

**REGULAR MEETING MINUTES
SAN RAFAEL PLANNING COMMISSION
DECEMBER 11, 2007**

ROLL

APPROVED

Commissioners Present: Chair Colin, Vice Chair Kirchmann, Lang,
Mills, Paul, Sonnet

Commissioners Absent: Pick

Community Development: Raffi Boloyan, Principal Planner
Steve Stafford, Assistant Planner
Linda Jackson, Principal Planner

AGENDA

CONSENT CALENDAR

RECOMMENDED ACTION

1. Minutes, November 27, 2007

PUBLIC HEARINGS

2. **740 Francisco Blvd. West (Nissan dealership)** – Request for Environmental and Design Review, Use Permit and Sign Program to remodel an existing dealership and operate a new auto franchise; APN: 013-041-47, 48 & ptn. 29; Francisco Blvd. West Commercial Zone (FBWC); Peter Sonnen, applicant; Francisco Blvd. West Investors, LLC, owner; Case Nos.: ED07-0069, UP07-039, SR07-070.
Project Planner: Katie Korzun
Environmentally Review: Categorically Exempt
3. **780 Anderson Drive (Truckworld USA)** – Request to amend an Environmental and Design Review Permit and a Use Permit to allow landscaping improvements and legalization of a motor vehicle sales greater than 5 at an existing used truck sales lot; APN: 018-013-05; General Commercial (GC) District; Wayne Batmale, owner; Kit Silverman, applicant; File Nos.: ED07-030; UP07-14. (*Continued from November 27, 2007 meeting*)
Project Planner: Steve Stafford
Environmental Review Categorically Exempt

DISCUSSION ITEMS

DIRECTOR'S REPORT

COMMISSION COMMUNICATIONS

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PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

AYES: Commissioners: Chair Colin, Vice Chair Kirchmann, Lang, Mills, Paul, Sonnet

NOES: Commissioners: None

ABSENT: Commissioners: Pick

PUBLIC NOTIFICATION OF MEETING PROCEDURES

Chair Colin explained for the benefit of the audience the Public Hearing procedures to be followed.

URGENT COMMUNICATIONS - None

CONSENT CALENDAR

1. Minutes, November 27, 2007

The Commission noted a few modifications to the minutes of November 27, 2007.

Chair Colin asked for a motion.

Commissioner Paul moved and Commissioner Mills seconded, to approve the November 27, 2007 minutes as amended. Motion carried unanimously. 6-0. Pick absent.

AYES: Commissioners: Paul, Mills, Chair Colin, Kirchmann, Lang, Sonnet

NOES: Commissioners: None

ABSENT: Commissioners: Pick

ABSTAIN: Commissioners: None

PUBLIC HEARINGS

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Project Planner: Katie Korzun

Environmentally Review: Categorically Exempt

Commissioner Paul moved and Commissioner Sonnet seconded, to continue the matter to the January 28, 2008 Planning Commission meeting. Motion carried unanimously. 6-0. Pick absent.

AYES: Commissioners: Paul, Sonnet, Chair Colin, Kirchmann, Lang, Mills
NOES: Commissioners: None
ABSENT: Commissioners: Pick
ABSTAIN: Commissioners: None

3. **780 Anderson Drive (Truckworld USA)** – Request to amend an Environmental and Design Review Permit and a Use Permit to allow landscaping improvements and legalization of a motor vehicle sales greater than 5 at an existing used truck sales lot; APN: 018-013-05; General Commercial (GC) District; Wayne Batmale, owner; Kit Silverman, applicant; File Nos.: ED07-030; UP07-14. *(Continued from November 27, 2007 meeting)*
Project Planner: Steve Stafford
Environmental Review Categorically Exempt

Steve Stafford, Assistant Planner, summarized the staff report and recommended that the Commission adopt the draft resolution approving the Use Permit Amendment and the Environmental and Design Review Permit to allow motor vehicles sales up to 22 trucks displayed or stored at any time and landscape enhancements at 780 Andersen Drive.

Pete Peterson, landscape architect, explained that Truckworld has been part of the San Rafael business community for many years. The City and the Police Department have been past clients. They have been moving trucks and utility vehicles for a long time. They are asking for an increase in their display area due to the changing needs of the commercial truck business. Bio diesel trucks are now necessary for their clientele and it is important to have enough vehicles onsite to have a thriving business. This part of San Rafael is in a transitional state in some way, but very much a place to have these kinds of uses. They think they have made positive steps forward to amend and improve the property. They further agree with staff's ongoing recommendations after the DRB approval.

