

M I N U T E S

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE  
GARDEN GROVE, CALIFORNIA

THURSDAY  
OCTOBER 18, 2012

CALL TO ORDER: The Joint Study Session of the Planning Commission and Neighborhood Improvement and Conservation Commission was called to order at 6:30 p.m. in the Founders Room of the Community Meeting Center.

PLANNING COMMISSION:

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

Chair Bui joined the meeting at 6:40 p.m. and Commissioner Dovich joined the meeting at 6:47 p.m.

NEIGHBORHOOD IMPROVEMENT AND CONSERVATION COMMISSION:

PRESENT: CHAIR HANNA, VICE CHAIR FREER  
COMMISSIONERS MILLER, RUBIN, POPE  
ABSENT: COMMISSIONERS FOSTER, KILL

ALSO PRESENT: James Eggart, Assistant City Attorney, Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Allison Mills, Neighborhood Improvement Manager; Monica Covarrubias, Senior Program Specialist; Judy Moore, Recording Secretary; Ameenah Abu-Hamdiyyah, Recording Secretary; Laura Stetson, Hogle-Ireland; Genevieve Charrow, Hogle-Ireland

1. Oral Communications – Public: None.
2. Staff gave a presentation on the Garden Grove 2014-2021 Housing Element Update.
3. No Public comments on the Garden Grove 2014-2021 Housing Element Update.
4. Commissioners commented on the Garden Grove 2014-2021 Housing Element Update.

CALL TO ORDER: The regular meeting of the Planning Commission was called to order at 7:30 p.m. in the Council Chambers of the Community Meeting Center.

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

ALSO PRESENT: James Eggart, Assistant City Attorney; Karl Hill, Planning Services Manager; Chris Chung, Associate Planner; Ed Leiva, Police Sergeant; Judy Moore, Recording Secretary

PLEDGE OF ALLEGIANCE:

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

ORAL

COMMUNICATIONS: Mr. Josh McIntosh expressed his support of the project on Twintree Lane noting that the developer had a vision of green and responsible building.

APPROVAL OF MINUTES:

Commissioner Brietigam moved to approve the Minutes of October 4, 2012, seconded by Commissioner Dovich. The motion carried with the following vote:

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

PUBLIC HEARING:

NEGATIVE DECLARATION  
SITE PLAN NO. SP-471-12  
VARIANCE NO. V-197-12  
CONDITIONAL USE PERMIT NO. CUP-359-12

APPLICANT:

ESMAT ELHILU

LOCATION:

SOUTHWEST CORNER OF CHAPMAN AVENUE AND VALLEY VIEW STREET  
AT 12001 VALLEY VIEW STREET

DATE:

OCTOBER 18, 2012

REQUEST:

Site Plan approval to demolish an existing convenience store, on a lot developed with an existing service station, to construct a new 1,920 square foot convenience store, a new 690 square foot automatic car wash, and a new 378 square foot smog station, along with site improvements. In addition, a request for Variance approval to deviate from the minimum setback along Chapman Avenue, in order to construct a new trash enclosure within the required setback area. Also, a request for Conditional Use Permit approval to allow a new 1,920 square foot convenience store to operate with a new original State Alcoholic Beverage Control (ABC) Type "20" (Off-Sale, Beer and Wine) License. The site is in the C-2 (Community Commercial) zone.

Staff report was read and recommended approval with the applicant's request to amend Condition No. 43 to allow fuel deliveries after 10:00 p.m. for minimal traffic disruption and Condition No. 70 to change the car wash hours to be from 6:00 a.m. to 10:00 p.m. One letter of concern was submitted from a Garden Grove resident regarding noise from the proposed automated car wash, which was conditioned to operate from 8:00 a.m. to 8:00 p.m. seven days a week.

Commissioner Brietigam asked that if the item was approved, was the Conditional Use Permit (CUP) and Alcoholic Beverage Control (ABC) license also approved. Staff responded that the ABC would issue a license once proof was provided that the CUP was approved.

Commissioner Pak asked if the notice was sent to the neighboring property owners. Staff responded that the notices were sent to property owners within a 500 foot radius.

Commissioner Pak then recalled a request from a property owner that asked for a car wash on the northwest corner of Chapman Avenue and Knott Street, and that project was denied. He asked staff to explain the difference between the two projects.

Staff replied that the proposed set-up was different; that the concern was the tight on-site circulation as to where the car wash facility was proposed; and, that the entitlements were approved, however, the car wash was not built.

Commissioner Pak expressed his concern of a potential conflict later that a similar application was approved and another was not.

