4-5 vehicles of which two will be parked at the business site. They do have a trailer for used equipment to be disposed that they would like to park on-site. Staff reminded Mr. Randolph that it is a condition of approval to have this type of vehicle inside of the building, not taking up a parking space. Mr. Randolph agrees to the conditions of the use permit.

MR. & MRS. BALBO (Nearby Property/Business Owners): They expressed their concerns about adequate parking for all of these businesses at this address (see agenda items B through D). They also had questions about street improvements. In response, Community Development Director Matarazzo explained the new parking design concept being advocated in the draft Urban Design Plan for the West End district.

7:22 P.M. Floor Closed to Public Comments

City Attorney Heisinger explained the process and need of Owner Participation Agreements of which the new property owner (Nadir Agha) will be a participant. There was a change made to Condition #6 allowing Saturday (no Sunday) business hours of 10:00 to 5:00 p.m.

Motion to approve Resolution by title only, as amended, was made by Councilmember Hubler, seconded by Councilmember Kruper. AYES: All Councilmembers. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

- C. Associate Planner Pooler presented the Conditional Use Permit (CUP) application for Nadir Agha to convert a portion of an existing 2nd floor warehouse area into self storage, located at 679 Redwood Avenue (APN 011-194-007 & 008), and corresponding **City RESOLUTION**. The project

qualifies as a categorical exemption under State CEQA Guidelines, Section 15301, and is within a non-coastal Planned Mixed-Use zoning district. This is one of three CUP applications for this building. The owner intends to convert the warehouse area on the upper level of his building to a self storage space. This conversion will enable enough water credit for a food service business in the 950 sq ft unit on the lower level of the same building, which will be reviewed under a separate application (agenda item 7-D). Before the Water Management District will issue a water permit for the on-site transfer to facilitate the food business, they will need to see a use permit approved by the City for the self storage conversion. Only one parking space is required for this use, and is provided. Due to the nature and scale of this particular use, staff recommends that no signs be allowed for the self storage use as a term of permit approval.

7:40 P.M. Floor Open to Public Comment

LORNA RANDOLPH (Applicant Representative): Most of this proposed storage will be used for Mr. Nadar's personal property, and it is not his intention to rent the space. On behalf of Mr. Nadar, she accepts the conditions of approval.

BRAD PARKER (Manager, Shurgard Storage): He pointed out that they have not rented out all of their storage spaces and was hoping the City Council would not approve yet another large scale storage facility. He was not concerned about this small business, however.

7:42 P.M. Floor Closed to Public Comment

Motion to approve Resolution, by title only, was made by Councilmember Blackwelder, seconded by Councilmember Kline. AYES: All members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

- D. Associate Planner Pooler presented the Conditional Use Permit application by James and Venus Watari (dba Thaiwaiian Noodles & Rice Bowl) to establish a fast food style service within a portion of an existing building located at 679-A Redwood Avenue (APN 011-194-007 & 008), and corresponding **City RESOLUTION**. The business is intended as a food delivery and take out operation with limited on-site seating. The project qualifies as a categorical exemption under State CEQA Guidelines, Section 15301, and is within a non-coastal Planned Mixed-Use zoning district. This is one of three use permit applications for this building. This will be a family business where employees will consist of the applicant's relatives, numbering 3-6 on various work shifts. All food will be served in "to go" containers and there will be no table service other than to maintain a clean establishment. Orders will either be out-call deliveries or self-service customer pickup at the counter. The applicant intends to remove the property's existing chain link fence along the Holly

Street yard creating an outdoor seating area for customers, and will replace the existing roll up door with a typical storefront.

The Zoning Ordinance specifies restaurants provide one parking space for each 2.5 seats. This operation should be restricted to no more than five seats to reflect the two on-site parking spaces available to the applicant. If the applicant desires additional seats, then payment of an annual "parking in-lieu" fee is allowed by the Municipal Code (Chapter 10.12) and is a \$500 fee per parking space each year. Staff anticipates that this business will draw much of its clientele from the surrounding West End commercial area as pedestrian traffic looking for a quick bite during the lunch hour. This type of patronage would fundamentally require less parking than a typical restaurant that seeks to draw customers from a larger area. There is no trash enclosure on this property, however the applicant intends to remove the fenced yard (along Holly Street) to establish an outdoor eating area. As part of final site plan design, the property owner should be required to establish a trash enclosure for all his tenants use and should be located where a portion of the seating area is proposed.

The proposed fast food operation is an intensification of water use over the current Group 1 category associated with this property. The property owner has been working with the Water Management District in creating a method of utilizing existing on-site credits to facilitate the proposed food service. The plan will require the property owner to obtain an approved use permit from the City to convert the 3,900 sq ft commercial warehouse to self-storage use (see Agenda Item 7-C) and provide the City with a copy of the water transfer approval. The permit reflects this and clearly states that the property owner and applicant are not entitled to any additional water credits from the City and/or the Redevelopment Agency. The City Engineer stated that the property owner should enter into an Owner Participation Agreement (OPA) for street improvements along Redwood Avenue.

8:03 P.M. Floor Open to Public Comment

JAMES WATARI (Applicant): He will be renting the residential unit upstairs and would like to count the two spaces for that unit as part of his parking use for his (2) delivery trucks. They will be expecting deliveries to their business between 8:00-10:00 a.m. and 2:00-4:00 p.m. He would like four tables outside with seating up to 20 people and is willing to pay the in-lieu fees for parking.

