

**MINUTES OF A REGULAR MEETING OF
THE TORRANCE PLANNING COMMISSION**

1. CALL TO ORDER

The Torrance Planning Commission convened in a regular session at 7:07 p.m. on Wednesday, June 15, 2005, in City Council Chambers at Torrance City Hall.

2. SALUTE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Drevno.

3. ROLL CALL

Present: Commissioners Drevno, Faulk, Guyton, Horwich, LaBouff, Uchima and Chairperson Muratsuchi.

Absent: None.

Also Present: Sr. Planning Associate Lodan, Planning Assistant Santana, Building Regulations Administrator Segovia, Fire Marshal Carter, Associate Civil Engineer Symons, Transportation Planning Manager Semaan, Traffic Engineering Associate Sedadi, and Deputy City Attorney Whitham.

4. POSTING OF THE AGENDA

MOTION: Commissioner Uchima, seconded by Commissioner Horwich, moved to accept and file the report of the secretary on the posting of the agenda for this meeting; voice vote reflected unanimous approval.

5. APPROVAL OF MINUTES

MOTION: Commissioner Horwich moved for the approval of the April 20, 2005 Planning Commission minutes as submitted. The motion was seconded by Commissioner Faulk; voice vote reflected unanimous approval.

MOTION: Commissioner Faulk moved for the approval of the May 4, 2005 Planning Commission minutes as submitted. The motion was seconded by Commissioner Guyton; voice vote reflected unanimous approval, with Commissioner Uchima abstaining.

6. REQUESTS FOR POSTPONEMENT

Sr. Planning Associate Lodan relayed staff's request to continue Agenda Item 9A, WAV05-00011, Gregory Buchalla, to July 6, 2005. He noted that staff was recommending that Agenda Item 10C, Doug and Emily Galloway, also be continued to

July 6, 2005, but suggested that the Commission might wish to allow audience members to provide testimony before continuing the hearing.

MOTION: Chairperson Muratsuchi, seconded by Commissioner Drevno, moved to continue Agenda Item 9A to July 6, 2005; voice vote reflected unanimous approval.

Chairperson Muratsuchi announced that the hearing would not be re-advertised as it was continued to a date certain.

7. **TIME EXTENSIONS** – None.

8. **CONTINUED HEARINGS** – None.

9. **WAIVERS**

9A. **WAV05-00011: GREGORY D. BUCHALLA**

Planning Commission consideration for approval of a Waiver to allow a reduction in the rear yard setback requirement on property located in the R-1 Zone at 2125 234th Street.

Continued to July 6, 2005.

10. **FORMAL HEARINGS**

10A. **DIV05-00006: CETECH ENGINEERING (THOMAS T. YUGE)**

Planning Commission consideration for approval of a Division of Lot to allow one lot to be divided into two new lots on property located in the M-2 Zone at 19801 Mariner Avenue.

Recommendation

Approval.

Planning Assistant Santana introduced the request.

Thomas Yuge, Cetech Engineering, requested that Condition Nos. 4 and 5 be amended to state, “to the satisfaction of the Community Development Director,” explaining that he believes the existing building complies with these conditions, however, if there is a problem he would like an opportunity to work it out with staff.

MOTION: Commissioner Uchima, seconded by Commissioner Drevno, moved to close the public hearing; voice vote reflected unanimous approval.

MOTION: Commissioner Horwich moved for the approval of DIV05-00006, as conditioned, including all findings of fact set forth by staff, with the following modification:

Modify

- No. 4 That the existing service building's northerly and westerly walls shall have fire-rated wall assemblies with 30" parapets and no openings in these walls shall be allowed to the satisfaction of the Community Development Director.
- No. 5 That the existing office building's northerly wall shall have fire-rated wall assemblies with 30" parapets to the satisfaction of the Community Development Director.

The motion was seconded by Commissioner Faulk and passed by unanimous roll call vote.

Planning Assistant Santana read aloud the number and title of Planning Commission Resolution No. 05-072.

MOTION: Commissioner Drevno moved for the adoption of Planning Commission Resolution No. 05-072 as amended. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote.

