

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
NOVEMBER 20, 2008

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

PRESENT: COMMISSIONERS BEARD, BRIETIGAM, KIRKHAM, NGUYEN,
PIERCE

ABSENT: BANKSON, PAK

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

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

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Commissioner Kirkham moved to approve the Minutes of November 6, 2008, seconded by Commissioner Beard. The motion carried with the following vote:

AYES: COMMISSIONERS: BEARD, BRIETIGAM, KIRKHAM, NGUYEN

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: BANKSON, PAK

ABSTAIN: COMMISSIONERS: PIERCE

CONTINUED PUBLIC HEARING: NEGATIVE DECLARATION
PLANNED UNIT DEVELOPMENT NO. PUD-121-08
SITE PLAN NO. SP-444-08
TENTATIVE TRACT MAP NO. TT-17276
DEVELOPMENT AGREEMENT

APPLICANT: EMPIRE HOMES
LOCATION: NORTHEAST CORNER OF HAZARD AVENUE AND EUCLID STREET AT 10901 HAZARD STREET

DATE: NOVEMBER 20, 2008

REQUEST: To rezone the 5.47-acre lot from Planned Unit Development No. PUD-104-81 to Residential Planned Unit Development for the allowance to create a residential condominium/townhouse development that consists of 90 homes; a Site Plan to construct the 90 condominiums/townhomes with associated site improvements that include parking facilities and open space areas; and a Tentative Tract Map to create a one (1) lot subdivision for the purpose of selling each unit as a condominium/townhouse. The site is in the PUD-104-81 zone.

Commissioner Brietigam moved to continue the case to the January 15, 2009 Planning Commission meeting, seconded by Commissioner Beard. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BRIETIGAM, KIRKHAM, NGUYEN, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BANKSON, PAK

PUBLIC HEARING: NEGATIVE DECLARATION
PLANNED UNIT DEVELOPMENT NO. PUD-122-08
SITE PLAN NO. SP-445-08
TENTATIVE TRACT MAP NO. TT-17299
VARIANCE NO. V-179-08

APPLICANT: VT DESIGN SPECIALTIES, INC.
LOCATION: SOUTH SIDE OF TRASK AVENUE, EAST OF YOCKEY STREET AT 8802 TRASK AVENUE

DATE: NOVEMBER 20, 2008

REQUEST: To rezone a 34,550 square foot lot from R-1 (Single-Family Residential) to Planned Unit Development Residential for the allowance to create a small lot single-family residential development; a Site Plan to construct six detached single-family homes; a Tentative Tract Map to subdivide the lot into six separate lots serviced by a private street; and a Variance to deviate from the code required one acre minimum lot size for a PUD. The site is in the R-1 (Single-Family Residential) zone.

Staff report was read and recommended approval.

Commissioner Kirkham asked staff to clarify the 28'-0" driveway location.

Staff explained that the driveway would be approximately 5'-0" from the property line, heading west toward the freeway.

Commissioner Brietigam asked staff to clarify the guest parking. Staff explained that two spaces are located at the rear in the vehicular turnaround; that the 28'-0" wide street allows for parking on one side of the street; and that each of the four homes toward the front of the project have one parking space in the street, two in the driveway, and two in the garage.

Commissioner Beard asked staff to clarify that if Caltrans had not purchased a section of the property would the property have been a full one acre in lieu of .79 acres? Staff replied that the property would still have been less than one acre.

Commissioner Beard asked if there would be a sewer deficiency. Staff replied no, that an 8" sewer line would be required on site.

Commissioner Beard asked if the project was noticed properly. Staff replied yes.

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

Mr. Vinnie Tran, the applicant's representative, approached the Commission and stated that the project would be compatible with the neighborhood; that the owners have the capital for the investment; that the project duration would be approximately nine months; and that the likelihood was that the owner's family members would occupy the homes.

Chair Pierce asked Mr. Tran if he had read and agreed with the Conditions of Approval. Mr. Tran replied yes.

Mr. Tu Phung approached the Commission and stated that he lives two blocks from the project and supports the development.

Mr. Dave Quill approached the Commission and asked for clarification of the perimeter wall heights, specifically along the east and south boundaries; and expressed that there is a drainage concern.

Mr. Tran approached the Commission and stated that the grading levels are shown on the Tentative Tract Map; and that the fence would be six foot tall.

Staff added that the new grading would be a few inches higher than the existing grade; that the back wall could be one and a half to two feet higher; that the water would drain to Trask Avenue, from north, to south, to Trask Avenue; and that if the grade is raised by one foot, the existing single-family home side wall could be seven feet high.

