

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
DECEMBER 4, 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: CHAIR BUTTERFIELD, VICE CHAIR JONES,
COMMISSIONERS BARRY, CALLAHAN, FREZE,
HUTCHINSON, AND NGUYEN

ABSENT: NONE

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

ABSENT: NONE

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 Chair Butterfield and recited by those present in the Chamber.

ORAL
COMMUNICATION: None.

APPROVAL OF
MINUTES:

Commissioner Hutchinson moved to approve the Minutes of November 20, 2003, seconded by Commissioner Callahan. The motion carried with the following vote:

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

CONTINUED
PUBLIC
HEARING:

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

APPLICANT:
LOCATION:

DE HUA JR.
WEST SIDE OF BROOKHURST STREET NORTH OF BIXBY AVENUE AT
12171 THROUGH 12181 BROOKHURST STREET

DATE:

DECEMBER 4, 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 in the Brookhurst Chapman Specific Plan (Light Commercial) zone.

Staff requested that the item be continued off-calendar.

Commissioner Barry moved to continue the item off-calendar, seconded by Commissioner Hutchinson. The motion received the following vote:

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

CONTINUED
PUBLIC
HEARING:

CONDITIONAL USE PERMIT NO. CUP-125-03

APPLICANT:
LOCATION:

VIEN DONG INC.
NORTHWEST CORNER OF BROOKHURST STREET AND WESTMINSTER
AVENUE AT 13861 BROOKHURST STREET

DATE:

DECEMBER 4, 2003

REQUEST:

To allow an indoor, multi-tenant retail shopping center within an existing supermarket, and to continue operating under an Alcoholic Beverage Control Type "21" (Off-Sale – General Package Store) License. The site is in the C-2 (Community Commercial) zone.

Staff report was reviewed and recommended approval.

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

Mr. John Ziebarth, representative for the project approached the Commission. He noted that all of the indoor tenant spaces are accessed from inside, except for the large tenant space on the southeast corner. This area is planned for restaurant use and he asked that they be allowed to install exterior signage on an existing pole tower.

Commissioner Freze questioned the Fire Department requirement for creating a second exit for spaces exceeding 1500 square feet. Mr. Ziebarth stated that none of the spaces inside would be more than 1500 square feet. He stated that they have discussed this with staff from Building Services.

Staff explained that the Fire Department conditions are standard and meant to apply in a general way, and that any floor plans would have to meet all of the guidelines and reviewed by Building Services.

Commissioner Barry commented that the use of the word "All" in condition number 27 implies that there would be more than one restaurant. Mr. Ziebarth stated that one restaurant is planned, and the parking requirement allows 5,000 square feet of food use. However, if some of the tenant spaces are subdivided or combined, the plans would have to be brought to the building department. Commissioner Barry asked what would happen if the restaurant area were subdivided and used for two restaurants.

Staff explained that tenant improvements would need to be approved, and more than one sign for restaurants would not be allowed.

Chair Butterfield questioned whether each tenant would need a Conditional Use Permit, since each tenant would have a cash register. Staff responded that each tenant would need a Business Tax Certificate.

Commissioner Hutchinson noted that the supermarket appears to be full, and asked where these new tenants would go. Mr. Ziebarth stated that the owner decided to look at what would be the best way to occupy this space. They are hoping that this will be approved, as there are plans already in plan check. Once they are able to get the building permits, what is currently occupying that space will be put back into the remaining portion of the market.

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

Commissioner Barry noted that the conditions are ambiguous in terms of how the project is referenced; therefore, she would like to add a condition that states that all conditions apply to the premises unless otherwise stated.

Staff stated that a condition would be added to reflect that all of the conditions apply to the premises.

Commissioner Barry moved to approve Conditional Use Permit No. CUP-125-03, with an amendment to the conditions to reflect that all of the conditions apply to the premises, seconded by Commissioner Nguyen, pursuant to the facts and the reasons contained in Resolution No. 5396,

and authorized the Chair to execute the Resolution. The motion carried with the following vote:

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

PUBLIC HEARING: CONDITIONAL USE PERMIT NO. CUP-127-03
APPLICANT: HEE SOOK LEE
LOCATION: SOUTH SIDE OF GARDEN GROVE BOULEVARD EAST OF GILBERT STREET
AT 9520 GARDEN GROVE BOULEVARD
DATE: DECEMBER 4, 2003

REQUEST: To allow an existing restaurant (BCD Tofu House) currently operating under an Alcoholic Beverage Control Type "41" (On-Sale Beer and Wine, Public Eating Place) License, to expand the hours of operation to be open 24 hours a day, seven days a week. The site is in the C-2 (Community Commercial) zone.

