

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
NOVEMBER 17, 2011

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

ALSO PRESENT: James Eggart, Assistant City Attorney; Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Chris Chung, Associate Planner; Alana Cheng, Administrative Analyst; Ed Leiva, Police Sergeant; Bill Murray, Public Works Director/City Engineer; Monica Robledo, Associate Engineer; Judy Moore, Recording Secretary

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

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Commissioner Brietigam moved to approve the Minutes of November 3, 2011, seconded by Vice Chair Cabral. The motion carried with the following vote:

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

PUBLIC HEARING: CONDITIONAL USE PERMIT NO. CUP-336-11
APPLICANT: BONG KYU PAIK
LOCATION: NORTH SIDE OF GARDEN GROVE BOULEVARD, EAST OF WEST STREET AT 12045 GARDEN GROVE BOULEVARD
DATE: NOVEMBER 17, 2011

REQUEST: Conditional Use Permit approval to allow the re-opening of a bar, previously known as JJang, and to operate the establishment, which is under new ownership as Caesar's Lounge, with an existing Alcoholic Beverage Control Type "48" (On-Sale, General, Public Premises) License. The site is in the HCSP-TZW (Harbor Corridor Specific Plan-Transition Zone West) zone.

Staff report was read and recommended approval. Condition No. 49 and the Crime District Summery were modified. Six letters were written in opposition to the request by Pete Julienne, Quang van Pham and Hannah

BH Pham, Mike and Timmerie Henry, Lawanna Sullivan, Pat Sullivan, and Linda Johnson.

Commissioner Brietigam asked for the overage of Alcoholic Beverage Control (ABC) licenses in the district. Staff replied five.

Commissioner Lazenby asked if the crime rate in the area was different since the bar closed. Staff replied that the statistical information from this year and last year was similar, and that only three incidents that required police response occurred in the last five years.

Commissioner Lazenby asked for the type of ABC Licenses in the area. Staff responded that the licenses were on-sale licenses, such as Type 41, 47, and 48.

Commissioner Dovich noted that the illegal rooms had been demolished and asked if the City had authority to monitor the interior for compliance. He also asked if the noise from the bar could be addressed.

Staff responded that Condition No. 47 would address the compliance issues and that Condition No. 28 would address the sound issues.

Commissioner Lazenby asked if the Vietnamese restaurant adjacent to the project had the same owner and if the establishment had an ABC License. Staff responded that the restaurant did not have an ABC License, however, the neighboring liquor store had a Type 21 License.

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

Mr. Dean McCarty, the applicant's representative, approached the Commission and stated that the bar owner did not own the restaurant.

Vice Chair Cabral asked the applicant if he had read and agreed with the Conditions of Approval. Mr. McCarty replied yes.

Commissioner Dovich noted the five letters of objection with concerns relating to safety of children and drunk drivers and asked if the bar would have a taxi service policy in order to appease the resident's fears.

The applicant replied that the owner knows to provide transportation and to limit the number of drinks. He also stated that the noise issue would be addressed as the bar would be a family establishment with TV's for sports, and that the owner wants a good reputation.

Vice Chair Cabral asked when the bar was purchased. Mr. McCarty replied just over a year ago, and that the owner was sincere about the operation.

Ms. Timmerie Henry approached the Commission and stated that she lived on Dunklee Lane and has seen the area decline; that she has lived there 52 years; that cars drive too fast in the neighborhood; that the adult book store was still there; that she has two teenage sons and the bar would not be good for the neighborhood and would impact her family.

Vice Chair Cabral noted that the establishment had been a bar since the 1960's and asked Ms. Henry if she had experienced any problems previously. Ms. Henry replied that patrons would be lost in the

neighborhood, and along with the adult bookstore, the environment was not good.