Chair Colin opened the public comment on this item, and seeing no one wishing to speak, the Chair closed the public portion and brought the matter back to the Commission for discussion and action.

Commissioner Mills wondered if native plants would be used. Mr. Peterson responded in the affirmative. He explained that a mix of ornamentals and natives would be used. They chose the palette proposed because it is a particularly tough environment and they must have plants that can thrive in such an environment. The trees are more governed by the seasonal change, so they propose trees with those attributes. For the most part, they are

looking for low water use and natives are part of the plant palette.

Commissioner Mills asked that the pre-emergent herbicide not be used. Mr. Peterson stated that there is no City ordinance governing that request, but if preferred by the Commission they had no objection to taking that herbicide out of the specification.

Commissioner Mills discussed the irrigation system and asked if in line emitters would be used in regard to water conservation. Mr. Peterson explained that the microchip spray emitters are sort of a “catch all” in the event good coverage is not provided with the drip system. He indicated that it is designed as a drip irrigation system and the microchip spray emitters are provided in the event specific spot irrigation fails. He further noted that MMWD embraced and approved their plan.

Commissioner Sonnet asked if SMART was contacted relative to the measure passing on the ballot in regard to the train and whether the land would be needed. Mr. Peterson believed it would just run on the berm. He has no specifics in that regard. Kirt Silverman, applicant, had concerns when he approached SMART about their landscaping plan, but he was informed that there will be a bicycle path and the railroad none of which seems to impact his property.

Commissioner Sonnet asked what percentage of sales are the bio diesel or green vehicles. Mr. Silverman noted that in the past two years it has increased. He estimated of the diesel sales probably 40%, so it is nice to have a selection.

Commissioner Mills asked the number of employees. Mr. Silverman responded that there are three employees. Commissioner Mills asked how they arrived with the number of 22. Mr. Silverman indicated that 22 is the number of vehicles that is economically viable for his business to survive in Marin. He desired more vehicles, but tapered it down to have a nice blend of plants and vehicles. Commissioner Mills understands that the site is permitted for five vehicles. Mr. Silverman agreed. Originally they had a permit for five, but as they expanded they decided to go for a larger use permit, which is the reason he is before the Commission tonight. Commissioner Mills asked if they could survive with less vehicles. Mr. Silverman originally wanted 35 vehicles. They eliminated several vehicles already, which is all they sell. There is no other income other than vehicle sales. With the cost of advertising, it is nice to have somewhat of a selection of vehicles. He further noted that it would be very difficult to reduce that number of vehicles and maintain a thriving business in Marin.

Commissioner Paul clarified that the Use Permit was for five vehicles along with required landscaping, which was never installed. Mr. Silverman agreed. They went back and forth in regard to the location of landscaping. It is a difficult site. The City has taken a good part of Andersen and it took awhile to develop a concept of where all the plants could be located and how many spaces he must give up to provide landscaping. They provided some off site landscaping across from Office Depot. They have been keeping the weeds down, but they decided to plant another 400 sq. ft. along Office Depot at the very end. Commissioner Paul asked the nature of the agreement with SMART. Mr.

Silverman responded that they pay for the use of that easement. SMART seems to think that the train and bicycle path will not impact his business. It is quite an old area that has improved. He explained that he has a lessee, but technically if that every goes away they must come back to the Planning Commission. He believed it is six months or a one-year lease. He contacted to SMART several times because he had to receive permission to landscape, so he feels comfortable that his business is okay, but that can change at anytime.

Commissioner Paul asked the kind of trucks at this facility. Mr. Silverman stated mostly passenger pickups. 80% to 90% are diesel. He is the only independent dealer in Marin to purchase such vehicles.

Commissioner Paul asked if employee parking is provided. Mr. Silverman pointed out that one of his employees does not own a vehicle. At times they do not have the full amount of display vehicles, so they will use that area for employee parking or employees park off site on county land. It is a small business and if it starts to get compacted they park off site.

Commissioner Paul asked how people travel in and out of the site. Mr. Silverman explained that customers come in from the east and west on both corners of the lot. Both directly off Andersen and Thrifty Car Rental is a shared driveway.

