

M I N U T E S

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
NOVEMBER 15, 2012

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

Commissioner Dovich joined the meeting during Oral Communications.

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; Chief Kevin Raney, Police Department; Sergeant Ed Leiva, Police Department; Tony Aquino, Associate Engineer; Greg Brown, Senior Project Planner; Rosemarie Jacot, Recording Secretary

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

ORAL COMMUNICATIONS: Mr. Josh McIntosh approached the Commission and stated that by having lost the last strawberry field in Garden Grove, the City has lost its identity, and that a small community garden strawberry field would help to regain the City's identity.

APPROVAL OF MINUTES: Commissioner Pak moved to approve the Minutes of October 18, 2012, seconded by Commissioner Brietigam. The motion carried with the following vote:

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

PUBLIC HEARING: SITE PLAN NO. SP-472-12
LOT LINE ADJUSTMENT NO. LLA-10-12
DEVELOPMENT AGREEMENT NO. DA-188-12
APPLICANT: BRANDYWINE HOMES
LOCATION: WEST SIDE OF HOPE STREET, SOUTH OF WESTMINSTER AVENUE AT
14051 AND 14061 HOPE STREET
DATE: NOVEMBER 15, 2012

REQUEST: Site Plan approval to construct a 34-unit, three-story apartment complex with a 30 percent affordable housing density bonus for low to moderate income families, along with a request for a Lot Line Adjustment to

consolidate two properties into one parcel within the R-3 (Multiple-Family Residential) zone at 14051 and 14061 Hope Street. The project will include one, two, and three bedroom units that range in size from 771 square feet to 1,225 square feet. Pursuant to State Law regarding affordable housing projects, the applicant is also requesting one waiver from the R-3 zone development standards in order to allow residential units within ten feet of a driving aisle. A Development Agreement is also included. The site is in the R-3 (Multiple-Family Residential) zone.

Staff report was read and recommended approval. One letter of opposition was written by Jerry and Laurel Waite regarding the three-story building height, parking, low-income status lowering their property value, increased traffic, curbs and sidewalks; and, that they would rather see houses or condominiums in lieu of apartments.

Commissioner Lazenby asked if there were outstanding environmental issues. Staff replied no.

Commissioner Brietigam asked if privacy concerns had been addressed. Staff replied that the project was set back from the residential area approximately forty-feet; that certain windows could be opaque to shield visibility, however, clerestory windows could not be too small as they were needed for exiting; and, that carports along the property line would also help to shield visibility.

Commissioner Silva asked if there was a higher density bonus percentage than 30 percent. Staff replied 35 percent was the maximum per state law.

Commissioner Pak recalled the previous development for the property that was approved and not built; that this development was smaller and previously, there was a sewer capacity issue with the main sewer line. Staff replied that the sewer would be upgraded prior to the construction of the project.

Commissioner Brietigam asked if the applicant could begin construction immediately if approved. Staff explained that the sewer would need to be completed prior to a grading permit and that construction would begin within the next year.

Chair Bui asked if on-street parking would be available as approximately 90 parking spaces would be required. Staff responded that density bonus laws for affordable housing were specific with regard to parking; that the developer needs only to provide two spaces for two and three-bedroom units, and one space for a one-bedroom unit; that the economics indicate households typically could not afford additional cars and were closer to major streets that have buses; and, that this project provided eleven more spaces than state law allows.

Chair Bui asked if the eleven extra spaces could be a problem for surrounding residents. Staff recalled that a recently approved 25-unit project on Dale Street had no complaints.

Chair Bui also mentioned a woman complained about having to park on the street. Staff explained that the woman was from a gated community that had parking problems; that the overflow was not from an adjacent development; and that if this project was approved and had parking problems, there was an on-site manager. Also, that anyone could park in

the street as long as parked legally, and the project was conditioned to limit the number of people in each unit.

Vice Chair Cabral asked if the Development Agreement funds the City receives benefit the project area, as the letter of opposition mentions uncompleted curb and sidewalks on Hope Street. Staff responded that the funds go into the general fund, and that staff would look into the matter.

Commissioner Pak questioned if on a vacant lot on Hope Street, an 18-wheel truck was still parking illegally. Staff was unaware of any complaints.