Mr. Patrick Sullivan approached the Commission and stated that the bar was called the Brave Bull and had a lot of problems; that the rear parking lot had no lights and was seedy; that bar patrons used Dunklee Lane when leaving because of the darkness; that the blighted shopping center area should be redeveloped; that a family-oriented establishment would not have a Type 47 ABC License, though beer and wine would be acceptable along with food; that there were noise issues; and the adult bookstore was next door with children in apartments nearby.

Mr. Mike Henry cited gang problems as a concern; and that police did not see the drivers speed down the streets.

Mr. McCarty stated that he was not related to the property owner.

Commissioner Dovich expressed that in regard to lighting, cameras and proper lighting needed to be installed in both the front and rear. Mr. McCarty agreed and noted that parking was provided in the front and rear.

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

Commissioner Dovich asked if Dunklee Lane was patrolled at night. Staff replied that the area was District No. 144; that the area was 167% above the average crime in other City districts; that officers patrol the busy district and posting an officer would be difficult due to resources; that coverage should be 24/7 and that focus was on drunk drivers leaving alcohol establishments.

Vice Chair Cabral acknowledged the five letters and stated that the project was in compliance.

Staff added that Condition No. 20 required LEAD training (Licensee Education on Alcohol and Drugs) for the operator and staff; that a condition could be added to address the lighting, such as 'new lighting shall be added to highlight the main entries and the parking area and to provide adequate lighting for the rear parking area, and all lighting structures shall be placed and maintained so as to confine direct rays to the subject property, lighting shall be maintained at a minimum of two-foot candles during hours of operation and minimum one-foot candle during all other hours of darkness'.

Vice Chair Cabral agreed that the information should be imposed as a condition.

Commissioner Lazenby asked staff to clarify the one and two-foot minimum candles as there may be light pollution affecting residents. Staff explained that lights would need to be directed away from neighbors and be shielded; that minimum foot-candles was a condition and was measured on the surface of the parking lot.

Vice Chair Cabral asked if the applicant would work with City Staff on lighting. Staff replied yes, that typically developers have lighting consultants.

Commissioner Brietigam stated that in order to approve the Conditional Use Permit, there must be a finding of convenience or necessity of which there was none; that there were five ABC licenses over the limit; and that he was in opposition to the request as the law should be followed.

Vice Chair Cabral asked for the length of time the previous owner worked with City staff to bring the property into compliance. Staff responded one year, then the business was sold and a new lease was signed November of 2010. Also, that the business might have been non-operational for nearly two years.

Staff added that due to building abatement action, the prior operator shut down the business and walked away from the lease; that the space was then marketed, retrofitted, and leased to the current applicant a year ago.

Vice Chair Cabral asked if the ABC license was transferred with the purchase of the property, and if so, was the current applicant aware that, after 30 days of non-operation, he would have to apply for a new license.

Staff explained that the transfer would be a person-to-person transfer and that the ABC license was on hold until the request was approved; and that the property had not changed hands, only the lease; and, that the applicant was aware that the request for an ABC license would need to go through the hearing process.

Commissioner Lazenby pointed out that the building needed to be retrofitted regardless of the new operator. Staff agreed.

Vice Chair Cabral re-opened the public hearing to receive further testimony in favor of or in opposition to the request.

Mr. Dean McCarty clarified that the ABC license was acquired from the prior operator, not the landlord; that the new owner purchased the bar from the previous owner; and that if the Conditional Use Permit was not approved, there would be no license issued.

Mr. Patrick Sullivan asked if any City redevelopment money would be used for the shopping center. Staff responded that they were not aware of funds.

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

Commissioner Brietigam reiterated that the district was already oversaturated with ABC licenses; that there was no finding of convenience or necessity; and that he opposed the request.

Commissioner Dovich cited that the project would have new management and new ownership; that the project would be good for community growth; that alcohol with a meal was a need for convenience; that the crime rate had not changed; that lighting would be conditioned; that police would patrol the district; that enough complaints could result in the bar being closed; and that though he was not comfortable with the request, he would support the request.