Commissioner Paul discussed spaces 1 to 5 and 6 to 12 that seem to be smaller than spaces 13 to 22. Mr. Silverman explained that not every vehicle is the same size. Some are smaller and some are larger vehicles and that is the reason for the different sizes. There is not a constant display of the same size vehicles.

Commissioner Kirchmann clarified that City policy is to prohibit elevated display of vehicles. Planner Stafford responded in the affirmative. Staff included explicitly that “*no elevated presentation of any motor vehicles onsite,*” which is Condition No. 7 under the “Environmental and Design Review Permit.” Staff agreed to be more specific and state, “*no motor vehicle display racks allowed onsite whatsoever.*” Also, Condition No. 1 and No. 2 are duplicates under “Design Review.” Staff made a correction and with administrative staff they have it here tonight for signature, so it would be Condition No. 8. Staff’s intention was to make it clear that the landscape islands were to be used for landscape islands. Commissioner Lang suggested adding language about vehicle display racks with the preceding condition that talks about displaying vehicles on the roof.

Commissioner Mills pointed out a typo in “Item A” on page 2 under 2b that should state, “*It will protect, strengthen and diversify...*” Also, when she drove out of this site she was looking at incoming traffic from Highway 101. There was a constant red light and asked staff if it is possible to have a “*right turn only*” sign under that red light, so a person exiting will know that it is “right turn only” to avoid a dangerous situation. Principal Planner Boloyan clarified that the sign should be on the light pole itself located on the island. Commissioner Mills concurred. Principal Planner Boloyan agreed to investigate with Public Works.

Commissioner Paul discussed Condition No. 2 and asked staff if any language is included about the applicant's agreement or easement with Thrifty Car Rental to allow egress and ingress. Planner Stafford responded that both properties are under general ownership. Staff noted that the adjacent parcel is under ownership as the subject site. There are two parcels with one owner that could be sold separately. Commissioner Paul wanted to ensure that Truckworld still has rights to use that driveway for egress and ingress. Planner Stafford agreed to craft a condition in that regard. Mr. Silverman pointed out that it states specifically in his lease that as long as Truckworld is located in that area it will maintain a shared driveway. So if Thrifty Car Rental is sold to a new owner they must honor that shared driveway.

Commissioner Mills believed this project is coming in below minimum standards on a number of counts. The minimum aisle width concerns her because this project only has 12 feet, not 12 feet 6-inches. When she visited the site it was very tight driving through the site. This project, because it has too many display vehicles, forces this parallel parking of four vehicles. The project is asking to legalize a display of more than five vehicles to 22 and she feels that increase is too great for this site. Planner Stafford noted that the City's Traffic and Parking Engineer reviewed, as did San Rafael's Fire Department as to whether appropriate and sufficient amount of drive aisle width is provided, and it came back as being appropriate from the City's standpoint. They agreed that it would be acceptable under the circumstances and overall enhancing a challenging lot.

Commissioner Mills suggested that the four parallel parking spaces be moved so that area is completely for circulation. She suggested that the 22 display vehicles be reduced to 16 to allow for three employee parking spaces and four customer parking spaces.

Commissioner Paul is troubled by this proposal. It is rather difficult to maneuver, particularly for customers. He is concerned that there is no parking for employee's onsite. There should be some attempt to provide employee parking onsite. He understands the owners need to have the variety of trucks, but wondered if they all need to be out on the street and displayed. Maybe the SMART right-of-way could be used to display trucks or onsite parking, so they can at least be accessed by customers and shown by sales staff and then provide customer parking more conveniently along with employee parking. He desired more landscaping because Andersen Drive has fairly nice landscaping until this location. This is the entrance gateway to Andersen Drive as one exits the freeway. He desired more landscaping. If nothing else, parking spaces 3, 4 and 5 could be pushed back into the right-of-way and the entire triangle could be landscaped. It would be nice to have landscaping at the property line to have some landscaping where parking spaces 17 and 22 are shown, so there is some division between Thrifty Car Rental and Truckworld. There is a lot of paving at the SMART right-of-way, so that area could be used more efficiently. In regard to lighting levels, there are some hot spots and wanted those reduced. He desired shielded lights and that the lighting be toned down to 250 watts rather than 400 watts and relocated to avoid hot spots on Andersen Drive as well as reduce to less than 30 foot-candles.