10B. CUP05-00014, DIV05-00005: MARY AND DARRYL BOYD

Planning Commission consideration for approval of a Conditional Use Permit and a Division of Lot to allow the construction of two new detached condominium units on property located in the R-2 Zone at 18229 – 18231 Amie Avenue.

Recommendation

Approval.

Planning Assistant Santana introduced the request.

Darryl Boyd, applicant, voiced his agreement with the recommended conditions of approval.

Theresa Rivera, 182nd Street, expressed concerns about the noise level in this neighborhood due to construction projects in the vicinity and requested that the City reconsider its policy of allowing construction 7 days a week, 365 days a year.

Commissioner Horwich proposed that construction hours on this project be limited on weekends to between 7:00 a.m. and 6:00 p.m. on Saturdays, with no construction on Sundays, and that loud music be prohibited on the construction site. Mr. Boyd agreed to these conditions.

MOTION: Commissioner Uchima, seconded by Commissioner Horwich, moved to close the public hearing; voice vote reflected unanimous approval.

MOTION: Commissioner Uchima moved for the approval of CUP05-00014 and DIV05-00005, as conditioned, including all findings of fact set forth by staff, with the following modification:

Add

- That construction on weekends shall be limited to between 7:00 a.m. and 6:00 p.m. on Saturdays, with no construction on Sundays.
- That no loud music shall be permitted on the construction site.

The motion was seconded by Commissioner Drevno and passed by unanimous roll call vote.

Planning Assistant Santana read aloud the number and title of Planning Commission Resolution Nos. 05-073 and 05-074.

MOTION: Commissioner Uchima moved for the adoption of Planning Commission Resolution Nos. 05-073 and, 05-074 as amended. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote.

10C. PRE04-00035: DOUG AND EMILY GALLOWAY (LANE BUILDING DESIGNS)

Planning Commission consideration for approval of a Precise Plan of Development to allow the construction of a new two-story single-family residence with an attached four-car garage on property located in the Hillside Overlay District in the R-1 Zone at 936 Calle Miramar.

Recommendation

Continuance to July 6, 2005.

Planning Assistant Santana introduced the request and noted supplemental material available at the meeting consisting of public correspondence. He advised that staff was recommending that the hearing be continued to allow staff and the Planning Commission an opportunity to investigate claims of view obstruction.

Emily Galloway, applicant, reported that she has discussed the project with all adjacent neighbors, except the Yamamotos at 940 Calle Miramar, with whom she was unable to communicate due to a language barrier. She expressed her willingness to address the concerns outlined in the Yamamotos' letter (supplemental material), including cutting back/removing vegetation. She noted that the setback was increased to 9 feet on the Yamamotos side of the property so there will be a total of 14 feet between their homes and the garage was dropped three feet into the ground to minimize the impact on views.

Andy Hisashi Ando, representing Mr. and Mrs. Yamamoto, 940 Calle Miramar, reported that the proposed project would block coastline and ocean views from the Yamamotos' patio, living room and dining room and submitted photographs to illustrate.

Connie Smith, 325 Via Colusa, indicated that she strongly objects to the project and noted that she submitted a petition signed by 34 Hollywood Riviera homeowners

requesting that the project be denied (agenda material). She contended that the proposed project violates the spirit and intent of the Hillside Overlay Ordinance because it would obstruct pastoral and city views, restrict sunlight to her backyard and those of surrounding neighbors, and intrude on the privacy of her backyard and sleeping areas. She maintained that its massive scope was out of character with the homes around it and that it would set a dangerous precedent, triggering similar sized projects in this neighborhood. She related her understanding that the property owners are real estate speculators, who have a history of developing properties to the maximum and then selling the homes, leaving neighbors to deal with the adverse consequences.

Marwam Saab, 337 Via Colusa, expressed concerns about the project's impact on his view, privacy and the value of his property.

Robert Nishida, 341 Via Colusa, referring to previously submitted photographs (supplemental material), stated that the project would block approximately 30% of his city view, devalue his property, and detract from the enjoyment of his backyard. He indicated that he would not be able to attend the July 6 meeting.

Steve Apfel, 941 Calle Miramar, voiced support for the project, stating that this property has been in disrepair for several years and he looks forward to having it updated. He maintained that the size of the proposed residence was consistent with other homes along Calle Miramar that have been remodeled.

