

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
NOVEMBER 6, 2003

CALL TO ORDER: The work session of the Planning Commission was called to order at 6:30 p.m. in the Founders Room of the Community Meeting Center.

PRESENT: VICE CHAIR JONES, COMMISSIONERS BARRY, CALLAHAN,
FREZE, HUTCHINSON, AND NGUYEN
ABSENT: CHAIR BUTTERFIELD

ALSO PRESENT: Doug Holland, Deputy City Attorney, Susan Emery, Planning Services Manager, Karl Hill, Senior Planner; Noemi Bass, Assistant Planner; Maria Parra, Planning Intern; Sergeant Robert Fowler; and Teresa Pomeroy, Recording Secretary.

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: VICE CHAIR JONES, COMMISSIONERS BARRY, CALLHAN,
FREZE, HUTCHINSON, AND NGUYEN
ABSENT: CHAIR BUTTERFIELD

ALSO PRESENT: Doug Holland, Deputy City Attorney, Susan Emery, Planning Services Manager, Karl Hill, Senior Planner; Noemi Bass, Assistant Planner; Maria Parra, Planning Intern; Sergeant Robert Fowler; and Teresa Pomeroy, Recording Secretary.

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

ORAL COMMUNICATION: None.

APPROVAL OF MINUTES: Commissioner Hutchinson moved to approve the Minutes of October 16, 2003, seconded by Commissioner Barry. The motion carried with the following vote:

AYES: COMMISSIONERS: BARRY, CALLAHAN, FREZE, HUTCHINSON,
NGUYEN
NOES: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: BUTTERFIELD
ABSTAIN: COMMISSIONERS: JONES

PUBLIC HEARING: CONDITIONAL USE PERMIT NO. CUP-122-03

APPLICANT: DUC NGUYEN
LOCATION: EAST SIDE OF BUSHARD AVENUE NORTH OF BOLSA AVENUE AT 14942
BUSHARD AVENUE
DATE: NOVEMBER 6, 2003

REQUEST: To allow an existing restaurant (Quan He Pho) to operate under a State Alcoholic Beverage Control Type "41" (On-Sale Beer and Wine) License. The site is located in the C-1 (Neighborhood Commercial) zone.

Staff report was reviewed and recommended approval.

Commissioner Freze asked whether the numbers of seats have been increased, and if the parking is adequate. Staff explained that the restaurant did have fewer seats in the past; however, the parking lot was restriped in order to meet today's standards. The site is deficient in parking and is considered a legal nonconforming use.

Commissioner Hutchinson questioned why they would approve this if the seating has increased and the parking has decreased.

Vice Chair Jones noted that there appears to be a history that this site functions with the deficient parking.

Staff stated that there has not been a parking problem, and it is not considered to be necessary to restrict the seating.

Commissioner Barry asked whether they should modify condition V to read that there be no separate bar or lounge area. Staff stated yes.

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

Mr. Andy Quach approached the Commission and thanked staff and the Commission. He stated that he represents Mr. Nguyen and Mr. Nguyen's partners in this restaurant. He noted that this location has not had parking problems, and there is a parking lot directly adjacent to this site. He asked that condition AA be changed in order to allow the applicant to operate the business until 1:30 a.m., which is at the request of their patrons. He noted several nearby restaurants that are open 24 hours. He asked that condition W be changed to allow a four inch post instead of a six inch post to be installed at the front of the restaurant for patio dining. He noted that there are double wheel stoppers and he provided photographs of the restaurant.

Commissioner Hutchinson asked when the seating was increased. Mr. Quach stated it changed before the current owners bought the restaurant three months ago. Commissioner Hutchinson asked if there were new tables and chairs put in. Mr. Quach stated yes, that the tables and chairs were replaced. Commissioner Hutchinson commented that the number of tables need to be reduced and he asked whether the restaurants that Mr. Quach listed as being open 24 hours a day were in the City of Garden Grove.

