PLANNING COMMISSION MINUTES OF FEBRUARY 14, 2011

2010-7515: United Rentals, Inc. [Applicant] **Lisa J. Sims** [Owner] - Appeal by the applicant of the conditions imposed by the Zoning Administrator in approving a Use Permit to allow an existing unpermitted 10-foot tall electrified security fence along the front and side property lines at **940 W. Evelyn Avenue**. - MH *(Continued from January 24, 2011.)*

Trudi Ryan, Planning Officer, presented the staff report. Staff recommends the Commission deny the appeal and uphold the decision of the Zoning Administrator to approve the Use Permit with the conditions in Attachment A.

Comm. Chang discussed with staff whether there was a tonnage limit for equipment stored at this site with staff saying no.

Comm. Larsson clarified with staff that the condition requiring removal of the razor wire also includes the removal of the barbed wire, with staff saying yes and that the Commission could specify this in the conditions.

Vice Chair Hendricks discussed with staff a concern of the Department of Public Safety (DPS) regarding officer safety with Ms. Ryan saying that these concerns were resolved and staff, including DPS, recommends approving the electrified fence as conditioned.

Chair Travis opened the public hearing.

Michael Pate, with Sentry Security Systems, LLC, said their company primarily provides systems to guard large yards that have high value equipment. He said they were originally a guard dog company and the electric fence has replaced the guard dogs. He said the fences are an alarm that is monitored at all times. He said for retail operations the fence is shut down while people are on the site. Mr. Pate explained how the pulsed apparatus works and discussed that the fence runs off of a 12 volt battery. He said cameras are also installed which help make it less dangerous to check alarms. He said their apparatus prevents crime and there have been no break-ins since the fence was installed. He said staff thinks 10 feet is too tall and discussed the value of the 10 feet to keep people out. He discussed electric fence standards. He said they will remove the razor and barbed wire; however they need to keep the fence height at 10 feet to keep it safe.

Comm. Dohadwala discussed with Mr. Pate how the fence works, that burglars would receive a shock, and if the wire is broken an alarm would go off. Comm. Dohadwala confirmed with Mr. Pate that the fence is a deterrent and it does not put someone in

danger. He said it is a takeoff of a cattle fence. Comm. Dohadwala discussed with Mr. Pate nearby cities that have allowed installations of their system. Comm. Dohadwala discussed with Mr. Pate neighborhood compatibility and whether this is excessive security since others in the neighborhood are not using it. Mr. Pate said his company is based in South Carolina and they do not yet have a lot of businesses in California. Comm. Dohadwala said tall fences look uninviting and she does not see Sunnyvale needing electrified fences. She said she is glad that it is not a safety issue for people who touch it, but she thinks fences like these send out a wrong message in a community. Mr. Pate said the fence helps prevent crime. He said this site was losing equipment and this is a safe product. Comm. Dohadwala said the posts that go with the wires make the fence look cluttered. Mr. Pate discussed the fence colors and that the wire could be the same color as the perimeter fence.

Comm. Larsson discussed with Mr. Pate the 12 volt battery and that it is similar to a car or boat battery. Comm. Larsson asked about the separation between the two fences with Mr. Pate saying that the perimeter fence and the electrified fence are required to be between 100 and 200 millimeters from the perimeter fence to prevent a “zone of entrapment.” Comm. Larsson said he thought the distance looked larger than that and asked staff to address the distance between the two fences. Ms. Ryan said the applicant would need to apply for a building permit and verify that the distances are in compliance with the standards referenced by the applicant. Ms. Ryan confirmed that changes could be made in the conditions requiring a certified copy of the electrified fence standards be submitted with the building permit plans. Comm. Larsson discussed with Mr. Pate the height and need for the 10 foot fence. Mr. Pate added that the Sunnyvale Municipal Code does not allow the electric fence on the property line next to residential.

Kathryn Berry, Senior Assistant City Attorney, said the code Mr. Pate is referring to is a like a building code and referenced in State law, specifically the Food and Agriculture Law. Ms. Berry read the State definition of an electrified fence. She said there is nothing in State law about the separation of the fences, so it must be in the electrical codes. She said every local jurisdiction in California can impose local zoning ordinances that can be stricter laws for the City, which Sunnyvale has.

Vice Chair Hendricks confirmed with Mr. Pate that since the fence was installed there have been no incursions. Vice Chair Hendricks confirmed with staff that having a 10 foot fence requires a Use Permit, but can be allowed.

Comm. Sulser discussed with Mr. Pate that he is also representing United Rentals tonight. Mr. Pate said that this is a typical installation. He said the iron fencing on the perimeter is a United Rentals trademark. He said the only thing different on this site are

the 10 foot storage sheds in the back of the lot and the residences behind the site. Comm. Sulser discussed with Mr. Pate and staff the types, strength of fencing, and whether someone could step over the fence depending on the height.

Arthur Schwartz, a Sunnyvale resident, said he is in favor the restrictions presented tonight. He commented about two of Mr. Pate's comments, that the fence is monitored "24/7" for incursions, and that a lot of entries are made by cutting through the fence. Mr. Schwartz said with those two factors that he does not see a difference between the 8 or 10 feet fence height. He said he thinks the aesthetics of the higher fence with wire on top does not leave a good impression and that he does not think the 10 foot fence is needed.

Chair Travis closed the public hearing.

Vice Chair Hendricks moved for Alternative 2, to grant the appeal and approve the Use Permit with modified conditions: to modify condition 4.a to allow the electrified fence to be a maximum height of 10 feet. Comm. Sulser seconded the motion. Comm. Sulser confirmed with Vice Chair Hendricks that the motion includes the addition of language to condition 4.b requiring the "removal of the barbed wire" along with the razor wire on the perimeter fence.

Vice Chair Hendricks said he can make the findings and that this fence is appropriate. He said he does not think the electrified fence is a comment about the City's safety and he does not think the fence is visually intrusive. He said that the fence is a deterrent and a fine use and does not see an aesthetic issue with a 10 foot fence in this location.

Comm. Sulser said when he saw this appeal on the agenda he was not excited about having an electric fence in the area. He said when he looked at the fence he did not find it intrusive and that he does not have a problem with the internal electric fence.

Comm. Larsson offered a Friendly Amendment that the applicant be required to submit a certified copy of the guidelines that specify the required distance between the electrified and non-electrified fence. The Friendly Amendment was acceptable to the maker and the seconder of the motion. Comm. Larsson said he would be supporting the motion and his concerns were with the barbed and razor wire. He said he is concerned about the gap between the two fences and wants to see this addressed. He said the applicant has a valid security concern and this is an appropriate solution.

Comm. Dohadwala said she would be supporting the motion. She said that we want businesses to be in Sunnyvale and if United Rentals thinks this is what they need to

conduct business then she would support this. She said she does have concerns about aesthetics which are on the record.

Comm. Travis said he would be supporting the motion. He said this is an area he is familiar with and if anything, the aesthetics will be improved with the removal of the razor and barbed wire. He said he thinks 10 feet is an appropriate height.

ACTION: Vice Chair Hendricks made a motion on 2010-7515 to grant the appeal and approve the Use Permit with modified conditions: to modify condition 4.a allowing the electrified fence to be a maximum height of 10 feet; to modify condition 4.b adding language requiring the "removal of the barbed wire and the razor wire on the perimeter fence"; and that the applicant be required to submit a certified copy of the guidelines on the electrified fences. Comm. Sulser seconded. Motion carried 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than March 1, 2011.