Staff added that the projects were on a case-by-case basis and in this case, the project had better defined circulation and design; that the applicant would remove the existing structure and create a new building arrangement, whereas this was not the case with the other site that had the car wash proposal.

Commissioner Brietigam noted that he lived close to the project site and asked if he was farther than 500 feet away. Staff replied yes.

Commissioner Lazenby referred to Condition Nos. 70 and 43 and asked to confirm if the applicant's request was to change the car wash hours to be 6:00 a.m. to 10:00 p.m., and if the fuel truck deliveries would be after 10:00 p.m. Staff replied yes, that fuel trucks after 10:00 p.m. would avoid disruption of the on-site traffic circulation and that the distance from the fueling to the nearest resident would be 150 to 180 feet to the west.

Commissioner Brietigam noted that a convalescent facility was adjacent to the project property.

Staff pointed out that the site plan shows buffering barriers such as a 15-foot high block wall at the building/repair store where the car wash abuts, the southerly Good Year facility, and the condominiums, which also have a block wall.

Commissioner Pak asked why the word 'new' pertained to the service station and convenience store. Staff responded that new refers to the new tenant and the new amount of proposed construction, however, the pump islands would remain.

Commissioner Brietigam asked if any land mitigation was required, such as inspection of the long existing fuel tanks, especially with a low water table in the area.

Staff suggested deferring to the applicant and stated that Condition No. 9, regarding contamination, required a geotechnical study and that any contamination be remediated prior to the issuance of building permits; and that the City would not be the inspectors as experts would do the testing and provide the City with a report.

Commissioner Silva added that the fuel tanks were certified every year.

Chair Bui stated that he lived next to an AMPM gas station; that the project was conditioned to operate the car wash from 8:00 a.m. to 8:00 p.m., and that sometimes, the entrance was not locked and the car wash

was operated late at night as there was no station attendant to monitor the car wash. He asked what assurance there would be for this project so this issue would not happen.

Staff responded that the operating hours were in place and that the owner/operators were subject to potential fines for any violation; that management does change and periodically the entrance may not be locked, however, any complaint would be acted upon by the City.

Commissioner Silva suggested a timer could be installed to take care of the problem.

Chair Bui stated that the fuel tanks were good for approximately 20 years; that the AMPM tanks were replaced; and that tests were done to make sure the ground was not contaminated. He asked if this project would go through a similar process.

Staff reiterated that the applicant was required to provide a geotechnical study by a certified geotechnical engineer.

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

Mr. Esmat Elhilu, the applicant, and Michael Kohls, the architect, approached the Commission. The applicant stated that the fuel tanks had a 24-hour monitoring system and were tested twice a year; that if there was leakage, the tanks would be shut down until the problem was resolved; that the tanks last 30-40 years as long as the tests were performed; and, that the tanks have double-wall fiberglass and lining.

Mr. Kohls added that the test would be performed and that a preliminary soils report had been submitted to staff to check for the water table, along with further investigation regarding soils.

Chair Bui asked the applicant if he had read and agreed with the Conditions of approval. Mr. Kohls replied yes, however, he had a concern with Condition No. 43 with regard to the fuel tank delivery time; that they were trying to avoid traffic impacts on Chapman Avenue and keep the larger vehicle out of the area during the busy day. He also referred to Condition No. 70 and stated that the car wash was correctly located so that noise would not be an issue; and, that the car wash hours of operation from 6:00 a.m. to 10:00 p.m. would allow customers to get a car wash prior to a morning meeting, or prior to a meeting the next day.

Commissioner Pak asked how long Mr. Elhilu was in the business. The applicant replied 36 years.

Chair Bui asked if the fuel tanks were new fiberglass. Mr. Elhilu replied yes.

Commissioner Pak asked for the monetary scope of the project. Mr. Kohls replied high \$900,000; that the owner wanted the station to be done right; that people like a nice convenience store facility with choices; and that it was a good business decision to upgrade the corner.

Commissioner Lazenby asked what the impacts would be to keep the car wash 8:00 p.m. closing time as 10:00 p.m. seemed too late for a car wash.

Mr. Kohls replied that in lower income areas, 8:00 p.m. would be fine, however, in higher income areas, people work in the office late and fill-up and get a car wash later in the evening; and, that there was a condition to change the hours if there was a problem.

Commissioner Lazenby added that the concern was the convalescent home and that seniors would be bedding down earlier.

Mr. Kohls added that at certain times of year, it gets dark later, such as at 8:00 p.m.