Mr. Quach stated that there are two restaurants near this establishment open 24 hours a day that are in the City of Garden Grove.

Commissioner Nguyen asked Sergeant Fowler whether the police department would have a problem if this restaurant were to close at 1:30 a.m., but stopped serving alcohol after 11:00 p.m. Sergeant Fowler responded that it is City policy to prohibit alcohol sales in restaurants after 11:00 p.m., and indicated that it would not be feasible to enforce compliance if the restaurant were to remain open until 1:30 a.m. Commissioner Nguyen asked whether this particular restaurant has been a problem for the police department. Sergeant Fowler stated that he is not aware of any problems.

Mr. Quach noted that they are not operating as a bar or asking for live entertainment. He stated that the conditions are very clear about the alcohol to food ratio, and he understands the enforcement issue; however, there are several restaurants that are nearby that stay open for 24 hours a day. He suggested that the restaurant be allowed to operate on a probationary basis with an administrative review. Mr. Nguyen and his partners have invested their life savings, and would like to have the opportunity to fairly compete with the neighboring businesses.

Commissioner Barry asked if the steel poles to be installed between the patio and parking lot could be reduced in size as requested by Mr. Quach. Sergeant Fowler recommended that the pole size remain at six inches to ensure safety for the patrons sitting in the patio area. He noted that the wheel bumps in front of the wrought iron fencing would not stop a car; and the fence could catapult into the patio, which could be lethal.

Commissioner Freze stated that the condition needs to remain as it is with a six inch steel pole, and asked Mr. Quach why he asked for the smaller pole size.

Mr. Quach responded that the six-inch pole is ugly and the four-inch solid steel pole would be adequate.

Mr. Joe Mah of 29172 Bobolink Drive in Laguna Niguel, approached the Commission. He expressed his enthusiasm for this restaurant, noting that he is a partner in this business. He stated that this is an opportunity to create something out of nothing.

Mr. Kevin Nguyen approached the Commission. He also expressed his enthusiasm for the restaurant. He stated that next to the restaurant is a retail establishment, and he indicated that the business operators allow overflow parking from the restaurant. He noted that across the street is a large plaza with available parking and suggested that the restaurant could employ valet parking. He stated that this restaurant serves authentic Vietnamese food, and the later closure should be allowed to accommodate people like himself who work late.

Commissioner Barry asked if there is a parking agreement in writing with any adjacent businesses.

Mr. Quach approached and stated that it is a good point to bring up the parking concern; however, the adjacent retail businesses are closed by 10:00 p.m., and is available for overflow parking. If an owner buys an establishment that is deficient in parking, they are taking a risk that the

customers won't come because of the parking. He thought that this is a good proposal and will enhance this area, and asked the Commission to give them the opportunity to compete with the neighboring restaurants. If there are problems that arise, it can be brought up for review at any time, and he asked that they be given a chance to succeed.

Vice Chair Jones asked staff whether the parking is deficient. Staff stated that although the parking does not meet code, there has not been a problem with the establishment providing adequate parking.

Commissioner Freze asked whether the owner has any experience with serving alcohol. Mr. Mah approached the Commission, and stated that he has worked in his father's restaurant, and understands the issues related to serving alcohol.

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

Commissioner Hutchinson stated that the Commission has to consider future problems as well as how this use will impact neighbors. He expressed his concern that the staff report was lacking enough information about the parking issues, and he is concerned about supporting the request.

Commissioner Barry agreed with Commissioner Hutchinson. She stated that she would not support extending the hours of operation, because of crime, limited city resources, and the recommendation from the Police Department and staff. This restaurant will need to comply with the same regulations that the other restaurants in Garden Grove are required to follow; and the purpose for the code is to develop standards in the community. The parking is already inadequate, growth is anticipated, and alcohol will serve to increase the business. The City has to hear the complaints, and spend tax dollars enforcing regulations when people don't comply. There is no parking agreement in writing, and she does not want to make a decision that would be subject to a lawsuit. She stated that she would not support the request with the changes that they have asked for.

