

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE
GARDEN GROVE, CALIFORNIA

THURSDAY
OCTOBER 7, 2010

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,
PAK
ABSENT: ELLSWORTH
VACANCY: ONE

ALSO PRESENT: James Eggart, Assistant City Attorney; Susan Emery, Community Development Director; Karl Hill, Planning Services Manager; Maria Parra, Urban Planner; Sergeant Ed Leiva, 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 Cabral and recited by those present in the Chambers.

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Commissioner Cabral moved to approve the Minutes of September 16, 2010, seconded by Commissioner Bonikowski. The motion carried with the following vote:

AYES: COMMISSIONERS: BEARD, BONIKOWSKI, BUI, CABRAL
NOES: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: ELLSWORTH
ABSTAIN: COMMISSIONERS: PAK
VACANCY: COMMISSIONERS: ONE

PUBLIC HEARING: CONDITIONAL USE PERMIT NO. CUP-298-10
APPLICANT: KULDIP CHAND
LOCATION: EAST SIDE OF EUCLID STREET, SOUTH OF TRASK AVENUE AT 13682 EUCLID STREET
DATE: OCTOBER 7, 2010

REQUEST: To upgrade an existing Alcoholic Beverage Control Type "20" (Off-Sale, Beer and Wine) License to an Alcoholic Beverage Control Type "21" (Off-Sale, General) License for an existing convenience store named Shop-N-Go. The site is in the C-1 (Neighborhood Commercial) zone.

Staff report was read and recommended approval to deny the appeal to delete Condition of Approval No. 9 and uphold the decision of the Zoning Administrator approving Conditional Use Permit No. CUP-298-10.

Commissioner Bonikowski asked staff to give crime statistics on the district. Staff responded that the average crime count for City districts is 94; that this district is at 175, 85% above City average; that the City does not have a breakdown of crimes for the district; that methods of reporting are that the police do not keep statistics as to where alcohol is purchased, however, if a fatal traffic collision were to occur, police would attempt to find the source of the alcohol sale.

Vice Chair Bui asked staff if there was a difference in DUI count between customers who buy a single beer at a store as opposed to those that buy alcohol from a bar. Staff responded that single serve containers, especially the 16 ounce size, can be concealed easily; that drinking and driving is a problem; that this store is located close to the eastbound 22 Freeway; that transients, who litter, loiter, and publicly urinate, purchase the containers due to the low cost; that the size is also cheaper for youths; that in 2009, the City of Garden Grove had 763 DUI arrests, 160 open container citations, 584 drunk in public arrests; and, it is likely that the citations for the 160 open containers were likely a result of purchases at local liquor establishments.

Commissioner Cabral asked staff when the condition standard was last reviewed. Staff replied that the Alcoholic Beverage Control (ABC) code was modified in 1991-92; that Commissions have considered this condition many times, however, over the last ten years, the condition has been applied universally; and that even though the operator may be good, the City needs an umbrella policy, especially with concerns regarding drunk driving.

Commissioner Cabral asked staff to clarify the number of operators who do not have this type of CUP. Staff explained that since 1999, the condition has been applied to five upgrade requests from a Type "20" to a Type "21". Also since 1998, there have been 15 licenses for change of ownership, and of those, 11 had the condition and four did not; that the four that did not have the condition could have been an administrative oversight; and that of the 44 original licenses approved since 1998, 34 had the condition and ten did not, likely due to an oversight.

Chair Beard asked if the Type "21" license transfers to a new owner when the business is sold. Staff replied yes, if the business is obtained within 30 days or less, and that after 30 days, a new conditional use permit is required. Also, that the new condition was applied for the upgrade to a Type "21"; that any new Type "20" or "21" license has the new condition; and that before July, the applicant's business was allowed to sell single servings, however, the upgrade request to a Type "21" requires the condition be applied to be fair to all CUP's.

Vice Chair Bui asked staff if there were other stores nearby that sell single serves larger than 16 ounces. Staff responded that there are several liquor stores that can sell beer and wine.

Commissioner Cabral asked staff that if the applicant withdrew the application, could the store continue to sell single servings. Staff replied yes.