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

Mr. Mark Whitehead of Brandywine Homes approached the Commission and stated that he had received a utility services email stating that the sewer upgrade would begin the end of January and be completed by summer.

Chair Bui asked the applicant if he had read and agreed with the Conditions of Approval. He replied yes.

Commissioner Pak asked the applicant that if the City did not improve the sewer, would he fund the sewer improvement for the 34-unit apartment.

The applicant explained that they met with utility services, who committed, though had no schedule at the time; and, that Brandywine was in escrow to purchase the property from the current owner.

Commissioner Lazenby asked if the curb and gutter improvement was in Brandywine's plans. The applicant responded that the developer would make those improvements on the front streets from property line to property line; and, that there would be a mix of carports and open parking space.

Commissioner Lazenby then asked for an explanation of affordable housing. Staff responded that state statutes, with formulas based on area median income, determine whether individuals or families make a percentage of that area median income to be considered low-income; that density bonus units, subject to affordable housing agreement, must be rented to those that make less than a certain amount of money determined by state statute.

Chair Bui asked what happens to the low-income units if there was no one to rent them. Staff stated that the five density bonus units would be subject to a 30-year agreement that they be rented to low-income individuals only.

Commissioner Pak mentioned that the landlord would still get the market rate for the rental, and that the landlord apartment needs to be visible and accessible for better control.

The applicant added that the landlord would be to the front, and that as a family business, the apartments would be managed by the family.

Mr. Hung The Quach, the owner, approached the Commission and stated that he had a concern with the escrow being extended because if anything

happened, like injuries, on the property, he would be liable as he still owns the property.

Commissioner Dovich asked Mr. Quach if the buyer indicated that the Commission approval was contingent on the buyer closing escrow. Mr. Quach replied no.

Chair Bui asked staff if the proposed project could be approved prior to the buyer owning the land. Staff explained that typically, the escrow closing was contingent upon approval by the City of the entitlements otherwise the developer would not purchase the property, and this would be written in the agreement between the owner and the buyer. Also, the property owner was required to support the application for the Commission to consider the proposal and a document would have been signed giving permission for the entitlements to be asked for.

Mr. Quach reiterated that by still being the owner, he was responsible for the property and wondered that if the project were approved and construction began before escrow closed, would he still be legally responsible if anything happened.

Staff explained that any details would be contained in the purchase and sale agreement between Mr. Quach and the buyers; and, that typically if the escrow had not closed, the developer could not build.

Commissioner Pak asked for the timeframe for the escrow closure. Mr. Quach stated there were extensions with more possible extensions.

Commissioner Pak noted that the developer was at the meeting because he was given the permission to proceed.

Commissioner Lazenby explained that the developer was aware that before construction begins, the escrow must close, and that during this time, the applicant was suspended of his liability.

Chair Bui added that Mr. Quach could cancel the escrow if the concerns were not met; that the owner had the control; and, that the Commissioners could not comment on the issue.

The applicant approached the Commission and reassured Mr. Quach that construction could not proceed until escrow was closed on the property.

Commissioner Pak asked the applicant if he had received a written authorization from the owner to proceed. The applicant replied yes, about five or six months ago; that the delay was due to state law requiring that a preliminary WQMP for the site needed to be approved through Engineering prior to a file pre-file with the City.

Commissioner Dovich asked the applicant if Brandywine was committed to purchasing the property and what was the construction timeframe.

The applicant emphasized that Brandywine was committed, and if approved, the Development Agreement would go to City Council so construction could begin immediately for a duration of approximately 12 to 14 months.

Commissioner Dovich added that residents would like the developers to recruit Garden Grove contractors and subcontractors. The applicant

agreed and mentioned that the civil engineer, the demolition and grading contractors, and the Homeowners Association were all in Garden Grove.

Mr. Khalil Eldah approached the Commission and stated that his property was adjacent to the project with the same R-3 zoning and wondered how he would be affected if he applied for a similar project in the future.

Staff explained that the projects were on a case-by-case basis; that codes would be reviewed for compliance; and that WQMP would need to be in place.

Mr. Josh McIntosh approached the Commission and asked for the maximum number of people allowed per unit, as this would affect parking.

