

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
MAY 17, 2012

CALL TO ORDER: The study session of the Planning Commission was called to order at 6:15 p.m. in the Founders Room of the Community Meeting Center.

PRESENT: COMMISSIONERS BRIETIGAM, BUI, CABRAL, DOVINH,
LAZENBY, PAK, SILVA

ABSENT: NONE

ALSO PRESENT: James Eggart, Assistant City Attorney; Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Lee Marino, Senior Planner; Maria Parra, Urban Planner; Chris Chung, Associate Planner; Alana Cheng, Administrative Analyst; Ed Leiva, Police Sergeant; Rosemarie Jacot, Recording Secretary.

OTHERS PRESENT: Peter Katz

ITEM FOR
DISCUSSION:

ALCOHOLIC BEVERAGE CONTROL LICENSES AND CONDITIONAL USE PERMITS

The discussion included that the Police Department could deny an Alcoholic Beverage Control (ABC) License if there was high crime or over concentration of ABC licenses; that City Council directed that Type "41" licenses, with no entertainment could be approved and that the Police Department could administer Administrative Citations; that licenses were not specific to locations, only CUP's were specific; that the CLEW Report in 2008/09 specified the correlation of operating hours to calls for service; that restaurants tend to morph into bars in the late hours of the night; that security guards were not that effective; that ABC does not shut down establishments, but typically fines them; that though hours may seem unfair, they were consistent for Type "41" licenses; that there was caution with new applicant's as the CUP's run with the land; that if the business closes for more than 30 days, the applicant needs to reapply and go through the application process; that establishments with Type "41" licenses that request upgrades to a Type "47", were on a case-by-case basis as the establishment must be in the correct zone for entertainment; that businesses would be on a trial basis as a restaurant before upgrading the license and adding entertainment based on a six-month performance and that food must be served while the establishment was open; that gross receipts for food were to be more than alcohol sales; that the businesses were not monitored due to lack of staff; that the City's fee system may need to be restructured; that higher calls for service occur after 10:00 p.m. and typically constitute the behavior of a restaurant morphing into a bar; that more businesses were not serving food due to the lower economy and that there were more Type "41" applicants; that standard cases go through the Zoning Administrator; that the CUP's could be amended to cover the cost of training materials; that training was available through the ABC and that staff was also a resource; and, that Main Street has no entertainment overlay.

CALL TO ORDER: The regular meeting of the Planning Commission was called to order at 7:10 p.m. in the Council Chambers of the Community Meeting Center.

PRESENT: CHAIR BUI, VICE CHAIR CABRAL
COMMISSIONERS BRIETIGAM, DOVINH, LAZENBY, PAK,
SILVA

ABSENT: NONE

ALSO PRESENT: James Eggart, Assistant City Attorney; Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Chris Chung, Associate Planner; Ed Leiva, Police Sergeant; Rosemarie Jacot, Recording Secretary

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance to the Flag of the United States of America was led by Commissioner Dovich, and recited by those present in the Chambers.

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Commissioner Brietigam moved to approve the Minutes of March 1, 2012, seconded by Commissioner Pak. The motion carried with the following vote:

AYES: COMMISSIONERS: BRIETIGAM, BUI, CABRAL,
LAZENBY, PAK, SILVA

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: DOVINH

PUBLIC HEARING: PLANNED UNIT DEVELOPMENT NO. PUD-105-76 (REV. 12)
CONDITIONAL USE PERMIT NO. CUP-353-12

APPLICANT: ON THE ROCKS BAR & GRILL
LOCATION: EAST SIDE OF VALLEY VIEW STREET, SOUTH OF LAMPSON AVENUE AT
12752 VALLEY VIEW STREET

DATE: MAY 17, 2012

REQUEST: To amend the PUD-105-76 (Planned Unit Development) zone to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval, in conjunction with a request to modify the floor plan and Conditions of Approval, for an existing approximately 5,795 square foot restaurant, On the Rocks Bar & Grill, located at 12752 Valley View Street, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant as overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage. The business currently operates with an existing State Alcoholic Beverage Control Type "47" (On-Sale, General, Bona Fide Public Eating Place) License approved under Conditional Use Permit No. CUP-301-10 and is located in the Planned Unit Development No. PUD-105-76 zone.

Staff report was read and recommended approval. Five letters of concern regarding noise, increased traffic, outside loitering, and drunkenness were written by Ken Gompert, Steven Bayer, Greg and Kathy Ruhl, P. Minor, and Rose Marie Angiuli.

