

MINUTES

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE  
GARDEN GROVE, CALIFORNIA

THURSDAY  
DECEMBER 1, 2011

Due to a lack of Chair and Vice Chair, with the consensus of fellow Commissioners, Commissioner Pak presided as Acting Chair.

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 DOVINH, LAZENBY, PAK, SILVA  
ABSENT: CHAIR BUI, VICE CHAIR CABRAL, COMMISSIONER BRIETIGAM

Chair Bui joined the meeting at 7:21 p.m.

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; Judy Moore, Recording Secretary

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

ORAL COMMUNICATIONS: None.

APPROVAL OF MINUTES: Commissioner Dovinh moved to approve the Minutes of November 17, 2011, seconded by Commissioner Lazenby. The motion carried with the following vote:

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

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: DECEMBER 1, 2011

REQUEST: Conditional Use Permit (CUP) 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. A total of seven letters were written in opposition to the request by Pete Julienne, Quang van Pham and Hannah BH Pham, Mike and Timmerie Henry, Lawanna Sullivan, Patrick Sullivan, Linda Johnson, and Dean.

Commissioner Silva asked how long the bar had been closed. Staff responded approximately two to three years, during which time illegally constructed rooms were demolished and the business was sold to the new owner; and, that the Alcoholic Beverage Control (ABC) license was still valid pending the approval of the CUP.

Commissioner Silva asked staff to clarify the terms 'convenience or necessity'. Staff responded that this was an ABC requirement for City's to make prior to allowing a license to sell alcohol in an over-concentrated area; that ABC allows a certain number of licenses per census tract, based on population and other factors; that the limited number was a recommendation only, and that exceeding the recommended number of licenses would require a finding of 'convenience or necessity'.

Commissioner Pak asked for the difference between the previous CUP and the new CUP. Staff stated that the 1993 CUP was a modification to the floor plan; that the business had been closed more than 30 days; that new standard conditions apply including the administrative citation condition; that this census tract allows for six licenses and there were eleven; and, that there were other census tracts that were over-concentrated by three or four times.

Chair Bui asked staff to clarify 'convenience' for this tract. Staff responded that a few years ago, the City was more strict with ABC guidelines for concentrations, however, for the past three years, as directed by the City Council, the City has looked less at crime rates, area statistics, and findings of convenience or necessity, and looked more at the individual operator, with the Police Department having been given the authority to administer citations of up to \$1,000 for violations.

Chair Bui pointed out that since 1987, the hours of operation had been from 5:00 p.m. to 2:00 a.m. and asked staff if the hours of operation would be until 11:00 p.m.

Staff responded that more CUP's would be looked at, however, the applicants needed to adhere to standard and consistent conditions; that Type "41" family restaurants with beer and wine closing at 10:00 and 11:00 p.m. would be easier to police; and that Type "48" would be a bar, typically with a closing time of 2:00 a.m.

Commissioner Silva asked if staff and the Police Department supported the CUP as conditioned. Staff replied yes.

Chair Bui 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 business would be a cocktail lounge, with a peaceful family-type atmosphere with karaoke; that the restaurant next door did not have alcohol; that the applicant took over the lease and has been paying rent for a year; and that any remodel for another use would be expensive.

Commissioner Silva asked if the applicant had operated bars before. Mr. McCarty replied yes.

Commissioner Silva then asked if the applicant would consider changing the hours of operation. Mr. McCarty replied that the option had not been discussed.

Chair Bui asked if the applicant had a karaoke bar anywhere else in Southern California. Mr. McCarty replied no.

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

Commissioner Pak asked if more lights could be added to the parking lot. Mr. McCarty agreed.

Mr. Patrick Sullivan, who lives on Dunklee Lane, approached the Commission and noted that there was lighting in the rear parking lot. He also expressed his concerns of on and off problems over 52 years regarding drunk drivers in the neighborhood. He also stated that a two-foot candle level of lighting was the minimum for the parking lot; that other areas use five-foot candle levels; that the project foot-candle readings varied in levels below one-foot candle levels; that the Type "48" bar would not be a family-restaurant; that he wondered why an oversaturated Type "48" bar would be a part of the General Plan; that the bar would have an effect on the property value, especially with the residential area and adult book store near the bar; that the property was not well maintained, as show in submitted photographs; that an increase in traffic would contribute to more accidents at the center; that the bar could not be entered from the rear; that the rear door would be open for smokers and have loud noise from karaoke; that beer bottles would be stored outside in a wrought iron enclosure for recycle value; that litter was a problem as evidenced in the photographs and that the trash enclosures were chain link; that graffiti was constant as shown in the photographs; that the cite already had too many banners beyond that allowed by the City; that overconcentration was the real problem, especially being close to Disneyland; that CUP's should be stopped until the number of licenses was reduced to the recommended level; and that the applicant should not be liable for any law suits resulting from actions relating to the bar.

