

RESOLUTION NO. 7921-96

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE GRANTING THE APPEAL AND APPROVING SITE PLAN NO. SP-166-96 AND VARIANCE NO. V-189-96, FOR A PARCEL OF LAND LOCATED ON THE SOUTHEAST CORNER OF HARBOR BOULEVARD AND CHAPMAN AVENUE AT 12002 HARBOR BOULEVARD, PARCEL NO. 231-491-03

WHEREAS, the case was initiated by T and B Planning Consultants, Inc., on behalf of Walgreens Pharmacy, requesting Site Plan approval to construct a 1,900 square foot drive-thru pharmacy with Variances from the minimum lot size and frontage, minimum landscaped setback along a parking lot, and the minimum number of required parking spaces; and

WHEREAS, the project will not have a significant adverse effect on the environment; therefore, the City of Garden Grove has prepared a Negative Declaration of Environmental Impact pursuant to the California Environmental Quality Act. Further, the City Council finds a De Minimis impact in relation to fish and game.

WHEREAS, the property has a General Plan Land Use designation of Mixed Use and is zoned TC/B (Tourist Commercial - Area "B").

WHEREAS, existing Land Use, Zoning, and General Plan designation of property in the vicinity of the property have been reviewed.

WHEREAS, pursuant to legal notice, a public hearing was held by the Planning Commission on April 25, 1996, and all interested persons were given an opportunity to be heard.

WHEREAS, the Planning Commission gave due and careful consideration to the matter during its meeting of April 25, 1996.

WHEREAS, at their meeting of April 25, 1996, the Planning Commission denied Site Plan No. SP-166-96 and Variance No. V-189-96 pursuant to the facts and reasons contained in Planning Commission Resolution No. 4655.

WHEREAS, Mr. Milton Andres, on May 23, 1996, filed an appeal requesting that the City Council overturn the Planning Commission's denial and approve Site Plan No. SP-166-96 and Variance No. V-189-96; and

WHEREAS, pursuant to legal notice, a public hearing was held by the City Council on June 25, 1996, and all interested persons were given the opportunity to be heard; and

The applicant is proposing a two-foot setback along the southern perimeter of the parking lot.

The site is an existing, legally created parcel.

The site does not meet the minimum lot size for new development in the Harbor Corridor Specific Plan.

The site does not meet the minimum lot frontage requirements for new development in the Harbor Corridor Specific Plan.

The City Council suggested that the applicant redesign the site plan to be consistent with City Codes to provide the minimum required landscaping along Chapman Avenue.

The City Council directed the Planning Commission to review the modifications to the Site Plan proposed by the applicant and make a recommendation on the appeal to the City Council based on the reconfiguration of the Site Plan.

The applicant revised the Site Plan to provide the additional landscaping along Chapman Avenue as required by Title 9 of the Garden Grove Municipal Code.

FINDINGS AND REASONS:

SITE PLAN

1. The development complies with the spirit and intent of the provisions, conditions, and requirements of the City's adopted General Plan, Municipal Code, Redevelopment Plan and other applicable ordinances.

Reasons:

The proposed development and the intended use are permitted within the T-C/B (Tourist Commercial, Area B) zone. The building colors and the architectural design are consistent with the design guidelines of the Harbor Corridor Specific Plan.

2. The development will not adversely affect the peace, comfort and welfare of persons residing or working in the surrounding area, and will not unreasonably interfere with the use, enjoyment and valuation of the property of other persons located in the vicinity of the site as the proposed

WHEREAS, the City Council gave due and careful consideration to the matter and suggested that the applicant redesign the Site Plan to comply with City regulations and referred the item back to the Planning Commission for further review and recommendation; and

WHEREAS, pursuant to legal notice, public hearing was held by the Planning Commission on September 26, 1996, and all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission gave due and careful consideration to the matter during its meeting of September 26, 1996; and

WHEREAS, pursuant to Resolution No. 4696 the Planning Commission recommended denial of the appeal of Site Plan No. SP-166-96 and Variance No. V-189-96; and

WHEREAS, pursuant to legal notice, a public hearing was held by the City Council on November 12, 1996, and all interested persons were given an opportunity to be heard.

WHEREAS, the City Council gave due and careful consideration to the matter during its meeting of November 12, 1996; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the City Council, as required under Municipal Code Section 9.24.030, are as follows:

FACTS:

The site was originally developed with a service station in the 1950s.

The service station was demolished in 1995.

The site is currently vacant and undergoing soil remediation.

