

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
MARCH 1, 2012

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, LAZENBY, PAK, SILVA
ABSENT: DOVINH

ALSO PRESENT: James Eggart, Assistant City Attorney; Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Lee Marino, Senior Planner; Chris Chung, Associate Planner; Dan Candelaria, Traffic Engineer; Monica Robledo, Associate Engineer; Ed Leiva, Police Sergeant; Greg Blodgett, Senior Project Manager; Judy Moore, 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: None.

APPROVAL OF MINUTES: Commissioner Brietigam moved to approve the Minutes of January 19, 2012, seconded by Vice Chair Cabral. The motion carried with the following vote:

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

Due to a conflict of interest, Chair Bui recused himself from the discussion of PUD-110-96 (REV. 12).

PUBLIC HEARING: PLANNED UNIT DEVELOPMENT NO. PUD-110-96 (REV. 12)
CONDITIONAL USE PERMIT NO. CUP-347-12
APPLICANT: JARED HARDIN
LOCATION: SOUTHEAST AND SOUTHWEST CORNERS OF TRASK AVENUE AND
BROOKHURST STREET AT 9898 AND 10150 TRASK AVENUE
DATE: MARCH 1, 2012

REQUEST: To modify the Sign and Graphic Standards in an existing Planned Unit Development (PUD-110-96) to allow a 59-foot high auto dealership electronic freeway-oriented sign, subject to Conditional Use Permit approval, for an auto dealership on a minimum two-acre site. The site is in the Planned Unit Development No. PUD-110-96 zone.

Staff report was read and recommended approval. One letter of opposition was written by Hoa Lan, three petitions of opposition were received, and information on digital billboard controversies was submitted for review.

Commissioner Brietigam asked if the City could advertise on the sign or would receive or generate revenue from the sign. Staff responded that the City would not generate revenue, however, a condition would allow the City to advertise ten percent of the time for community events and public service announcements.

Commissioner Pak asked for a sign comparison with the Volkswagen and Toyota freeway signs in the area. Staff responded that the proposed sign was approximately the same height, including the Chevrolet dealership non-LED sign, and that the brightness would be approximately the same. Vice Chair Cabral opened the public hearing to receive testimony in favor of or in opposition to the request.

Mr. Jared Hardin approached the Commission and stated that his business donates back to the community; that he does a large amount of advertising; that he has over 50 employees and over 3,500 vehicles were sold in 2011; that he is a third generation dealer in his family; that he has a similar auto dealer sign in Anaheim that generated a fifty percent increase being a good traffic builder; that these signs were partnerships between cities and manufacturers and his support comes from the manufacturer; that he understood the residential opposition, however, the sign would be in a commercial area and be a benefit; and, that the sign would be prior to an off ramp.

Vice Chair Cabral asked the applicant if he had read and agreed with the Conditions of Approval. Mr. Hardin replied yes.

Commissioner Lazenby expressed his concerns regarding the glare factor as the sign at Taft Street shines in his front door. He asked if the 140 degree LED array could be moved down to be visible only on the freeway and not in residential areas.

The applicant responded yes, that the degrees were adjustable to control the brightness.

Commissioner Lazenby added that the degree pertained to the angle for visibility only on the freeway, not the brightness factor.

Commissioner Silva questioned why the applicant's predecessor dealership, Dodge, did not have a sign, nor did Nissan, and obviously a dealer would like be next to a freeway.

The applicant replied that many factors were the key to success, and even with the best signage, businesses could fail if all aspects were not taken into account.

Commissioner Pak asked the sign's cost. The applicant replied \$500,000.

Commissioner Pak then asked if the applicant had tried for a community meeting to tackle the negative response issues. The applicant responded that a meeting should have occurred, however, the benefits outweighed the one percent of opposition; that he had employees that rely on the store; and that he would meet with the residents.

Commissioner Brietigam questioned why the sign would face Trask Avenue and could the sign be built on top of the parking structure to be visible only on the freeway.