Commissioner Freze agreed with Commissioner Hutchinson and Commissioner Barry, and asked whether a parking study could be done to address the inadequate parking.

Staff stated that the item could be continued in order to perform a parking study, however, the study would reflect the current usage and this is a new restaurant. Without the ABC license, the site is a legal nonconforming use and able to operate with the parking that is there. The issue is whether the ABC license will further increase the patronage and put further demands on the parking.

Commissioner Hutchinson suggested that the number of tables should be decreased. Staff noted that the parking was decreased to meet the current parking stall size requirement.

Doug Holland stated that the parking is not calculated based on the number of seats, but is calculated by the square footage. The use was never abandoned.

Commissioner Barry stated that it doesn't make sense to create a parking standard based on square footage. Doug Holland stated that it is feasible to consider a possible change to the code, and make a recommendation to city council.

Vice Chair Jones asked if it is possible to ask for a study that specifically addresses the number of seats that this parking area could accommodate.

Commissioner Barry stated that she would not have a problem if this business had a written parking agreement with the adjacent businesses.

Staff noted that the discretionary action is related to the sales of alcohol. Commissioner Barry stated that it is connected, because with the addition of alcohol, the more intensified the use. She asked if they could condition the business to obtain a written agreement for parking within 60 days of approval.

Vice Chair Jones commented that staff has looked at this and does not perceive a problem.

Commissioner Barry moved to continue this matter and obtain a parking study.

Commissioner Freze seconded the motion and opened it for discussion.

Commissioner Freze suggested a reciprocal parking agreement be obtained, along with a parking study.

Vice Chair Jones asked if the hours were requested by the applicant or was this recommended by staff. Staff responded that the hours in the conditions are a standard requirement.

Mr. Andy Quach approached the Commission to state that a parking study would cost about \$4,000.00, and this restaurant has not had a problem. He noted that if restaurants are required to do parking studies, it will dissuade business from operating in the city. He noted that the nature of the CUP process and can be modified. This is an existing site that has been around for a long time. They are agreeable to the six-inch post, and if the 1:30 a.m. is not agreeable, he asked for a review period. Any delay is not a business friendly action.

Vice Chair Jones stated that he would prefer to resolve the issues rather than continuing this item.

Commissioner Hutchinson thought that the hours of operation need to remain as recommended by staff, and he would not kill the project because of the parking.

Commissioner Nguyen asked why a parking study is needed if the applicant is willing to establish agreements with adjacent businesses. This is a very small business, and asking for a study would be a burden.

Vice Chair Jones agreed and stated that since it is clearly known that there is no parking issue, why not ask for a trial period and if there is a problem, then ask for a parking agreement.

Doug Holland stated that he is not aware of having a trial period to address parking, but that it could be done.

Commissioner Barry stated that she would be willing to withdraw her motion to continue the request if the Commission would agree to condition a three-month review period, and if the closure time stays at 11:00 p.m.

Staff stated that a parking study would be done, and a memo with the findings would be given to the Commission three months after the business is operating with the ABC license.

Commissioner Barry moved to approve Conditional Use Permit No. CUP-122-03, seconded by Commissioner Hutchinson, with amendments to the conditions to include a three-month review upon operation of the business, and condition V to read: "There would not be a separate bar or lounge area for direct service of alcoholic beverages to customers;" pursuant to the facts and reasons contained in Resolution No. 5391, and authorized the Vice Chair to execute the Resolution. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, CALLAHAN, FREZE, HUTCHINSON, JONES, NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUTTERFIELD

PUBLIC
HEARING: CONDITIONAL USE PERMIT NO. CUP-123-03
APPLICANT: TAI SUNG YUN
LOCATION: EAST SIDE OF VALLEY VIEW STREET SOUTH OF LAMPSON AVENUE AT
12540 VALLEY VIEW STREET
DATE: NOVEMBER 6, 2003

REQUEST: To allow a new restaurant (Yama Sushi) to operate under a State Alcoholic Beverage Control Type "41" (On-Sale Beer and Wine) License. The site was occupied by the Sizzler restaurant and is located in the Planned Unit Development No. PUD-104-89 zone.