Staff responded that the five units were subject to the affordable housing agreement which runs by the rule of 'two plus one', which means two people per bedroom plus one, so that a two bedroom unit would allow five people; and, that the remainder of the units were subject to the building code limitations.

Chair Pak then mentioned that a resident stated that the on-street parking was already overcrowded. Staff responded that the development meets state code; that there could be overflow parking, which is public parking; that the state believes that providing affordable housing was important; that cities sometimes impose parking standards that frustrate the provision of affordable housing; that on-site parking could not be greater than stated in the statute; that the Housing Accountability Act stated that to deny housing development or a density bonus project there needed to be specific written findings, for this project 'the development project would have a specific adverse impact on the public health and safety and there is no feasible method to mitigate or void that impact and define the specific adverse impact as a quantifiable direct and unavoidable impact based on an objective, identified written public health standard.'

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

Commissioner Brietigam stated that the parking was a concern; that Brandywine was responsible for some of the best and worst projects in Garden Grove, with this project being in the latter category; and, that the Housing Accountability Act would force him to support the project.

Commissioner Lazenby noted that the parking spaces exceeded the code, which would not impact the street, and that he would support the project.

Commissioner Pak agreed and noted that OCTA buses ran more frequently on Westminster Avenue than Garden Grove Boulevard, and that these addresses were close to a bus line.

Vice Chair Cabral expressed her support and suggested staff look into the curb and sidewalk on Hope Street, and follow-up with an update.

Commissioner Dovich also agreed this was a project that could be supported; that he hoped the owner and applicant closed escrow soon; that the City needs more good affordable housing; and, that the real estate market was improving.

Chair Pak agreed the parking would be an issue, however, the developer exceeded the parking and he would support the project.

Commissioner Lazenby moved to recommend adoption of Development Agreement No. DA-188-12 to City Council and to approve Site Plan No. SP-472-12 and Lot Line Adjustment No. LLA-10-12, seconded by Commissioner Pak, pursuant to the facts and reasons contained in Resolution No. 5783-12. The motion received the following vote:

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

Commissioner Pak stated that he lived within the 500-foot radius of the project site and recused himself from the discussion.

Commissioner Silva stated that he owned the business next door to 7 Seas Fish House and recused himself from the discussion due to conflict of interest.

PUBLIC HEARING: AMENDMENT NO. A-170-12
CONDITIONAL USE PERMIT NO. CUP-284-09 (REV. 12)
APPLICANT: H. BRUCE NGUYEN
LOCATION: WEST SIDE OF MAIN STREET, BETWEEN ACACIA PARKWAY AND GARDEN GROVE BOULEVARD AT 12941 MAIN STREET
DATE: NOVEMBER 15, 2012
REQUEST: To amend the CC-2 (Civic Center – Main Street) zone to allow live entertainment, for “eating establishment/ restaurant with limited entertainment” uses, in the forms of a full band, karaoke, and disc-jockey (DJ). Currently, the CC-2 zone limits “eating establishment/restaurant with limited entertainment” uses to include up to two (2) performers in the form of one amplified instrumentalist and one (1) vocalist, subject to Conditional Use Permit approval, and no dancing or audience participation is permitted. Additionally, a request for Conditional Use Permit approval to amend the Conditions of Approval for an existing 6,000 square foot restaurant, 7 Seas Fish House, to extend the hours of operation to be from 11:00 p.m. to 1:30 a.m. Sunday through Thursday, and 11:00 p.m. to 2:00 a.m. Friday and Saturday, along with a request to allow live entertainment in the form of a full band, karaoke, and disc-jockey (DJ). The site is in the CC-2 (Civic Center – Main Street) zone.

Staff report was read and recommended denial. One letter of support for the denial was written by John Wietor regarding concerns of loitering, noise, loss of income, messes behind the buildings, and disturbances requiring Police intervention.

Sergeant Ed Leiva, of the Garden Grove Police Department, noted that since August of 2011, there were 18 calls for service, with seven administrative citations issued for such violations as loud music disturbances and night club activities, with dancing, DJ’s, and smoke machines, which were not permitted, along with indoor and outdoor fights, that include one instance of a victim who was shot at while driving away. Also, a possible drug overdose, with the victim dying later. Sergeant Leiva emphasized that due to reduced staff, the police could not monitor all of the ABC licensed establishments effectively.