Voicing support for the project, Ken Tuda, 420 Calle de Castellana, contended that the upgrading of this property would add value to all homes in this neighborhood.

Gail Munn, 312 Via Colusa, stated that she is not personally affected by this project but was concerned about the precedent it could set.

Helen Phillips, 333 Via Colusa, reported that she was not notified about this hearing and submitted a letter detailing her concerns. She requested that the bathroom windows be frosted and that the chimney for the gas fireplace be eliminated. She wanted to verify that exterior stairway, the existing garage, and the trees around the perimeter of the property will be removed.

For the benefit of the audience, Commissioner Faulk clarified that the City does not regulate landscaping on private property and will not require a property owner to remove trees or shrubbery.

Gary Lane, project architect, confirmed that the exterior stairway and existing garage will be removed; agreed to use frosted glass for bathroom windows and to eliminate the chimney for the gas fireplace; and reported that the applicants have decided to remove the trees and re-landscape the entire yard.

Commissioner Uchima stated that he thought the project's elevations were very attractive; however, he was concerned about the impact on neighbors' views, light and privacy and asked about the possibility of further lowering the grade.

Mr. Lane indicated that he could possibly lower it an additional foot and pointed out that the project is already three feet lower than the existing grade.

Noting that the proposed project has a Floor Area Ratio of .56, Chairperson Muratsuchi questioned why the section of the application that asks the applicant to explain why being limited to an FAR of .50 would constitute an unreasonable hardship (Section 3a) was marked "not applicable."

Mr. Lane explained that the project would have an FAR of .50 if it had a two-car instead of a four-car garage and it was staff's opinion that the higher FAR was justified because of the additional off-street parking and storage being provided.

MOTION: Commissioner Uchima, seconded by Commissioner Drevno, moved to close the public hearing; voice vote reflected unanimous approval.

Commissioner Uchima requested that audience members, who believe that the project would significantly impact their view, light, air or privacy, leave contact information with staff and urged the applicants to work with neighbors to resolve their concerns.

Commissioner Faulk pointed out aspects of the project the applicants might wish to look at in order to mitigate the impact on neighbors, including reducing ceiling heights, changing the roof design, eliminating some of the windows and raising sill heights. He expressed concerns about the rooftop deck because of the possible impact on privacy and indicated that he was not inclined to support the four-car garage, which he thought was a little excessive.

Commissioner Drevno echoed Commissioner Faulk's comments, indicating that she also was concerned about the rooftop deck.

Commissioner Horwich stated that he did not believe the desire for a four-car garage met the standard for unreasonable hardship. He noted that whether the Galloways intend to live in the home or sell it was not relevant to the Commission's decision.

Commissioner LaBouff voiced his opinion that the applicants had not met the standard for unreasonable hardship and encouraged them to work with their neighbors.

Chairperson Muratsuchi reported that he observed that the project would block a significant portion of the view from the Yamamotos' living room. He indicated that he was not inclined to support the four-car garage because it would be out of character with the rest of the neighborhood and not in the spirit of the Hillside Ordinance.

MOTION: Commissioner Horwich, seconded by Commissioner Uchima, moved to continue the hearing to July 6, 2005; voice vote reflected unanimous approval.

Chairperson Muratsuchi announced that the hearing would not be re-advertised because it was continued to a date certain.

The Commission recessed from 8:20 p.m. to 8:30 p.m.

10D. CUP05-00010, PRE05-00011, PCR05-00002: WITHEE MALCOLM ARCHITECTS (MALAGA BANK)

Planning Commission consideration for approval of a Conditional Use Permit, a Precise Plan of Development and a Planning Commission Review to allow the construction and operation of a new two-story bank building with subterranean parking on property located in the Hillside Overlay District in the C-2 Zone at 25904 Rolling Hills Road.

Recommendation

Approval.

Planning Assistant Santana introduced the request and noted supplemental material available at the meeting.