Staff report was reviewed and recommended approval with a change to condition G to read: The quarterly gross sales of alcoholic beverages shall not exceed 35% of the total gross sale of food during the same period. Also, to add condition MM to prohibit outdoor dining.

Mr. Rod Archer approached the Commission. He introduced himself as the representative for the applicant, and listed his experience with land use. He stated that the applicant agrees with all of the conditions of approval, including the amendments.

Commissioner Barry noted the hours of operation, and asked why the applicant has staggered hours. Mr. Archer indicated that it is related to a cultural practice; however, the applicant would like to amend condition U to allow the hours to be from 11:30 a.m. to 11:00 p.m.

Vice Chair Jones 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 Barry moved to approve Conditional Use Permit No. CUP-123-03 with amendments to the conditions of approval to include condition G to read: The quarterly gross sales of alcoholic beverages shall not exceed 35% of the total gross sale of food during the same period; Condition U to change the hours of operation from 11:30 a.m. to 11:00 p.m., and to add condition MM to prohibit outdoor dining; seconded by Commissioner Nguyen, pursuant to the facts and the reasons contained in Resolution No. 5390, and authorized the Vice Chair to execute the Resolution. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, CALLAHAN, FREZE, HUTCHINSON, JONES, NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUTTERFIELD

PUBLIC
HEARING: CONDITIONAL USE PERMIT NO. CUP-121-03
APPLICANT: DADA NGO
LOCATION: WEST SIDE OF EUCLID STREET NORTH OF BUSINESS CENTER DRIVE AT
14241 EUCLID STREET
DATE: NOVEMBER 6, 2003
REQUEST: To allow a new restaurant (The Boiling Crab) to operate under a State Alcoholic Beverage Control Type "41" (On-Sale Beer and Wine) License. The site is located in the Planned Unit Development No. PUD-104-81/86 Revised 1990 zone.

Staff report was reviewed and recommended approval, with a change to condition T to read: There shall be no separate bar or lounge area to provide direct service of alcoholic beverages to customers.

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

Mr. Bart Kasperowicz, representative for the applicant, approached the Commission. He thanked staff and stated that the applicant agrees with all of the conditions of approval, but would like to open the restaurant at 11:00 a.m. instead of 11:30 a.m.

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

Commissioner Hutchinson stated that he did not have a problem allowing the restaurant to open at 11:00 a.m.

Commissioner Hutchinson moved to approve Conditional Use Permit No. CUP-121-03, with an amendment to condition T to read: There shall be no separate bar or lounge area to provide direct service of alcoholic beverages to customers; and condition U to change the hours of operation to open at 11:00 a.m. and close at 10:00 p.m., Sunday through Saturday, seconded by Commissioner Callahan, pursuant to the facts and the reasons contained in Resolution No. 5389, and authorized the Vice Chair to execute the Resolution. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, CALLAHAN, FREZE, HUTCHINSON, JONES, NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUTTERFIELD

PUBLIC
HEARING: SITE PLAN NO. SP-333-03
APPLICANT: SANDY CHUNG
LOCATION: WEST SIDE OF JOSEPHINE STREET NORTH OF ACACIA AVENUE AT 12811
JOSEPHINE STREET
DATE: NOVEMBER 6, 2003

REQUEST: To allow the construction of a one-story 2,280 square foot second dwelling unit on an 18,964 square foot site, which has an existing one-story 2,525 square foot dwelling unit with an accessory structure. The site is located in the R-3 (Medium Density Residential) zone.

