

# MINUTES

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## REGULAR MEETING OF THE LANCASTER PLANNING COMMISSION September 21, 2020

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*In response to Governor's Executive Order N-29-20, this meeting was conducted telephonically and audio streamed live via Zoom on Channel 28 and the City's website. All votes were taken by roll call.*

### **CALL TO ORDER**

Chairman Vose called the regular meeting to order at 5:01 p.m.

### **INVOCATION**

Chairman Vose.

### **PLEDGE OF ALLEGIANCE**

Commissioner Tufts.

### **ROLL CALL**

Present: Cook, Harvey, Parris, Smith, Tufts, and Vose.

Absent: Moore.

Also present were Community Development Manager (Larissa De La Cruz), Assistant City Attorney (Jocelyn Corbett), Senior Planner (Jocelyn Swain), City Engineer (Trolis Niebla), Planner (Cynthia Campana), Planner (Monique Garibay), Planner (Mitzi Alvarado), Community Development Technician (Nathalie Carrillo), and Recording Secretary (Danielle Winter).

### **PUBLIC BUSINESS FROM THE FLOOR - AGENDIZED ITEMS**

No emailed comments or public speakers. Chairman Vose stated the Commission had received uncontested letters, which are correspondence from the applicant stating whether they agree or disagree with the proposed conditions. The Commission received an uncontested letter for Agenda Items #3-5.

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**MINUTES**

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**1. Approval of Regular Meeting Minutes of July 20, 2020**

Vice Chair Smith made a motion, and Commissioner Moore seconded the motion for the approval of the minutes for the Regular Meeting on July 20, 2020.

The motioned carried with the following vote of (6-0-0-0-1):

AYES: Cook, Harvey, Parris, Smith, Tufts, and Vose.  
NOES: None.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: Moore.

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**CONTINUED PUBLIC HEARINGS**

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**2. Conditional Use Permit No. 17-19**

Senior Planner, Jocelyn Swain, informed the Commission that the applicant had requested for the item be continued indefinitely as the applicant is still working on their site plans. Staff will bring the item back to the Commission when it is ready.

Chairman Vose asked if there were any emailed comments or callers from the public on the call who wished to speak. There were no comments or callers.

Commissioner Harvey made a motion, and Commissioner Parris seconded the motion to continue Conditional Use Permit No. 17-19 to a date uncertain.

The motioned carried with the following vote of (6-0-0-0-1):

AYES: Cook, Harvey, Parris, Smith, Tufts, and Vose.  
NOES: None.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: Moore.

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**NEW PUBLIC HEARINGS**

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**3. Conditional Use Permit No. 20-01**

Planner, Monique Garibay, presented the staff report. The project's representative, Adan Madrid, was available for questions. Chairman Vose asked if there were any emailed comments or callers from the public on the call who wished to speak. There were no comments or callers. An uncontested letter has been received from the applicant.

The project's representative, Adan Madrid from ASI Development, spoke on behalf of the applicant, 7 Eleven, for the project. Adan stated that he understood the Commissioner may have concerns regarding the sale of alcohol request. He stated the older commercial building will be replaced by a new building which will include updated architectural features. The proposed 7 Eleven does not represent a detrimental over concentration of like uses in the area. It will give residents and commuters an alternative location to purchase fuel, food, beer, and wine. The sale of beer and wine is essential to the viability of the store. Not being able to sell beer and wine would put 7 Eleven at a disadvantage to the Circle K in the nearby area. The proposed project would fill a niche that only the Circle K nearby is currently filling. The project is located at the intersection of two major arterial streets. Adan asked why they would allow one gas station the sale of beer and wine and not another competitor. He stated the site is not located within 300 feet of a religious assembly, day care, or residentially-designated property. It is also not located within 1,000 feet of a public or private school. It is only located within 500 feet of the Circle K gas station. The tenant is willing to invest several million dollars to redevelop the corner.

Commissioner Tufts asked what specific niche 7 Eleven fills that no other similar use projects have. Adan replied that the Circle K mobile gas station fills a niche within the immediate area, in that, it is the only gas station in that area with the ability to sell beer and wine. They cater to different types of customers than the customers entering a grocery store. He believes that they would be a competitor to Circle K and would like the same opportunity to serve that niche. Adan stated it is common to have more than one gas station at a hard commercial corner.

Commissioner Parris asked for clarification regarding the niche that 7 Eleven fills and stated that 7 Eleven is not unique to the location since there are similar projects in that location, but they fill the same type of niche or category in which they operate. Adan agreed.

Commissioner Cook asked if there are any specialty foods or items that are offered that Arco, Chevron, Circle K, and others do not. Adan responded that he cannot speak to the product offerings of the other gas stations, but 7 Eleven is gravitating towards offering more healthy options such as fresh fruit, salads, and protein shakes. 7 Eleven has a robust supply chain and can cater to the needs of their locations.