Commissioner Pak asked staff if the establishment had Police Department violations since 2001. Staff replied no, that there were no complaints or issues, however, the methods of reporting could not pinpoint alcohol sales; that a violation did occur in 2008 from a decoy operation that revealed sales of alcohol to a minor; that a wine cooler and small 'airplane' size containers would fall under the condition also; and that the condition applies to the single serve refrigerated containers that are more affordable.

Staff added that there are three options if the Planning Commission upholds the Zoning Administrator's decision. The applicant could accept the decision and upgrade to the Type "21" and not sell the single serves; they could withdraw the application and continue to operate under a Type "20" license and sell single serves; or they could appeal to the City Council.

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

Mr. Keith Gardner, the applicant's representative and consultant, approached the Commission and stated that he understood the condition was now standard, however, the applicant would like to continue selling single serves.

Mr. Tony Magana, the applicant's real estate agent, approached the Commission and stated that the business loss would account for about 20 percent of sales, and that the applicant has been selling and would like to continue to sell single serves; and that the owners are good operators and that they had stores in Norwalk and Bell Gardens.

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

Commissioner Cabral asked staff for the standard for surrounding cities. Staff responded that they are not aware of the scope of other city standards regarding alcohol sales.

Chair Beard reopened the public hearing.

Commissioner Bonikowski asked Mr. Gardner if there were sales statistics with regard to having or not having single serves. Mr. Gardner replied that he did not have statistics, and added that most surrounding cities allow for the single serve sales.

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

Staff added that if a CUP is changed in some way, including change of ownership, the condition would be added.

Commissioner Bonikowski asked staff to clarify 'grandfathering'. Staff explained that, under the code provisions, there are many reasons a new CUP is required, such as an upgrade in license, a change of ownership without a CUP, a business is closed for 30 days or more, or there is a

significant modification to the floor plan, however, a change of ownership from one day to the next does not require a new CUP.

Commissioner Pak asked staff if crimes increase with general sales of alcohol. Staff replied yes, however, this area is not over-concentrated with licenses.

Chair Beard and the Commissioners agreed with staff to be consistent with a policy regarding single servings, however, the decision could be appealed to City Council. Commissioners Cabral and Bui also added that the policy should be reviewed.

Chair Beard moved to approve the denial of the appeal to delete Condition of Approval No. 9, and to uphold the decision of the Zoning Administrator approving Conditional Use Permit No. CUP-298-10, seconded by Commissioner Cabral, pursuant to the facts and reasons contained in Resolution No. 5718. The motion carried with the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, CABRAL, PAK
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	ELLSWORTH
VACANCY:	COMMISSIONERS:	ONE

MATTERS FROM
COMMISSIONERS:

Commissioner Pak mentioned that the Korean Festival begins Friday, October 8, 2010 along Garden Grove Boulevard, and that everyone is welcome to share in the diversity, culture, and food.

Chair Beard mentioned that the Undercover Boss television show profiled the developers of the Water Park Hotel system.

MATTERS FROM
STAFF:

Staff thanked the Commissioners for their understanding of the condition in the policy regarding alcohol issues; that if the applicant does not appeal to the City Council, police and planning staff will do more research, especially regarding other cities, and whether or not the businesses that have the condition are adhering to the condition.

Staff read a brief description of the agenda items for the October 21, 2010 Planning Commission meeting.

Vice Chair Bui asked staff to clarify the term 'industrial condominium development'. Staff explained that multi-tenant industrial developments are split into individual ownerships, so each unit can be purchased as an industrial property.

Chair Beard recognized James Eggart, the new Assistant City Attorney for the Planning Commission. Mr. Eggart expressed that he looked forward to working with staff and the Commissioners.

Chair Beard also recognized and expressed his appreciation for the work done by Assistant City Attorney, Omar Sandoval, during his time on the Planning Commission.

Commissioner Pak excused himself at 7:50 p.m.

ADJOURNMENT: Chair Beard moved to adjourn the meeting at 7:55 p.m., seconded by Vice Chair Bui. The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, CABRAL
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	ELLSWORTH, PAK
VACANCY:	COMMISSIONERS:	ONE

JUDITH MOORE
Recording Secretary