Chief Kevin Raney of the Police Department gave a perspective of his interaction with the applicants of 7 Seas Fish House over the last several years. He stated that the applicants believe the Police Department was not supportive of their business, which was not true; that he looked forward to another nice eating establishment on Main Street and he went there and was impressed with the improvements; that every three months he and his Captains meet with the board members of the Garden Grove Police Association and discuss any issues relating to policies; that when he hosted the meeting, he chose 7 Seas Fish House to expose others to the business and offer support; and, that in 2010, after the Police Department Accreditation meeting, he chose to take the assessors to 7 Seas Fish House.

He further stated that with the recession occurring, the business owners faced difficulties, however, the applicant applied for a Conditional Use Permit, with conditions of approval that the applicant agreed to abide by; that violations had occurred for the last three years; that he and Susan Emery, the Community Development Director have met with Mr. Nguyen at least five times over the past three years; that a sushi bar was constructed without a permit, and though the City would have been supportive, the applicant still had to follow the rules, however, the City did allow the sushi bar after an inspection. Also, that a raised platform was constructed to be used for fixed seating, however, the concern was that the platform would be used as a stage; and, that meetings had been held to discuss supportive business plans, which were never realized.

He then stated that problems began with the dance floor, DJ's, and a change of clientele, specifically gang members from Long Beach using 7 Seas as a hangout; that police met with Mr. Nguyen again to discuss concealing the DJ's cabling and the City agreed to a raised floor; that since then, the platform had been used for the DJ, however, the DJ was never approved; that for soundproofing, sample materials were shown, but never installed; that a change in the business model showed the restaurant being a nightclub on Friday and Saturday nights; and, that noise complaints continued and people were attracted to the nightclub aspect, not the dining experience. The City then expressed that they would be in support of a DJ if the tables were bolted to the floor. The applicant agreed to an amendment to the Conditional Use Permit, however, the application never came in and violations increased.

Chief Raney then stated that he was not in support of the applicant's amendment to the Conditional Use Permit despite City support over the years as the applicant was not willing to follow the rules. Chief Raney explained that for several years, he and Susan Emery had met with owners of Main Street and asked if they could collectively come together as a group before City staff to collaborate on a plan to make Main Street better; that the City was in need of fine eating establishments and entertainment venues, however, with good operators and rules to abide by, and that since then, there has not been a response. Also, that the City would be supportive of a business model, and a disc jockey, or karaoke, but not a dance club atmosphere; that there were only 144 officers to police the City; that there was an 18 percent increase in crime in 2012; and, that police were supportive of some forms of entertainment on Main Street using a comprehensive agreed upon plan in order to not have inequity and keep public safety in mind.

Susan Emery acknowledged that she had met with Mr. Nguyen many times and was hopeful for the restaurant and the improvements; that there was

an idea to bring the arts to Main Street, though this did not happen; that Council members also hoped the business would be successful; that there had been more flexibility on Main Street in the past few years; and, that the idea was to avoid having nightclubs, which attract problems.

Commissioner Dovich asked if there were nightclubs in Garden Grove. Staff responded that most nightclubs were in conjunction with a restaurant, for example, The Can; that there were only two Type "48" ABC Licenses in the City; that Leonardo's, the Playgirl Club, and the Rendezvous were previous nightclubs; and, that the City did not have an issue with nightclubs, however, the clubs should be located in C-2 zones and not near residential areas.

Commissioner Dovich clarified that the issue was not nightclubs, but bad operators and clubs near residences.

Staff agreed to the DJ, though not dancing, as Main Street was not an appropriate area for a nightclub due to the proximity of nearby residential; that C-2 zones were far from the residential areas; and, that the primary function of the restaurant was to serve food, along with background entertainment.

Commissioner Dovich commented that he equated DJ's with dancing and that if an operator was good, he could have a DJ, but no dancing. Staff then stated that when they asked the owner how he would implement a DJ, he stated that he would use the DJ for background music only and no dancing.