Commissioner Parris asked if the property owner is also the 7 Eleven owner. Adan responded that 7 Eleven has entered into a lease agreement with the property owner and will develop the property. They will then enter an agreement with a franchisee to operate the store. The franchisee is not the property owner at this location.

Chairman Vose confirmed the Commissioners had received Adan's thirteen-page comment letter outlining what he had previously stated for the project. Chairman Vose stated that the Lancaster Municipal Code 1742-060 requires a finding of convenience and necessity. Five gas station/mini marts are located within a mile of the proposed site location. Chairman Vose asked how they justify the over concentration of gas station/mini marts in that area. Adan replied that he responded to the required findings of that section of the code in the comprehensive list he provided to the Commission. He believes that upon reading the findings, the Commission may agree that the findings can be made for convenience and necessity.

Chairman Vose asked how they justify the over concentration of gas/station mini marts in that area. By adding 7 Eleven, they would now have six locations. Adan asked that the Commission consider that they made the findings for the Circle K across the street, which is also within the minimum distance requirements from residential properties. The 7 Eleven proposed project location is not. Adan responded that the subject property is located in census tract no. 9008.05 which is authorized by the State Department of Alcoholic Beverage Control (ABC) to have three (3) licensed off-sale establishments and there are currently six (6) off-sale licenses within the tract. However, the nearest existing off-sale license within the same census tract is located over ½ mile to the east and the next nearest existing off-sale license is located 1 mile to the northeast on 10th Street W. The remaining existing off-sale licenses are also located a minimum distance of 1 mile from the subject property. The recently constructed Circle-K mini-mart and fueling service station and the Walgreens located across the street are the nearest two (2) licensed off-sale establishments to the site irrespective of census tract boundaries. The Walgreens, which is no longer in business, is an “incidental off-sale alcoholic beverage establishment” and the Circle-K mini-mart and fueling service station is the only other use of its kind within the general vicinity. The proposed 7 Eleven mini-mart and fueling service station does not represent a detrimental over-concentration of like uses in the area, but rather will be complementary to the existing commercial uses in the area and will give residents and commuters an alternative location to purchase fuel, convenience products, and alcoholic beverages.

Chairman Vose stated that Commissioner Parris raised the question about the niche market. Chairman Vose asked what niche market they intend to serve. Adan responded they are customers who are fueling their vehicles and may want to walk in to the convenience store to purchase convenience products or wine and beer. The niche is only being served by Circle K in that location.

Vice Chair Smith mentioned that Adan had brought up Circle K in the discussion many times. She said the project was approved in 2017, but saying that because the Commission approved that project, they should do the same for the 7 Eleven could have a domino effect, if say, another gas station/mini mart wanted to establish their project in the same area. She wants to look at each project individually and not because a similar project was approved.

Adan asked if the Commission had a concern that the proposed project was detrimental to the public health, safety, and welfare. He asked if the other use across the street has demonstrated to be problematic. He stated the sale of beer and wine is incidental to the store’s product offering. The alcohol shelf space is limited to 3.5%, yet they need to be able to offer that to their customers. He asked if the project will create a public safety issue.

Vice Chair Smith believes that it is more of an over-saturation and goes back to the necessity of the services that will be provided. She would personally love to see the old building knocked down and a new one in its place, but her concern is about the use.

Commissioner Parris asked for clarification regarding what the applicant is requesting. He stated the applicant is requesting an opportunity to compete with the businesses in the surrounding area that are in the same industry. Aden responded yes, but it is more than that. He said 7 Eleven has identified the commercial corner as a viable location for a gas station and convenience store. They are willing to make the investment to redevelop the property. In order for that project to be

successful and to have an equal playing field with its competitors, it needs to have the ability to sell beer and wine. Commissioner Parris stated the idea to compete makes sense.

Chairman Vose asked Adan to define the market that they anticipate as there are probably thirty-five gasoline dispensing facilities in the area. He asked if they would be capturing a portion of the other competitor's business. Adan responded that the subject property is on two major arterial streets near the 14 Freeway. He is not privvy to the discussions of the potential locations for developments. However, 7 Eleven does not embark on these endeavours lightly. They do the market analysis and determine if the operation would be successful.

Chairman Vose stated there is a finite volume of gasoline sales to be captured within the community. His concern is three-fold. First, the arterial streets would be covered by six same use facilities if 7 Eleven is added. Second, there is an over concentration of alcoholic beverage sales in that marketplace, and he cannot make a finding that the project will not create an over concentration. Third, the necessity is defined by the unique product offering that 7 Eleven would provide, and he cannot see a unique product offering.