The applicant responded that the sign would be perpendicular to Trask Avenue; that the sign is double-sided for freeway visibility only; that the dealership rests in a hole; that the sign height is approximately the same height as the green readerboards; that placing the sign on the parking structure would move the sign further west passed the off ramp; and that the parking structure was not designed for the sign.

Vice Chair Cabral asked if the Anaheim sign was next to a freeway. The applicant replied yes, that the sign was larger and installed in 2010, after going through Anaheim's Planning Commission and City Council process.

Mr. Rod Wilson, the owner, approached the Commission and stated that with the new LED technology, the 140 degree viewing angle could be controlled for dimming vertically and horizontally.

Commissioner Lazenby asked if the viewing angle could be brought down to 80-90 degrees so the residential area would not receive the sign glare.

Mr. Wilson added that the degrees could be 90, 120, and 140 and that the hours of operation for the LED display would be 7:00 a.m. turn-on and 10:00 p.m. turn-off, or there was the option to display all night with a static frame; that during the day, there would be no impact; that the window from 6:00 p.m. to 10:00 p.m. would be the hours of concern; that this new technology has the flexibility to bring the ambient light input down; that if the Volkswagon sign had a concern, he would look into the matter as the other center was older technology and the intensity could be lowered; and that the new sign has 0-100 percent dimming levels.

Commissioner Lazenby asked if a lens would create a problem. Mr. Wilson replied yes, that the 20 millimeter display resolution would be affected. Also, that the display would go dark at 10:00 p.m., and that if the display were static, the dimming would be the standard 15 percent, however, the display would still be acceptable and visible to the residents at five percent; and, that the dimming would be done by line voltage from the office software.

Mr. John Muse, a registered civil engineer, approached the Commission and stated that the sign illumination would be less than 0.1 foot candles and would go down from a further distance; and that the 1/10th illumination would not be a significant issue.

Commissioner Lazenby agreed and stated that the glare would be the issue especially if the glare could be seen a half a mile away; and, that if the sign was dark or at 15 percent after 10:00 p.m., the residents would have some protection.

Mr. Muse agreed, and stated that issue typically pertained to the older technology; that the 15 percent would be the maximum at night and 85 percent during the day, however, the sun would be brighter; and, that the sign was ribbon-tied.

Commissioner Brietigam asked if the sign could be designed to attach to a freestanding building or be lighter in weight.

Mr. Muse responded that a sign could be incorporated into a parking structure only during the initial design phase of the structure; and, that adding the heavy sign to the parking structure now would be too expensive.

Mr. Wilson added that for a comparison to the Volkswagon sign, the proposed sign would have a smaller display set at less ambient light output for less glare; and, that the percentage could be lowered to decrease the glare.

Vice Chair Cabral asked staff if there were complaints from the existing signs. Staff replied no.

Vice Chair Cabral then questioned if the display was conditioned to be 'static'. Staff answered yes, and that the sign could also be conditioned to be dark.

Commissioner Lazenby commented that a successful business would be good for the City, however, an increase in traffic would be a concern. He asked staff if the signals could be set to assist with traffic flow.

Staff responded that Brookhurst Street had been re-timed to have optimized 'green' time, however, adjustments could be made based on the traffic impacts of the project; that with the street built-out, additional lanes would not be an option; that an option could be a 'free-right' for traffic heading eastbound right, turning from Trask Avenue down to Brookhurst Street going south; that a 'free-right' would mean that traffic would go continuously without stopping at a red light; that the option would require acquisition of Hyundai property; and, that other options were being explored.

Phat Bui approached the Commission and stated that he was a concerned citizen, resident, and parent with safety concerns for residents living along Trask Avenue on either side of the freeway and the students using the intersection to cross the streets; that 250 neighbors signed a petition regarding the children and quality of life; that research shows digital billboards were controversial nationwide; that the City should conduct hazard studies prior to granting approvals for the freeway signs; that there would be four, maybe five billboards in the future; and, that the decision should be considered carefully especially because of the lifelong impact. He also expressed that the Hyundai dealership owner did not reach out to the community; that the one percent opposed would be considered losers and 99 percent would be the winners; and, that both sides of the billboard would be visible on Trask Avenue going both east and west, which would affect traffic and potential accidents. He further added a quote: "The American Association of State Highway and Transportation Officials has issued a brief about the digital boards, calling them a distraction to motorists already distracted by in-car issues, like cell phones and text messaging. The AASHTO says the digital boards pose a hazard to motorists who are distracted." Also, "The Federal Highway Administration Report cited many studies from different states, of which the Wisconsin Study (Page 9) shows that Interstate I-94 eastbound traffic saw a crash rate increase of 36%." As a parent, Mr. Bui hoped the Planning Commissioners would think carefully prior to voting on the project.

