

**CITY OF LOMPOC
PLANNING COMMISSION STAFF REPORT**



MEETING DATE: OCTOBER 11, 2004
TO: MEMBERS OF THE PLANNING COMMISSION
FROM: LUCILLE T. BREESE, AICP, CITY PLANNER
RE: DEVELOPMENT REVIEW - DR 04-16
1701 EAST OCEAN AVENUE
(THE HOME DEPOT)

AGENDA ITEM NO. 2

A request by the applicant, Kenny Gazin of Gemini Pacific Group dba Dogfathers, for Planning Commission review and consideration of a proposal to locate a 120 square-foot mobile kiosk with tables and chairs under the trellis against The Home Depot building. The proposed project is located at 1701 East Ocean Avenue (Assessor Parcel Number: 99-141-29) in the *Planned Commercial Development (PCD)* Zoning District. This action is exempt pursuant to the California Environmental Quality Act (CEQA).

SITE DATA:

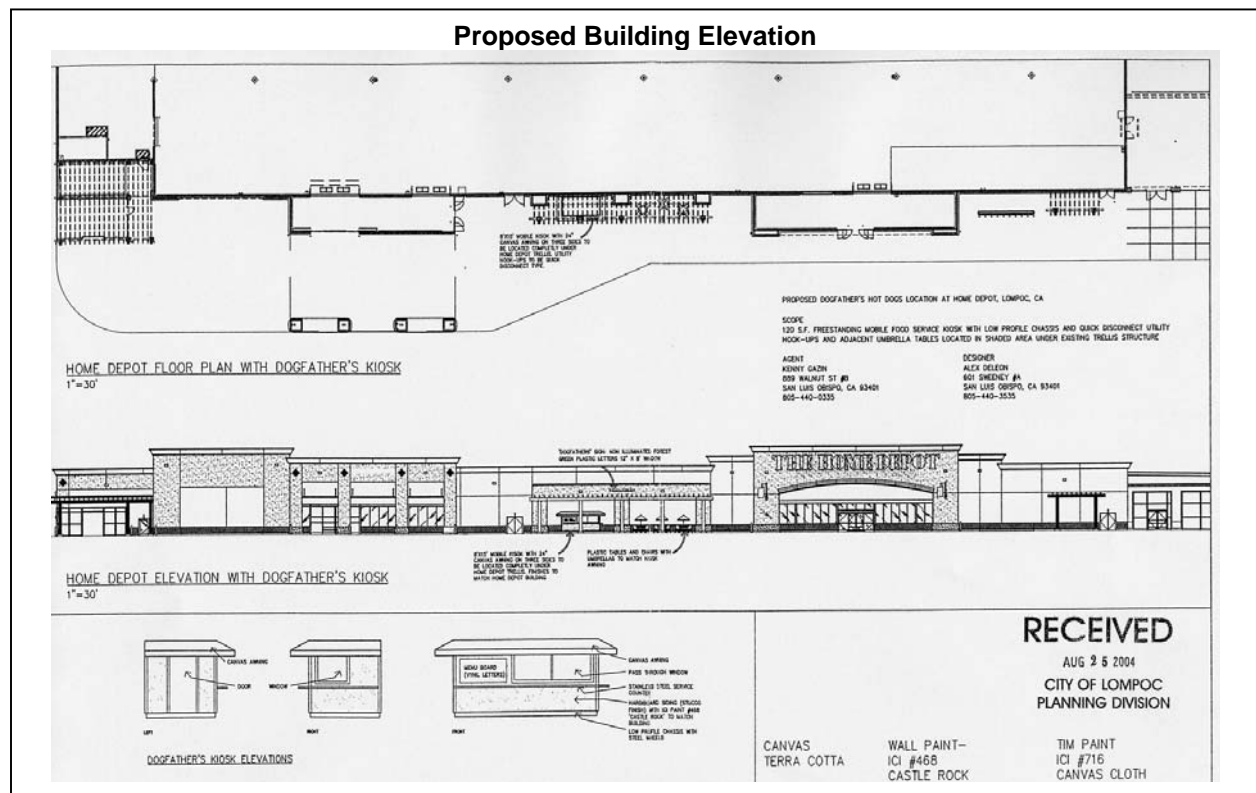
1. Property Owner.....Lompoc Ocean Associates, LLC
2. Site Location.....1701 East Ocean Avenue
3. Assessor Parcel Number.....99-141-29
4. Site Zoning.....Planned Commercial Development (PCD)
5. General Plan Designation.....General Commercial (GC)
6. Site Use.....The Home Depot
7. Surrounding Uses/Zoning.....North: Industrial/CM
South: Vacant/CO
East: Vacant Industrial/SBCO
West: Public Facilities/PF

BACKGROUND:

- September 22, 2003 Planning Commission adopted Resolution No. 302 (03) approving the Development Plan (DR 03-02) for The Home Depot
- October 7, 2003 City Council reviewed and approved the Development Plan (DR 03-02) for The Home Depot
- September 23, 2004 The Home Depot opened for business

PROPOSAL:

The applicant is proposing a Dogfathers Hot Dog Stand with three tables to be placed against The Home Depot building. The stand is an 8' x 15' mobile kiosk made of low profile chassis with small steel wheels. It is designed so that the unit is level and low to the ground for a more attractive (non-vehicular) appearance. Utilities to the stand will be of a quick disconnect type. The unit will have exterior panels to match the texture and color of The Home Depot building. A 24" terra cotta canvas awning will be placed on the top of three sides of the unit and will match umbrellas to be located adjacent to the unit. The applicant has indicated that this is a centrally located area where customers and employees will be able to access the business. The proposed hours of operation are 7:30 a.m. to 7:00 p.m., seven days a week.



ANALYSIS:

During the Development Plan review process for The Home Depot (DR 03-02), the applicant requested that three (3) areas be designated as permanent outdoor display for different types of seasonal merchandise; a total area of 4,547 square feet. The proposed Dogfathers location will reduce the outdoor display by 1,288 square feet. This section is located between the Contractor Pick-Up entrance and the main entrance to The Home Depot. This will leave a 3,259 square foot area available for outdoor display of merchandise. The Home Depot manager has indicated his support for the Dogfathers business. (Attachment No. 2)

The Dogfathers unit will match the existing color scheme of the building. The exterior panels are to be a hardiboard siding in "Castle Rock Beige" which is the same color as the stucco finish of The Home Depot. The proposed "Terra Cotta" canvas awning is a new element; the existing building does not have any awnings. The color "Terra Cotta" is not used anywhere on the building; however, the color is complementary to the existing building as an accent.

A color/materials display will be available for review at the Planning Commission meeting.

There is no landscaping adjacent to the area proposed for the Dogfathers unit. In an effort to soften the appearance and create an attractive atmosphere for customers using the tables, the applicant is proposing a minimum of three planters. The planters will have trailing vines to provide color and shade. Staff will review the plant selections and approve prior to occupancy (COA P13). Additionally, a trash receptacle that is consistent with the building architecture will be maintained adjacent to the Dogfathers unit for customer use (COA P12).

The elevation presented by the applicant shows signage on the building consisting of 12" forest green plastic letters. This is not consistent with the approved Home Depot signage plan. Staff has discussed this with the applicant who indicated that he does not intend to install signage as shown on the plan. Any future request for signage would be reviewed at staff level (COA P5).

The applicant is subleasing the area from The Home Depot. In the event the lease is terminated for any reason, the area must be returned to the original condition and the kiosk and tables removed within seven days from the last day of operation (COA P14).

Environmental Determination:

The project is categorically exempt from review pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA). A Notice of Exemption will be filed for the project following the Commission action.

Noticing:

Notice of the Public Hearing was published in the Lompoc Record on October 1, 2004 and all property owners of record within 300 feet of the subject site were notified by U.S. Mail on October 1, 2004.

STAFF REVIEW:

A Development Review Board (DRB) meeting was held for this project on September 13, 2004. The applicant met with staff to discuss the proposal and draft Conditions of Approval were formulated. No project specific comments were received.

The Development Review Board (DRB) has developed a series of standard conditions of approval (COA) to advise applicants of possible requirements during the development review process. Project specific conditions are included when staff can determine what they should be from the conceptual plans provided for Commission review. A complete plan check occurs after construction plans have been submitted to the Building Division for building permits. Please note that not all COA included with the Planning Commission Resolution for the project may be applicable. If the applicant has questions and/or concerns regarding specific conditions, he/she should contact the department/division that is recommending the condition. DRB members do not attend the Commission meeting and Planning staff cannot answer specific questions regarding conditions recommended by other departments/divisions.

The DRB recommends approval of DR 04-16 as the Development Plan for the Dogfathers Hot Dog Stand, subject to the attached Conditions of Approval.

RECOMMENDATION:

Staff recommends that the Planning Commission:

- 1) Adopt Resolution No. 388 (04) approving the Dogfathers Hot Dog Stand (DR 04-16) for The Home Depot at 1701 East Ocean Avenue based on the Findings of Fact noted in the Resolution and subject to the attached Conditions of Approval.