Staff report was reviewed and recommended denial.

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

Mr. King Woods, representative for the applicant, approached the Commission, and thanked staff for a thorough report. He explained that this restaurant specializes in tofu dishes that are served for breakfast, lunch, and dinner. This restaurant is trying to establish a corporate identity by staying open 24 hours a day, as do the other BCD Tofu House restaurants. He noted that this restaurant has not had police issues. He stated that he spoke with Sergeant Fowler, who asked for a letter of how the restaurant would propose to mitigate the police concerns. He provided a letter with a list of suggestions for conditions of approval to address police concerns.

Chair Butterfield asked for comment from Sergeant Fowler. Sergeant Fowler stated that he did not have an opportunity to review Mr. Woods' letter; however, he explained that the Police Department does not support the request to allow the business to operate for 24 hours a day. The reason for not supporting the request is a council policy that restaurants serving alcohol close at 11:00 p.m., and for a preventative measure to mitigate potential problems.

Commissioner Freze asked about the crime count over the last year, and whether the crime count is alcohol related. Sergeant Fowler stated that the crime count has increased citywide, and indicated that there is no increase in alcohol related crimes.

Commissioner Barry asked what the crime was attributed to. Sergeant Fowler indicated that the major type of crime is robbery.

Mr. Woods stated that 30 to 35 percent of business occurs between

midnight and 3:00 a.m. at the restaurant, and the business will suffer if not allowed to stay open during these hours.

Mr. Ki Lee, General Manager of the restaurant, approached the Commission. He stated that he has been a General Manager for the last four years.

Chair Butterfield asked how long the restaurant has been operating 24 hours a day. Mr. Lee stated that the restaurant has been operating 24 hours a day for the last four years, and that he was unaware of a restriction on the hours of operation.

Sergeant Fowler stated that an office hearing was held with the business owner and planning staff in July of 2003. The business owner was informed at that time that the restaurant is not in compliance with the conditions of approval by operating 24 hours a day and a copy of the conditions was provided.

Chair Butterfield expressed concern that the business owner was not at this public hearing to explain why they are operating the business 24 hours a day.

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

Commissioner Hutchinson expressed his view that restaurants serving alcohol should not be open 24 hours a day. He noted that there are many other restaurants in the community that are doing very well and are not open 24 hours.

Vice Chair Jones commented that despite the noncompliance, the restaurant has been operating 24 hours without police issues. He stated that he does not want to burden police resources; however, he thought that the policy for the 11:00 p.m. closure should be more relaxed. He commented that as someone who likes to eat out late, there are not a lot of choices in the city. He suggested that the restaurant be allowed to stay open until 2:00 a.m.

Commissioner Nguyen agreed that she liked going out late sometimes as well; however, she was not happy about how this was approached by the applicant. She stated that a later closure such as midnight or 1:00 a.m. would be acceptable, because this restaurant has not had problems with the police.

Commissioner Callahan stated that he is disturbed by the lack of conformity with restaurant hours and is concerned about being fair. He expressed concern about the restaurant actually complying with any conditions.

Doug Holland responded that if the violations continue, it would be turned over to Code Enforcement.

Chair Butterfield asked Sergeant Fowler whether he knew of any other restaurants on Garden Grove Boulevard that stay open until midnight. Sergeant Fowler stated that there are none.

Chair Butterfield expressed concern that this restaurant has not been complying with the current conditions; that the business owner is absent from the public hearing; and the statement from the manager that they are unaware of the Conditional Use Permit is hard to believe. Because of this, she does not think that the business owner would comply if they did grant later hours.

Commissioner Freze stated that ignorance is not an excuse, and he is against allowing a 24-hour a day operation.