Commissioner Lazenby expressed that the area was oversaturated with adult entertainment and licenses; that the adult bookstore was not a good

element; that a family restaurant next to a sports bar was not good; and that he would not offer his support.

Commissioner Brietigam moved for staff to bring back a Resolution of Denial for Conditional Use Permit No. CUP-336-11 based on the fact that there were no findings of public convenience or necessity, that the district was oversaturated by at least five ABC licenses, and that the adult business was nearby, seconded by Commissioner Lazenby. The motion received the following vote:

AYES: COMMISSIONERS: BRIETIGAM, LAZENBY
NOES: COMMISSIONERS: CABRAL, DOVINH
ABSENT: COMMISSIONERS: BUI, PAK, SILVA

The motion failed with a 2-2 vote and no action was taken.

Vice Chair Cabral moved to re-open the public hearing and continue Conditional Use Permit No. CUP-336-11 to the next regularly scheduled Planning Commission meeting on December 1, 2011, in order to have additional Commissioners present, seconded by Commissioner Dovich. The motion received the following vote:

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

PUBLIC HEARING: NEGATIVE DECLARATION
AMENDMENT NO. A-164-11
CONDITIONAL USE PERMIT NO. CUP-340-11
APPLICANT: NEXT LEVEL SPORTS COMPLEX, LLC
LOCATION: NORTHWEST CORNER OF KNOTT STREET AND ACACIA AVENUE AT 12821
KNOTT STREET
DATE: NOVEMBER 17, 2011
REQUEST: To amend the Planned Unit Development No. PUD-104-70 zone to add 'Indoor Sports Facility' as a permitted use, subject to Conditional Use Permit approval, in conjunction with a request for Conditional Use Permit approval to operate a new sports facility, Next Level Sports Complex, within an existing 100,316 square foot building. The site is in the Planned Unit Development No. PUD-104-70 zone.

Staff report was read and recommended approval, with modifications to Condition Nos. 2, 8, 20, 33, and nixed language from Page 8 of the staff report. One letter of opposition was written by Dave Rubin.

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

Mr. Jason Brennan, the applicant's representative, approached the Commission.

Vice Chair Cabral asked the applicant if he had read and agreed with the Conditions of Approval. He replied yes.

Commissioner Brietigam asked if the sports complex would have batting cages and medical defibrillators with trained staff. The applicant responded that there would be no batting cages and that a percentage of

staff had been trained on CPR and first aid, however, there were no plans for a defibrillator at this time.

Commissioner Dovich asked the applicant to clarify the need for 42 extra parking spaces. The applicant stated that the rear parking lot would be re-striped as the area was previously a loading bay area.

Staff added that under the parking study, the 42 parking spaces along Brady Way were not necessary as there would be enough on-site parking once the Radio Shack was gone.

Mr. Howard Singer and Maryann Singer approached the Commission and expressed their concerns stating that their house abuts Brady Street; that the Oleander trees, that gave protection to the houses, were dying; that with additional parking spaces, people would be coming and going all hours of the day parking on the street and loitering; that the parking was not needed and there are 'no parking' signs; that the street was dark, and if lights were installed, the light would be shining on the houses; that patrons would use Brady Street as well as Knott Street with traffic congestion as early as 6:00 a.m.; and that it would be acceptable if Brady Street was blocked off.

Ms. Lisa Waddell approached the Commission and stated that Brady Street was an additional access point; that there were 'no parking' signs posted per her CUP and people ignore the signs; that her CUP also demanded that her back gate be closed, and be open only for deliveries; that patrons of the sports facility may overflow onto Brady Street parking; that the access points into the facility may require re-striping for traffic; that one security person would be good; and that a revisit for compliance after a year would be good.

The applicant stated that the parking study determined that the 42 parking spaces were not needed and the gate could be locked; that on heavy flow days, security in the parking lot was required; and that Brady Way was not lit, but there were lights in the parking lot.

Commissioner Brietigam noted that 6:00 a.m. was early for training.