Mr. Vinny Nguyen approached the Commission and expressed that he has a young child who would eventually need to cross Trask Avenue and Brookhurst Street to attend school; that Brookhurst Street was congested and dangerous; and, that the sign would be a big distraction for children and motorists. He also questioned who would be responsible for accidents, especially those caused from being distracted by the sign, and suggested moving the sign next to the freeway ramp on Trask Avenue. Though he did not oppose the sign, he opposed the corner location.

Mr. Mach Bui approached the Commission and expressed that walking to school, he and his friends were already afraid for their safety at the Brookhurst Street and Trask Avenue intersection; that they did not want to be frightened more with the new billboard; that he had studied at school about accidents caused by distractions; that the high speed of traffic would contribute to motorists crashing; that two existing LED billboards flash every few seconds into his house at night; and, that he hoped the Commission would not jeopardize his safety and quality of life.

Ms. Mai Luong, who lives on Trask Avenue, approached the Commission as a concerned citizen and mother, and asked her friend Kim Ngo to read her letter of opposition aloud. Her letter stated that two petitions of opposition were submitted that stated traffic safety concerns regarding pedestrians, especially children, crossing the busy intersection at Brookhurst Street and Trask Avenue, and that she would be living in the area for a long time.

Mr. Victor Vuong approached the Commission and stated that he opposed the billboard due to safety concerns for students who use the Brookhurst Street and Trask Avenue intersection; that drivers were distracted by cell phones and texting, and that an example would be that a railroad train accident had been caused by the operator texting and many people were injured; and, he hoped that his safety and that of his student friends would be above the business interests.

Ms. Ashley Le approached the Commission and expressed her opposition to the billboard at Brookhurst Street and Trask Avenue as she had friends that cross the intersection going to and from school at 8:00 a.m or 2:00 p.m.; that the traffic was fast; that even though her parents drive her to and from school, she was not safe either as a crash could occur from the billboard distraction; and, that the Planning Commission should consider the student's safety as well as their own.

Mr. Rick Johnston approached the Commission and read a letter of opposition for his neighbor, Dino Pham, who was not able to attend the meeting due to illness. Mr. Pham expressed his concerns for the Trask Avenue sign as well as the planned sign for the Chevrolet dealership; that he had safety concerns for the children attending Jordan School or the Sunnyside School who cross the busy intersection; that the signs would be there for a long time; and, that the quality of life would be affected as one digital billboard was unbearable and two would be miserable near his house. Mr. Johnston then added his own observation that the existing billboard changes approximately every five seconds and driver's eyes would be diverted, a deadly combination at the Brookhurst Street and Trask Avenue intersection.

Mr. Tinh Buu approached the Commission and expressed his safety concerns stating that though he did not live in that area anymore, he knew that people avoid the busy area, especially because of elderly drivers who

seem to be distracted; that Vietnamese go to the area four to five times a day for coffee or groceries; that it would not be a good idea if the billboard faced Trask Avenue; and, that a different location may be better.

Ms. Tina Dang approached the Commission and stated that she was a registered nurse at Kaiser Hospital and Fountain Valley Hospital and opposed the project; that the last couple of years, 80 percent of patients came from motor vehicle accidents; that one out of ten patients may walk out, the others being paralyzed; that she passes by Trask Avenue four to five times a day; that she likes the business idea, however, life was more important; and, that she hoped the Commission would consider the project carefully.

Mr. Tai Vo approached the Commission and expressed that the freeway and intersection have a lot of traffic accidents; that he avoids the street because of too much traffic; that there was a traffic light problem; that three young people spoke with concerns; and, he cautioned that the project would not be good for the City.