Staff added that The Globe Restaurant was permitted a DJ and there were no citations; that the Azteca had a few noise complaints, but no dancing; that the concern was the restaurants morphing into nightclubs; that the root cause was a bad operator, and that the zone did not allow for dancing; that a nightclub was not allowed at this location, however, a nightclub would be allowed in a different location; that the CLEW study pointed out that Type "47" licensed establishments were acting as Type "48"s, and Type "41"s were acting as Type "47"s; and, that to be nightclub, the business owners need to surrender their Type "47" and apply for, and receive, the Type "48".

Commissioner Lazenby asked if the applicant could have misinterpreted the discussions as permission to move ahead. Chief Raney responded that there was no room for misinterpretation.

Commissioner Dovich asked how the numerous citations were resolved. Staff replied that time was allowed for the citations to be paid, however, at this time, staff was unaware if the citations were paid yet.

Commissioner Dovich then asked if complaints were from an individual who submitted multiple complaints or were complaints from several individuals. Staff replied both.

Commissioner Dovich asked if special event permits could be issued that allowed for dancing. Staff responded that a special event permit was issued, however, two go-go dancers were employed to provide entertainment, which was a violation of the City's Municipal Code as it relates to nudity.

Commissioner Dovinh then expressed his concern for when the employee was found unconscious and later died, and wondered if the event was a crime. Staff responded that the toxicology report indicated the presence of cocaine in decedent's body, however, in regard to crime, details on the case could not be discussed. Also, that there have been technical arrests via the administrative citations and that the gang members were patrons of the restaurant.

Chief Raney added that he believed Mr. Nguyen to be an honorable man, and would not condone gangs, however, others may not have the same values as Mr. Nguyen, and clearly, Mr. Nguyen would not be present at the establishment 24/7 to monitor the activities.

Chair Bui referred to the incident that included a man with a gun and a victim was shot at while driving away and wondered if the gun was permitted. Staff replied that the man carried a non-permitted weapon and the shooting occurred approximately three-quarters of a mile away, south of the restaurant; that inside the bar, the man simulated he had a gun and the victim suspects he was shot at by the same man due to the altercation that led up to the shooting.

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

Mr. Bart Kaspero, the applicant's representative, approached the Commission and stated that he also hoped the Main Street effort would be a success, however, the choices for success were difficult to determine; that Mr. Nguyen was asking for extended hours as he needs them to make a living; that the business model changes to keep up with the marketplace; that Mr. Nguyen did not want a roudy and dangerous place; that he sees the noise and DJ were a recurring theme, however, for noise complaints, less police resources were required; that a DJ would not be the cause of senseless acts; that the 7 Seas Fish House could be defined as 'hip' and was fun, however, the restaurant was not built for dancing and was not a club, but more of a hybrid, and, that Mr. Nguyen did not want dancing.

Mr. Kaspero then read from the staff report, "Such an amendment would uniformly expand the forms and intensity of the types of live entertainment potentially available to all restaurants located on this area of historic Main Street." He added that though the historic physical aspect of the area was limited, the potential was limitless; that people would go to the restaurant because the venue was different, fun, and lively in a historic area, however, activities should not be out of control. Also, that there were many nights over the years with no complaints; that most complaints were likely from a single source; that business was unpredictable and not cheap; that the incidents could have happened anywhere; and, that Mr. Nguyen deserves a chance.

Vice Chair Cabral asked Mr. Kaspero if he was the applicant's attorney. Mr. Kaspero replied yes.

Chair Bui asked how many people would dance at any time. Mr. Kaspero did not witness dancing when he was present, and a solution would be to bolt down the tables.

Vice Chair Bui and Chief Raney pointed out that the table-bolting request was originally from November of 2011, however, from February there had been dancing.

Chair Bui asked why the informal agreements had not been acted upon. The applicant, Mr. H. Bruce Nguyen, approached the Commission and stated that the tables were not bolted, however, they had not been moved either.

Chair Bui stated that the basic concern was safety and asked how to resolve the problems.

Mr. Kaspero stated that the restaurant was a good problem as dancing would motivate people to move their bodies and have a good time and the City should want more of these establishments; and, that dancing would be difficult to regulate.