The applicant explained that the facility would be open for early morning training, especially for elite high school athletes and he did not foresee a problem.

Commissioner Dovich asked if the gate could remain locked. The applicant stated that he was not opposed to restrictions regarding the gate.

Commissioner Brietigam asked that if any parking problems occurred would the applicant work with the City to mitigate the issues. The applicant replied yes.

Mr. Howard Singer noted that at least ten residents own dogs and they would bark when there was activity.

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

Commissioner Lazenby asked staff if a wall was proposed for Brady Way.

Staff pointed out that the wall was an existing fence with landscaping; that the Planning Commission could restrict access on Brady Way, and still allow Fire Department emergency access with a Knox box key; and that patrons would access the property by two driveways on Knott Street, with northbound and southbound access.

Commissioner Lazenby asked if there was a lighting study on the parking lot. Staff replied no, however, the standard lighting condition was included in the staff report.

Commissioner Brietigam commented that he liked the sports complex idea; that 6:00 a.m. parking concerns would be minimal; that the conditions cited by Ms. Lisa Waddell should be imposed on this case; and that a defibrillator should be a condition.

Commissioner Lazenby expressed his support and understood the neighbor's concern regarding foot traffic.

Commissioner Dovich also expressed his support and encouraged the applicant to voluntarily limit the use of the 42 spaces, but still have the spaces available.

Vice Chair Cabral agreed and suggested adding a condition to add a lock to the Brady Way gate. She also noted that the area had lacked business in recent years and maintenance and landscaping needed to be improved.

Staff added that the suggested condition would be 'the gates accessing Brady Way shall remain locked and be accessible through emergency response purposes with the Knox box key system and access to the site and facility shall be directed from Knott Street'.

Vice Chair Cabral re-opened the public hearing to receive further testimony in favor of or in opposition to the request, and asked the applicant if a condition requiring a defibrillator and trained staff would be acceptable. The applicant replied yes.

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

Commissioner Lazenby moved to recommend adoption of the Negative Declaration and approval of Amendment No. A-164-11 to City Council, and to approve Conditional Use Permit No. CUP-340-11 with amendments to the Conditions that also included the addition of a Knox box at the Brady Way gate, and adding a defibrillator with trained staff, seconded by Commissioner Dovich, pursuant to the facts and reasons contained in Resolution Nos. 5752-11 (A) and 5753-11 (CUP). The motion received the following vote:

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

PUBLIC HEARING:	AMENDMENT NO. A-165-11
	CONDITIONAL USE PERMIT NO. CUP-341-11
APPLICANT:	MONG VAN NGO
PROJECT	

LOCATION: SOUTHWEST CORNER OF CHAPMAN AVENUE AND MONARCH STREET AT 7272 CHAPMAN AVENUE
PUD ZONE
LOCATION: AREA BOUNDED BY CHAPMAN AVENUE, WESTERN AVENUE, LAMPSON AVENUE, AND KNOTT STREET
DATE: NOVEMBER 17, 2011

REQUEST: To amend the Planned Unit Development No. PUD-105-71 Rev. '90 zone to add 'Dray, Freight, or Trucking Yards' as a permitted use subject to Conditional Use Permit approval, in conjunction with Conditional Use Permit approval to operate a truck/trailer parking yard at 7272 Chapman Avenue. A & M Trucking is currently using a portion of the rear parking lot at 7272 Chapman Avenue, which is an existing 175,111 square foot industrially developed property. The site is in the Planned Unit Development No. PUD-105-71 Rev. '90 zone.

Staff report was read and recommended approval with an amendment to Condition No. 2.

Due to an emergency resulting in a loss of quorum, Commissioner Dovinh moved to continue the opened public hearing to the next regularly scheduled Planning Commission meeting on Thursday, December 1, 2011, seconded by Commissioner Brietigam. The motion received the following vote:

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

MATTERS FROM COMMISSIONERS: None.

MATTERS FROM STAFF: None.

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

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

JUDITH MOORE -Recording Secretary