Dan Withee, project architect, stated that Malaga Bank wanted to open a new branch at a prominent location in the South Bay area and selected this site at the gateway to Torrance. He briefly described the proposed project, noting that the building consists of two floors over semi-subterranean parking. He explained that the second floor would house the bank's lending operation, which requires twice the square footage of the banking operation on the first floor, so the second floor was designed to extend over the driveway creating a large porte cochere. He reported that the subterranean parking will be used mainly by employees, allowing grade level parking to be reserved for customers, and it will include a gate that can be locked at night and on weekends. He pointed out that the silhouette is somewhat misleading because it does not reflect the void on the bottom level where the parking will be. He reported that the project greatly exceeds both parking and landscaping requirements and that the building will be constructed of high quality materials. He discussed the challenges this irregularly shaped, sloping lot presents and maintained that the proposed project was an excellent solution for this site.

Mark Doosc, owner of apartment building at 25935 Rolling Hills Road, voiced objections to the proposed project, stating that it would block the view from the majority of the 107 apartment units in this building, as evidenced by the photograph previously submitted, and reduce the rent he can charge for those units.

Ed Strobel, 25928 Richfield Drive, stated that the proposed structure would block the hillside from view and destroy the pastoral character of the area and suggested that a one-story building would be more appropriate for this site. He reported that the hillside in this area was extremely unstable during last winter's rains and expressed concerns that the subterranean parking could exacerbate this problem. Noting that a gas station formerly occupied this site, he questioned whether the site was properly remediated. He commented on problems that have occurred in this area due to overflowing storm drains and toxic fumes/run-off from the nearby Palos Verdes landfill.

Jeff Huber, representing Louis Huber and R. Gordon Laughlin, co-owners of the office buildings at 25660 – 25690 Crenshaw Boulevard, contended that the proposed building was overpowering and that its red tile roof was out of character with other commercial buildings in the area. He expressed concerns that the bank's customers would park in adjacent parking lots and requested that the applicant be required to

construct a fence along the perimeter of the property to discourage this. He noted that the hillside has been very unstable over the last two years, causing two mudslides in the parking lot. He suggested that adding more driveways on Crenshaw Boulevard at this corner was inviting serious accidents.

Commissioner Uchima stated that he did not believe the bank would generate as much traffic as the gas station that formerly occupied this site. Mr. Huber suggested that the 42 parking spaces provided seem to indicate that the bank is anticipating a lot of people.

In response to Commissioner Uchima's inquiry, Mr. Huber indicated his preference for a wrought iron fence along the property line.

David Zadeh, owner of One Stop Mart, located at 25920 Crenshaw Boulevard, expressed concerns that bank customers would use the convenience store's parking lot and that the bank building would block the store and its pole sign from view on Crenshaw Boulevard.

Rosemary Iloenyosi, owner of One Stop Mart, stated that the bank would block the store from the view of motorists on Crenshaw Boulevard, making it dangerous for her to work alone at night because no one would notice if there was criminal activity. She reported that the store has been at this location for 15-20 years and maintained that it was not fair for the bank to come along and take away her livelihood. She suggested that the bank be required to install a larger sign for the store on Crenshaw so that customers would be able to find it.

Responding to audience members' comments, Mr. Withee noted that even a one-story building would block the One Stop Mart from view and explained that the large setback preserves the store's line of sight to Crenshaw as much as possible. He stated that it was highly unlikely that bank customers would park on any adjacent property because ample parking is provided on-site. He noted that there will be a property line wall between the bank and One Stop's parking lot and expressed the bank's willingness to erect a wrought iron fence along the northern property line. He indicated that he was not aware of any hillside stability or drainage issues concerning this property, but noted that there are State and local mandates that deal with these issues, which ensure that the project will not create any problems. He related his understanding that the site has been remediated and is awaiting formal certification. With regard to the impact on traffic, he maintained that the project would generate less traffic than the gas station that previously occupied this site and would make the intersection safer because it eliminates some of the existing driveways.

Chairperson Muratsuchi asked about Ms. Iloenyosi's request for new signage. Mr. Withee stated that he did not believe the blockage was severe enough to warrant a new sign.

Sr. Planning Associate Lodan noted that all signage must be approved by the Environmental Division; that off-site signs are generally discouraged; and that staff would not support a condition requiring the applicant to provide signage for another property.

MOTION: commissioner Drevno, seconded by Commissioner Uchima, moved to close the public hearing; voice vote reflected unanimous approval.

