

CITY OF BUENA PARK
MINUTES OF CITY PLANNING COMMISSION
March 11, 2015

The regular meeting of the Planning Commission of the City of Buena Park convened at 7:00 p.m. on March 11, 2015, in the City Council Chamber, 6650 Beach Boulevard, Buena Park, California with Chair Chung presiding.

PRESENT: COMMISSIONERS: Barstow, Capelle, Diep, Gonzales, McGuire, Schoales, and Chung

ALSO PRESENT:

Joel W. Rosen, AICP, Community Development Director
Jay Saltzberg, Planning Manager
Nabil Henein, Assistant City Engineer
Craig Fox, Deputy City Attorney
Ruth Santos, Senior Administrative Assistant

1. APPROVAL OF MINUTES Meeting of February 25, 2015

RECOMMENDED ACTION: Approve

Commissioner Gonzales moved, and Commissioner Capelle seconded, the motion to approve this item.

AYES: 7 COMMISSIONERS: Gonzales, Capelle, Barstow, Diep, McGuire, Schoales, and Chung

NOES: 0 COMMISSIONER:

ABSENT: 0 COMMISSIONER:

ABSTAIN: 0 COMMISSIONER:

PUBLIC HEARING:

NEW BUSINESS:

2. CONDITIONAL USE PERMIT NO. CU15-003

A request to establish a grocery store with sale of alcoholic beverages for off-site consumption and exterior building modifications at 8351 La Palma within the CR (Regional Commercial) zone. A Mitigated Negative Declaration (MND) was approved for the development and operation of the commercial center as part of the original entitlement in July 2001. This project is Class 1, Section 15301, categorically exempt from CEQA.

PROPERTY OWNER: Coventry II Buena Park Place
1 East 52nd Street, 4th Floor
New York, New York 10022

APPLICANT: Matthew Baca, Aldi, Inc.
1770 Iowa Avenue, Suite 240
Riverside, CA 92507

RECOMMENDED ACTION: Adopt Resolution of Approval

In reply to Chair Chung, Ms. Santos stated that had received no written communication on the item.

The staff report was presented by Jay Saltzberg, Planning Manager. The proposed location is zoned CR (Regional Commercial) and developed with the integrated Buena Park Place shopping center which includes Kohl's Department Store, Petsmart, Michael's, Dollar Tree, the former Toys-R-Us building, and other retail stores. The building proposed for grocery store occupancy is vacant but was previously occupied by Office Depot.

Properties to the north are zoned PD (Planned Development) and developed with single family homes. Properties to the east and south are zoned CR and developed commercially. Property to the west is zoned RS-6 (Single Family Residential) and developed with single family homes and Dysinger School.

Staff recommends that the Planning Commission adopt the attached Resolution approving Conditional Use Permit No. CU15-003, including findings of fact and conditions.

The project site is part of the integrated retail center located across from the Buena Park Mall which was approved as "Buena Park Place" by the Planning Commission in 2001 for a 175,264 sq. ft. multi-tenant center to include shared parking, access, circulation, and landscape. As approved, "Buena Park Place" included the 86,584 sq. ft. Kohl's building, 20,000 sq. ft. of restaurant space along La Palma Avenue, and 68,680 sq. ft. of in-line retail space attached to the previous Circuit City electronics and appliances store, recently operating as Toys-R-Us. The in-line retail space was developed into three separate tenant spaces designed for single purpose retailers with individual attached loading docks along the north side of the tenant spaces. The development includes a 10 ft. tall decorative block perimeter wall with screening trees and dense landscape buffer adjacent to residential development to the north. The 10 ft. wall was required as a mitigation measure for the Mitigated Negative Declaration adopted in 2001 when the property developed, per Mitigation Measure N-3 Operational Noise Impacts (attached).

Based on the unique characteristics of the proposal for the regional scale integrated commercial development, a shared parking study was approved for the overall site development. The parking study substantiated that the 1,166 total parking spaces proposed for the development would be adequate to serve the project.

The submitted application, plans, and business proposal are for an approximately 18,120 sq. ft. Aldi supermarket which includes a 2,580 sq. ft. addition to the 15,340 sq. ft. former Office Depot tenant space. Aldi is a full service grocery store that sells fresh produce, meats, baked goods, and household goods, as well as beer and wine for off-site consumption. Operating since 1976, with more than 1,300 stores in 32 states, primarily on the east coast and in the mid-west, Aldi's is now expanding to California. Aldi's emphasizes their private-label brands focusing on quality and reduced price. Proposed store hours of operation are 9:00 a.m. to 9:00 p.m. daily, with unrestricted loading dock hours of operation.