A total of 10 on-site parking spaces are required for the facility.

The site plan design provides 9 on-site parking spaces.

The site is required to provide a five-foot landscaping setback along the southern perimeter of the parking lot

development is not consistent with the goals and policies of the General Plan.

Reasons:

The development, as proposed, will not adversely impact adjoining commercial properties or residential properties in the area as the project would provide adequate on-site facilities to accommodate the intended use. The development and the proposed use are similar in nature to other uses in the area .

3. The development has a reasonable degree of physical, functional, and visual compatibility with the neighboring uses.

Reasons:

The intended use of the property, a drive-thru retail pharmacy, is a permitted use in the T-C/B (Tourist Commercial, Area B) zone of the Harbor Corridor Specific Plan. The area consists primarily of commercial developments providing various types of retail and commercial services. There are other developments in the area constructed at a similar intensity and scope.

4. The site design adequately addresses on-site traffic circulation and parking.

Reasons:

The site is designed to minimize vehicular access points with the adjoining arterial highways. The on-site circulation allows for vehicular circulation to accommodate drive-thru businesses as well as access to adjoining properties. With the proposed dedication and public improvements along Harbor Boulevard the development will not adversely impact traffic circulation in the area.

VARIANCE

1. There are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or classes of use in the same vicinity or zone.

Reasons:

The project site is surrounded by parcels that are fully developed which precludes the consolidation of the lots. The reciprocal access agreement with the property to the east may facilitate future assembly of additional land area as the properties in the area redevelop. Additionally, the adjoining properties are not under the same ownership as the site to be developed and are encumbered by long-term leases. Therefore, these properties could not be consolidated to meet the minimum lot size and frontage requirements.

The site is typical of other corner lots on arterial highways. The project proposes dedication and improvement of 27 feet of land along Harbor Boulevard. This dedication places further constraints on site design. Based on the findings of the parking study the drive-thru facilities provided as a part of this project will reduce the parking demand to an acceptable level.

The design of the project is sensitive to the adjoining properties and rights-of-way, and provides adequate landscaping to buffer the development from the adjoining streets. The project provides adequate landscaping to screen the parking areas from view. By incorporating the landscaping along the southern perimeter of the proposed project with the landscaping of the existing project to the south, the intent of the Code requirement for parking lot screening has been met.

2. The Variances are necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone but which is denied to the property in question.

Reasons:

The variance requests are necessary for development of this site as the lot is an existing nonconforming lot. The dedication of additional land is necessary to accommodate the safe movement of traffic in the area. The reduced land area further restricts development of this property as an individual lot. The development standards for this site are similar to those of other properties in the area and the project, as proposed, meets the intent of the development standards of the Harbor Corridor Specific Plan.

3. The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located.

CONDITIONS OF APPROVAL:

- A. All below-listed conditions of approval are required to be recorded. Recordation of said conditions is the responsibility of the applicant, and proof of such recordation is required prior to issuance of building permits. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any changes to the conditions of approval require approval of the Planning Commission.
- B. Approval of Site Plan No. SP-166-96 and Variance No. V-189-96 shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply.
- C. Minor modifications shall be approved by the Planning Commission. If other than minor changes are made in the proposed development, a new site plan application shall be filed, which reflects the revisions made.
- D. All lighting structures shall be placed so as to confine direct rays to the project site. All exterior lights shall be reviewed and approved by the City's Planning Section. Lighting shall be restricted to decorative type wall-mounted or ground lighting system. This includes providing lighting throughout all parking areas during the hours of darkness the establishment is open at a minimum of two footcandles of light on the parking surface. A minimum of one footcandle shall be provided during all other hours of darkness.
- E. Utilities and mechanical equipment:
 - 1. All on- and off-site utilities shall be installed or relocated underground.
 - 2. All above-ground utility equipment (e.g., electrical, gas, telephone, cable TV) shall not be located in either the front or street setbacks or the front parking area and shall be screened to the satisfaction of the Community Development Department.
 - 3. No roof-mounted mechanical equipment shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department prior to issuance of building permits. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.

Reasons

The granting of these variance requests will not be detrimental to the public welfare and injurious to other properties in the area as the size, scope and intensity of this development are similar to the adjoining properties.

The development of this site, as proposed, will not adversely impact the ability of adjoining properties to develop in accordance with the goals and policies of the General Plan as this site proposes reciprocal access to the adjoining property to the east which may facilitate the integration of this project with future development in the area.

