

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE  
GARDEN GROVE, CALIFORNIA

THURSDAY  
JUNE 4, 2009

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, BONIKOWSKI, BUI, CABRAL,  
ELLSWORTH, KIRKHAM, TRAN  
ABSENT: NONE

ALSO PRESENT: Omar Sandoval, Assistant City Attorney; Karl Hill, Planning Services Manager; Maria Parra, Urban Planner; 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 Vice Chair Kirkham and recited by those present in the Chambers.

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Vice Chair Kirkham moved to approve the Minutes of May 21, 2009, seconded by Commissioner Ellsworth. The motion carried with the following vote:

AYES: COMMISSIONERS: BEARD, BONIKOWSKI, BUI,  
ELLSWORTH, KIRKHAM, TRAN  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NONE  
ABSTAIN: COMMISSIONERS: CABRAL

PUBLIC HEARING: NEGATIVE DECLARATION  
INTERPRETATION OF USE NO. IOU-105-09  
APPLICANT: CITY OF GARDEN GROVE  
LOCATION: THAT PORTION OF MAIN STREET LOCATED BETWEEN ACACIA PARKWAY  
TO THE NORTH AND GARDEN GROVE BOULEVARD TO THE SOUTH  
DATE: JUNE 4, 2009

REQUEST: To allow restaurants with limited live entertainment in the Main Street Historical Retail Overlay (H-R) zone. The site is in the CCSP-MX32&HR (Community Center Specific Plan-Mixed Use 32 & Main Street Retail Overlay) zone.

Staff report was read and recommended approval. One amendment was noted in the Resolution.

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

Mr. Peter Katz approached the Commission. He stated that Main Street is beginning to show ambiance similar to other city's that have music with dinner, such as a piano player; that resident's note the ambiance when they buy into the area; that music has been allowed to be heard in the street for 14 years without complaints, along with the January and August Azteca entertainment, and the Friday night car show; that a noise issue could be addresses later; that businesses need to succeed; that the City should waive the entertainment fees associated with existing Conditional Use Permits; that an art gallery may have wine and cheese on the weekend and should not be prohibited from obtaining a temporary permit; and that restaurant sales are down by 30% from a year ago.

Vice Chair Kirkham asked Mr. Katz how long the Elvis impersonator entertains at the Friday night car show. Mr. Katz replied forty-five minutes to one hour; that the current farmer's market sometimes has a band; that the car show uses an amplifier for the sidewalk and two speakers for the back parking lot; that there are no resident complaints, especially from the apartments to the north; that these establishments with music would be easier to police; that the car show closes at 8:30 p.m.; that there are alternatives if the noise becomes a problem in the future; and that these entertainment areas need to be controlled.

Mr. Don McGregor approached the Commission and stated that Garden Grove is a bedroom community; that we should appreciate Main Street, the Elvis shows, the car show, and the concerts in the park, which bring us together as a community; and that until a better plan is set forth we need to enjoy our bedroom community.

Mr. Charles Mitchell approached the Commission and stated that Main Street is the cultural heart of the City with a spirit that should be maintained; that Garden Grove needs the entertainment to compete with the other cities that lure tourists; that he has experienced other main streets in small towns that have entertainment; that with regard to Item C.2., many people in Orange County have enjoyed the Elvis ambiance and he supports the license.

Mr. Ismael C. Jauregui, owner of Azteca Mexican Restaurant, approached the Commission and stated that the Elvis shows have been occurring for 14 years; that approximately 1,000 people come to enjoy the January and August shows, which brings the community together; that the sidewalk Elvis music is not intended to drown out the music of other businesses; and that he would like to see entertainment without the Conditional Use Permit fees.

Mr. Myke Cossota approached the Commission and expressed that he enjoys going to the many restaurants on Main Street; that people hear the Elvis music and tell their friends, which in turn, creates more business; and that he supports entertainment on Main Street.

Mr. Hooshang Farahmand, a Main Street business owner, agreed that Main Street needs entertainment; that the Azteca brings identity to the street;

and that the downtown is known for Elvis, which is good for all of the businesses.

Mr. Joe Pak approached the Commission and expressed his support for Items C.1. and C.2.; that Main Street should be retained as a destination; that the Elvis impersonator is fantastic; that also, entertainment overlays should be considered for the Little Saigon business district and the Korean business district to bring in revenue; that there are other cities speaking to our business owner's to come to their city; and that we need the revenue for public safety, traffic safety, and the quality of life.