Aldi stores receive approximately 15-20 truck deliveries per week. Five to six of the weekly deliveries are at night with one late night delivery per day. Each delivery takes approximately one to two hours to unload. A total of twenty employees are anticipated with three to six employees per shift.

Exterior and interior architectural enhancements are proposed to provide a contemporary building design. New exterior improvements will include stacked stone veneer accent columns with decorative metal panels and cornice. A 502 sq. ft. 44 in. tall decorative block cart storage area with capacity for 96 shopping carts will be added adjacent to the store entrance. A 2,580 sq. ft. addition to the rear of the building is proposed to provide additional enclosed area for inventory intake, staging, and organizing prior to distribution to the sales floor. Five parking spaces will be eliminated to accommodate the addition. The existing recessed loading dock bay door with associated adjacent 9ft. tall loading dock screen wall will remain at the north side of the building. Trucks will continue to back into the loading dock to allow off-loading of merchandise from the rear of truck trailers directly into the enclosed building. The loading dock door opening will be modified to include sealed rubber gaskets to minimize noise from off-loading. All deliveries will be from trucks owned and operated by Aldi.

Beer and wine for off-site consumption will be offered as an additional grocery store amenity. Sale of beer and wine will be sold only from a 27 ft. by 7 ft. display in the northwest portion of the building, furthest away from the store entrance.

The applicant submitted an updated shared parking analysis for the shopping center in order to determine whether the amount of parking to be provided for the integrated development is sufficient to support the proposed 2,580 sq. ft. addition to the grocery store. The applicant also submitted a noise study to evaluate the potential for impact on the adjacent residents to the north from the loading dock activities and to determine appropriate methods to address potential impacts.

City staff and the applicant held a community meeting on February 12, 2015, with invitations mailed to 90 property owners within a 300 ft. radius of the property, to discuss the proposed grocery store operation. One adjacent property owner attended who expressed general support for the proposal but was concerned about potential for late night and early morning noise associated with loading dock operation.

The City Zoning Code requires Planning Commission review of the proposal for a grocery store, including building expansion, with sale of beer and wine via the Conditional Use Permit process. Staff has reviewed the applicant's request and plans, as well as the parking and noise studies, and feels that operation of the grocery store with sale of beer and wine for off-site consumption can be accommodated, as proposed within the expanded building, in a manner consistent with adjacent similar retail operations without negatively impacting adjacent residential properties. As conditioned, the scale and intensity of the grocery store operation will be generally consistent with the surrounding commercial center and compatible with adjacent single family homes. The building was originally occupied by an office supply store without documented problems for the property or impacts on adjacent residential development.

As proposed, the sale of beer and wine for off-site consumption is considered to be an appropriate complementary amenity in conjunction with operation of the grocery store. Sale of beer and wine for off-site consumption as incidental to grocery store operation has not

been a problem in supermarkets previously approved to sell beer and wine for off-site consumption.

The proposed grocery store use and performance characteristics are consistent with area zoning and adjacent retail businesses, as conditioned. Store hours will be consistent with adjacent commercial tenants and with similar previously approved grocery stores adjacent to residential properties.

Aldi proposes unrestricted operating hours for the loading dock in order to ensure the freshest produce. A noise impact analysis for the proposed loading dock operations associated with the supermarket was prepared by Eilar Associates, Inc. The attached noise analysis was conducted to determine whether late night/early morning loading dock activities would adversely affect adjacent residents. As recommended by the noise analysis, operating conditions are included to control potential for annoyance noise associated with loading dock operations, including prohibiting truck back-up beepers, operation of refrigeration units, and truck idling. Deliveries are only from trucks owned and operated by Aldi. Therefore, Aldi has greater control over timing and method of truck deliveries.

Recommended conditions of approval include a requirement to enable residents to immediately communicate with store management regarding noise and other operational issues and to ensure accountability and responsiveness during the initial operating period. In addition, a proposed condition of approval for staff review of the supermarket operation 30 days after commencement of operation with a report to the Planning Commission regarding supermarket operation six months after commencement will ensure continued compatibility with the adjacent residential neighborhood.

Regarding the parking study prepared to address additional parking required by the proposed 2,580 sq. ft. addition to the rear of the store, the added area consists primarily of expansion of the existing shipping/receiving area. The minimal amount of proposed additional square footage provides additional enclosed area for merchandise intake, organizing, and staging and will not create demand for additional parking. Staff is of the opinion that the parking study update submitted by the applicant substantiates that the overall parking supply is adequate to address the total site parking demand, including deletion of five spaces to accommodate the building addition.

