



**DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Planning Staff

**SUBJECT: Conditional Use Permit Case No. 06-CUP-007 and Sign Permit Case No. 06-SP-037
(Danari Oak Creek, LLC)**

DATE: March 6, 2008

BACKGROUND AND DISCUSSION

On December 6, 2007, and February 21, 2008, the Planning Commission held a public hearing for Danari Oak Creek, LLC's request for a Conditional Use Permit to construct the Shops at Oak Creek project, consisting of five (5) detached buildings totaling 33,680 square feet in size for retail and restaurant use. The applicant also requested a Sign Permit for approval of the project's proposed sign program. The project site is located on 5.7 acres of vacant land on the north side of Canwood Street, east of Kanan Road, and west of Clareton Drive (28941-29145 Canwood Street).

During the February 21, 2008 public hearing, the applicant requested the Planning Commission take final action on the Conditional Use Permit and Sign Permit requests. Based on their review of the project plans as submitted, and the oral and written testimony received during the public hearings, the Planning Commission voted 3-0 to direct staff to return for adoption a draft Resolution of denial for the requests. Chair O'Meara was absent from the hearing and Commissioner Nouzille recused herself from participating in the hearing due to a conflict of interest.

A draft Resolution of denial is attached for the Commission's review and adoption. Staff would note that the decision of the Planning Commission is final unless it is appealed to the City Council.

RECOMMENDATION

Based on direction given on February 21, 2008, staff recommends the Planning Commission adopt a motion to deny Conditional Use Permit Case No. 06-CUP-007 and Sign Permit Case No. 06-SP-037, based on the findings of the draft Resolution.

ATTACHMENT

- Draft Resolution of Denial No. 926
- Draft Minutes of the February 21, 2008 Planning Commission Meeting
- February 21, 2008 Staff Report

DRAFT RESOLUTION NO. 926

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
DENYING CONDITIONAL USE PERMIT CASE NO. 06-CUP-007
AND SIGN PERMIT CASE NO. 06-SP-037

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY
FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Danari Oak Creek, LLC, with respect to the real property located at 28941-29145 Canwood Street (Assessor's Parcel Nos. 2048-011-(049-053) and 2048-011-061), requesting approval of a Conditional Use Permit to construct five detached buildings totaling 33,680 square feet in size for retail and restaurant use, and requesting approval of a Sign Permit for the project's sign program. Public hearings were duly held on December 6, 2007, and February 21, 2008, at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearings was duly given.

Section II. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearings.

Section III. Pursuant to Sections 9673.2.E and 9655.5 of the Agoura Hills Zoning Ordinance, the Planning Commission finds that:

A. The proposed use is not consistent with the objectives and provisions of the Zoning Ordinance and the purposes of the land use district in which the use is located. Zoning Ordinance Section 9301.G identifies one of the purposes of the commercial zoning districts is to use and promote open spaces and landscaping to create a visually pleasing environment. Also, Zoning Ordinance Section 9303.1.B calls for the placement of buildings to provide the most aesthetic public views. The proposed site plan is not consistent with the purposes and design criteria of the commercial zoning districts in that the orientation and the placement of the buildings do not allow for sufficient public access, views and interaction with the most aesthetic natural features of the site that include Medea Creek and an existing oak tree.

B. The proposed use is not compatible with the surrounding properties. The proposed site plan is not designed to reduce conflicts between vehicular and pedestrian traffic, as called for in Zoning Ordinance Section 9303.C. The lack of on-site pedestrian connections between the east and west ends of the project site, as well as the lack of enhanced pedestrian connections with neighboring residential and commercial uses, results in a potentially avoidable demand for vehicular circulation within the project site.

C. The proposed use is not consistent with the goals, objectives and policies of the General Plan. The project design does not maintain and enhance community identity and development quality for the City and its neighborhoods, as called for as Goal No. 2 of the General Plan Land Use Element. The site planning of the buildings and proposed exterior spaces do not favorably consider features that are of a human scale and do not sufficiently encourage pedestrian activity. Also, the site plan does not incorporate sufficient areas of open space in the development project, including pedestrian spaces, sidewalks and usable open space to maintain a sense of openness in developed areas, as called for in Policies 2.7 and 2.8 of the General Plan Land Use Element. In addition, the orientation of the buildings on the proposed site plan does not maintain an awareness of the City's natural environmental setting, specifically Medea Creek and on-site oak tree, as called for in Policy 1.3 of the General Plan Community Design Element.