A resident from Santa Ana approached the Commission and stated that he did a community survey that day; that people did pay attention to billboard signs on the freeway, which could cause an accident; that there was no difference between looking at billboards, using cell phones, and texting as distractions; and, that the City of Garden Grove should think about the area, as who would build a billboard next after Hyundai?

The applicant then stated he was appreciative that people spoke on the project, especially with regard to safety; that Caltrans studies substantiated that signs, when operated properly, do not increase accident risk; that the risk would be a freeway risk rather than a Boulevard risk; that Caltrans stated there was not a risk increase for the Anaheim sign; that he was not aware of any litigation regarding these signs; that the sign was not designed to be seen from the Boulevard; that potential issues may be that real estate values and commutes would be affected; that he recognized that students walk to school; that a compromise could be a static display during school hours; that citizens and businesses support education and schools; that any house across from a freeway or auto center would be affected by light; and, that the area was commercial, not residential.

Mr. Wilson added that other signs were controlled by Caltrans regulations for outdoor advertising; that no motion or animation would be allowed; that a 405 Freeway Caltrans study proved that accidents did not increase after installing LED digital displays; and, that one study was during the 1980's during the light bulb displays and one in the mid 1990's at the beginning of the LED displays; that Caltrans only allows static displays without motion; that after the second initial study, Caltrans began installing their own electronic message centers for amber alerts; that the image renewal rate was five seconds, with a recommendation of no more than five or six seconds for one image morphing into the next for less distraction; and, that the renewal rate could be extended to seven seconds.

Commissioner Pak asked for the number of total viewing seconds. The applicant replied that 30 seconds at the speed limit would give the opportunity to exit; and, that the design looks great with a four-foot side width in a blue color.

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

Commissioner Lazenby expressed that he was familiar with the intersection and the safety concerns; that the hazardous area was the on-ramp to the Garden Grove Freeway east on the southbound Brookhurst Street side; that the crosswalk was long; that perhaps traffic could be slowed down; and that suggestions would be 'no-turn on red' during school hours on the southbound Brookhurst Street to the westbound Trask Avenue, along with a longer 'walk' sequence.

Staff added that a longer walk sequence would impact the ability to coordinate traffic signals.

Commissioner Brietigam stated the concerns could have been resolved if the applicant had spoken to the community; that safety issues do exist; that the sign may not be consistent with Garden Grove; that similar signs in Commerce face the freeway and do not impact the community; that the location and placement of the sign should have been reconsidered; that he could not support this request; and, that he hoped the applicant would reach out to the community to make the project happen.

Commissioner Pak stated that the area was successful for the Vietnamese community; that the intersection was probably the busiest in the City with traffic backed-up; that traffic synchronization was needed near the Jordan School and at Westminster; that the community had safety concerns for their children; that there may be a compromise, however, the community input was missing; that the request could be tabled for a later date; that the sign would be a great opportunity to promote City events; and, that the Hyundai dealership could invite the community to the dealership to discuss safety issues.

Commissioner Silva commented that he agreed, however, he would support the request as the sign would be an asset to the City for announcements; that the applicant was willing to work with the community on the issues; that the traffic was terrible and the sign would probably not contribute to the traffic any more than any other dealership; and, that compromise would be needed to be successful.

Commissioner Lazenby added that if the viewing time was extended, the display would be dark at 10:00 p.m. to not affect sleep, and the illumination level would be 15 percent, he would support the project; that the impact would likely be less than expected by the neighbors; and, that the LED would be directed down on the freeway above house levels.

Commissioner Silva stated that, from a business aspect, he would not favor the sign going dark from 10:00 p.m. to 7:00 a.m. as the hours would be too restrictive and that 15 percent static display would be better.

Vice Chair Cabral acknowledged the community's frustration with experiencing traffic, with the applicant being the receiver of the frustration; that she was originally opposed to the request having seen billboards in other cities; that Garden Grove needs to thrive by bringing in funds to help the community with a balance; that the applicant was willing to work with the community and make sacrifices to fit in the community; that she would support the request, however, not support the delay in making a decision; that the sign should not go dark; that suggested conditions to add would be the 15 percent decrease from 10:00 p.m. to

7:00 a.m. and to extend the viewing time to eight seconds; that the City would look at the traffic concerns; and, that the resident's primary concern was public safety and not the lights.