The Harbor Boulevard/Chapman Avenue intersection is a key area for future development in the City as described in the General Plan. The project proposes dedication of land area for public improvements that will allow a full-width through lane, a right turn lane as well as curb, gutter and sidewalk. These improvements will benefit all of the properties in the area and may encourage or allow other property owners or developers to redevelop the area.

4. The granting of these Variances will not adversely affect the comprehensive General Plan.

Reasons

The granting of these variances will not adversely affect the City's General Plan. Title 9 of the Garden Grove Municipal Code allows the proposed use. The limited scale of the development, together with the Variance requests, would allow this vacant parcel of land to be developed in compliance with the recently adopted General Plan goals and policies for this area.

NOW, THEREFORE, BE IT RESOLVED:

1. The Site Plan and Variance requests possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.24.030 (Site Plan and Variance).

2. In order to fulfill the purpose and intent of the Municipal Code and thereby promote the health, safety, and general welfare, the following conditions of approval shall apply to Site Plan No. SP-166-96 and Variance No. V-189-96:

4. All ground- or wall-mounted mechanical equipment shall be screened from view from any place on or off the site.
- F. All provisions of the Public Works Department Engineering Division shall be complied with. These include, but are not limited to, the following:
1. The required right-of-way (twenty-seven feet) necessary to construct Harbor Boulevard to its ultimate width shall be dedicated to the City.
 2. The existing traffic signal(s) impacted by the widening of Harbor Boulevard shall be relocated by the applicant.
 3. Bonds shall be posted to secure all work in within the public right-of-way and all public improvements.
 4. All deficient improvements in the public right-of-way from the street center line to property line shall be constructed. Replace damaged improvements as required.
 5. Grading, drainage and underground utility plans are required. Plans shall be prepared by a registered Civil Engineer. Any new required block walls and/or retaining walls shall be shown on the grading plan. The plan shall also show color enhanced concrete treatment or brick pavers at all new driveway entrances, type and style shall be subject to the approval of the Community Development Department. Separate plans prepared by a Civil Engineer are required for construction of the improvements within the Harbor Boulevard right-of-way.
 6. Driveway access on Chapman Avenue shall be reconstructed in conformance with Garden Grove Standard plan B120. Reconstruction of on-site curbs adjacent to the driveway is also required.
 7. The applicant/property owner shall enter into a reciprocal access agreement with the property adjacent to the project site on the east. Said reciprocal access agreement shall be approved by the Public Works Department and shall be recorded prior to the issuance of any permits for the project.
 8. All entrances to the property shall be posted with a sign indicating that unauthorized vehicles will be removed at the owner's expense. The signs shall be of the size, type and location specified in the California Vehicle Code and the Garden Grove Municipal Code.

9. Traffic mitigation fees shall be paid prior to the issuance of any permits for the project.
 10. All compact parking stalls shall be individually marked. All handicap parking stalls shall be marked and signed in accordance with C.V.C 22511.8(a). All parking stalls shall be hairpin striped. All curbs not associated with a parking stall shall be red painted to prohibit parking.
 11. A total of 9 on-site parking spaces shall be provided and maintained for the project at all times.
 12. All internal drive aisles (on-site) servicing back-to-back parking, and two-way drive aisles be a minimum of twenty-five (25) feet in width.
- G. All provisions of the Garden Grove Public Services' Water Services Division shall be met.
1. All improvements and modifications shall be borne by the developer/owner.
 2. All one and one-half inch (1-1/2) meters and larger shall have an approved backflow device per City standard B-771 A or B and inspected by City cross connection specialist prior to receiving water service.
 3. Any new water meters shall be located in the public right-of-way as designated and approved by the Water Services Division. If on-site water meters or water lines are necessary or required, then the developer/owner shall provide the proper easements as indicated by the Water Services Division.
- H. All provisions of the Garden Grove Fire Department shall be met. This includes, but is not limited to, the following:
1. Address shall be visible from the street in contrasting colors
 2. Fire extinguishers shall be provided, locations and ratings to be determined by the fire inspector.
 3. Remediation of the soil contamination shall be completed and all equipment shall be removed prior to the issuance of any permits for the project. Certification shall be provided by Orange County Environmental Health.

36-inch box, fifteen (15) percent of the trees at 24-inch box and sixty (60) percent of the trees at 15-gallon. Remaining five (5) percent may be of any size.