Commissioner Pak remarked that uniformity should be kept in mind regarding the hours of operation; that the Euclid/Chapman Shell station was similar and though residents were not close, the station needed to abide by the hours; and, that fairness would mean the same set of rules for everyone.

Chair Bui added that the resident's needs were concerns too; that though the block wall would reduce noise, noise would still filter through open windows; and, that at his home, he could still hear the machine.

Mr. Elhilu commented that staff and Commissioners could visit any time and check the noise level.

Commissioner Silva commented that uniformity was not the issue as the projects were on a case-by-case basis. Staff agreed.

Commissioner Brietigam asked the applicant if the convenience store would have refrigerated trucks as they were loud.

Mr. Kohls stated that the revised condition was for the fuel trucks only; and that the site was compact.

Mr. Elhilu added that the convenience store deliveries would not occur after 10:00 p.m.; and, that smaller trucks may come at 2:00-3:00 a.m. to deliver donuts and sandwiches.

Mr. Josh McIntosh asked if City residents were burdened with project costs such as soil testing and encouraged developers and construction companies to seek local workers.

Staff responded that the City was not providing monetary assistance to the development of the site.

Mr. Kohls commented that local workers would be sought, which would make the cost less expensive.

Ms. Toby Rubin approached the Commission and stated that trucks coming in after 10:00 p.m. would make a lot of noise, day and night; that any size block wall would not buffer the noise; and, that any deliveries would be disruptive to those who live nearby.

Commissioner Brietigam added that trucks make noise, however, though they were large, fuel trucks were quieter as they did not have rolling doors and refrigerators.

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

Commissioner Pak referred to Condition No. 70, noting that if there were problems, the hours could be reduced by the City, however, 7-11 convenience stores were open 24-hours. He asked staff what type of problem would warrant the store not being open 24-hours.

Staff responded that problems in the early hours, along with calls for service, could result in a reduction of hours; that the owners believe they provide a convenience to the community, however, they agree to the conditions; and, that so far, there had not been problems with the 24/7 hours.

Commissioner Pak stated that his concern was the selling of liquor after 2:00 a.m. and before 6:00 a.m. Staff responded that some businesses were scrutinized for when they sell alcohol, what age group they sell to, and for other alcohol-related activities.

Commissioner Brietigam commented that he would support the project and was supportive of fuel truck deliveries after 10:00 p.m., however, he did not support the car wash being open until 10:00 p.m., especially with the convalescent home next door.

Commissioner Lazenby asked Chair Bui for the distance between his house and the AMPM project.

Chair Bui responded that he lived two houses from the AMPM project, approximately 70 feet; that the noise was loud at night; and, that 150 feet for this project was not acceptable as the noise travels at night.

Commissioner Lazenby asked if the fuel trucks could shut down as opposed to idling during delivery and, that he supported the 8:00 p.m. car wash closure.

Staff responded that a condition could be imposed to require that the trucks not be running during fueling, however, that would be difficult to monitor.

Commissioner Lazenby added that giving sales conditions for vendors and carriers was not uncommon; and, that the non-idling aspect would relieve the stress on the nearby residents.

Commissioner Pak commented that safety and security for a 24-hour business was important, especially as that area at night did not have much traffic; that 7-11 may have standard surveillance procedures; and, that perhaps the doors could pull-in so as not to allow for a quick exit.

Commissioner Silva expressed his support for the project with moving the fueling from 8:00 p.m. to after 10:00 p.m. for safety purposes, and the car wash hours from 6:00 a.m. to 10:00 p.m., however, a compromise would be until 9:00 p.m.

Commissioner Lazenby agreed with the compromise.

Chair Bui commented that the City should have uniformity similar to the uniformity for beer and wine restaurants closing at 10:00 p.m.; and, that their might be a conflict with other car wash operating hours.

Commissioner Silva disagreed on the point of uniformity as the decisions were based on information such as the zoning, the location of residents, and the types of traffic.

Commissioner Brietigam agreed, though his main concern was the convalescent home. He added that the Planning Commissioner's job was to balance the needs of the businesses with the needs of the community; that the car wash being open until 8:00 p.m. was enough for the community; that the two hour closing difference would not have as great an impact as the issues with residents; and, that imposing an idling requirement would be difficult as there would be different drivers.

Commissioner Lazenby pointed out that Chair Bui's home was closer to the AMPM project; and, that he supported an 8:00 p.m. car wash closure, though a noise problem would still exist with the after 10:00 p.m. fuel deliveries. He also agreed that uniformity was subjective to the area.

Commissioner Brietigam pointed out that the fuel deliveries would likely occur only once a week.