D. The request for a sign permit for the project sign program is incomplete. Zoning Ordinance Section 9655.5.B requires the application to include the proposed design, size, exact colors, materials and location of the signs or sign structures. The design details for specific tenant signage was not included with the application and the building structures on which the signs are proposed to be situated are not approved.

Section IV. Based on the aforementioned findings, the Planning Commission hereby denies Conditional Use Permit Case No. 06-CUP-007, and Sign Permit Case No. 06-SP-037, with respect to the property described in Section I hereof.

Section V. Any interested party may appeal this decision to the City Council pursuant to Sections 9804.5 and 9804.6 of the Agoura Hills Municipal Code. Section 1094.6 of the California Code of Procedure governs the time within which judicial review, if available, of the Planning Commission's decision must be sought, unless a shorter time is provided by other applicable law.

PASSED, APPROVED, and ADOPTED this 6th day of March, 2008, by the following vote to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Curtis Zacuto, Vice Chairperson

ATTEST:

Doug Hooper, Secretary



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

**MINUTES OF THE REGULAR SCHEDULED MEETING OF
THE PLANNING COMMISSION
February 21, 2008**

CALL TO ORDER:

Vice Chair Zacuto called the meeting to order at 6:32 p.m.

FLAG SALUTE:

Commissioner Rishoff

ROLL CALL:

Vice Chair Curtis Zacuto, Commissioners Illece Buckley Weber, Cyrena Nouzille, and Steve Rishoff. Chair John O'Meara was absent.

Also present were Director of Planning and Community Development Mike Kamino, Assistant Community Development Director Doug Hooper, Senior Civil Engineer Jay Patel, Associate Planner Valerie Darbouze, Oak Tree and Landscape Consultant Ann Burroughs and Recording Secretary Sheila Keckhut.

DISCUSSION ITEM NO. 5 WAS MOVED TO THE FIRST ITEM ON AGENDA

COMMISSIONER NOUZILLE RECUSED HERSELF FROM ITEMS NO. 3 AND NO. 4 OF THE AGENDA DUE TO CONFLICTS OF INTEREST

APPROVAL OF MINUTES:

Amended Minutes – January 17, 2008 Planning Commission Meeting

On a motion by Commissioner Rishoff, seconded by Commissioner Buckley Weber, the Planning Commission moved to approve the Amended Minutes of the January 17, 2008 Planning Commission Meeting. Motion carried 4-0. Chair O'Meara was absent.

Amended Minutes – February 7, 2008 Planning Commission Meeting

On a motion by Commissioner Buckley Weber , seconded by Commissioner Rishoff, the Planning Commission moved to approve the Amended Minutes of the February 7, 2008 Panning Commission Meeting. Motion carried 4-0. Chair O'Meara was absent.

COMMENTS FROM THE PUBLIC ON ITEMS NOT LISTED ON THE AGENDA:

None

CONTINUED PUBLIC HEARING

3. **REQUEST:** A request for approval of a Conditional Use Permit to construct five (5) detached buildings totaling 33,680 square feet in size for retail and restaurant use (Shops at Oak Creek); and a request for a Sign Permit for approval of the project's proposed sign program.
- APPLICANT:** Danari Oak Creek, LLC
 c/o Adler Realty Investments, Inc.
 20950 Warner Center Drive, Suite C
 Woodland hills, CA 91367
- CASE NOS.:** 06-CUP-007 and 06-SP-037
- LOCATION:** 28941-29145 Canwood Street
 (A.P.N. 2048-011-(049-053) and 2048-011-061)
- ENVIRONMENTAL
 DETERMINATION:** Compliant with the Certified Environmental Impact Report for the Tract
- RECOMMENDATION:** Staff recommended if the Planning Commission wished to approve Conditional Use Permit Case No. 06-CUP-007 and Sign Permit Case No. 06-SP-037, staff will return with a Resolution and conditions approval for adoption.
- PUBLIC COMMENTS:** Vice Chair Zacuto opened the Public Hearing

The following persons spoke in favor of the project.

Michael Adler, Applicant, Adler Realty Investments

Ken Soudani, VTBS Architects, applicant's architect

The following persons spoke in opposition of the project.

Mike Poyer, Madeos Restaurant

Matthew May, Fat Fish/Urban Café

RECESS: Vice Chair Zacuto called for a recess at 8:20 p.m.

RECONVENE: Vice Chair Zacuto reconvened the meeting at 8:42 p.m.

REBUTTAL: Ken Soudani, VTBS Architects, applicant's architect gave rebuttal regarding the project and answered additional questions of the Planning Commission.