5. The applicant shall work with the property owner to the south to incorporate the two landscape planters into one cohesive landscaped area. Landscaping in the existing planter should be replaced an/or rehabilitated and incorporated into the project landscaping design.
- L. The building plans, site plans and all construction shall comply with the current editions of the U.B.C., U.M.C., N.E.C. as amended by the City of Garden Grove and State of California handicap access, energy conservation and sound transmission control requirements.
- M. No exterior piping, plumbing, or mechanical duct work shall be permitted on any exterior facade and/or visible from any public right-of-way or adjoining property.
- N. Prior to the construction of the site shall be secured with a six-foot (6') high chain link fence. Access gate(s) are permitted and the fence shall be removed upon construction of permanent perimeter fencing and/or completion of the project.
- O. Hours and days of construction and grading shall be as follows as set forth in the City of Garden Grove's Municipal Code Section 8.47.010 referred to as County Noise Ordinance as adopted:
 1. Monday through Saturday - not before 7 a.m. and not after 8 p.m. (of the same day).
 2. Sunday and Federal holidays may work same hours but are subject to noise restrictions as stipulated in Section 8.47.010 of the Municipal Code.
- P. The applicant shall submit a revised sign program as reflected in the Site Plan, and Variance submittal package. This includes size, style, colors and location(s) subject to the following:
 1. All signs require a separate permit and shall be installed in accordance with the provisions of the sign ordinance and shall be approved by the Community Development Department prior to installation.
 2. As required by Title 9 of the Garden Grove Municipal Code, the total signage for the site, including the monument and all wall signs, shall not exceed 135 square feet.

- I. All security provisions of the Garden Grove Police Department shall be met. This includes that the development comply with the Police Department's security provisions checklist.
- J. All provisions of the Garden Grove Sanitation District shall be met. This includes, but is not limited to, the following:
 - 1. The applicant shall construct and maintain on the property one (1) standard refuse storage enclosure per current city standard plans. Trash enclosure doors shall be kept closed and secured except during trash disposal or pickup.
 - 2. The refuse storage area shall be constructed of an approved concrete block material that matches the exterior building material and has solid metal gates.
 - 3. The refuse storage area shall be maintained in a neat and sanitary manner.
- K. The applicant shall submit a complete, detailed landscape plan governing the proposed development which reflects the approved landscape plans, with any necessary modifications, as submitted under the Site Plan application. Said plan shall include type, size, location and quantity of all plant material. It shall include irrigation plans, staking and planting specifications. The landscape plan is also subject to the following:
 - 1. A complete, permanent, automatic remote control irrigation system shall be provided for all landscaped areas shown on the plan. The sprinklers shall be of low flow/precipitation sprinkler heads for water conservation.
 - 2. The applicant is and shall be responsible for installation and maintenance of all landscaping on the property. Said responsibility shall extend to the sidewalk, curb, or pavement of adjoining streets.
 - 3. No trees shall be planted closer than five feet (5') from any public right-of-way. Trees planted within ten feet (10') of any public right-of-way shall be planted in a root barrier shield. All landscaping, other than trees, along street frontage(s) to driveways shall be of the low height variety to ensure safe sight clearance.
 - 4. Unless otherwise specified, the plan shall provide a mixture of a minimum of ten (10) percent of the trees at 48-inch box, ten (10) percent of the trees at

- 3. Wall signs elements shall consist of channel letters with a maximum height of eighteen (18) inches.
- Q. The Site Plan and Variance shall expire one year after the date of resolution approval unless building permits for the project have been issued.

ADOPTED this 26th day of November, 1996.

/s/ BRUCE A. BROADWATER
MAYOR

ATTEST:

/s/ RUTH E. SMITH
DEPUTY CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, RUTH E. SMITH, Deputy City Clerk of the City of Garden Grove, do hereby certify that the foregoing Resolution was duly adopted by the Council of the City of Garden Grove, California, at a regular meeting held on the 26th day of November, 1996, by the following vote:

AYES:	COUNCILMEMBERS:	(5)	DINSEN, CHUNG, INGEGERI, LEYES, BROADWATER
NOES:	COUNCILMEMBERS:	(0)	NONE
ABSENT:	COUNCILMEMBERS:	(0)	NONE

/s/ RUTH E. SMITH
DEPUTY CITY CLERK

I declare under penalty of perjury that the foregoing instrument is a full, true and correct copy of the original on file in this office.

ATTEST: Carolyn Morris
CAROLYN MORRIS, City Clerk
of the City of Garden Grove

DATED: June 18, 1997