Chair Bui asked staff to clarify the incident that occurred in the residential area of Alonzo Cook Street. Staff responded that one call for service was for a minor fight between two people at a business.

Commissioner Brietigam asked if the current business was a good operator. Staff remarked that prior ABC issues with the previous restaurant were no longer occurring with the new owner.

Commissioner Pak noted that the interior stage faces the front door as well as the townhomes across Valley View Street and asked staff if double sound doors would mitigate noise when patrons enter and exit as the problem was noted in the submitted letters of concern. Staff responded that a condition requires that noise must not be audible beyond the premises and the responsibility falls on the operator to mitigate the issue should the problem occur.

Commissioner Brietigam asked if the Chief of Police also had the authority to modify the entertainment aspect if problems occur, especially concerning noise. Staff responded that the extent of the authority would be to change or limit the hours of operation.

Commissioner Lazenby asked staff to clarify the hours of operation. Staff stated that the hours would be from 11:00 a.m. to 11:00 p.m. Monday through Thursday, 11:00 a.m. to 2:00 a.m. on Friday, 9:00 a.m. to 2:00 a.m. on Saturday, and 9:00 a.m. to 11:00 p.m. on Sunday.

Chair Bui questioned what the noise level would be outside of the building, as later in the evening, sound travels farther. Staff reiterated that the sound should not be audible beyond the premises; that regardless of the time, noise should not be heard by people outside and the 150 feet requirement was an additional buffer to the residences to the east. Also, that Title 8 has restrictions regarding ambient noise level from the property lines; that if a resident calls the Police regarding any noise, a warning would be issued, a report taken, and the applicant would be asked to lower the noise. If the occurrence happened again, the applicant would be given an administrative citation of \$1,000.

Chair Bui opened the public hearing to receive testimony in favor of or in opposition to the request.

Mr. Steve Melillo, the applicant/owner, approached the Commission.

Chair Bui asked the applicant if he had read and agreed with the Conditions of Approval. Mr. Melillo replied yes and stated that he was a contractor and had lived in Garden Grove; that he believed in his business, had great staff, and put a lot of money into the restaurant; that though the Police were called four times, three of those incidents resolved themselves; that entertainment would be a two-piece band consisting of a guitar player and a singer; that the upstairs space would be for patrons who wanted a more quiet area or for larger parties, however, the room would not be a banquet facility.

Commissioner Pak asked the applicant if a double door would help to mitigate sounds emitted from the entry area. The applicant stated that he already has a stereo system that has been operating for a year with no complaints and that he would address noise complaints.

Commissioner Pak asked the applicant for assurance that there would be no loitering after the business was closed. The applicant stated that during the week, the restaurant was not crowded in the later hours; that on the weekend he has a security guard and a sign on the door that states 'do not loiter'; that he calls taxis for patrons; and, that there has not been a problem.

Commissioner Pak questioned why the entertainment was not seven days a week. The applicant stated that staff recommended entertainment only on the weekends with the band one night and karaoke the other night.

Commissioner Brietigam asked the applicant if he would come back for entertainment seven days a week. The applicant replied no, however, he stated that he would happy to have entertainment throughout the week.

Commissioner Lazenby asked the applicant how a change in closing time would affect the business. Mr. Melillo responded that the closing time was valuable and any complaints would be taken care of immediately. Also, that food would be served until 1:00 a.m. and alcohol would be stopped 30 minutes before closing at 1:30 a.m.

Vice Chair Cabral mentioned that the hours would not change and that the request was for the addition of entertainment on Friday and Saturday.

Commissioner Silva then clarified that only the karaoke was limited to Friday and Saturday and that entertainment could occur seven days a week; and, that the letters of concern submitted were not in opposition, but requested the owner to be a good operator.

Commissioner Silva asked if patrons were allowed to sit on the patio until 2:00 a.m. on Fridays and Saturdays. The applicant replied yes.

Commissioner Silva then asked staff if the kitchen had to be open during the service of alcohol. Staff replied yes per the ABC law.

Commissioner Silva asked at what hour the entertainment would stop. The applicant suggested an hour before closing or earlier.

Commissioner Dovich asked the applicant if he had a security guard. Mr. Melillo replied yes, on Friday and Saturday nights until 2:00 a.m. He added that he had not met with neighbors and was not familiar with the names on the letters of concern, and that he had a ten-year lease.

Ms. Sheila Melillo approached the Commission and stated that their business plan included bringing in income and being a family restaurant that was consistent and safe; and that the band would be an easy band as they do not want trouble.