Commissioner Lang believed this is a challenging site and the landscaping designer has improved it tremendously. DRB approved and appropriate City departments reviewed and found no issue with circulation, layout or the design and she did not want to revisit any of those decisions. She is prepared to support staff's recommendation and resolution as presented.

Commissioner Kirchmann is in favor of revising the conditions to make it clear that all vehicles are to be displayed on grade only, not on racks or other means of elevation. He is intrigued by Commissioner Paul's comments. The current layout uses a large percentage of the site for a drive aisle along the building and there is no great need to drive-through that area, so there are a lot of opportunities to reconfigure the site plan, which could yield both employee parking onsite, customer parking that might work better and possibly even additional display spaces. He would be inclined to continue the matter to give the applicant an opportunity to rethink the site plan to maximize the site. He liked the idea of adding landscaping as discussed. He did not have a strong opinion on the herbicide. He believed a "right turn lane" is useful. He agreed the lighting levels must be reduced as Commissioner Paul indicated. He suggested adding a condition to continue the legal right to continue the shared driveway with Thrifty Car Rental.

Commissioner Sonnet agreed to continue the matter to rethink the configuration. It is a very difficult site and probably not a lot of opportunities to make use of this odd shaped site. He thinks the plan as drawn is an improvement and wanted to maintain a thriving business on this site.

Chair Colin agreed it is a difficult site, but believed this project works. It is a good business and felt it is located in an appropriate area of the City. She thought the site was interesting and clean. Adding vegetation is wonderful since it is a highly industrial area. She would approve as presented. She noted that DRB unanimously approved the landscaping plan. She did not want to diminish any spaces. Sending the matter back to DRB will not change the project because they already approved the project as presented. She wanted the project to move forward.

Mr. Silverman spent about eight or nine months reviewing this site. He pointed out that the Commission must understand that the berm is very challenging. He is making it work. Being a small dealership, they do not have a tremendous amount of customers and are happy to get one or two per day. It is a nice looking facility and those four spaces can be used for employee parking, but they are flexible. Individuals are not coming and going like Whole Foods. He would love to stay in San Rafael. He has a 21-year history. He further agreed that it is not the best configuration, but it works.

Commissioner Mills supports local businesses and appreciates the landscaping, but her concern is the health and safety of the employees and customers. She desired those four parking spaces moved. Mr. Silverman challenges anyone to find all four of those parking spaces used at once. He needs 22 in order to have a thriving business. He pointed out that DRB approved. He cannot make the lot any bigger. It is what it is. The lot was empty for

a long time and he has done a lot of work and as far as the lighting, he is in an area where the railroad tracks are right behind him. Before those lights, he was being vandalized and burglarized. Lighting is very important and needed for security.

Chair Colin did not know what other business would survive in this area. It appears to be a well-run business. She understands that it is not the perfect configuration, but in reality, given the situation, she is willing to take the trade offs of driving slower and having the lighting brighter.

Commissioner Lang felt the applicant demonstrated that their business has been pushed to its limit and it is time for the Commission to approve as presented.

Planner Stafford added that staff worked extensively to find a great balance on this site. Staff pushed for landscaping. The existing building meets the required parking and only four spaces are required. There is an opportunity to eliminate the off site enhancements along the west side and have that area used for employee parking or more display areas. This is a very challenging site and the improvements made were substantial. They provided landscaping improvements and this was the very best solution staff could develop. Staff felt in the end, the compromises made were appropriate and would enhance the City's visual appearance overall. Staff further believed the additional landscaping made much more of a presence than parking.

Commissioner Paul stated, for example, along the right-of-way add four or five more spaces still keeping the 12-foot lane and place customer parking off the Thrifty lot. He believed there are possibilities that have not been explored and desired more parking and landscaping. He suggested tandem parking for displayed vehicles. He wanted to avoid a problematic configuration. He further recommended a continuance to allow the opportunity for the applicant to rework the configuration and provide more landscaping. Commissioner Mills agreed.

Commissioner Lang directed staff to work with the applicant to review the possibility of the triple tandem approach at the right hand side to provide more street side landscaping. Planner Stafford explained that staff does not work independently. It is done through the City's Traffic and Parking Engineer, so it would require review and approval.

Commissioner Paul wanted to make parking spaces 3, 4 and 5 tandem parking. Unless the owner has an objection. Mr. Silverman explained that it would be difficult to exit. Adequate backup space is not provided with tandem parking. They explored more display spaces, but landscaping must be lost. They added this extra 400 sq. ft. across from Office Depot and they understand the shuffling, but the berm impacts the site. He further noted that the site configuration works.