Chair Bui responded that the motivation was good, but not at the expense of public safety and that a balance was needed between the business with entertainment and public safety. He then asked how to mitigate the noise heard outside the restaurant.

Mr. Kaspero stated that 7 Seas Fish House was noisy inside, however, he would need to know where the complaints came from.

Commissioner Dovich asked for specific mitigation methods for the noise complaints and that he understood spontaneous dancing; however, if the dancing leads to increased crime, such as fighting, he could not support that especially if police resources were repeatedly stretched.

Mr. Kaspero mentioned that the noise complainer was recruited as the new sound engineer; and, that the original complainer lived above, near the restaurant.

The applicant then stated he was a part owner of 7 Seas Fish House; that because sound vibrates through glass, a curtain was installed; that a damper was installed as insulation between the two subwoofers; that speakers directed to the glass were removed; that more speakers were installed and the volume turned down; and, that the complainer was John Wietor.

Chair Bui asked if the tests were done to see if the remedies brought down the noise to an acceptable level. Mr. Nguyen stated that the noise level went down; that a door was adjusted to close faster; that he was looking into the cost of double doors; and, that the tables would be bolted down.

Commissioner Lazenby asked when the improvements were completed. Mr. Nguyen replied five to six months ago.

Mr. James Heckhaus, the marketing manager, approached the Commission and stated that he interacts with the media for the business; that he had been at the business for the last two months and did not witness people dancing as there was no area to dance; that any drunk people dancing were removed or told to sit down by security; that the tables were only moved for private parties; that he knows what happens in Little Saigon and does not want that for Garden Grove, especially the gang aspect; that he knows if there was a bad element, he gets rid of the element and triples security if need be; that the 7 Seas Fish House owners were legitimate and

the restaurant wants only to cater to the late night dining crowd; and, that the competition was open until 2:00 a.m., along with DJ's, and business was lost without the late night hours, especially for the Vietnamese dining community.

Mr. Josh McIntosh approached the Commission and stated that he was a patron of the Main Street restaurant; that he would like late night menus at all of the restaurants; that food would help to sober drunk drivers; that he was a DJ and performed at all of the Garden Grove bars except 7 Seas Fish House; that dancing did not equal violence and was celebratory; that limits should not be set that make patrons go to other cities; that every band has mixer volume controls and established levels need to be determined; and, that business should not be pushed out of Garden Grove.

Mr. Peter Katz, president of the Garden Grove Downtown Business Association, approached the Commission and recalled that the idea was to create an ambience on Main Street to draw both locals and tourists to a place to enjoy meals, which brings revenue and tax dollars; that the argument was not dancing, but noise; that decibels needed to be turned down; that lighting needed to be addressed as the back parking lot was poorly lit and attracted a seedy element; that Main Street needed to be safe; that a system needed to be set in place to promote the businesses to become successful as Main Street was struggling; and, that the entertainment portion of the request needed to be separated from the overall request.

Chair Bui asked Mr. Katz that if the lighting and noise issues were remedied, would he be supportive of the request. Mr. Katz replied yes, however, the applicant needed to be more involved in the business.

Mr. Scott Weimer approached the Commission and stated that there was economic hope with the new restaurants; that Main Street was a great place to go; and, that the applicant remodeled the building to be the jewel of Main Street.

Mr. Kaspero stated that the noise mitigations indicated a willingness to want to succeed; and, that a noise study needed to be done.

Chair Bui emphasized that people needed to sleep and rest at night, and did not need disruptions; and, that the shared parking in the rear was dark and caused a safety issue.

Commissioner Lazenby asked if the parking lot was lit to City standards and that the light was inhibited by the trees and that trimming the trees would make a difference. Staff responded that the parking lot was lit, but did not know if the lighting levels were met.

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

Commissioner Brietigam stated that the number of complainers was irrelevant as the Police need to be proactive to keep the public safe; that dancing was not one of the issues before the Commission; that the business plan must comply with the zoning laws; that changes needed to go through the formal approval process; and, that the violations indicate the owner was a bad operator.

Vice Chair Cabral echoed the statement and added that the applicant had much support from his neighbors and that he was attempting to do the right thing, however, he was a bad operator and needed to show that he could follow the established rules other businesses comply with; that dancing was not the issue; and, that staff would be in support of a good operator.