Chair Bui also noted that fuel deliveries would not be as much a noise intrusion as the car wash.

Commissioner Pak commented that the project was good, especially at the business' expense; and, that the corner being bright at night would be good for crime prevention.

Commissioner Dovich commented that he agreed with the 8:00 a.m. to 8:00 p.m., which was a good compromise; that there was an argument to make with uniformity; that the business profits were in selling fuel and convenience store items; that the car wash would be a small part of the proceeds; and, that the neighborhood would be in support of the business.

Commissioner Lazenby expressed his support and stated that 6:00 a.m. was fine for the car wash.

Chair Bui expressed his support also and hoped the applicant understood the noise issue regarding the elderly.

Commissioner Brietigam moved to adopt the Negative Declaration and approve Site Plan No. SP-471-12, Variance No. V-197-12, and Conditional Use Permit No. CUP-359-12, with an amendment to Condition No. 43 to allow only fuel delivery trucks only after 10:00 p.m. seven days a week, and the car wash hours to remain at 8:00 a.m. to 8:00 p.m., seconded by Commissioner Pak, pursuant to the facts and reasons contained in Resolution No. 5782-12. The motion received the following vote:

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

MATTERS FROM

COMMISSIONERS: Commissioner Pak thanked Commissioner Lazenby for attending the Korean Festival, to which the Commissioner commented that he attended the nice gathering with his wife.

Commissioner Brietigam raised a concern that there were traffic issues with the Korean Festival; that the year before was better as this year, residents were trapped in their community and the matter needed to be looked into. Also, he was happy to see that construction had begun on the Lampson Avenue project.

Staff responded that they would speak to the traffic bureau regarding the traffic flow issues.

Commissioner Pak added that the impact area was Casa Linda and Garden Grove Boulevard, which had only one ingress and egress, which was blocked off. He also added that regarding construction at Brookhurst Way and Stanford Avenue for a Starbucks, the Commissioners had agreed to relinquish the sidewalk for more parking, however, a portion of the street was being taken also; that the street would not be wide enough for parked cars and thru-traffic; and, that the City would be liable for what was approved by the Planning Commission.

Commissioner Lazenby recalled the discussion about moving the property line and narrowing the street.

Staff replied that City Engineering staff looked into the matter and found that the dimensions were being respected; and, that a portion of the street was vacated to enlarge the site for access and parking.

Commissioner Lazenby added that the stop sign at Ward Street and Woodbury Road had been moved.

Chair Bui commented that the number of medical marijuana dispensaries was out of control and that the previously approved zoning for the dispensaries was to help to avoid this issue by requiring 1,000 feet between dispensaries and 1,000 feet from schools and churches; that he had learned from residents that the number of dispensaries had grown to at least 60 to 80; that there were three dispensaries in one complex near Brookhurst Street and Garden Grove Boulevard, which was close to a student tutoring facility; and, that he wondered how the zoning could be enforced.

Staff clarified that there was no zoning that permitted medical marijuana dispensaries in the City of Garden Grove as they were prohibited; that City Council passed an emergency ordinance that provided for a registration process in the event, the City, in the future, adopted regulations permitting medical marijuana facilities; that the registration process had been suspended for almost one year while the California Supreme Court considers a number of cases addressing the scope of legal authority that cities had to regulate or prohibit these establishments; and, that there were state law provisions that authorize distance standards, that the City would enforce.

Commissioner Pak mentioned that the City adopted a procedure that if a medical marijuana dispensary was in place by a certain date, the establishment was allowed to apply for a business license; and, that any dispensaries established after that certain date would not be allowed.



Staff pointed out that the City passed a registration ordinance, which was modeled on the Long Beach ordinance; that the ordinance did not permit medical marijuana dispensaries to operate or continue to operate, but a process was developed that if a dispensary could provide documentation that they were in operation by a certain date, they could be put on a list that would make the business eligible for a permit some time in the future if the City subsequently adopted an ordinance that did permit dispensaries in the City; and, that the City Council had not adopted such an ordinance.

Staff added that there were only between 50 and 60 medical marijuana dispensaries that were monitored; that none of the businesses had been approved; and, that there was a court case still pending.

MATTERS FROM  
STAFF:

Staff mentioned that Laura Stetson, the Hogle-Ireland consultant, complimented the Commissioners on their attentiveness and input at the Housing Element Study Session.