Commissioner Barry stated she would not be willing to support the request, because this business has ignored city policy and has not complied with its Conditional Use Permit.

Commissioner Hutchinson moved to deny Conditional Use Permit No. CUP-127-03, seconded by Commissioner Barry, pursuant to the facts and the reasons contained in Resolution No. 5399, and authorized the Chair to execute the Resolution. The motion carried with the following vote:

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

PUBLIC HEARING: NEGATIVE DECLARATION
CONDITIONAL USE PERMIT NO. CUP-126-03
APPLICANT: CINGULAR WIRELESS
LOCATION: WEST SIDE OF EUCLID STREET NORTH OF CHAPMAN AVENUE AT 11935
EUCLID STREET
DATE: DECEMBER 4, 2003
REQUEST: To allow the construction and operation of a telecommunications facility disguised as a 63-foot tall palm tree, with four ground-mounted enclosed equipment cabinets in an existing small commercial center. The site is in the CCSP-DC1 (Community center Specific Plan, District Commercial Area 1) zone.

Staff report was reviewed and recommended approval. Staff noted receipt of two letters; one from Bob and Marlene Piper who expressed concern that the tower would interfere with satellite reception; and one letter from Lillian Chandos who strongly opposed the request. Staff also noted a receipt of a letter from the property owner committing to upgrade the site to address code issues.

Commissioner Freze asked if the existing palm tree at the site is comparable in height to the proposed tower. Staff stated that the tree does appear to be a comparable height.

Commissioner Barry questioned whether it could be conditioned to have the pole be comparable in height to the tree. Staff stated that the applicant could explain what height is needed for the pole.

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

Mr. Gil Gonzalez, representative for the applicant, approached the Commission. He assured the Commission that the proposed pole would not interfere with other equipment, because they must operate within a specified bandwidth. Cingular's engineers establish the necessary height of the pole, and lowering the height could force them to establish more than one site in the area. He stated that the conditions are requiring a wrought iron lid enclosure with a six-foot block wall constructed around the equipment cabinets. They can create the wrought iron lid, but they need to build the blockwall to eight feet in order to accommodate the workers for maintenance on the equipment cabinets.

Chair Butterfield asked if he has read and agrees with all of the other conditions of approval. Mr. Gonzalez stated yes.

Commissioner Barry noted that she has observed that the other monopalms that have been installed have very thin fronds that don't hide the antennas. She asked that the fronds be denser and thicker in order to hide the antennas. She questioned whether there was a way to condition that the fronds meet an adequate thickness.

Doug Holland stated that there is a condition that requires that the antennas be disguised, indicating that the actual specification of the frond size and thickness is unnecessary.

Commissioner Freze noted the condition for planting live palms and asked whether the live palm would interfere with the reception. Mr. Gonzalez stated that there is some concern about interference; however, there would be something done at the time that it would be a problem.

Mr. Winston Mendoza approached the Commission. He stated that he lives directly behind the commercial site where the proposed pole would be constructed. He expressed concern that his view will be of a metal flagpole.

Chair Butterfield shared the photographs of the proposed monopalm with Mr. Mendoza, and assured him that the monopalm will look very realistic. Also, other live palms will be planted near the monopalm.

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

Chair Butterfield moved to adopt the Negative Declaration and approve Conditional Use Permit No. CUP-126-03, with an amendment to the conditions to allow an eight foot blockwall, seconded by Commissioner Hutchinson, pursuant to the facts and the reasons contained in Resolution No. 5398, and authorized the Chair to execute the Resolution. The motion carried with the following vote:

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

PUBLIC
HEARING: AMENDMENT NO. A-103-03
APPLICANT: CITY OF GARDEN GROVE
LOCATION: CITY WIDE
DATE: DECEMBER 4, 2003

REQUEST: The City of Garden Grove is proposing to amend Title 9 of the Municipal Code, Section 9.12.030 Conversion of Multiple-Family Residential Units. The amendment proposed to change the application process for requests to convert rental-housing units to ownership housing. This process is commonly referred to as a condo conversion.

Staff recommended that the Planning Commission recommend approval of the Amendment to City Council.

Commissioner Barry asked how this would impact the state mandate to meet low-income housing. Staff responded that this won't have an impact on low-income housing, and in fact will provide an opportunity for people with low to moderate income to buy a home.