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

Commissioner Beard commented that the project is good and fits in well with the area.

Commissioner Brietigam agreed; however, he would have liked to see more family open space by possibly removing one unit.

Commissioner Kirkham commented that the project would be an improvement; however, he could not support the project due to concerns with the width of the driveway, the lot size, the number of homes, and the difficulty of exiting the property.

Commissioner Nguyen commented that the requirements meet code; that a similar property was approved previously; that the project would be an enhancement; and that he would support the project.

Chair Pierce agreed and stated that the project would be a good use of the land.

Commissioner Brietigam asked staff about the certainty of the driveway width. Staff responded that the Engineering Division had reviewed the project's 28'-0" driveway and staff felt confident with the survey and documentation.

Commissioner Beard moved to recommend adoption of the Negative Declaration and approval of Planned Unit Development No. PUD-122-08 to City Council, and to approve Site Plan No. SP-445-08, Tentative Tract Map No. TT-17299, and Variance No. V-179-08, seconded by Commissioner Nguyen. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BRIETIGAM, NGUYEN, PIERCE
NOES:	COMMISSIONERS:	KIRKHAM
ABSENT:	COMMISSIONERS:	BANKSON, PAK

PUBLIC HEARING:	CONDITIONAL USE PERMIT NO. CUP-252-08
APPLICANT:	888 BROTHERS, INC.
LOCATION:	WEST SIDE OF BROOKHURST STREET, SOUTH OF CHAPMAN AVENUE AT 12119 BROOKHURST STREET
DATE:	NOVEMBER 20, 2008

REQUEST:	To operate an existing restaurant, Four Seasons Hot Pot Chinese Restaurant, with a new original Alcoholic Beverage Control Type "41" (On-Sale, Beer and Wine, Public Eating Place) License. The site is in the BCSP-BCC (Brookhurst Chapman Specific Plan-Brookhurst Chapman Commercial) zone.
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Staff report was read and recommended denial.

Commissioner Beard asked staff if the four violations from other businesses in the vicinity would jeopardize this license request.

Staff replied yes; that there are several businesses in the area with Type "41" licenses (beer and wine), and three out of the ten have Type "47" licenses (distilled spirits, and beer and wine); and that the area has ten 'on-sale' licenses in the census tract and the State says only five are allowed.

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

Mr. Mark One, a corporate officer in the restaurant, approached the Commission and stated that the license is essential to his type of upscale, casual dining restaurant; that beer and wine would compliment the meals; and that since the restaurant opened in April 2008, about half of the customers have been lost due to the lack of beer and wine.

Mr. John Petsas, the applicant's agent, approached the Commission and stated that contrary to the staff report, the restaurant is open at 11:00 a.m. not 9:00 a.m., and that District 93 has 145 crimes. He also asked staff to clarify if the boundaries are the same for the census tract and the crime districts.

Staff responded that the census tract has two different crime districts; that the crime count for the district in question is 93; that not all crimes occur in that census tract; that all of the crimes occur in that crime district where the restaurant business is located.

Mr. Petsas commented that, with regard to license transfers, Alcoholic Beverage Control investigators for other cities typically say that there is an over-saturation of licenses.

Chair Pierce added that there are still districts in Garden Grove that have licenses available; and that the districts are divided as to the number of licenses allowed.

Mr. Petsas asked staff when the regulations were implemented to divide the licenses in the districts.

Staff responded that the regulations are set by the State.

Mr. Petsas stated that the crime district north of the project was a 54 percent higher crime district and that there are four 'on-sale' licenses instead of six. He also asked if the four violations in that census tract were alcohol related.

Chair Pierce stated that a certain number of alcohol licenses are allowed in areas based on crime counts; that the crime in the area has doubled; and that there is one other license in the center.

Mr. Petsas also commented that a license is essential to the newly remodeled center as there are vacancies and the lack of a license is prohibiting other restaurants from coming into the center.

Mr. Ross Melodia, the landlord's representative, approached the Commission and stated that his firm has experience in dealing with troubled properties; that the four corners of the intersection have issues, not just the Von's Pavilion center; that the property was purchased in 2005 and continues to be remodeled; that the center is blighted and the vacancy rates need to be changed as they are currently at 45 percent and not improving due to the economic conditions; that the major issue in the center with regard to crime, is that the kids hang out in the back areas and create property damage; that service contractors have been brought in such as a security company providing guards seven days a week and armed security patrols going through at least two times per night; that it is not in his or the City's interest to let the center deteriorate to its previous condition; that Mr. One and his partners know how to operate restaurants as they have four others and are successful; that it is not unreasonable to want to serve beer and wine with a meal at a restaurant; that the interest is to see parts of the City redeveloped; that his company is opening an office in the center; that the license would help the tenant succeed; that the parking lot lighting is new and the parking lot will be resurfaced and re-stripped; that the buildings are updated; that bringing in more tenants is key to this project and would bring more business to the intersection and benefit more than the landlord; that letting vacancies rise encourages gang activity; and that he supports the project.