Commissioner Pak asked if the photographs were shown at the last meeting. Mr. Sullivan replied no, and that the entire center was not well maintained, and that the bar had been closed for three years.

Chair Bui asked Mr. Sullivan that if adequate lighting were provided, would he still have a concern. Mr. Sullivan replied no, however, the lighting would have to be at professional level.

Ms. Timmerie Sullivan approached the Commission and expressed her concerns that her residential area was one block from the bar and adult bookstore; that she spoke to legal counsel regarding excess bars in the area and if her teen children were harmed as a result of the bar, the City would see a law suit; and that the bar would not be a family environment.

Mr. Mike Henry approached the Commission and stated that crime decreased when the bar closed; that the area street lighting was not good;

that there were not sidewalks as a buffer for drunk drivers; and that a bar was not necessary.

Commissioner Pak asked for the street route to Mr. Henry's street. Mr. Henry stated that a driver would go to West Street and turn right, then right again on Dunklee Lane.

Commissioner Lazenby asked if there were street lights on Dunklee Lane. Mr. Henry replied yes, though not very bright, and not good, especially for someone walking on the side.

Chair Bui stated that the crime rate was lower, however, the staff report suggests that the crime had not changed.

Mr. Henry added that cars speed down Dunklee Lane and Buaro Street at all hours of the night; that crime had decreased where he lives, however, there were other problems.

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

Commissioner Pak asked staff if a list of ABC licenses in the area was available. Staff responded that in this census tract, the bar was the only Type "48" - a bar which serves hard alcohol, with no food required, and no minors allowed; there were two Type "47"s - a restaurant that serves hard alcohol; and the remainder were Type "41" - a restaurant that serves beer and wine; that with 'on-sale' licenses, alcohol would be purchased and consumed at the restaurant; that 'off-sale' licenses allow alcohol to be purchased and consumed off the premises at home; that all types of licenses were included in the counts; that this license was an existing license and would not add to the existing 11 licenses; that the nearest Type "48" bars would be 'The Office Bar' or 'Club 22'; and that Condition No. 12 states that if problem would arise, the Chief of Police would have the authority to reduce the hours of operation.

Chair Bui asked for the crime levels for the location. Staff responded that over the last five years there were only three calls for service.

Commissioner Lazenby asked if this ABC License ran with the land. Staff responded no, that the license was a person to person transfer.

Commissioner Silva asked staff if the noise from open doors had been mitigated for other bars. Staff replied that a condition requires the doors to be closed; that a foyer could be considered; and that smokers should be directed to the front door.

Commissioner Pak noted that the bar was a Korean Bar and different from other clubs; that karaoke was a part of Korean culture; that most Koreans do not drink and drive as they utilize friends and cabs; that any accidents were probably related to other factors; that there was property value and a business owner wants to do business; that with lighting improvements the business could be a quality business; and that he understood the Sullivan's concerns and hoped the issues could be addressed.

Chair Bui re-opened the public hearing to receive additional testimony in favor of or in opposition to the request.

Ms. Timmerie Sullivan stressed that the combination of the bar and the adult bookstore were the real concern, and that culture had nothing to do with the problem of drunk drivers, crime, beer bottles, and slow Police Department response time.

Commissioner Pak commented that there was no connection between the adult bookstore and the bar; and, that the DUI penalty was severe.

Commissioner Silva asked if a Type "48" License was compatible with karaoke, as mitigating the noise generated from karaoke and smokers by keeping the rear door closed could help. Staff confirmed the compatibility and added that two Type "48" karaoke locations included SI25 and Club 22.

Commissioner Lazenby asked if there was a noise restriction, especially near a residential area. Staff responded that levels of disturbance were different; that complaints could be called in at any time; that the other two clubs were not near residential areas; that SI25 had enclosed karaoke rooms; and that the project was conditioned that sound should not be audible from the outside the boundaries of the establishment.

Chair Bui asked if the noise level from the open door was above the acceptable noise level. Staff explained that with regard to complaints, staff would work with residents and businesses, but violations of CUP's could generate \$1,000 administrative citations every day. Also, that a Code Enforcement officer could check a noise issue by using a sound meter to measure if a noise was 5 decibels above the ambient noise level at the property lines, especially with the door open; that a double-door foyer and rear system could help; and that noise may disturb people at different levels; and, that the rear door was to remain locked, with panic exit devices, and be used for delivery and emergency purposes, with the front door the only access or patrons.

Chair Bui asked if the bar could have enclosed karaoke rooms like SI25 to avoid rear door noise. Staff stated that the applicant would need to submit a new application for enclosed rooms.

Commissioner Silva asked if the locked rear door could have a sound alarm if opened. Staff replied yes, and that the alarm could be turned off for delivery; and that delivery would not be allowed before 8:00 a.m. or after 10:00 p.m., seven days a week.