In response to Commissioner Uchima's inquiry, Deputy City Attorney Whitham advised that the Hillside Ordinance does not distinguish between residential and commercial properties so both are afforded the same protection. She clarified, however, that the Hillside Ordinance protects only the outward view from a building and does not protect One Stop Mart's visibility on Crenshaw.

A brief discussion ensued, and Commissioners expressed their preference to continue this item so they could assess the project's impact on the nearby apartment building and the convenience store.

MOTION: Commissioner Drevno, seconded by Commissioner Fauk, moved to continue the hearing to July 6, 2005; voice vote reflected unanimous approval.

Chairperson Muratsuchi announced that the hearing would not be re-advertised because it was continued to a date certain.

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Commissioner Fauk asked to be excused for the rest of the meeting because he was not feeling well and exited Council Chambers at 9:25 p.m.

Sr. Planning Associate Lodan noted that Agenda Item 13A must be considered at this meeting because the consultants presenting the item have scheduling conflicts and cannot return on July 6 and suggested that the item be heard out of order at this time. Following a brief discussion, Commissioners voted to waive their policy of not considering any new items after 11:00 p.m., and decided to proceed in regular agenda order so that audience members waiting to be heard on Item 10E would not be inconvenienced.

10E. CUP05-00006: CJC DESIGN / FRED COHEN

Planning Commission reconsideration for approval of a Conditional Use Permit to allow beer and wine sales for off-premises consumption in conjunction with the conversion of the existing auto service building to a food mart with a take-out only fast food sales component, a 600 square-foot addition and the remodeling of existing service canopies to the existing service station in the C-2 Zone on property located at 3975 W. 190th Street.

Recommendation

Approval.

Planning Assistant Santana introduced the request and noted supplemental material available at the meeting consisting of an excerpt of the March 16, 2005 Planning Commission meeting minutes.

Deputy City Attorney Whitham explained that the applicant has requested reconsideration of the Commission's earlier decision to prohibit the sale of beer and wine at this location because he believes it would hinder his ability to operate a successful

business. She noted that the applicant has proposed several conditions to address concerns that were raised at previous meetings.

Bruce Evans, Solomon, Saltsman & Jamieson, legal counsel for the applicant, reported that his law clerk visited approximately 22 neighbors to discuss their concerns and their primary objection is the sale of alcohol so close to the park. He noted that the consumption of alcohol is prohibited in the park and that no one may be in the park after 10:00 p.m. He also noted that there is a significant police presence at this gas station because the owner contracts with the City to provide gas for police vehicles and it is not uncommon to have 10 officers filling up their motorcycles on any given day. He pointed out the Police Department did not oppose this application and did not request any special conditions. He explained that the project will cost approximately \$600,000 and the sale of beer and wine is critical to the business's long-term viability. He briefly reviewed the conditions the applicant was proposing to address residents' concerns, per written material of record. He maintained that there was no legal basis to deny the sale of alcohol and that the benefits of the project outweigh any potential risk.

Noting that another concern of residents was odor from the propane tank, Mr. Evans explained that the owner of the gas station met with Fire Marshal Carter to review the procedure for filling propane tanks and subsequently instituted a new training program for employees and one employee has already been fired for not following the proper procedure. He submitted a petition signed by patrons of the gas station in support of the project.

In response to Commissioner Horwich's inquiry, Mr. Evans indicated that he had no objections to any of the conditions recommended by staff and clarified that the applicant was no longer requesting that the food mart be a 24-hour operation or asking for a seating area in conjunction with the fast-food operation.

At Commissioner Uchima's request, Deputy City Attorney Whitham provided clarification regarding the City's ability to regulate the sale of alcohol at gas stations. She advised that there is State law governing the concurrent sale of beer and wine at gas stations, which limits a city's ability to regulate this use, and staff was concerned that a court could find that an outright ban of the sale of beer and wine at this location was not reasonable. She explained that cities may prohibit the sale of beer and wine at gas stations if they have adopted an ordinance that addresses a specific concern, and while Torrance's ordinance prohibits the sale of alcohol at gas stations within 300 feet of other commercial uses selling alcohol, it does not address a gas station's proximity to schools and parks.

Chairperson Muratsuchi related his understanding that a court would give significant deference to the Planning Commission's decision if, after hearing extensive testimony, the Commission decided that it was not in the community's best interest to permit beer and wine sales at this location.