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

Staff added that the CUP application fee is \$2,100 and that only the City Council can waive entitlement fees; that the Parking and Main Street Commission directed staff to put forth a request to City Council on this matter; that Main Street outdoor entertainment on the public right-of-way requires a community event permit specific to the event for one time only, or a specified period of time, such as for the car show; that this ordinance pertains to addressing the entertainment inside the businesses; that noise and vibration measures need to be imposed due to differing levels of sensitivity; that the Police Department prefers limiting entertainment activities due to limited staffing; and that restaurants are more associated with entertainment than stores.

Vice Chair Kirkham asked if Mr. Jauregui would need to cease the outdoor music if the item was approved. Staff replied yes.

Vice Chair Kirkham disagreed with ceasing the outdoor Elvis music stating that the music is not loud and offensive; that the music draws people; that he has not heard complaints; and that Item 'g.' on page 2 of the Resolution, should be omitted.

Staff commented that Item 'g.' could stay as written with the language revised to state "No amplified music shall be permitted outside of the fully enclosed building, except with a Conditional Use Permit", and that this would also be addressed in Item C.2.

Vice Chair Kirkham asked staff that if the amplified music was approved under the original CUP's, would the fees be waived? Staff replied yes, under the original CUP, however, none of the existing CUP's provide for outside music. Staff added that the Planning Commission would need to approve any new CUP's with those provisions included on a case-by-case basis; that CUP's run with the land and become part of a property right; that the land could be sold and the new owner could have the benefit of the CUP; and that the code allows for special events that allow temporary outside amplification.

Commissioner Bonikowski expressed his support agreeing that it is a buyer beware situation for future residents on Main Street with regard to outside music; and that adding the CUP condition and waiving the fees for outdoor music is acceptable.

Commissioner Ellsworth asked staff if there have been complaints. Staff responded no, that the situation is unique; that there is a potential for future problems; that staff has to be objective; and that a recommendation regarding each approved CUP would be that a cut-off time for the amplified music be included to avoid noise issues. Staff added, that with regard to noise, it is better to adopt regulations for a reasonable person's hearing as it is difficult prove noise issue cases in court, especially those that have been tracked by technical means, such as meters.

Commissioner Bui asked staff what the guidelines would be if two or three restaurants applied for outside music?

Staff responded that there is latitude when there is a Conditional Use Permit, and that if there are complaints of noise or disruption, the CUP could be brought back to the Planning Commission and be reviewed.

Commissioner Cabral asked staff if the conditions could specify that profanity could not be allowed with regard to explicit music.

Staff replied that profanity is not protected, but it can be regulated, however, it would be difficult to regulate; and that constitutional doctrines change over time.

Commissioner Tran asked if the staff report Item 'c.', under 'Discussion', could include two vocalists in lieu of one, and with regard to Item 'e.', he asked staff why there could be no platform or stage.

Staff responded that the Police Department wants to keep the goal of Main Street; that conditions need to be specific to avoid restaurants morphing into bars with entertainment venues at night; that staff is not penalizing the businesses, but the City is planning for the future with regard to the resources that would deal with the future problems.

Chair Beard agreed that Item 'g.' should be reconsidered by the addition of a CUP approval.

Vice Chair Kirkham moved to adopt the Negative Declaration, and approve Interpretation of Use No. IOU-105-09, with an amendment to Item 'g.', seconded by Commissioner Bonikowski, pursuant to the facts and reasons contained in Resolution No. 5686. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, CABRAL, ELLSWORTH, KIRKHAM, TRAN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

PUBLIC HEARING:	CONDITIONAL USE PERMIT NO. CUP-268-09
APPLICANT:	ISMAEL C. JAUREGUI JR.
LOCATION:	WEST SIDE OF MAIN STREET, NORTH OF GARDEN GROVE BOULEVARD AT 12911 MAIN STREET
DATE:	JUNE 4, 2009



NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NONE

MATTERS FROM  
COMMISSIONERS:

Commissioner Ellsworth requested that the meeting be adjourned in honor of Dr. Sheldon Singer and his wife Carol. Dr. Sheldon was involved in the Garden Grove community for the last 50 years and passed away Saturday. His memorial service is tentatively scheduled for June 27<sup>th</sup> at Kiwanisland.

Vice Chair Kirkham commented that he was pleased that the Commission moved forward with the topic of entertainment on Main Street, which will be beneficial for years to come. Chair Beard agreed.

MATTERS FROM  
STAFF:

Staff read a brief description of future Agenda items for the June 18th, 2009 Planning Commission meeting, which would include a study session on ABC items.

ADJOURNMENT:

Chair Beard moved to adjourn the meeting at 8:20 p.m., in memory of Dr. Sheldon Singer, seconded by Commissioner Ellsworth. The motion received the following vote:

AYES: COMMISSIONERS: BEARD, BONIKOWSKI, BUI,  
CABRAL, ELLSWORTH, KIRKHAM,  
TRAN  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NONE

JUDITH MOORE  
Recording Secretary