Chair Colin asked for a motion.

Commissioner Mills moved and Commissioner Paul seconded, to continue the matter to allow the applicant an opportunity to work through the parking issues.

Chair Colin opposed a continuance.

Motion failed. 2-4. Chair Colin, Kirchmann, Lang and Sonnet opposed.

Commissioner Lang moved and Commissioner Sonnet seconded, to adopt the Resolution approving the Environmental and Design Review Permit and Use Permit Amendment with the renumbering of the Conditions of Approval; eliminating any elevated display of vehicles; adding a condition requiring a legal right to continue to use the shared driveway with Thrifty Car Rental.

Principal Planner Boloyan noted for the record that the Resolution includes a condition that requires reorienting of one of the building lights and shielded of all light fixtures. Staff pointed out that reduced lighting levels from 400 watts to 200 watts was not included in the Resolution. Commissioner Lang clarified that the motion includes relocation, so just as drafted by staff. Commissioner Kirchmann believed the lighting levels are on the higher side.

Commissioner Mills asked about the “*right turn only*” sign. Commissioner Lang explained that is part of Public Works, not the applicant. Principal Planner Boloyan understands the situation and will follow-up with the Traffic Coordinating Committee.

Commissioner Lang reiterated that staff would work with the applicant to look for better ways to configure the parking and vehicle display to enhance landscaping. If the right-of-way is readily available and reasonably priced to provide additional landscaping that is acceptable to the Commission. Principal Planner Boloyan clarified that the additional landscape is the triangular sliver to the west about five feet. Commission agreed.

Commissioner Mills cannot accept the findings and will vote against the motion.

Motion passed 4-2. Paul and Mills opposed. Pick absent.

AYES:	Commissioners:	Lang, Sonnet, Chair Colin, Kirchmann
NOES:	Commissioners:	Paul, Mills
ABSENT:	Commissioners:	Pick
ABSTAIN:	Commissioners:	None

DISCUSSION ITEMS

4. Presentation of 2007 Design Awards Winners

Linda Jackson, Principal Planner, provided the Commission with a powerpoint presentation of the City of San Rafael’s 2007 Design Review Awards for their consideration that included the following:

- 5000 Civic Center Drive
- 900 C Street

- 33 Merrydale
- 515 Northgate
- 1637 Fifth Avenue
- 7 & 11 Mark Drive
- 50 Cresta Drive

5. Designation of Design Review Board Liaisons for 2008

Principal Planner Boloyan provided the Commission with a sheet to designate their DRB liaison dates for 2008.

6. Items for Discussion at January 15, 2008 meeting

- Have DRB Liaison provide input first
- Rebuttal must be addressed
- Revisit new policy of saving all questions to end of public hearing
- Revisit procedures

DIRECTOR'S REPORT

Principal Planner Boloyan reminded the Commission about the Planning Commission class on February 8th in Sacramento and to contact staff if interested in attending. Staff noted that last night Council swore in two new Council Members. Also, the new City Attorney and City Clerk were sworn in last night. They have taken office and will be serving for the next four years.

Principal Planner Boloyan noted that 33 San Pablo was reviewed by the DRB at their December 4th meeting. The Board found revisions the applicant made since the Planning Commission last reviewed adequate and found the massing had greatly improved. They still have concerns and desired more details in building materials, colors and different features. The Board wanted to review again before making a recommendation. A few Board members had concerns about the height and asked for further clarification and depiction from both the applicant and staff to review and determine if consistent with the Uniform Building Code. The applicant will prepare exhibits that the Building Official will review and then make a determination of the height. It is a very difficult height measurement, so that will go back to the DRB. It is scheduled for DRB on January 8th and then the matter will come back to the Planning Commission in early February for follow-up review. Also, the appeal was put on hold since it is premature because the Planning Commission made no formal decision.

Commissioner Sonnet was the liaison at that DRB meeting and he characterized the meeting as having a lot of dissent about how height was measured and this project will need to be rethought.

Principal Planner Boloyan announced that the December 26th meeting has been canceled, so the next meeting is scheduled for January 15th, 2008.

COMMISSIONER COMMUNICATIONS - None

ADJOURNMENT

By order of the Chair, the meeting adjourned at 8:52 pm.

Respectfully submitted,
Jessica Woods, Recording Secretary