Michael Adler, Applicant, Adler Realty Investments answered questions of the Planning Commission.

ACTION: On a motion by Commissioner Rishoff, seconded by Commissioner Buckley Weber, the Planning Commission moved to direct staff to prepare a draft Resolution of denial for Conditional Use Permit No. 06-CUP-007 and Sign Permit Case No. 06-SP-037 for the Planning Commission's consideration at the March 6, 2008 Planning Commission meeting. Motioned carried 3-0. Commissioner Nouzille recused. Chair O'Meara was absent.

NEW PUBLIC HEARING

4. REQUEST: Request for approval of a Conditional Use Permit to build a 6,964 square-foot, two-story single-family residence with an 897 square-foot, attached garage and a 190 square-foot patio cover; and a request for approval of an Oak Tree Permit to encroach into the protected zone of 3 Oak trees for the proposed construction.

APPLICANT: Ron Waters
28025 Balkins Drive
Agoura Hills, Ca 91301

CASE NOS.: 03-CUP-002 & 03-OTP-002

LOCATION: 28031 Balkins Drive
(A.P.N. 2055-023-065)

ENVIRONMENTAL
DETERMINATION: Categorically exempt from CEQA per Section 15303 (New
Construction of a Single-Family Residence).

RECOMMENDATION: Staff recommended the Planning commission adopt a
motion to approve Conditional Use Permit Case No. 03-
CUP-002, and Oak Tree Permit Case No. 03-OTP-002,
subject to conditions, based on the findings of the draft
Resolution.

PUBLIC COMMENTS: Vice Chair Zacuto opened the Public Hearing

The following persons spoke in favor of the project.

Ron Waters, Applicant

Terry Gray, Resident

The following persons spoke in opposition of the project.

Marc Schumann, Resident

Mike Colabella, Resident

Robyn Britton, representative of Old Agoura HOA

Beta Ozar, Resident

Vince Vignolle, Resident

The following persons spoke either for or against the project

Robert Michitscm, Resident

Kevin Stitt, Resident

Bob Kazmirski, Resident

Vaughn Fulkerson, Resident

The following person turned in a speaker card but was not present

Julee Harman, Resident

RECESS: Vice Chair Zacuto called for a recess at 10:36 p.m.

RECONVENE: Vice Chair Zacuto reconvened the meeting at 10:50 p.m.

REBUTTAL: Ron Waters, Applicant, gave rebuttal regarding the project and answered additional questions of the Planning Commission.

ACTION: On a motion by Commissioner Rishoff, seconded by Commissioner Buckley Weber, the Planning Commission moved to direct staff to prepare a draft Resolution of denial for Conditional Use Permit No. 03-CUP-002 and Oak Tree Permit Case No. 03-OTP-002 for the Planning Commission's consideration at the March 6, 2008 Planning Commission meeting. Motioned carried 3-0. Commissioner Nouzille recused. Chair O'Meara was absent.

DISCUSSION ITEM

5. REQUEST: Request for approval of an exterior lighting plan for a medical office building.

APPLICANT: Roger Meyer

11 N. Via Los Altos
Newbury Park, CA 91320

CASE NO.: 04-CUP-010 (Lighting Plan)

LOCATION: 29501 Canwood Street
(A.P.N. 2053-001-006)

ENVIRONMENTAL
DETERMINATION: Exempt from the requirements of the California
Environmental Quality Act per Section 15311.

RECOMMENDATION: Staff recommended the Planning Commission adopt a
motion to approve the lighting plan, subject to conditions,
based on the findings of the draft Resolution.

PUBLIC COMMENTS: Vice Chair Zacuto opened the Public Hearing

The following persons spoke in favor of the project.

Roger Meyer, Applicant

Vice Chair Zacuto closed the Public Hearing.

ACTION: On a motion by Commissioner Rishoff, seconded by
Commissioner Buckley Weber, the Planning Commission
moved to adopt Resolution No. 925, approving Conditional
Use Permit Case No. 04-CUP-010 (Lighting Plan), subject
to conditions. Motion carried 4-0. Chair O'Meara was
absent.

ANNOUNCEMENTS ON ITEMS NOT LISTED ON THE AGENDA

(Planning Commission and Staff)

None

ADJOURNMENT

At 11:40 p.m., on a motion by Commissioner Buckley Weber, seconded by Commissioner Rishoff; the Planning Commission adjourned the meeting to the next scheduled Planning Commission meeting on Thursday March 6, 2008, at 6:30 p.m.