Staff report was reviewed and recommended approval with a modification to the conditions of approval with an additional condition R to read: All property maintenance deficiencies subject to sections 9.16.180, 9.16.240(I) and Article VI of Chapter 9.24 of the Municipal Code shall be corrected by the property owner to the satisfaction of the Neighborhood Improvement Manager prior to the final City clearance for this Site Plan; and to change condition E.1. to insert the word "new" and to remove "off" for the requirement of underground utilities.

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

Mr. Andy Quach, representative for the applicant, approached the Commission. He stated that the applicant has requested a change to condition N.1. from the requirement for a blockwall to a wood fence.

Commissioner Nguyen asked if they agree with all of the other conditions of approval. Mr. Quach stated yes.

Commissioner Freze asked if they are going to put in a sidewalk. Staff stated that it is not required.

Commissioner Barry noted that the Brandywine project on Gilbert Street was originally conditioned to provide sidewalks, and asked why it is not being required now. Staff responded that the Public Works Department conditions sidewalks, and they did not require this applicant to provide sidewalks.

Commissioner Barry stated that she is aware that it is a Public Works requirement, but does not understand why there are inconsistencies.

Commissioner Freze noted that the plans show sidewalks. Staff stated that sidewalks could be conditioned.

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

Vice Chair Jones noted that installation of underground utilities is very expensive. He expressed support for the project as it is proposed, and without sidewalks. He stated that he is agreeable to a wood fence and estimated that a blockwall around the perimeter of this site could be as much as \$30,000.

Commissioner Freze asked if they approved the proposal as presented, would they be approving the plans that include sidewalk installation.

Doug Holland stated that the conditions would need to reflect that sidewalks are not required.

Vice Chair Jones moved to approve Site Plan No. SP-333-03, with amendments to the conditions of approval as follows: Condition E.1 to insert the word "new" and to remove "off"; condition R to include approval of the Neighborhood Improvement Manager prior to Site Plan final clearance; condition N to allow a wood fence around the perimeter of the site; and condition S to state that sidewalks are not required, seconded by Commissioner Hutchinson; pursuant to the facts and the reasons contained in Resolution No. 5393, and authorized the Vice Chair to execute the Resolution. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, CALLAHAN, FREZE, HUTCHINSON, JONES, NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUTTERFIELD

PUBLIC HEARING: SITE PLAN NO. SP-334-03
CONDITIONAL USE PERMIT NO. CUP-120-03

APPLICANT: DE HUA JR.

LOCATION: WEST SIDE OF BROOKHURST STREET NORTH OF BIXBY AVENUE AT
12171 THROUGH 12181 BROOKHURST STREET

DATE: NOVEMBER 6, 2003

REQUEST: To allow an existing restaurant (Seafood Place Chinese Restaurant) currently operating under a State Alcoholic Beverage Control Type "47" (On-Sale General, Eating Place) License to expand from 4,470 square feet to 15,190 square feet, and to have live entertainment and dancing. The site is located in the Brookhurst Chapman Specific Plan (Light Commercial) zone.

Staff requested this item be continued to December 4, 2003.

Commissioner Barry moved to continue Site Plan No. SP-334-03 and Conditional Use Permit No. CUP-120-03 to December 4, 2003, seconded by Commissioner Freze. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BARRY, CALLAHAN, FREZE, HUTCHINSON, JONES NGUYEN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BUTTERFIELD

MATTERS FROM

COMMISSIONERS: None.

MATTERS

FROM STAFF: Staff reviewed the tentative items scheduled for the November 20th Planning Commission meeting.

Staff provided information to the Commission on the Brookhurst Triangle proposals, noting that the City Council asked to increase the intensification of the development. Two developers have resubmitted plans, and all of the proposals are due on January 2, 2004 with financial analyses due in February.

ADJOURNMENT: The meeting was adjourned at 9:15 p.m.

TERESA POMEROY
Recording Secretary