Deputy City Attorney Whitham agreed that courts typically give great deference to decision-making bodies, presuming that the body acted within the confines of a relevant ordinance, but cautioned that nothing in the City's ordinance gives the Commission the authority to prohibit the sale of beer and wine at a gas station within a certain distance of sensitive uses.

Chairperson Muratsuchi suggested that public testimony could be used to support the idea that there is something unique about this location that makes it inappropriate for the sale of beer and wine beyond its proximity to the park.

Deputy City Attorney Whitham indicated that she could not comment on this possibility without knowing what that unique aspect is.

Commissioner Uchima asked about Mr. Evan's claim that the City has a contract with this gas station. Transportation Planning Manager Semaan explained that the fueling facility at the City yard is undergoing repairs and the City has contracted with several gas stations to provide fuel during the interim.

Patrick Furey, president of Northwest Torrance Homeowners Association, voiced objections to the reconsideration of this item, stating that residents should not have to attend three Planning Commission meetings on the same issue. He suggested that the gas station's owner should have discussed his plans with the community before purchasing the business. He noted that the applicant claimed at an earlier meeting that the sale of propane was vital to his business and now he was making the same argument regarding the sale of beer and wine. He indicated that residents are opposed to the sale of alcohol at this site because of its location across the street from Columbia Park, less than 2000 feet from Magruder Middle School, and adjacent to single-family residences and because there are four other establishments selling liquor in close proximity.

Mr. Furey reported that there has been gang activity at Columbia Park, which necessitated police intervention and the hiring of park rangers, and even though alcohol is not permitted, drinking still occurs at the park and at Magruder School, where there are numerous sports activities on weekends. He expressed concerns that the problem could worsen should the sale of beer and wine be allowed at this location. He questioned why Parks and Recreation staff was not asked to provide input, given their familiarity with problems at Columbia Park, and whether the Police Department submitted a formal report indicating that they had no objections to the sale of beer and wine at this gas station.

Mr. Furey disputed the contention that there was no legal basis to deny the sale of beer and wine at this location. Referring to TMC Section 95.3.15, which addresses service stations and lists appropriate and inappropriate activities, he pointed out that the sale of beer and wine is not listed under either of these categories, but subsection "o," indicates that activities other than those listed may be approved only if it is determined that such activity will not be materially detrimental to the public welfare or to the property of other persons in the vicinity. He maintained that because there was ample public testimony to the contrary, the Commission had the authority to deny this application. He cited a 2003 case, *Theodore Stolman v. City of Los Angeles*, in which an appellate court upheld the city's decision to deny an auto detailing operation at a service station because it was determined that it would be detrimental to the area.

Mr. Furey noted that there is a separate process the applicant must go through to obtain a license from the State Alcoholic Beverage Control Department and the ABC license could be denied even if the City approves this request. He reported that the gas station was still charging \$.50 for air and water in violation of City regulations despite being directed by the Commission to post a sign indicating that air and water are free.

Commissioner Horwich asked about Northwest Torrance HOA's position on the nine conditions proposed by the applicant.

Mr. Furey stated that the nine conditions would create enforcement issues and the only condition the HOA supports is the condition imposed by the Commission prohibiting the sale of alcohol at this service station.

Commissioner Horwich questioned whether there are restrictions on how close establishments selling beer and wine can be to each other.

Deputy City Attorney Whitham advised that State regulations include no such restrictions, however, the City's ordinance prohibits gas stations from selling beer and wine within 300 feet of other properties where beer and wine are sold.

Dianne Toia, Roselle Avenue, stated that she lives adjacent to the gas station and strongly opposes the sale of beer and wine at this location, noting that someone could easily hop her six-foot high fence. She expressed concerns that the project would add to the traffic congestion at this intersection. She reported on past problems at Columbia Park, explaining that she served on a committee that was formed when the park first opened because there were derelicts drinking alcohol and doing drugs at the park and she was afraid to take her grandchildren there.

Commissioner Horwich indicated that he was opposed to allowing the sale of beer and wine at this location and while he is not an attorney, he believed the risk that the Commission's decision would be overturned was minimal.