Commissioner Lazenby stated that text messaging, cell phone usage, and irresponsible drivers have no bearing on the sign installation, however, the amount of traffic may be impacted, but could be addressed by the City.

Commissioner Pak reiterated that a community meeting would be respectful to promote civic participation; that even with additions to the conditions, the request needed more consideration; and, that though he basically supported the request, he could not support a by-pass of this important step.

Commissioner Brietigam agreed and stated that many cities were having less signage; that studies go both ways; and, that the community should have been involved, however, he would not support a postponement.

Vice Chair Cabral agreed the Community should have been involved, however, the public hearing process allowed the community to express their concerns; that the community was heard, as the proposed added conditions reflect; and, that the community was valued.

Vice Chair Cabral moved to adopt Planned Unit Development No. PUD-110-96 (Rev. 12) and Conditional Use Permit No. CUP-347-12, with added conditions that include the extension of the image viewing time to eight seconds and the sign not going dark after 10:00 p.m., seconded by Commissioner Lazenby, pursuant to the facts and reasons contained in Resolution Nos. 5759-12 (PUD) and 5763-12 (CUP). The motion received the following vote:

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

Chair Bui re-joined the meeting at 9:20 p.m.

PUBLIC HEARING: MITIGATED NEGATIVE DECLARATION
PLANNED UNIT DEVELOPMENT NO. PUD-127-12
SITE PLAN NO.SP-467-12
TENTATIVE TRACT MAP NO. TT-17432
DEVELOPMENT AGREEMENT NO. DA-184-12

APPLICANT: CITY VENTURES
PROJECT
LOCATION: NORTHWEST CORNER OF EUCLID STREET AND HAZARD AVENUE AT
10901 HAZARD AVENUE
DATE: MARCH 1, 2012

REQUEST: To rezone a 5.97-acre lot from PUD-104-81 to Residential Planned Unit Development to allow the construction of a 56-unit single-family residential small-lot subdivision; a Site Plan to construct the 56 homes along with street and open space improvements; and a Tentative Tract Map to subdivide the property into 56 separate lots. A Development Agreement is also included. The site is in the Planned Unit Development No. PUD-104-81 zone.

Staff report was read and recommended approval, with amendments to Conditions of Approval Nos. 19, 28, and 46.

Commissioner Silva asked staff to clarify the number of cars allowed on the driveway. Staff responded that for code purposes, only one car was counted in the driveway, and the other space could be for a guest; and, that the driveway would be wide enough for two cars with two in the garage and one on the street.

Commissioner Brietigam asked what happened to the previous request for this lot. Staff responded that Empire Homes was to build 98 town homes, however, the application was withdrawn due to negotiation issues with the price of the land.

Vice Chair Cabral referenced Condition No. 31 regarding the sewer line and asked staff if a private company could tie directly into a regional sewer line should the City not have the wastewater capacity. Staff replied that the City sewer connects to the county sewer; that if the route was direct the county could accept the tie-in; that other developments use this method for adjacent property convenience; and, that ultimately the developer would need a permit from the Orange County Sanitation District (OCSD).

Commissioner Pak noted that typically, a project would not go forward without sewer capacity, and he asked if the OCSD gave permission for the connection. Staff responded that as a part of the environmental process, the applicant had a 'will serve' letter from the OCSD stating there was sufficient capacity for the 32 remaining homes to hook into the county.

Chair Bui asked that if the 32 units did not have the rights they could not build? Staff replied yes.

Commissioner Brietigam asked staff to clarify the setback. Staff explained that the wall would be set back ten feet from the road, and the house would be set back twenty-five feet, with a fifteen foot rear yard setback.

Commissioner Pak expressed concerns that the weight of the trash collection truck could break the underground water pipes and that the truck would have to back up to change direction. Staff responded that Republic Waste was comfortable with the cul-de-sac design of the street for maneuvering and that the west side driveway would be for fire and trash trucks.