Commissioner Parris asked if Chairman Vose's issue is with the gas and not the sale of alcohol. Chairman Vose stated yes, the sale of the product as it impacts the other marketers and the potential deterioration of their business opportunities, niche market issues, and the over concentration of alcohol sales. Adan responded that at the root of every concern of the sale of alcohol is the concern of ill effects on the public. He stated the proposed project is nowhere near a residential property or school, and it is not uncommon to have that many gas stations in an area, especially if an area is experiencing growth.

Commissioner Parris had a question for staff regarding gas stations. He asked what the revenue a gas station would bring to Lancaster would be. Community Development Manager, Larissa De La Cruz, stated that while she did not have exact numbers, gas stations do bring a significant amount of revenue compared to a traditional commercial development such as retail stores or food establishments. Commissioner Parris asked if it is a top three revenue generator. Larissa responded that it is a top five. She also pointed out that they have not received any applications for the project site location in years.

Vice Chair Smith stated that it makes sense that gas stations are large revenue generators, however, if another gas station is added, the customer base would be shared. It does not mean people would buy more gas. She does not believe it would bring more revenue, but it would just spread it across the gas stations. Commissioner Parris believes that we should keep the revenue in Lancaster and not Kern County by allowing the gas station to intersect the commuters.

Chairman Vose pointed out that the turning movements and availability of fuel on Avenue J is not limited to just the Circle K. There are more opportunities further west. He believes they have an obligation to be fair and even handed with any applicant. They do not pick the sites or applications. They also have an obligation to marketers currently established in the community and are attempting to stay in business. The revenue generated from sales tax on the gas stations is much less than it has been in the past.

Larissa De La Cruz reminded the Commission to vote according to the ability to make or not make the findings. The discussions of the market and revenue generators are not on the list of findings that need to be made.

Commissioner Cook asked if 7 Eleven would still move forward with the project if the sale of alcohol was denied. Adan responded that he would need to take the decision back to 7 Eleven for discussion. However, he believes they would walk away from the project should they not be able to sell beer and wine.

Commissioner Parris made a motion, and Commissioner Cook seconded the motion to deny Conditional Use Permit No. 20-01 to allow for the construction and operation of a fueling canopy island in conjunction with a mini-mart (7 Eleven) allowing for the sale of beer and wine for off-site consumption (Type 20 California Department of Alcoholic Beverage Control (ABC) license) with a waiver from the distance requirements and adopting a Notice of Exemption.

The motioned carried with the following vote of (1-5-0-0-1):

AYES: Parris.  
NOES: Cook, Harvey, Smith, Tufts, and Vose.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: Moore.

Chairman Vose reminded Adan that he has the option to appeal the Commission's decision within ten days. The process requires a formal application to the City Clerk's office. Staff will coordinate with the applicant regarding when the project can be scheduled for an appeal.

#### **4. Tentative Tract Map No. 61118 (Time Extension)**

Since there were no emailed comments or public speakers, a staff report was not requested to be heard, Chairman Vose closed the public hearing.

Commissioner Harvey made a motion, and Commissioner Harvey seconded the motion to adopt Resolution No. 20-19, granting a two-year extension to September 19, 2022, for Tentative Tract Map No. 61118 for a 33 single-family lot subdivision in the R-7,000 zone.

The motioned carried with the following vote of (6-0-0-0-1):

AYES: Cook, Harvey, Parris, Smith, Tufts, and Vose.  
NOES: None.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: Moore.

**5. Tentative Tract Map No. 61733 (Time Extension)**

Since there were no emailed comments or public speakers, a staff report was not requested to be heard, Chairman Vose closed the public hearing.

Commissioner Cook made a motion, and Vice Chair Smith seconded the motion to adopt Resolution No. 20-20, granting a three-year time extension to August 28, 2023, for Tentative Tract Map No. 61733 for the subdivision of 18 single-family lots in the Semi-Rural Residential (SRR) zone.

The motioned carried with the following vote of (6-0-0-0-1):

- AYES: Cook, Harvey, Parris, Smith, Tufts, and Vose.
- NOES: None.
- ABSTAIN: None.
- RECUSED: None.
- ABSENT: Moore.

**COMMUNITY DEVELOPMENT MANAGER’S ANNOUNCEMENTS**

None.

**COMMISSION AGENDA**

None.

**PUBLIC BUSINESS FROM THE FLOOR – NON-AGENDIZED ITEMS**

No emailed comments or public speakers.

**ADJOURNMENT**

Chairman Vose declared the meeting adjourned at 6:20 p.m. to the Special Meeting on Monday, October 12, 2020, at 4:30 p.m., in Lancaster City Hall.

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JAMES VOSE, Chairman  
Lancaster Planning Commission

ATTEST:

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DANIELLE WINTER, Recording Secretary  
City of Lancaster