Commissioner Guyton noted that he is very familiar with this area as he attended Magruder School and coached and played softball at Columbia Park. He stated that he has never observed anyone drinking alcohol in the park and he was not convinced that allowing the sale of beer and wine at this gas station would significantly impact the park or the school because there are other establishments selling liquor that are nearly as close. He indicated, however, that he believes residents should have a say in what is sold in their local community. He reported that he lived behind an AM/PM market and experienced trash being thrown over the fence and people hopping the wall to cut through the neighborhood and understands how people could feel threatened by this, particularly if they are disabled and have concerns about protecting themselves, therefore, he was opposed to the sale of beer and wine at this location.

C.J. Osterhhues, Gerkin Avenue, stated that he remains strongly opposed to the sale of beer and wine at this gas station for the reasons he has previously stated and sees no benefit to the community whatsoever.

Peggy Weber, Roselle Avenue, stated that she lives adjacent to the gas station and has observed only one or two police officers a day coming in for gas. She doubted that the three-foot tall trees the applicant was proposing to plant would provide any protection and requested that the height of the wall between her property and the gas station be increased.

Robert Lopin, adjacent neighbor to the north, stated that he shares his neighbors' concerns and has an added concern about the propane tank. He reported that the

fumes from the tank, which is under his bedroom window, are worse than ever and requested that it be moved if not eliminated.

Responding to audience members' comments, Mr. Evans reported that air and water are provided free of charge, explaining that a sign is posted indicating that free tokens are available inside the station and the coin slots are there because that is the way the machines are manufactured. He commented on the State's role in regulating the sale of alcohol, noting that there will be a public hearing at which residents would have an opportunity to raise their concerns before an ABC license could be granted. He reiterated his contention that there was no legal basis to deny the sale of beer and wine and suggested that fear should not trump sound planning policy.

MOTION: Commissioner Drevno, seconded by Commissioner Horwich, moved to close the public hearing; voice vote reflected unanimous approval.

Chairperson Muratsuchi stated that while there is always the risk that the Planning Commission's decisions will be challenged in court, he was confident that there was enough specific factual information presented over the course of three hearings to support denial of the application to sell beer and wine at this gas station. He explained that the decision to deny the application was not based simply on the fact that the gas station is close to a park and a school, but rather on the specific history of this location, including the history of gang activity at Columbia Park, as well as the fact that there are single-family homes immediately adjacent to the site and there are four other establishments selling alcohol in close proximity. He stated that after considering all these factors together, he has concluded that it would be detrimental to the public welfare to allow the sale of beer and wine at this gas station.

MOTION: Chairperson Muratsuchi moved for the approval of CUP05-00006, with all conditions previously imposed by the Planning Commission. The motion was seconded by Commissioner Drevno and passed by unanimous roll call vote (absent Commissioner Faulk).

Deputy City Attorney Whitham noted that that a resolution reflecting the Commission's decision would be brought back for approval at the next meeting.

11. **RESOLUTIONS**

None.

12. **PUBLIC WORKSHOP ITEMS**

None.

13. **MISCELLANEOUS ITEMS**

13A. **DEVELOPMENT IMPACT FEE**

Planning Commission review and consideration of a study for a proposed Development Impact Fee Program to be paid by developers. This fee will contribute to undergrounding utilities and improvements to traffic, sewer and storm drain systems.

Recommendation

The Community Development Director recommends that the Planning Commission: 1) Review the staff report; 2) Take public input; 3) Find the Capital Facilities Plan contained in the Needs List and Development Impact Fee Study to be consistent with the General Plan pursuant to Government Code Section 65402, and 4) Concur with staff's recommendation to forward the Development Impact Fee Study to City Council for their approval.

Transportation Planning Manager Semaan reported that in February 2004, the City Council approved a contract with David Tassig & Associates for the preparation of a Development Impact Fee (DIF) Justification Study to enable the City to levy Development Impact Fees to help fund the undergrounding of utilities and traffic, sewer and storm drain improvements. He noted supplemental material available at the meeting consisting of the study itself and a copy of the slide presentation.