Chair Pierce commented that the staff report did not indicate where the other ABC licenses were located; and that most were probably across the street from the project.

Mr. Melodia added that the center across the street has multiple owners who now have a forced association to maintain the common areas; and that his center does not have that situation.

Chair Pierce asked staff if the Chinese restaurant near the Citibank has a license. Staff replied that the restaurant has a Type "47" license; that CVS has a license to sell alcohol; and that these licenses are in the license count.

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

Commissioner Brietigam commented that Garden Grove already has districts that are overloaded with ABC licenses; that to vote approval, the Commissioners must provide 'findings' for public necessity; that there is an ABC license next door to the project; that a beer and wine license does not necessarily improve the issue; that he wishes the restaurant the best, however, he could not support the license.

Commissioner Beard commented that each license is reviewed on a case by case basis and that is probably why there are ten licenses in the area; that the testimony convinced him that there is a necessity to keep the center successful; that the restaurant is a fine dining establishment; that he is strongly sympathetic; that a license in that setting seems appropriate; and that he understands the Police concerns.

Commissioner Nguyen agreed and stated that he did not see young people lingering on the site during a visit.

Chair Pierce commented that perhaps the case could be continued so that the applicant could work with staff for better recommendations to approve the project.

Commissioner Kirkham asked staff if the applicant originally asked for an ABC license and how long was the lease on the property. Staff replied no, and that the lease was for ten years.

Chair Pierce reopened the public portion of the hearing.

Mr. Melodia approached the Commission and stated that the applicant took over the lease as an assignment that includes the rights and privileges of the previous operator; that their intention was to get a beer and wine license; and that many transactions happen this way.

Mr. One approached the Commission and stated that they had always thought they would pursue a license; that not having a license was the cause of the previous owner's failure; and that he did not come to the City to ask for a license until now.

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

Staff commented that if the Planning Commission's intention was to approve the project, the case would need to be continued and staff would be directed to bring back a resolution of approval with the findings for public necessity in place. Also, the California Environmental Quality Act (CEQA) would need to be addressed for compliance.

Commissioner Kirkham asked staff if the CLEW Study included this project area. Staff replied that they were not sure if the area was designated as a problem area.

Commissioner Brietigam reiterated that with the exceptions there would be too many licenses in one area and that he could not support the project.

Commissioner Beard added that a continuance would be good as two Commissioners were absent. Chair Pierce agreed.

Staff added that if the case was continued to a date certain, the case would not have to be readvertised; however, staff would need direction as to whether the request would be for an approval or denial.

Chair Pierce reopened the public portion of the hearing.

Mr. Melodia approached the Commission and stated that he would be happy to meet with staff to answer questions with regard to the case; that he could discuss concerns and options; and that there are remedies that could be put into the lease.

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

Commissioner Brietigam moved to continue the case to the January 15, 2009 Planning Commission meeting, with the direction for staff to bring back the resolution for denial for Conditional Use Permit No. CUP-252-08, and a resolution of approval that would address CEQA and include conditions of approval. The motion was seconded by Commissioner Kirkham and received the following vote:

AYES:	COMMISSIONERS:	BEARD, BRIETIGAM, KIRKHAM, NGUYEN, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BANKSON, PAK

PUBLIC HEARING: NEGATIVE DECLARATION
AMENDMENT NO. A-145-08
SITE PLAN NO. SP-446-08
VARIANCE NO. V-180-08
APPLICANT: SARAH PHAN

LOCATION: SOUTH SIDE OF PEARL STREET, BETWEEN JOY STREET AND NELSON STREET, AT 10712 PEARL STREET
DATE: NOVEMBER 20, 2008

REQUEST: Zone Change Amendment to change the zone of the subject property, located at 10712 Pearl Street, from CCSP-BC29 (Community Center Specific Plan-Business Center, District 29) to CCSP-BC17 (Community Center Specific Plan-Business Center, District 17) to operate a new auto body shop; Site Plan approval to develop the 6,792 square foot lot with a new 1,787 square foot auto body shop, in conjunction with a request for Variance approval to deviate from the front, side, and rear setback requirements of the CCSP-BC17 zone. The site is in the CCSP-BC29 zone.

