

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
MAY 21, 2009

CALL TO ORDER: The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers of the Community Meeting Center.

PRESENT: COMMISSIONERS BEARD, BONIKOWSKI, BUI, ELLSWORTH,
KIRKHAM, TRAN

ABSENT: CABRAL

ALSO PRESENT: Omar Sandoval, Assistant City Attorney; Karl Hill, Planning Services Manager; Chris Chung, Assistant Planner; Sid Ashrafnia, Associate Civil Engineer; Sergeant Kevin Boddy, Police Department; Judith Moore, Recording Secretary

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

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Vice Chair Kirkham moved to approve the Minutes of April 2, 2009, seconded by Commissioner Tran. The motion carried with the following vote:

AYES: COMMISSIONERS: BEARD, BONIKOWSKI, BUI,
KIRKHAM, TRAN

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: CABRAL

ABSTAIN: COMMISSIONERS: ELLSWORTH

PUBLIC HEARING: NEGATIVE DECLARATION
AMENDMENT NO. A-149-09
CONDITIONAL USE PERMIT NO. CUP-269-09

APPLICANT: DAVIS ALEXANDER
LOCATION: EAST SIDE OF BROOKHURST STREET, BETWEEN CHAPMAN AVENUE AND
LAMPSON AVENUE AT 12196 BROOKHURST STREET

DATE: MAY 21, 2009

REQUEST: To amend the BCSP-BCC (Brookhurst Chapman Specific Plan-Brookhurst Chapman Commercial) zone to allow a Children's Learning Center with Conditional Use Permit approval, in conjunction with a request for Conditional Use Permit approval to operate a new 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi. The site is in the BCSP-BCC (Brookhurst Chapman Specific Plan-Brookhurst Chapman Commercial) zone.

Staff report was read and recommended approval with modifications to Condition Nos. 31, 36, and 38. One letter of opposition was written by Mr. Henry M. Tremblay, owner of Brookhurst Hobbies.

Commissioner Bui asked Staff to clarify the crime statistics in the area.

Staff replied that there is an over-concentration of alcohol licenses, especially with Conditional Use Permit (CUP) violations; that four out of five businesses in the strip mall are operating in violation of their CUP, relating to hours of operation and entertainment.

Chair Beard asked Staff if the rear area is used for a student drop-off/pick-up area. Staff replied yes, that there is not much parking that occurs in the rear; that the parking stripes have faded over time; and that there is not a designated path of travel, however, traffic flows in both directions in the two narrow alley's serving the rear of the site.

Chair Beard asked if the front door is to be unlocked when the business is open as the door was locked when he made an inspection. Staff replied yes, per the fire code, and that the door must have panic hardware and swing outward.

Chair Beard asked Staff if the open area inside the building could be used as a waiting area. Staff replied that the space is a type of waiting/play area.

Chair Beard asked Staff to clarify the occupancy number in the building. Staff responded that the occupancy is 88 persons total whether students, teachers or others.

Commissioner Ellsworth asked Staff if there were police calls for service on record. Staff replied that an officer was contacted by the rear residents regarding students playing in the alley as they were throwing rocks and paper into the resident's yards; the officer investigated and cited safety concerns with the children; that there were no calls for service for this address, however, it is unknown if there were calls from Brookhaven residents; and, that at an office meeting with the applicants these issues were pointed out and acknowledged.

Commissioner Tran asked Staff if the City has any responsibility toward any future accidents at this business. Staff replied no, that the responsibility is that of the applicant and owner.

Commissioner Tran asked if a fence could be built in the rear to contain the children as they wait for pick up. Staff expressed that State Licensing would impose conditions if the rear space became a play area; and that parking would be decreased.

Commissioner Bonikowski asked Staff to clarify Condition No. 36 regarding additional bathrooms. Staff replied that the Condition revision stated that two plumbing fixtures are acceptable, however, if the number of students exceeds 60, additional plumbing fixtures shall be provided.

Chair Beard asked Staff why there would be six months reviews. Staff responded that there are several concerns regarding complying with the plumbing code, with the children outside, and the building occupancy.

Commissioner Bui asked if the City has measures for making sure the applicant complies. Staff replied that the City would rely on the applicant and periodic visits would be made.

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

Mr. Davis Alexander, the applicant, approached the Commission.