With the aid of slides, David Tassig, president of David Tassig & Associates, Inc., reviewed the Development Impact Fee Justification Study prepared by his firm in conjunction with City staff. He discussed the "rational nexus test," the standard California courts apply to determine the legality of DIFs, which requires: 1) That there be a reasonable connection between the need for additional facilities and the growth resulting from new development; 2) The fee must represent new development's proportionate share of the costs incurred; and 3) The fee collected must actually benefit new development more than the general public.

Mr. Tassig reported that a "Needs List" was compiled, which identifies facility improvements that will be necessary to meet the needs of projected new development through 2020. He reviewed the estimated cost for utility undergrounding, traffic, storm drain, and sewer improvements through 2020 and the percentage of cost allocated to new development. He explained that approximately 12% of facility improvements will be financed by DIFs, with the City to fund the remaining 88% because most of the land in Torrance has already been developed and new developments cannot be charged for existing deficiencies in the infrastructure. He discussed the methodology used to apportion the benefit of infrastructure improvements for each land use (Residential, Commercial, Industrial) and reviewed the Fee Summary. He outlined the steps necessary to enact the Development Impact Fees, noting that the proposal to levy the fees must be introduced at a City Council meeting, followed by a public hearing 30 days later, after which the Council could adopt an ordinance implementing the fees and the fees would take effect 60 days after the second reading of the ordinance.

Responding to questions from the Commission, Mr. Tassig explained that the slightly higher rate (per 1,000 square foot) for Local Commercial as opposed to General Commercial reflects the fact that Local Commercial developments tend to have a lower percentage of lot coverage than General Commercial developments so the higher rate equalizes the fees. He noted that three meetings were held to discuss the fees with developers and it was his impression that they thought the fees were reasonable, especially as compared to cities where there is a lot of new development and fees can run as high as \$12,000 to \$13,000 per residential unit.

Commissioner Horwich stated that he had not had a lot of time to study the information, however, the methodology seems to be correct.

Chairperson Muratsuchi questioned why no Development Impact Fees were proposed for single-family residential developments. Transportation Planner Semaan advised that staff does not anticipate any new single-family residential developments in Torrance because most R-1 property has already been developed and the decision was made not to charge a DIF for this type of development because it is something the City would like to encourage.

Transportation Planner Semaan explained that the implementation of Development Impact Fees does not preclude staff from placing special conditions on a project requiring specific improvements, the cost of which would offset or negate a developer's need to pay particular components of the fee.

The public was invited to comment, and no one came forward to speak on this issue.

Transportation Manager Semaan noted that DIFs will need to be updated periodically as the Needs List is revised.

MOTION: Commissioner Horwich moved that the Planning Commission find that the Capital Facilities Plan contained in the Needs List and Development Impact Fee Study to be consistent with the General Plan pursuant to Government Code Section 65402, and concur with staff's recommendation to forward the Development Impact Fee Study to the City Council for their approval. The motion was seconded by Commissioner Uchima and passed by a 5-1 roll call vote, with Chairperson Muratsuchi dissenting (absent Commissioner Faulk).

Commenting on his vote, Chairperson Muratsuchi indicated that he did not feel comfortable voting on a report he had just received.

13B. PLANNING COMMISSION ELECTIONS

Following a brief discussion, Commissioner Uchima was nominated as Chairperson for 2005-06 and Commissioner Faulk was nominated as Vice-Chair; voice vote reflected unanimous approval (absent Commissioner Faulk).

13. RECENT CITY COUNCIL ACTION ON PLANNING MATTERS

Sr. Planning Associate Lodan reported that the City Council approved the roof extension at 4721 Paseo de las Tortugas by a vote of 4-3 at the June 14 Council meeting.

14. LIST OF TENTATIVE PLANNING COMMISSION CASES

Sr. Planning Associate Lodan reviewed the agenda for the July 6, 2005 Planning Commission meeting.

15. ORAL COMMUNICATIONS

15A. Commissioners commended Chairperson Muratsuchi for doing an excellent job of presiding over commission meetings for the past year and thanked him for his service.

15B. Commissioner Horwich wished all fathers present a happy Father's Day.

16. **ADJOURNMENT**

At 11:25 p.m., the meeting was adjourned to Wednesday, July 6, 2005 at 7:00 p.m.

Approved as Written August 3, 2005 s/ Sue Herbers, City Clerk