Commissioner Lazenby stated that the applicant made a commitment, however, he had 45 violations; that re-zoning was another issue; that even with the improvements he had violations; that four citations involved the DJ, and there was no understanding that a DJ was not acceptable; and, that he could not support the request.

Commissioner Dovich agreed with the previous comments, however, he acknowledged that the restaurant was experiencing growing pains; that the facts were laid out, and the bad elements do associate with bars and the establishments should be monitored by Police, however, the businesses should be encouraged on Main Street; that the applicant had support from his neighbors and should be allowed the extended hours and a DJ like the other businesses as the playing field should be level; that the improvements should be made that the applicant committed to; and, that the applicant should leave the problems behind and move forward.

Chair Bui stated that he agreed with all of the comments and expressed his support as the applicant had made progress; that the noise issue needed to be addressed so that no one would be disturbed; that he was encouraged that double doors would be installed; and, that he understood the applicant could not control who came in the door, however, he needed a plan to address this as the business should not be a drain on Police resources.

Commissioner Brietigam moved to approve the denial of Amendment No. A-170-12 and Conditional Use Permit No. CUP-284-09 (REV. 12), seconded by Vice Chair Cabral, pursuant to the facts and reasons contained in Resolutions of Denial Nos. 5785-12 (A) and 5786-12 (CUP). The motion received the following vote:

AYES:	COMMISSIONERS:	BRIETIGAM, CABRAL, LAZENBY
NOES:	COMMISSIONERS:	BUI, DOVINH
ABSENT:	COMMISSIONERS:	PAK, SILVA

Commissioners Pak and Silva rejoined the meeting.

PUBLIC HEARING: SITE PLAN NO. SP-473-12
APPLICANT: JAIME DUENAS
LOCATION: NORTHWEST CORNER OF WESTMINSTER AVENUE AND A BETTER WAY AT 11621 WESTMINSTER AVENUE
DATE: NOVEMBER 15, 2012
REQUEST: Site Plan approval to construct a new 2,320 square foot office building on a 2.1-acre site that will be shared by three businesses, Roger's Grading, B & D Towing, and California Fuels. The site is in the M-1 (Limited Industrial) zone and the new office building will be used by California Fuels.

Staff report was read and recommended approval.

Chair Bui questioned why the applicant had six months to remove the trailer after construction. Staff responded that the original timeframe was three months, however, the applicant asked the building manager for the six months and he agreed; and, that the removal of the trailer was conditioned in the 2003 Conditional Use Permit, however, the removal was overlooked.

Commissioner Pak asked if the applicant was present. He was not. He then asked if the trailer was parked illegally. Staff replied yes, and that the applicant would not be cited as long as the trailer was removed within six months after project completion.

Chair Bui 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 closed.

Commissioner Brietigam moved to approve Site Plan No. SP-473-12, seconded by Commissioner Lazenby, pursuant to the facts and reasons contained in Resolution No. 5787-12. The motion received the following vote:

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

PUBLIC HEARING: DEVELOPMENT AGREEMENT NO. DA-189-12
APPLICANT: LANDMARK MARRIOTT SUITES, LLC
LOCATION: 12015 HARBOR BOULEVARD
DATE: NOVEMBER 15, 2012

REQUEST: The Planning Commission will consider recommendation to the Garden Grove City Council of adoption of a First Amendment to Development Agreement between the City of Garden Grove and Landmark Marriott Suites, LLC for property located at 12015 Harbor Boulevard in the City of Garden Grove, California (Assessor's Parcel No. 231-481-02). On September 8, 1998, the City of Garden Grove entered into a Development Agreement with the Landmark Hospitality, LLC, the predecessor in interest to the current property owner. The proposed First Amendment to Development Agreement would amend the 1998 Development Agreement to add a legal description of the property subject to the Development Agreement.

Staff report was read and recommended approval.

Commissioner Lazenby asked if this was an extension for the Marriott Suites. Staff replied the amendment was for the existing property overall.

Commissioner Pak questioned why the amendment was requested now and not before.