Chair Bui asked if the poor condition of the street on Hazard Avenue had been improved, especially for increased traffic. Staff responded that the City improved a portion of the street frontage and the developer would finish the remaining portion in front of their property; and, that there would be sufficient traffic capacity.

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

Mr. Joe Oftelie, the applicant's representative from City Ventures, approached the Commission and stated that he has an experienced team and available capital. He presented a Power Point that described the project.

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

Commissioner Brietigam asked if the project was contingent on a land sale. The applicant replied that City Ventures does not own the property.

Commissioner Silva asked for a particular exit to be clarified. The applicant stated that the exit would be 'exit only' for all vehicles; that there would be a Home Owner's Association; that they have ten active communities; that some of the other communities were town homes with live-work, single-family homes, and a podium project with town homes; that the town homes being constructed in Brea were selling; and, that all of their communities were sell-outs.

Commissioner Pak asked if there would be handicap parking spaces. The applicant replied no, that they were not required for single-family residential; that the utilities would be undergrounded on Hazard Avenue as well as on site; that the price range of the units was yet to be determined; and, that the association has no name yet.

Commissioner Lazenby asked for the size of the unit footprint. The applicant stated that there was eight feet between houses; also, that the school district charges \$2.97 per square foot living space, however, the schools do not say how they would use the development funds.

Ms. Denise Ashton, the architect, approached the Commission and pointed out that the Plan 1 was an approximately 970 square foot footprint and that Plan 2 was 1,316 square feet.

The applicant added that there was a 'letter of will serve' from the OCSO regarding the sewer capacity.

Commissioner Pak asked for clarification on the responsibility of property tax payments for the units, if 24 units would pay Garden Grove and 32 would pay OCSO.

Commissioner Cabral explained that the property tax bill was a set fee for single-family residences at \$267 per year for everyone.

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

Commissioner Pak moved to recommend adoption of the Mitigated Negative Declaration, Planned Unit Development No. PUD-127-12, and Development Agreement No. DA-184-12 to City Council, and adopt Site Plan No. SP-467-12 and Tentative Tract Map No. TT-17432, seconded by Commissioner Brietigam, pursuant to the facts and reasons contained in Resolution Nos. 5760-12 (PUD/DA) and 5761-12 (SP/TT). The motion received the following vote:

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

PUBLIC HEARING:	CONDITIONAL USE PERMIT NO. CUP-346-12
APPLICANT:	KIMBERLY TUYEN VO
PROJECT	
LOCATION:	NORTHEAST CORNER OF GARDEN GROVE BOULEVARD AND BROOKHURST WAY AT 10051 GARDEN GROVE BOULEVARD
DATE:	MARCH 1, 2012

REQUEST:

To modify the Conditions of Approval for an existing 2,673 square foot restaurant, Men Say Quan, operating with an existing State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) License approved under Conditional Use Permit (CUP) No. CUP 318-11; to extend the hours of operation to be from 9:00 a.m. to 12:30 a.m. Monday through Wednesday, and from 9:00 a.m. to 1:30 a.m. Thursday through Saturday; and, to allow live entertainment in the form of a one-man band with amplified sound and a stage. The site is in the C-2 (Community Commercial) zone.

Staff report was read and recommended denial. A letter was submitted describing the request.

Commissioner Silva asked staff if 10:00 p.m. and 11:00 p.m. were standard closing times for an ABC Type "41" License. Staff replied yes, however, not with 100 percent compliance as older conditional use permits have later hours of operation.

Commissioner Silva then asked if the hours of operation and entertainment were mutually exclusive, for example, could owners still have entertainment if their hours were noncompliant. Staff responded that entertainment was available if the business closed per the standard hours.

Commissioner Lazenby questioned if the denial was due to past violations or complying with new standards to be consistent. Staff responded that the recommendation was a combination of the violations with issued citations, and that with businesses open later with alcohol, along with diminished police resources, there tends to be more calls for service.