Chair Beard asked the applicant if he had read and agreed with the Conditions of Approval. Mr. Alexander replied yes. He added comments from the owner regarding the tutoring of math and English, and asked that Condition No. 36 be removed regarding additional plumbing fixtures as two restrooms were sufficient.

Vice Chair Kirkham expressed that the item could not be approved without Condition No. 36.

Staff clarified that Condition No. 36 had been modified to state that the existing fixture count is acceptable, however, if the student population would increase to above 60, two additional fixtures would be required.

The applicant stated that he was in agreement with the Conditions of Approval.

Vice Chair Kirkham asked the applicant if children play in the rear. Mr. Alexander replied yes and asked if a fence could be built.

Staff clarified that the request would be a different application.

Commissioner Ellsworth cited the child safety issues with playing outside, especially at night and with cars going by. Also, that the tenants are separate and a fence could be a concern.

Mr. Alexander stated that the parents do not listen to his requests. Also, the owner would allow him to build a fence.

Staff added that a small exterior holding area might be sufficient for children to wait for parents.

Commissioner Bui asked if the interior space could be a holding area for children.

Mr. Alexander responded no, that the space is for studying only, and the outside is for waiting.

Commissioner Tran stated that parents do not always pick up their children on time and that they need a safe place while waiting.

The applicant stated that he would accept an outside waiting area.

Staff responded that they would work with the applicant on a fenced waiting area that would comply with code, and not be a play area.

Mr. Khon Huynh approached the Commission and stated that his children used to attend the Learning Center, however, due to the limited number of students they cannot attend; that the study time is two hours from 4:00 to 6:00 p.m.; that the children wait in the back area; and that parents come at different times.

Rev. Dr. David Huynh, a volunteer tutor at the learning center, approached the Commission and stated that he supports the Learning Center for the benefit of the community.

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

The Commissioners agreed that these projects are needed and good for the community especially with language barriers; and that a fence would address the resident's concerns and would need to be up to fire code for the safety of the children.

Commissioner Tran moved to recommend adoption of the Negative Declaration and approval of Amendment No. A149-09 to City Council, and approve Conditional Use Permit No. CUP-269-09, with amendments to Condition Nos. 31, 36, and 38, with the inclusion that fencing in the rear area must comply with fire code and all other requirements, seconded by Commissioner Bui, pursuant to the facts and reasons contained in Resolution Nos. 5683(A) and 5684(CUP). The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, ELLSWORTH, KIRKHAM, TRAN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	CABRAL

PUBLIC HEARING:	CONDITIONAL USE PERMIT NO. CUP-265-09
APPLICANT:	CATHERINE MATTHEWS
LOCATION:	SOUTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF FAIRVIEW STREET AT 13132 GARDEN GROVE BOULEVARD #B
DATE:	MAY 21, 2009
REQUEST:	Conditional Use Permit approval to operate an existing restaurant, Club 22, with a new original Alcoholic Beverage Control Type "47" (On-Sale General, Public Eating Place) License. The site is in the C-2 (Community Commercial) zone.

Staff report was read and recommended approval. Staff also described the recently adopted City Council policy regarding Alcoholic Beverage Control Type "41" and "47" licenses; that if applications are received that request Type "41" and "47" licenses and the business owner/operators are in compliance with the City's standard conditions of approval, and lastly, there are no issues attached to the business, these requests would be channeled to the Zoning Administrator, in lieu of the Planning Commission, with a recommendation for approval to help expedite the process.

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

Ms. Catherine Matthews, the applicant, approached the Commission.

Chair Beard asked the applicant if she had read and agreed with the Conditions of Approval. Ms. Matthews replied yes, with one exception to Condition No. 13. She requested an 'hours of operation' extension to close at 2:00 a.m. on Friday and Saturday, and the option to close earlier. She also stated that in the past year, her business has had no problems or incidences; that they are in compliance with their CUP; that they need to be competitive and consistent with other businesses in the area; that two other businesses, the Tartan Room and Louie's on Main Street, close at 2:00 a.m.; that their entertainment license allows for Karaoke on Tuesdays only; and that lunches and dinners are served.

Ms. Gabriela Rossberg, a partner in the business, approached the Commission. There were no questions.

Mr. Bud Guitrau approached the Commission and expressed his support for the request and consistency among Type "47" licenses.