Staff responded that the Development Agreement was still in the chain of titles and caused title problems for refinancing; that the added legal description would allow the owner to get refinancing; that a formal finding request was not attached, however, staff took the applicant's word on the

matter; and, that a hold harmless document was not required for the City of Garden Grove as there was no liability associated with the title issue.

Chair Bui 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 closed.

Commissioner Dovich moved to recommend adoption of the First Amendment to Development Agreement No. DA-189-12 to City Council, seconded by Commissioner Pak, pursuant to the facts and reasons contained in Resolution No. 5788-12. The motion received the following vote:

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

MATTERS FROM
COMMISSIONERS:

Commissioner Brietigam questioned why construction stopped on the Lampson Avenue improvement. Staff stated they would look into the matter.

Commissioner Brietigam requested that Commissioners read the staff reports as 80 percent of the questions asked were contained in the reports, and by performing this due diligence, the meeting may not have been as long.

Commissioner Lazenby asked if there was an update on the sports facilities regarding the parking. Staff responded that there were no complaints the last three weeks and that both facilities were on a 30-day notice to no longer charge for parking; and, after 30 days Code Enforcement would be sent.

Commissioner Lazenby stated that he pulled into a sports facility lot and would have been charged for parking by an attendant if he had not gone into Radio Shack.

Commissioner Cabral added that the MAPS sports facility was also charging for parking and had a taco stand in the lot. Staff further added that staff spoke to the MAPS operator, who expressed a concern that a revenue source would be taken away, however, he was told parking must be provided on site.

Commissioner Pak mentioned that the pot hole at the corner of Garden Grove Boulevard and Hazel Avenue was still there at the bus stop; that the signs on the Banco Popular still had covered windows; and, he questioned the status of the approved Hyundai sign, and asked for an update on the Brookhurst Triangle.

Staff responded that there was no update on the Brookhurst Triangle and that the sign was approved for the west side of the building structure close to the freeway off ramp with a limited height of 51 feet to the top of the sign portion; and, that the sign would be dimmed down and angled slightly away from Trask Avenue with a static image from 10:00 p.m. to 5:00 a.m.

Vice Chair Cabral questioned if City staff was working on a cohesive plan with the Main Street businesses. Staff stated that there was no formal action for a Main Street plan; and, that though there have been attempts, the owners were diverse, especially regarding entertainment.

Commissioner Silva expressed that there should be a meeting with all of the restaurants.

Vice Chair Cabral then added that there should be a level playing field, especially regarding decibel levels.

Staff added that there were other Garden Grove restaurants open until 2:00 a.m.

Commissioner Lazenby commented that he would like to see a lively and vibrant Main Street, however, bad operators should not be rewarded with extended hours as good businesses followed rules.

Commissioner Dovich commented that he chooses to fight urban blight as good businesses were hard to find and he believed in giving people opportunity.

Chair Bui acknowledged that the applicant was under pressure to succeed as Azteca could have music and be open until 2:00 a.m.; and, that being too harsh could cause the 7 Seas Fish House to be out of business soon.

Commissioner Brietigam commented that the applicant should prove himself to be a good operator first, then asked for extended hours. Vice Chair Cabral agreed and noted that spending a million dollars on improvements was not a reason to receive extended rights.

Chair Bui commented that requests should be viewed on a case-by-case basis. He also wished everyone a Happy Thanksgiving, and that the "We Give Thanks" organization would have a free dinner at lunch from 11:00 a.m. to 3:00 p.m. at the Honda Center in Anaheim and that everyone was welcome on Thursday, November 22nd.

Commissioner Dovich commented that the meeting was productive and that the applicants would draw benefits from the discussions to hopefully be good operators. He also wanted to congratulate Chair Bui on a successful campaign and recognize the Chair's contribution to the Commission.

Chair Bui expressed his thanks and stated that public serving was in his heart and hoped to continue serve and be an advocate for the residents.

**MATTERS FROM
STAFF:**

Staff stated that there were two agenda items for the Thursday, December 6, 2012 Planning Commission meeting; and, that a head count was needed for the Planning Commission Holiday dinner.

ADJOURNMENT:

The meeting was unanimously adjourned at 10:55 p.m. to the next regularly scheduled Planning Commission meeting on Thursday, December 6, 2012.

ROSEMARIE JACOT
Recording Secretary