Vice Chair Cabral noted that a submitted letter stated that the applicant was only notified two days ago of the meeting. Staff stated that noticing was sent out well ahead of the meeting.

Vice Chair Cabral also noted that the applicant requested longer hours due to the type of food they were serving, that the type of food was not served before dinner.

Commissioner Pak asked if the other restaurants in the center had conditional use permits. Staff responded that a neighboring Korean restaurant's CUP was from 1986 with no stated hours of operation, however, the ABC regulates the hours along with restrictions.

Commissioner Pak asked that if the applicant asked for live entertainment only, would the recommendation be different. Staff replied that the applicant would still be restricted to the standard closing times, however, four administrative citations had been issued since June of 2011; that the noncompliance included the business being open at 2:25 a.m. with 17 patrons, a raised stage with amplified music, and one patron vomiting in a bucket on August 15th, another citation on September 26th included being open at 1:15 a.m., then on October 20th karaoke was being played, and finally on February 25th the citation was for karaoke and the stage. The citations were civil and the violation was not necessarily stated on the form, however, the applicants were told of the specific violations; and, that the applicant could contest a citation.

Commissioner Lazenby asked if curfew violations occurred on October 20th and February 25th. Staff responded that 'after-hour operation' was not an issue for those citations.

Chair Bui recognized that staff was concerned with the previous violations and asked what the recommendation would be if the applicant requested the one-man band and to not extend the hours. Staff responded that the CUP was used as a tool to govern any particular establishment on a case-by-case basis; that with limited resources for policing, the City would rely on the business operators to stay in line in order to reduce other issues; that staff has looked at other businesses requesting extended hours and a few have been approved; that if the operators were good with no calls for service or other issues, there may be possible support, however, staff could not support businesses that do not comply; and, that the CLEW report confirms that alcohol in the late hours causes more problems both within and outside the businesses.

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

Mr. Kevin Vo, the applicant, approached the Commission and stated that he helps to run the small family-owned business as they could not afford to hire additional help; that the grandfather rule was unfair; that the hours of operation need to be extended beyond 10:00 p.m. as the business does not make enough to pay the rent during standard hours; that his culture eats and socializes in the later hours; that there were no complaints prior to any of the violations; that there was no justification that the business was not complying; and, that he would like the opportunity to continue operating in Garden Grove.

Commissioner Silva asked the applicant if he violated his CUP four times. The applicant replied yes.

Chair Bui asked the applicant why he continued to violate his CUP. Mr. Vo responded that within a month of opening, he was interested in modifying his CUP as he saw other restaurants on Garden Grove Boulevard open until 12:00 a.m. and he could not be competitive; that the first violation he accepted, the second violation was because of the demand of his customers coming in at 8:00 and 9:00 p.m., the third violation for karaoke occurred while his brother was there, but he could not appeal the citation in time; and, he then assumed he would get a citation every month.

Commissioner Lazenby asked when the business opened. Mr. Vo replied July 11, 2011.

Commissioner Silva asked staff, regarding the Asian culture, if the extended hours and entertainment would be an on-going problem for the City.

Staff explained that concerns with overages of Alcoholic Beverage Control (ABC) licenses resulted in City Council treating the businesses as restaurants with restrictions for Type "41" licenses in the hope these businesses would be good operators; that if there were a change with these businesses, the City Council may need to revisit the issues; that not all of these businesses were requesting extended hours, however, there would be four or five similar applications coming up; that generally, the businesses would be treated as family-style restaurants with restrictions; that a Type "48" business was a bar, and a Type "47" would be a

restaurant with beer, wine, and spirits, and that entertainment would be allowed in the C-2 zone along with extended hours. Staff further pointed out that the CLEW study discussed the correlation between alcohol establishments and crime; that ten percent of alcohol outlets account for fifty to sixty percent of calls for service, with calls increasing later at night; that these type of restaurants tend to morph into bars with alcohol being the main attraction; and, that the Police Department could not monitor all of the ABC establishments in the City.

Chair Bui agreed that more Vietnamese and Korean restaurants would like the extended hours in order to socialize with entertainment; that the problem would not go away; that businesses would take a chance and violate their CUP to be competitive; and, that there needs to be a long term solution.