Staff report was read and recommended approval. Condition of Approval No. 16 was omitted due to being redundant as the Condition is similar to Condition No. 10. One letter was written by Ms. Darlene Agonia for a continuance request so that her family, who are adjacent neighbors, could have more time to study the case.

Commissioner Brietigam asked staff if the project was properly noticed. Staff replied yes; that only one letter was received.

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

Ms. Sarah Phan, the applicant's representative, approached the Commission and stated that the deviation of the front setback varies by eight inches to meet the landscaping requirements; that the side and rear setbacks are on the interior of the property; that the owner would like to have more business and proposes a new building on the parking lot; that with regard to noise, the repair work would be inside and there would be no machine echo.

Chair Pierce asked Ms. Phan if she had read and agreed with the Conditions of Approval. Ms. Phan replied yes.

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

Commissioner Brietigam commented that he would like to support the project; however, he would like to hear the neighbor's response and would support a continuance.

Commissioner Kirkham commented that one person should not hold up a decision as everyone that was noticed had the same time frame to study the project.

Staff added that all documents had been available for review.

Chair Pierce reopened the public portion of the hearing.

Ms. Darlene Agonia approached the Commission and clarified her letter's content; that the letter is from her brother who lives in Sacramento; that he was asked by their 89 year old mother to study the project for her.

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

Commissioner Beard added again that there are two Commissioners absent that may want to provide input.

Commissioner Brietigam commented that it would be fair for the neighbor to provide a response, unless postponement would be a hardship for the City.

Commissioner Kirkham added that postponement would be a hardship for the applicant.

Commissioner Brietigam moved to continue the case to the December 4, 2008 Planning Commission meeting, seconded by Commissioner Beard. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BRIETIGAM, NGUYEN, PIERCE
NOES:	COMMISSIONERS:	KIRKHAM
ABSENT:	COMMISSIONERS:	BANKSON, PAK

MATTERS FROM
COMMISSIONERS:

Commissioner Kirkham asked if notice parcel lists would be provided to the Commissioners. Staff responded that for each case, a copy of the noticing list is always brought to the public hearing via the Planner's case file; however, a copy could be brought to the public hearing for the Commissioner's review.

Commissioner Brietigam agreed and considered that an electronic version may be one option.

Commissioner Kirkham asked staff how asbestos removal is addressed in the Conditions of Approval. Staff replied that the City has a declaration checkbox on the demolition permit on which the applicant can declare that there are no hazardous materials such as asbestos and lead based paint in the building or other structure; that if the answer is yes, evidence must be provided as to how the material would be removed; that the Air Quality Management District (AQMD), the EPA, and CAL OSHA require documents to substantiate that hazardous materials are in buildings before demolition and that if so, a plan must be provided to address the contaminants while demolishing the building; and that any structure of 100 square feet or more requires an AQMD and EPA clearance for demolition.

Commissioner Brietigam asked staff how the public becomes aware of the standards. Staff replied that most contractors are to be made aware of issues surrounding the demolition of old buildings; and that AQMD has found buildings prior to 1975 that do not have asbestos.

Commissioner Brietigam suggested that the applicant's provide proof that there are no hazardous materials prior to receiving a demolition permit, especially with regard to public safety.

Staff added that a Condition of Approval could be added that requires that the developer test, as applicable to their building, and provide proof prior to receiving a demolition permit.

Commissioner Brietigam commented that he would like to see landscaping on Lampson Avenue and the Garden Grove sign reinstalled.

Chair Pierce asked staff if the Demiceli's Italian Restaurant on Brookhurst Street carried their ABC license with them when they moved. Staff replied that the restaurant moved to Katella Avenue and Euclid Street; however, staff did not know if the license stayed with the restaurant.

Commissioner Beard commented that the Community Development monthly building permit report indicated that issued permits were down from last year at this time.

Staff commented that the economy is not doing well; however, there still are developers looking for projects to move on.

Chair Pierce asked staff if the new OGGI's Pizza & Brewing Co. would improve parking by adding a valet service. Staff replied that valet parking was available prior to OGGI's opening; however, that service is no longer available.

MATTERS
FROM STAFF:

Staff read a brief description of future Agenda items for the December 4th, 2008 Planning Commission meeting and distributed a reminder for the annual Planning Commission Holiday Dinner to be held at OGGI's Pizza & Brewing Co. on Thursday, December 18, 2008.

ADJOURNMENT:

Chair Pierce moved to adjourn the meeting at 8:45 p.m., seconded by Commissioner Brietigam. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BRIETIGAM, KIRKHAM, NGUYEN, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	BANKSON, PAK

JUDITH MOORE
Recording Secretary