ATTACHMENTS:

1. Draft Resolution No. 388 (04) and Conditions of Approval
2. Correspondence dated September 14, 2004 from The Home Depot manager
3. Site Plan and Elevations
(Planning Commission only – plans available in Planning Division for review)

RESOLUTION NO. 388 (04)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC RECOMMENDING APPROVAL OF A PROPOSAL FOR A DOGFATHERS HOT DOG STAND TO BE PLACED AT THE HOME DEPOT LOCATED AT 1701 EAST OCEAN AVENUE (DR 04-16)

WHEREAS, a request was received from Kenny Gazin of Gemini Pacific Group dba Dogfathers, for Planning Commission review and consideration of a proposal to locate a Dogfathers Hot Dog Stand at The Home Depot. The project is located at 1701 East Ocean Avenue (Assessor Parcel Number; 99-141-29; and,

WHEREAS, the request was considered by the Planning Commission at a duly-noticed public meeting on October 11, 2004; and

WHEREAS, at the meeting of October 11, 2004, _____ was present and answered Planning Commissioners' questions and addressed their concerns; and

WHEREAS, at the meeting of October 11, 2004, _____ spoke in favor of, and _____ spoke in opposition to, the project; and

WHEREAS, the proposal is exempt pursuant to the California Environmental Quality Act (CEQA),

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOMPOC RESOLVES AS FOLLOWS:

SECTION 1: After hearing testimony, considering the evidence presented, and due deliberation of the matters presented, the Planning Commission finds that the proposed Dogfathers Hot Dog Stand, as conditioned, meets the requirements of the Lompoc City Code and is consistent with the applicable policies and development standards, therefore it can be found that:

- A. The site for the proposed use is adequate in size and topography to accommodate said use, and all yards, spaces, walls and fences, loading, and landscaping are adequate to properly adjust such use with the land and uses in the vicinity.
- B. The conditions stated in the decision are deemed necessary to protect the public health, safety, and welfare.

- C. The site of the proposed use relates to streets and highways adequate in width and pavement to carry the quantity and kind of traffic generated by the proposed use when considered as a part of The Home Depot shopping center.
- E. The proposed use will have no adverse effect upon the abutting and surrounding property from the permitted use thereof.

SECTION 2: Based upon the foregoing, the Planning Commission approves the Development Plan (DR 04-16) allowing the Dogfathers Hot Dog Stand to be established at 1701 East Ocean Avenue, subject to the conditions attached as Exhibit A which are incorporated by reference as if fully set forth herein.

The foregoing resolution, on motion by Commissioner _____, seconded by Commissioner _____, was adopted at the regular Planning Commission meeting of October 11, 2004 by the following vote:

AYES:

NOES:

Arleen T. Pelster, AICP, Secretary

Jack Rodenhi, Chair

Attachment: Exhibit A - Conditions of Approval

**DRAFT CONIDITIONS OF APPROVAL
DR 04-16 – DOGFATHERS HOT DOG STAND
1701 EAST OCEAN AVENUE – APN: 99-141-29**

The following Conditions of Approval apply to the plans for DR 04-16, prepared by Alex Deleon, received by the Planning Division and stamped on August 25, 2004, and reviewed by the Planning Commission on October 11, 2004.

I. PLANNING

Planning - General Conditions

- P1. All applicable provisions of the Lompoc City Code are made a part of these conditions of approval in their entirety, as if fully contained herein.
- P2. In conformity with Sections 8900, 8935, and 8936 of the Lompoc City Zoning Ordinance, the violation of any condition listed herein shall constitute a nuisance and a violation of the Lompoc City Zoning Ordinance and the Lompoc City Code. In conformity with Section 0107 and 0128 of the Lompoc City Code, a violation of the Lompoc City Code and the Lompoc City Zoning Ordinance is a misdemeanor and shall be punishable as provided by law. In addition to criminal penalties, the City may seek injunctive relief to specifically enforce the Conditions of Approval. The applicant agrees to pay for all attorney's fees and costs, including, but not limited to, staff time incurred by the City in obtaining injunctive relief against the applicant as a result of a failure of the applicant to fully perform and adhere to all of the Conditions of Approval.
- P3. The applicant is advised that certain fees and charges will be collected by the City prior to issuance of building permits and/or prior to issuance of certificates of occupancy.
- P4. Minor changes to the site plan, architectural elevations, or landscape plans shall be reviewed by the City Planner and approved if acceptable. Major changes to the site plan, architectural elevations, or landscape plans shall be reviewed by the Planning Commission and approved if acceptable.
- P5. Prior to the installation of any signage or sign related construction the applicant shall obtain all appropriate permits Approval of these plans with signage indicated does not imply approval of signage.
- P6. The conditions hereby imposed are in addition to the conditions imposed by Planning Commission Resolution No. 302 (03) when approving Development Plan DR 03-02 – The Home Depot. In the case of any conflicts, the conditions listed herein shall prevail.