Mr. Vo approached the Commission and added that his business was a restaurant and that more food was sold than beer.

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

Commissioner Brietigam agreed that the City needed to look into the problem, however, this applicant assumed he would be cited once a month; that he has four violations and expects more; and that he would not support the extended hours.

Vice Chair Cabral understood the competition for the extended hours; that a good operator may be approved, however, the applicant intends to continue violating his CUP; and, that the applicant could be a good operator for the first year then come back and reapply for the requests.

Commissioner Silva understood the cultural issue, however, there were other factors to consider, that perhaps the applicant needed to be in a different zone as the issue would keep recurring.

Staff elaborated that the solutions depend on the philosophy of the City Council; that a past rule looked at the number of licenses allowed in census tracts in relation to crime counts and denial was automatically recommended if the licenses and crime were too high; that the number of licenses in the census tracts increased, but with good operators being denied; that three years ago the City Council opted to only look at the operator and focus on allowing Type "41" licenses; that if the operators complied they could move toward a Type "47", however, Type "47" licenses typically had associated increases in crime; that the City Council encouraged a tool, which was the Administrative Citation; that typically during the Zoning Administrator CUP hearing process, the applicants agree to no entertainment and or extended hours; that current pressure was that applicants do not like the restraints; that though there was no change in policy, Council Member Nguyen would like to address the issues with the Council; and, that with the reduction in police officers, and more serious budget problems, that when clarifying policy goals, the City must look at having adequate public safety resources to safely serve the restaurants and community.

Vice Chair Cabral asked if a fee was associated with Mr. Vo's application. Staff replied yes.

Commissioner Brietigam added that regarding different cultures, he saw issues with creating policies based on cultural differences, as the City was a melting pot of cultures and the driving force should be based on resources.

Commissioner Lazenby commented that it was unfortunate the violations occurred, and recommended that perhaps a modification to the business was needed to serve an earlier crowd.

Vice Chair Cabral reiterated that the applicant did apply; that the conditions were clearly stated at the Zoning Administrator meeting; that the City would like good businesses that would comply, however, she could see the extended hours getting out of hand with additional violations; that the applicant needed to avoid serving alcohol before closing time so there was no reason for the patrons to 'wear-off' their alcohol into the late hours; and, that the applicant needed to establish himself as a good operator, then the application could be revisited.

Commissioner Pak agreed that the City relaxed the Type "41" criteria three years ago; that each case was taken on its own merit; that it was good Council Member Nguyen was addressing the issue; that an abiding business could ask for an extension of hours; that the CUP runs with the land; that the extension would be a big risk because if the extension was approved, the business could be sold to someone else; and, that the rules may change in the future, however, the applicant has no option now.

Chair Bui hoped that the applicant understood; that the operator needed to show good faith by complying; and, that he could not support the request.

Commissioner Brietigam moved to approve the denial of Conditional Use Permit No. CUP-346-12, seconded by Vice Chair Cabral, pursuant to the facts and reasons contained in Resolution No. 5762-12. The motion received the following vote:

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

MATTERS FROM
COMMISSIONERS:

Commissioner Brietigam moved for Commissioner Bui to continue as Chair, seconded by Commissioner Lazenby. The motion carried with the following vote:

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

Commissioner Brietigam moved for Commissioner Cabral to continue as Vice Chair, seconded by Commissioner Lazenby. The motion carried with the following vote:

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

Commissioner Pak invited his fellow Planning Commissioners and staff to the Public Safety and Appreciation Luncheon to be held at the Community Meeting Center on March 2, 2012 from 11:30 a.m. to 1:30 p.m. He also asked if there was an age limit on people testifying at a public hearing. With Staff replying 'no', he then added that the young people were courageous to testify.

MATTERS FROM
STAFF:

Staff stated that the next Planning Commission meeting would be Thursday, April 19, 2012.

ADJOURNMENT:

Chair Bui moved to adjourn the meeting at 10:50 p.m., seconded by Commissioner Pak. The motion received the following vote:

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

JUDITH MOORE -Recording Secretary