Commissioner Barry stated that she does not agree since they would lose apartments to condo units, and the structures would have to qualify.

Staff stated that the apartment buildings would have to be upgraded to meet the requirements for conversion. Also, the city more than meets the criteria for low income housing in providing rental apartment units. Staff noted that city council's goal is to increase ownership opportunity for people who have a low or moderate income.

Commissioner Freze asked about how the impacts for relocation would be reduced for renters whose apartments were being converted to condos. Staff noted that there are numerous conditions placed on property owners interested in converting apartments to condominiums that include proper notification and relocation benefits. The intent is that the existing occupant would have the first opportunity to buy their unit.

Commissioner Barry noted an error on page 3 D.3. that needed to have the word "are" changed to read, "be."

Commissioner Hutchinson expressed his view that this is a good opportunity for people who earn a low income to buy their own home, which includes an opportunity for move up housing.

Vice Chair Jones noted that most of the apartment buildings that were built in the 1970's or 1980's would not be able to meet the code for parking requirements. Staff stated that a building could be altered to meet the code.

Commissioner Barry noted all of the expenses involved in converting an apartment building to meet code and relocation expenses. She asked whether this Ordinance ensures that low-income earners would be able to qualify and afford to buy a condo conversion.

Staff noted that the cost of a condo conversion would be on the lower end, which would ensure an opportunity for people who have a low or moderate-income to purchase a home. The intent is not to place restrictions or financial obligations onto the property owner, but to provide opportunities for home ownership.

Commissioner Callahan noted that the conditions state that the renter would be entitled to a complete refund of deposits. He asked if there were damages done to the unit, would the renter still be entitled to be refunded.

Staff noted that any landlord/tenant laws would supercede the Ordinance.

Doug Holland noted that in the spirit of the Ordinance to provide ownership opportunity, any refunds could be used to help purchase a unit.

Vice Chair Jones pointed out that there could be the possibility of someone who had no intention of buying could be angry and purposely destroy property and still be eligible for refunds.

Vice Chair Jones asked if there were a problem modifying the property to meet parking requirements, could the property owner apply for a Variance. Staff stated yes.

Commissioner Barry asked that the second sentence on page 8, number 4, be changed to read as follows: From the date of approval of the tentative subdivision map until the date of conversion, no tenant's rent shall be increased more frequently than once every six months and not at a rate greater than the rate of increase in the Consumer Price Index (all items, Anaheim – Santa Ana – Garden Grove SMSA) on an annualized basis, for the same period.

Commissioner Barry stated that condition J needs to be included under condition I because it was part of Tenant Provisions. Staff stated that it would be changed to I.7.

Chair Butterfield moved to recommend approval of Amendment No. A-103-03 to City Council, with amendments to the conditions D.3., I.4., and to label condition J., I.7., seconded by Commissioner Hutchinson. pursuant to the facts and the reasons contained in Resolution No. 5397, and authorized the Chair to execute the Resolution. The motion carried with the following vote:

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

PUBLIC HEARING:	NEGATIVE DECLARATION SITE PLAN NO. SP-336-03 DEVELOPMENT AGREEMENT
APPLICANT:	AJIT DIGHE
LOCATION:	WEST SIDE OF VALLEY VIEW STREET SOUTH OF CHAPMAN AVENUE AT 12101 VALLEY VIEW STREET
DATE:	DECEMBER 4, 2003
REQUEST:	To allow the construction of a 10,000 square foot commercial building including a covered walkway that would extend to an existing building. The site is located in the Planned Unit Development No. PUD-104-73 zone.

Staff requested that this request be continued off-calendar.

Commissioner Barry moved to continue Site Plan No. SP-336-03 off-calendar, seconded by Chair Butterfield. The motion received the following vote:

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

MATTERS
FROM

COMMISSIONERS: Commissioner Nguyen asked for a status report on projects that the Planning Commission has approved. Staff responded that a quarterly report could be prepared for the Planning Commission's review.

MATTERS

FROM STAFF: None.

ADJOURNMENT: The meeting was adjourned at 9:00 p.m.

TERESA POMEROY
Recording Secretary