8:07 P.M. Floor Closed to Public Comment

Community Development Director Matarazzo said that the modifications to the front of the building will be subject to review by the Design Review Committee. An addition was made to Condition #12, Aesthetics.

Motion to approve Resolution by title only, as amended, was made by Councilmember Kruper, seconded by Councilmember Hubler. AYES: All members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

- E. FIRST READING: Ordinance Approving Funding Mechanism for Public Art and Cultural Activities (open hearing discussion - to be referred to Budget Committee) was presented by Community Development Director Matarazzo. To assist in the beautification and revitalization of the West End area of Sand City, it was requested that a funding policy to promote art in public places and cultural events be established. Staff has recommended adding Chapter 21, Art in Public Places and Cultural Activities Supplemental Funding be added to the Municipal Code to facilitate this request. This proposed ordinance is a hybrid between two types of ordinances - one requiring a percentage of a development cost be allocated, the other type requires the legislative body to allocate at least 1% of its capital improvement budget each year to public art and/or cultural programs. This ordinance would require both types of contribution with a flexibility involved in the private development cost option at Council discretion. City Administrator Morgan agreed this would be good for the City, but must be approached cautiously and referenced the current State budget problems that are translating to City budget problems. A sliding scale v. flat rates would be considered as well as contribution caps. Arts Chair Todd Kruper thanked the Mayor for his commitment to the arts. Councilmember Hubler agreed that this concept, even on a small scale, should not be discounted despite the State's budget situation. Comments will be incorporated and the item will be referred to the Budget Committee.

8:10 P.M. Floor Opened to Public Comment

No comments.

8:10 P.M. Floor Closed to Public Comment

This first reading of the ordinance was not considered this evening and will be referred to the Budget Committee.

AGENDA ITEM 8, OLD BUSINESS:

- A. Progress report on Public Works projects, City water project, and other Sand City community programs by City Engineer/Community Development Director/City Administrator. City Engineer Kulakow reported on the pre-construction meeting held last week with Earthworks Paving for the civic center improvements. Grading has been completed for the wall foundation and should be completed over the next couple of weeks. This wall will be identical to the entry sign design. Councilmember Blackwelder expressed concerns of erosion control and undergrounding utilities. Councilmember

Kline reminded staff of safety issues that could occur before the footings are poured. Community Development Director Matarazzo reported on the Coastal Commission review of the City's General Plan. A Local Coastal Plan Amendment (LCPA) will be required to incorporate their comments and/or concerns within the coastal zone portion of the City.

AGENDA ITEM 9, NEW BUSINESS:

- A. City Administrator Morgan presented the City of Cerritos' request for participation in lawsuit against the State of California related to invalidate the preemption of one-quarter cent (1/4¢) of local sales tax as part of the "triple flip" proposal being advanced in the State budget. There are a number of roles the City may play - do nothing, lend the name of the City to the case without cost sharing, or lend the name of the City to the case and commit to sharing in the cost of funding the lawsuit. The cost of the lawsuit and probable appeal is expensive, and staff would consider placing a limit on our financial participation of no more than \$5,000. City Attorney Heisinger agreed that the City could consider a flat rate donation as opposed to a prorated cost. The City Councilmembers concurred that more information is needed before approving any kind of financial donation, but will allow lending our City's name to the lawsuit.
- B. A list of upcoming events/meetings was included in the agenda packet.

AGENDA ITEM 10, CLOSED SESSION:

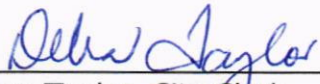
- A. City Council adjourned to Closed Session to confer with legal counsel regarding existing litigation pursuant to §54956.9(a) of the Ralph M. Brown Act (3 cases) -
 - (1) CalAm Water v. Seaside, Sand City et al (Monterey County Superior Court Case No. M66343)
 - (2) Security National Guaranty, Inc. (Case No. 03-55847-NM)
 - (3) Coos County v. Department of the Interior (U.S.D.C. Case No. 02 CV 6128 HO)
- B. City Council adjourned to Closed Session to confer with legal counsel regarding existing litigation pursuant to §54956.9(c) of the Ralph M. Brown Act (1 case) - possible initiation of litigation.
- C. Readjourned to Open Session to report any action taken at the conclusion of Closed Session in accordance with §54957.1 of the Ralph M. Brown Act.
 - A (1): *CalAm Water v. Seaside, Sand City et al (Monterey County Superior Court Case No. M66343)* - it was agreed to authorize Sand City to join in cross complaint.
 - A (2): *Security National Guaranty, Inc. (Case No. 03-55847-NM)* - information only, no action taken.

A (3): *Coos County v. Department of the Interior (U.S.D.C. Case No. 02 CV 6128 HO)* - information only, no action taken.

B. No action taken.

AGENDA ITEM 11, ADJOURNMENT:

- A. Motion to adjourn was made by Councilmember Hubler, seconded by Councilmember Kruper, to the next regularly scheduled City Council meeting on February 3, 2004, 7:00 p.m. There was unanimous consensus of the Council to adjourn at 8:55 p.m.



Debra Taylor, City Clerk