Chair Bui questioned that if people exited out the rear door after 10:00 p.m., and complaints were received, the applicant could be fined \$1,000 for each occurrence. Staff replied yes.

Commissioner Lazenby suggested that the delivery hours in Condition No. 34 be revised to be before 8:00 a.m. or after 5:00 p.m., as after 5:00 p.m. the bar would be open, and the rear door should be locked and alarmed.

Mr. Sullivan asked staff to clarify a census district. Staff explained that the census district was a mapping system established by the Federal Government; that the community has multiple census tracts with similar amounts of population and unique demographics; and that the State, through ABC, and based on the population, recommends the number of alcohol licenses; that an intersection could have several census tracts that come together; and, that the approximate number of tracts in the City would be 20.

Mr. Sullivan questioned whether or not recently approved ABC licenses were included in the subject census tract, such as the Lighthouse. Staff reviewed the census tract numbers for the recently approved licenses and responded that the Lighthouse Restaurant may be in the same tract.

Staff clarified that the staff report resolution containing the number of licenses had been corrected since the last meeting; that the number of licenses in the census tract, including the subject license, was 11, and that the possible addition of the recently approved Lighthouse Restaurant license could bring the total number of licenses to 12.

Mr. Henry disagreed that a finding of 'convenience or necessity' was found to approve the bar.

Staff added that ABC language stated that a finding for public convenience or necessity would have to be made in order to approve an establishment that was requesting a new ABC license, and that this was an existing license, therefore the finding was for the convenience of the Planning Commission, and not required by ABC.

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

Commissioner Dovinh expressed his support and commented that information was corrected; that business interests needed to be balanced with resident's concerns; that he did not like the bar or adult bookstore, however, he would not deny new management or residents who would patronize the businesses; that the business would be good for the center and lighting would be better; that other alcohol businesses could cause problems; that the Police Department does give administrative citations; and that the business could contribute to the community.

Commissioner Lazenby expressed his concern that a bar next to an adult bookstore was not good; that the location has traffic, crime, and noise issues; that the Police should be monitoring gangs and not the bars; and that there was enough entertainment in the area already.

Commissioner Pak noted that the property owner wanted to comply with the requirements; that there was pride of ownership for the area to be cleaner; that this is one Type "48" out of 12 licenses; that karaoke could be enjoyed; that the lights would be fixed; and that he would support the request for the property rights and strict guidelines.

Chair Bui expressed his support for the bar as the business had been open for many years; that the applicant had already spent money to fix the location and to not continue would be a hardship; that anyone could cause an accident and drinkers face large fines; and that people have designated drivers.

Commissioner Silva pointed out the accepted modifications to the Conditions of Approval: No. 24, the rear door was to be locked and alarmed; No. 27, no loitering in the front or rear, No. 34, no deliveries before 8:00 a.m. or after 5:00 p.m.

Commissioner Pak moved to adopt a Resolution of Approval for Conditional Use Permit No. CUP-336-11, seconded by Commissioner

Dovinh, pursuant to the facts and reasons contained in Resolution No. 5751-11. The motion received the following vote:

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

The following item was taken out of order and presented first with Acting Chair Pak presiding.

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: DECEMBER 1, 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.

Commissioner Silva asked staff if the Conditional Use Permit (CUP) could be revoked if the applicant was not in compliance. Staff responded that administrative citations could be incurred or the permit revoked, and that to revoke the CUP, the item would need to be brought back to the Planning Commission.

Acting Chair Pak asked if other truck company's in the City had CUP's similar to this one. Staff replied that they were not aware of any in recent times.

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

Mr. Mong Van Ngo, the applicant, and a translator, approached the Commission.

Acting Chair Pak asked the applicant if he had read and agreed with the Conditions of Approval. Mr. Ngo replied yes and stated that he had started the trucking business a few years ago so that all of the trucks could be in one place instead of parked around the City; that he had been in the trucking business eight years and had let friends rent the truck space in order to have enough funds for the lease.

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

Acting Chair Pak asked if the City would receive any fees other than a business license. Staff replied no.

Commissioner Lazenby moved to recommend adoption of Amendment No. A-165-11 to City Council, and to approve Conditional Use Permit No. CUP-341-11, seconded by Commissioner Silva, pursuant to the facts and reasons contained in Resolution Nos. 5754-11 (A) and 5755-11 (CUP). The motion received the following vote:

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

MATTERS FROM  
COMMISSIONERS: None.

MATTERS FROM  
STAFF: Staff read a brief description of future agenda items for the regularly scheduled Planning Commission meeting on Thursday, January 19, 2012.

ADJOURNMENT: Commissioner Lazenby moved to adjourn the meeting at 9:15 p.m., seconded by Commissioner Pak. The motion received the following vote:

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

JUDITH MOORE -Recording Secretary