Based on the required conditions and site design features, including screen walls, landscape buffer, and operating requirements, the proposed grocery store with beer and wine sales as an associated amenity is considered to be compatible in context with the existing commercial center and with adjacent residential development. There will be continued compliance with the mitigation measures of the Mitigated Negative Declaration for the commercial center, with loading dock area operations requirements to minimize potential noise impacts on adjacent residents, as identified by the noise impact analysis prepared for this proposal.

As proposed, the shopping cart containment approach combines the new approximately 502 sq. ft. 3 ft. 8 inches tall decorative block enclosure adjacent to the front entrance to the store with the cart rental system used at all Aldi locations. Instead of the conventional grocery cart containment strategy of cart corrals dispersed in the adjacent parking lot and monitored by employees, Aldi's provides a single enclosed area for carts next to the store entrance. Carts remain locked until release to customers after a \$.25 deposit. When carts are returned to the designated area, the deposit is returned to the customer. According to

Aldi, this cart rental and return process is in effect and successful in all of their stores in the United States and Europe.

Staff considers the proposed exterior building enhancements, improvements to be an appropriate contemporary design compatible with the overall design of the surrounding retail center.

Staff has included a condition within the attached resolution requiring that sale of beer and wine for off-site consumption shall comply with conditions and restrictions of the State of California. Any significant expansion or modification of the proposed grocery store would require Planning Commission review and approval via the Conditional Use Permit process.

The Buena Park Police Department submitted a memorandum dated February 17, 2015 which indicates no objection to the proposed grocery store or the request for the sale of alcohol for off-site consumption.

A Mitigated Negative Declaration (MND) was approved for the development and operation of the commercial center as part of the original entitlement in July 2001. The MND included requirements for specific mitigation measures for site development and future operations, including sound attenuation for loading activities by sound walls adjacent to residential zones, with required wall height. The project is Class 1, Section 15301, categorically exempt from CEQA.

Notice of public hearing was posted at City Hall, the Buena Park Library, and Ehlers Community Recreation Center on February 26, 2015, and 90 notices were mailed to property owners within a 300 ft. radius of the subject property on February 26, 2015.

Chair Chung asked if there were any questions of staff.

Commissioner Diep asked for clarification on the five parking spaces to be eliminated.

Mr. Saltzberg said the deletion of five parking spaces will accommodate the building addition. He added that the parking study update submitted by the applicant confirms that the overall parking supply is adequate to address the total site parking demand.

Commissioner Gonzales asked, and staff confirmed, that back-up beepers and refrigeration units can be regulated via on and off switches.

Commissioner Schoales asked if delivery trucks are required to have back-up beepers.

Mr. Saltzberg said that Aldi trucks include beepers that may be switched off.

Commissioner Capelle asked about the adjacent businesses' operating hours for loading docks.

Mr. Saltzberg said night deliveries are not common for adjacent businesses, with the exception of Toys R Us where there are seasonal night deliveries.

Mr. Rosen said there are currently no restrictions on loading dock operating hours.

Chair Chung stated that this is a public hearing. If there is anyone wishing to speak on the item, please come forward and state their name and address for the record.

Matthew Baca, Aldi, Inc., applicant, 1770 Iowa Avenue, Suite 240, Riverside, CA 92507, described Aldi as a full-service grocery store that sells fish produce, meats, baked goods, household items, and beer and wine. Aldi has high-quality private-label brands that are reasonably priced. Aldi has operated since 1976 and now has almost 1400 stores in 32 states. The Buena Park location would be among the first California Aldi supermarkets to open.

Commissioner Capelle expressed concern about unrestricted delivery hours because of the noise generated by delivery trucks.

Mr. Baca said the proposed unrestricted loading dock operating hours will ensure the freshest produce possible. He estimates 15 to 20 truck deliveries per week, with 5 to 6 of the deliveries to occur at night.

In response to Commissioner Diep, Mr. Baca said deliveries are only by Aldi trucks with Aldi employees, with one truck per store, from the Moreno Valley warehouse and back, in order to maximize efficiency.

Commissioner McGuire asked, and Mr. Baca confirmed, about whether the truck refrigeration unit, which generates noise, is turned off while unloading and while the back door is open.

Commissioner McGuire asked if the refrigeration units can remain off until the truck exits the area.

Mr. Baca said it is possible to keep the refrigeration units off until the truck exits the area.

Dale Bakke, 48 Centerstone Circle, Buena Park, CA, said she has been a resident in the area adjacent to the proposed project for about 14 years. She said Robert Dutter, Buena Park Mall Operations Manager, always immediately responds to residents' complaints about noise generated by truck deliveries in the business area. Ms. Bakke expressed concerns about noise, potential for vagrants wandering by the store, and the resulting decrease in residential property values.