Commissioner Silva asked staff why karaoke was limited to two nights a week. Staff replied that the concern was the closing hours during the week and that the later closing hour on Friday and Saturday would better suit the activity.

There being no further comments, the public portion of the hearing was closed.

Commissioner Pak asked staff if the condition could be changed to allow karaoke seven days a week, and he also needed a clarification of Recommendation No. 1.

Staff explained that Recommendation No. 1 recommends that City Council rezone the property to allow live entertainment, and if Recommendation No. 2 were approved, the revised floor plan area would be included.

Commissioner Brietigam expressed his support, and suggested that karaoke seven days a week should warrant a hearing.

Staff then suggested a six month trial period for the Friday and Saturday karaoke with further discussion to occur at a later date.

Commissioner Lazenby asked if the City had any decibel codes. Staff responded that the Municipal Code noise ordinance establishes a rating at the property line taking into consideration ambient noise and that on occasion, Code Enforcement has taken noise readings.

Commissioner Pak expressed reassurance that resident's concerns were addressed with mitigation measures and conditions in order to protect the residents so that the safety and well being of the residents would not be impacted. He also welcomed the business and would support the project.

Commissioner Dovich commented that the applicant would do well; that noise was a concern and that noise complaints should be addressed, possibly with the suggested double doors at the entry; that the applicant should consider meeting his neighbors; and, that he would support the project.

Commissioner Lazenby commented that the property looks good and that he would support the project.

Chair Bui expressed his support and commented that neighbors were supportive of the business, however, they wanted any noise issues remedied.

Commissioner Brietigam moved to recommend adoption of Planned Unit Development No. PUD-105-76 (Rev. 12) to City Council and approve Conditional Use Permit No. CUP-353-12, seconded by Commissioner Pak, pursuant to the facts and reasons contained in Resolution Nos. 5773-12 (PUD) and 5774-12 (CUP). The motion received the following vote:

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| AYES: | COMMISSIONERS: | BRIETIGAM, BUI, CABRAL, DOVINH LAZENBY, PAK, SILVA |
| NOES: | COMMISSIONERS: | NONE |
| ABSENT: | COMMISSIONERS: | NONE |

ITEM FOR
CONSIDERATION: REVIEW OF THE CODE OF ETHICS
DATE: MAY 17, 2012

REQUEST: An annual review for the City's Code of Ethics for Public Officers and Employees.

The Planning Commission duly reviewed the Code of Ethics.

Commissioner Pak moved to receive and file the Code of Ethics, seconded by Commissioner Brietigam. The motion carried with the following vote:

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| AYES: | COMMISSIONERS: | BRIETIGAM, BUI, CABRAL, DOVINH, LAZENBY, PAK, SILVA |
| NOES: | COMMISSIONERS: | NONE |
| ABSENT: | COMMISSIONERS: | NONE |

MATTERS FROM
COMMISSIONERS:

Commissioner Brietigam asked if Code Enforcement could send a letter to the owner of a Chinese Restaurant on Valley View Street, between Valley View Bowl and McDonalds, that has not been occupied for approximately five years. The building is covered with graffiti, has a torn awning, and broken windows, along with a homeless man living there with defecation around the building. Staff stated that Code Enforcement would investigate the matter.

Commissioner Brietigam added that he would like to see the Lampson Avenue beautification to begin as soon as possible, and also noted that the required two-hour on-line Ethics course from the City Clerk's office was uninspiring.

Commissioner Lazenby referred to the Chinese Restaurant and asked if the City has the option to condemn and demolish the building. Staff responded that a nuisance abatement action would be an option.

Commissioner Pak suggested adjourning the meeting in honor of the fallen five Garden Grove Police officers and asked the secretary to send a memo to that affect to the officer's loved ones.

MATTERS FROM
STAFF:

Staff also suggested adjourning the meeting in memory of Judy Moore's father, Herbert T. Moore, who recently passed away and who was one of the last surviving members of the battle of Iwo Jima in World War II.

ADJOURNMENT:

Chair Bui asked for a motion to adjourn the meeting in honor of the fallen five Police officers and Mr. Moore. Commissioner Pak moved to adjourn the meeting at 8:15 p.m., seconded by Commissioner Brietigam. The motion received the following vote:

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| AYES: | COMMISSIONERS: | BRIETIGAM, BUI, CABRAL, DOVINH, LAZENBY, PAK, SILVA |
| NOES: | COMMISSIONERS: | NONE |
| ABSENT: | COMMISSIONERS: | NONE |

ROSEMARIE JACOT -Recording Secretary