Staff gave Commissioners an update on the operational issues and resulting impacts pertaining to previously approved Indoor Sports Facilities, noting that the state-of-the-art multi-sports facilities were nicely done and drew in adults and youths to play, however, both facilities had parking issues, particularly Next Level Sports; that parking had spilled into the Stanford Avenue area to the west, with the belief that those people do not want to pay for parking; that residents had called and complained, as people parking in that neighborhood had been rude and disrespectful; that staff had met with the owners and explained the issues; that subsequently, a letter was sent, which stated that the owners needed to cease charging for on-site parking and if that did not work, the owners needed to look into other actions to prevent the spill-over; that the owners had spoken with residents and provided a person to monitor the situation at the corner, however, the conditions state that the owners were to satisfy the parking demand on their own sites and not burden other areas.

Staff added that although anyone could park on a public street, an influx of cars was not the intent and created a problem in the neighborhoods. Staff also noted that the MAPS facility had also been charging for parking and people parked in the industrial properties and streets, though there were spaces on site; that MAPS had an occupancy limit of less than 300 people, however, the City had received complaints that there were more than 300 people in the facility and the Fire Department was then required to go out and do a head count; that improvements could help the facility increase their occupancy, however, steps needed to be taken first; and, that the City wants these new businesses to be successful without the Police and Fire Departments involved in their operations.

Commissioner Dovich asked if the City issued residential permits for residents to park on public streets. Staff replied yes, that one defined permit parking area was next to the Anaheim Convention Center, which the City of Anaheim administered, however, the City of Garden Grove was now responsible; and, that Garden Grove did not want to be in the business of providing permitted parking as the effort would require monitoring and the need would escalate.

Commissioner Dovich understood the resident's concerns and suggested that the policy be revisited as possibly the businesses that created the problems could pay for the costs; that the new 'Site C' project may have the same parking concern; that the City could mandate that the sports

facilities post signs stating that the customers not park in the residential area; and, he also wondered if the cars were being towed.

Staff pointed out that the traffic division and the Police Department did not want signs posted as residents would believe that violators could be ticketed; that a few weeks ago, spill-over cars in the neighborhood, that were blocking resident's driveways, were towed, and some received citations for parking in front of a fire hydrant.

Commissioner Dovich added that next, residents would charge for people to park in their driveways; that there had to be a variety of solutions as the Commissioners and the City did not anticipate that the facilities would charge for parking; that the Commissioners voted for the project and now residents were complaining and there was more cost to the City; and, that solutions need to be offered to resolve the current issues and to avoid these same issues in the future.

Commissioner Brietigam commented that the City's current efforts were the best solution; that the issue was charging for parking; that last weekend, the high school parking lot was filled from both venues due to tournaments; and, that the school district probably did not know their parking lot was being used.

Commissioner Dovich then expressed his concern that the City could not mandate that the facilities stop charging for parking.

Commissioner Lazenby stated that the residents should not be burdened with having parking permits on their own streets, especially if they had guests; that the facility gates could come down and parking charges could be included in a membership package with monthly dues; that members could have tag permits to park on the lot; and, that the burden should be on the operator.

Commissioner Pak suggested that people charged for parking could receive a ticket to show at the entrance, and if people did not have a ticket, they would be turned away; and, that the operators should be serious about their commitment to not infringe on the neighborhood.

Staff had suggested to the operators to issue paid parking passes and that those who did not have a pass would be charged, however, with no agreement, the letter was sent to cease charging.

Staff explained that mandating to not charge for parking was not clear in the code, however, the purpose of the parking standards and regulations for parking spaces required for a business was stated in the code as 'parking should be fully available for patrons and guests'; that the intent was not for a business owner to charge for parking in a way that caused parking impacts on adjacent residences; that this sports facility was a conditional use and the Planning Commission could regulate, through the Conditions of Approval, the health and safety concerns such as parking; that the Commissioners had discretion in crafting conditions to address the issues, including but not limited to, preventing paid parking based on a finding that paid parking would cause negative impacts on adjacent neighboring residences and businesses.

Commissioner Lazenby noted that other complaints were from the church members, especially on Sundays, as they were forced to park on the street.

Commissioner Brietigam added that the church rescinded their parking agreement.

Commissioner Dovich noted that the operator voluntarily agreed to conditions, and he hoped that the operator would now voluntarily revoke the charging for parking; that nothing could be mandated unless the conditions were modified; that hopefully there would be an update; that he also hoped there would not be a legal predicament with the operator, concerning a project the Commission conditioned.

ADJOURNMENT: Commissioner Pak moved to adjourn the meeting at 9:00 p.m., seconded by Commissioner Brietigam. The motion received the following vote:

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

JUDITH MOORE  
Recording Secretary