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

Staff commented that they have worked with the applicant and understood their vision was to be a full sports bar; that the hours were extended to 11:00 p.m. and 12:00 a.m.; that one Type "47" business competitor is a legal nonconforming CUP so the hours of operations cannot be controlled; that the other Type "47" competitor may have a CUP, however, they have been in business a long time and the hours of operation were not regulated at the time; that Staff is trying to be consistent with standard conditions, especially hours of operation, using statistics from the CLEW study; that the CUP runs with the land and the next operator with this use may not be a good operator; that LEADS training is required; that Police resources are being drained on establishments that have Karaoke, entertainment, and extended hours; and that the City wants the businesses to be successful.

Chair Beard asked Staff that if the case is approved as is, does the applicant have the right to appeal to City Council? Staff replied yes.

Commissioners agreed with Staff's recommendation and agreed to support the request as is.

Commissioner Tran commented that Staff is trying to prevent problems that haven't happened yet; and that not allowing a 2:00 a.m. closing time seems unfair as this business is not the problem.

Staff reiterated for clarity, that the CUP runs with the land; that the next operator may not be a good operator; that the City is regulating the use; and that property rights, once granted, are difficult, and a large effort, to take away or reduce.

Commissioner Bonikowski asked if a condition could be added to change the stipulation that the CUP runs with the land.

Staff responded that an entitlement to a property owner adds value to the land and sufficient justification is required to reduce the value; that also, neighboring property values and rights could be affected and that is why neighbors are sent notifications.

Commissioner Bui asked Staff if the business owner could have a temporary change. Staff replied that there is a possibility for a temporary change with a six-month review period, however, after one year, the property rights are vested; and that specific uses with specific property rights can continue in perpetuity, despite zone changes, unless the use is changed, then the new use must comply with current standards.

Vice Chair Kirkham moved to approve Conditional Use Permit No. CUP-265-09, seconded by Commissioner Ellsworth, pursuant to the facts and reasons contained in Resolution No. 5682. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, ELLSWORTH, KIRKHAM, TRAN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	CABRAL

For the following item, due to a conflict of interest, Vice Chair Kirkham recused himself from the discussion.

PUBLIC HEARING:	SITE PLAN NO. SP-452-09 LOT LINE ADJUSTMENT NO. LLA-7-09
APPLICANT:	MJM PROPERTIES, INC.
LOCATION:	EUCLID STREET, NORTH OF ORANGEWOOD AVENUE AT 11301 AND 11251 EUCLID STREET
DATE:	MAY 21, 2009
REQUEST:	Site Plan approval to expand an existing mobile home park (El Dorado) by adding 15 new home spaces, in conjunction with a Lot Line Adjustment to consolidate three parcels into a single parcel in the R-3 (Multiple Family Residential) zone.

Per the applicant's request, Staff recommended a continuance of this item to a date uncertain and stated that the project would be re-noticed.

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

There being no further comments, the public portion of the hearing was left open for further testimony at a later date.

Commissioner Ellsworth moved to continue the case to a date uncertain, seconded by Commissioner Tran. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, ELLSWORTH, TRAN
NOES:	COMMISSIONERS:	NONE

ABSENT: COMMISSIONERS: CABRAL, KIRKHAM

Vice Chair Kirkham rejoined the meeting.

MATTERS FROM
COMMISSIONERS:

Chair Beard asked if the Water Park Hotel would come before the Planning Commission.

Staff responded that the DDA (Disposition and Development Agreement), which is a purchase and sale agreement when a governmental agency owns property, would not typically come before the Planning Commission; however, a developer for the project may be on board and the hope is that the project would be open by 2012 with entitlements coming before the Planning Commission within the next year before going on to City Council.

MATTERS FROM
STAFF:

Staff read a brief description of future Agenda items for the June 4, 2009 Planning Commission meeting. Staff added that the June 18th public hearing would have a Study Session on the topic of Alcoholic Beverage Licenses, prior to the meeting.

Chair Beard wished everyone a happy and safe Memorial Day.

ADJOURNMENT:

Chair Beard moved to adjourn the meeting at 8:30 p.m., seconded by Vice Chair Kirkham. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, ELLSWORTH, KIRKHAM, TRAN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	CABRAL

JUDITH MOORE
Recording Secretary