David Bakke, 48 Centerstone Circle, Buena Park, CA, expressed concerns about loitering and noise coming from delivery trucks, especially on summer nights when residents usually keep their windows open.

Larissa Stoicesco, 52 Centerstone Circle, Buena Park, CA, said she has lived in the area for 7 years in a home across from the loading dock, and she is concerned about noise. Ms. Stoicesco said noise from delivery trucks had kept her up on certain nights. Ms. Stoicesco presented a petition from adjacent residents, with 27 signatures, requesting that truck deliveries be prohibited between 10:00 p.m. and 7:00 a.m.

Amy Hool, Eilar Associates, Inc., said her noise consulting firm was hired by Aldi, Inc. to conduct a noise study using a site-specific model to assess noise at a similar site for a similar use. She reported the noise study showed that noise level at the property would have a less than significant impact and would be in compliance with the Municipal Code.

In response to Commissioner Gonzales, Ms. Hool confirmed that the truck back-up beeper was operating during the noise study and that beeper noise had a less than significant impact, based on the city noise ordinance.

In response to Commissioner Schoales, Mr. Rosen confirmed that there are currently no restrictions on late night/early morning truck delivery hours in the area.

Commissioner Schoales asked if a noise study was done when the area was rebuilt in 2001, when the housing tract adjacent to the commercial center was approved.

Mr. Rosen said a noise study was conducted at that time and the resulting Negative Declaration mitigation measures included a requirement for the 10 ft. tall wall on the shared property line with adjacent single family homes.

Commissioner Schoales commented that having a grocery store on the other side of a block wall from a residential tract is not unique in the City. He then asked if there are complaints received from residential tracts with situations similar to the one described.

Mr. Rosen said there were a few occasions when restrictions were imposed on certain commercial establishments in order to resolve complaints received from adjacent residents.

Robert Dutter, Mall Operations Manager, said when he first assumed management of site operations eight years ago, there were complaints from adjacent residents about truck operations; however, through efficient communication with the neighbors and the stores, the number of complaints has decreased significantly in the past two years. Mr. Dutter said he observed the operations of an Aldi store in Chicago, talked with store management, and is impressed with the store's efficient and compatible operations.

There being no one else wishing to speak on the matter, Chair Chung closed the public hearing and advised that the item requires a Resolution for approval or denial with findings.

Commissioner Capelle moved, and Commissioner Barstow seconded, the motion to adopt the Resolution approving Conditional Use Permit No. CU15-003 with findings of fact and conditions therein and with added conditions allowing a maximum of one truck delivery per night, between 10:00 p.m. and 7:00 a.m., and that refrigeration units be turned off before the truck enters the area to the rear of the store and the refrigeration units not be reactivated until the truck exits the area.

**RESOLUTION NO. 5949
CONDITIONAL USE PERMIT NO. CU15-003**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BUENA PARK APPROVING A REQUEST FOR ISSUANCE OF CONDITIONAL USE PERMIT NO. CU15-003 TO ESTABLISH A GROCERY STORE WITH SALE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION AND EXTERIOR BUILDING MODIFICATIONS INCLUDING A 2,580 SQUARE FOOT ADDITION AT 8351 LA PALMA AVENUE WITHIN THE CR (REGIONAL COMMERCIAL) ZONE, AND MAKING FINDINGS IN SUPPORT THEREOF

AYES: 7 COMMISSIONERS: Capelle, Barstow, Diep, Gonzales, McGuire,
Schoales, and Chung
NOES: 0 COMMISSIONER:
ABSENT: 0 COMMISSIONER:
ABSTAIN: 0 COMMISSIONER:

ORAL COMMUNICATIONS:

None

AGENDA FORECAST:

1. Proposed Orchard Supply Hardware store at 8351 La Palma
2. Request for General Plan Conformity Report - Fullerton Creek Channel

STAFF REPORTS:

Mr. Rosen reported on City Council approval of the Purchase and Sale Agreement for the former Best Inn property on Beach Boulevard.

COMMISSION REPORTS:

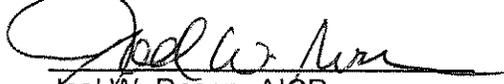
None

ADJOURNMENT:

At 7:55 p.m., Chair Chung adjourned the meeting to the Planning Commission meeting on Wednesday, March 25, 2015, in the City Council Chamber.


for Jae Joon Chung
Chair

ATTEST:


Joel W. Rosen, AICP
Secretary