- P7. Owner agrees to and shall indemnify, defend, protect, and hold harmless City, its officers, employees, agents and representatives, from and against any and all claims, losses, proceedings, damages, causes of action, liabilities, costs and expenses, including reasonable attorney's fees, arising from or in connection with, or caused by (i) any act, omission or negligence of Owner, or their respective contractors, licensees, invitees, agents, sublessees, servants or employees, wherever on or adjacent to the Property the same may occur; (ii) any use of the Property, or any accident, injury, death or damage to any person or property occurring in, or on or about the Property, or any part thereof, or from the conduct of Owner's business or from any activity, work or thing done, permitted or suffered by Owner or its sublessees, contractors, employees, or invitees, in or about the Property, other than to the extent arising as a result of City's sole active negligence or to the extent of any willful misconduct of the City; and (iii) any default in the performance of any obligations of Owner's part to be performed under the terms of this Agreement, or arising from any negligence of Owner, or any such claim or any action or proceeding brought thereon; and in case any action or proceedings be brought against the City, its officers, employees, agents and representatives, by reason of any such claim, Owner, upon notice from City, shall defend the same at its expense by counsel reasonably satisfactory to City.

Owner further agrees to and shall indemnify, defend, protect, and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions brought by any third party to challenge the Project or its approval by the City, including environmental determinations. Such indemnification shall include any costs and expenses incurred by Agency and City in such action(s), including reasonable attorney's fees.

Planning - Architectural Conditions

- P8. The Architectural Review approval granted by the Planning Commission is valid for one year from date of approval and will expire on October 11, 2005. A one year extension may be granted by the City Planner if the applicant so requests prior to the expiration date.
- P9. Architectural detail will be pre-fabricated, hardi-plank siding with a stucco finish.

Planning - Site Plan Conditions

- P10. Hours of operation are proposed as 7:30 a.m. to 7:00 p.m., 7 days a week.
- P11. A maximum of three umbrella tables shall be located adjacent to the mobile kiosk against the building under the trellis.
- P12. A permanent trash receptacle shall be provided on-site. A detail showing a receptacle compatible with the existing building shall be reviewed and approved at staff level prior to certificate of occupancy of the unit.

- P13. A minimum of three (3) planters shall be provided in the general location of the proposed kiosk. Staff shall review and approve the type of planter and the plantings proposed prior to occupancy of the unit.
- P14. In the event the Dogfathers lease is terminated for any reason, the area must be returned to its original condition. The kiosk and tables must be removed within 7 days from the last day of operation.

II. BUILDING

BUILDING AND FIRE SAFETY

- B1. Project shall comply with the most recent adopted City and State building codes. All utility connections shall comply with the most recent adopted City and State Building Codes.
- B2. County Health Department approval is required for all food service establishments.

III FIRE

Fire - Access Conditions

- F1. All required access roads, exits, entrances shall be maintained and unblocked according to the Fire Code. Access for key boxes, alarms, entrances and all exits shall be kept clear and in clear view from main drives/streets.
- F2. Fire Department access shall comply with UFC Appendix 3-D and UFC Chapter 9.
- F3. All fire extinguishers required to have an 'A' rating shall have a minimum rating of 2A10BC. Location, number and types shall be in accordance to UFC Standard 10-1.

IV ENGINEERING

No General or Project Specific Conditions

V SOLID WASTE

No General or Project Specific Conditions

VI WATER

No General or Project Specific Conditions

VII WASTEWATER

No General or Project Specific Conditions

VIII ELECTRIC

No General or Project Specific Conditions

I, Kenny Gazin of Gemini Pacific Group dba Dogfathers, the applicant, do hereby declare under penalty of perjury that I accept all conditions imposed by the Planning Commission in their approval of the Dogfathers Hot Dog Stand at 1701 East Ocean Avenue. As the applicant, I agree to comply with these conditions and all other applicable laws and regulations at all times.

Name

Date

Tim Rothanzl
Store Manager
Home Depot, Lompoc

RE: Dogfather's Hot Dog Kiosk

TO: Lompoc City Planning Department

To Whom It May Concern:

Dogfather's has received approval from both me and my District Manager, Steve Yamamoto to be our outside food sales. We are quite impressed with the design, operation, and service of their two other locations in San Luis Obispo County.

As the manager of the Lompoc Home Depot store, I have coordinated with Dogfather's management in the design and proposed location of the kiosk and tables. I strongly agree that this central location is best to serve the public accessing the store from either the main entrance or exit. It provides some shade from the sun and will make a pleasant environment for the employees and customers to rest and relax.

On behalf of Home Depot, we urge the Planning Commission to approve this Dogfather's Cart for the benefit and convenience of our employees and customers.

Sincerely,



Tim Rothanzl
Store Manager, Lompoc

RECEIVED

SEP 14 2004

**CITY OF LOMPOC
PLANNING DIVISION**