

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

1. CALL TO ORDER

The Torrance Planning Commission convened in a regular session at 7:00 p.m. on Wednesday, December 2, 2009 in the Council Chambers at Torrance City Hall.

2. SALUTE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Busch.

3. ROLL CALL

Present: Commissioners Browning, Busch, Gibson, Horwich, Skoll, Uchima and Chairperson Weideman.

Absent: None.

Also Present: Planning Manager Lodan, Planning Associate Martinez, Civil Engineer Symons, Fire Marshal Kazandjian, Plans Examiner Noh and Deputy City Attorney Sullivan.

4. POSTING OF THE AGENDA

Planning Manager Lodan reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Wednesday, November 25, 2009.

5. APPROVAL OF MINUTES – None.

6. REQUESTS FOR POSTPONEMENTS - None.

7. ORAL COMMUNICATIONS #1

7A. Ryan McEvoy, Miyako Hotel, thanked Commissioners for attending the grand opening of the Miyako Hotel in Torrance. He noted that the hotel is LEED (Leadership in Energy and Environmental Design) silver certified and offered to provide copies of the project's scorecard, which describes the energy efficient/sustainable features.

Commissioner Busch thanked Mr. McEvoy for attending the Planning Commission meeting and voiced his opinion that the Miyako Hotel should be recognized for building the City's first "green" hotel.

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Chairperson Weideman reviewed the policies and procedures of the Planning Commission, including the right to appeal decisions to the City Council.

8. TIME EXTENSIONS – None.

Agenda Item 11A was considered out of order at this time.

11A. CUP09-00019: NAWAHA VENTURES CAPITAL

Planning Commission consideration for approval of a Conditional Use Permit to allow the retail sale of beer and wine for off-site consumption at an existing gas station and food mart on property located in the C-2 Zone at 4000 Redondo Beach Boulevard.

Recommendation

Approval.

Planning Associate Martinez introduced the request.

Responding to questions from the Commission regarding gas stations in general, Planning Manager Lodan advised that gas stations may charge for the use of restrooms, but must provide compressed air and water free of charge per the TMC. He recommended that any violations be reported to the Environmental Division.

Chairperson Weideman questioned whether the applicant had reviewed the staff report, and Hossein Wasiri and Michael Nazari, representing Nawaha Ventures Capital, indicated that they had not had an opportunity to do so.

Commissioner Busch noted that the staff report mentions that a site inspection was made and violations were observed.

Planning Manager Lodan explained that most of the violations were due to new legislation related to NPDES (National Pollution Discharge Elimination System) and in addition, there were a few property maintenance issues, which is not uncommon for an older gas station.

Mr. Wasiri reported that approximately 80% of the violations have been corrected and he expects the other 20% to be completed in approximately one week.

In response to Commissioner Busch's inquiry, Mr. Wasiri confirmed that employees receive formal training so they fully understand ABC (Alcoholic Beverage Control) regulations before they are allowed to sell alcohol, noting that he and Mr. Nazari own other gas stations and have training procedures in place.

Commissioner Busch commented that he was impressed by the results of a recent undercover operation in Orange County in which 24 stores were visited and all refused to sell alcohol to a minor.

Mr. Nazari noted that his employees are also trained to recognize people who are buying alcohol for minors.

Commissioner Gibson expressed concerns that the staff report contains 24 conditions that the applicants must abide by yet, by their own admission, neither of them has read it.

Mr. Wasiri reported that Planning Associate Gomez reviewed all the conditions with him and he was confident that they would be able to comply with them.

Commissioner Busch stated that he was inclined to continue this matter for two weeks so corrective work on the violations could be completed.

Chairperson Weideman related his understanding that the violations are enforcement issues that have nothing to do with the application for a Conditional Use Permit.

Deputy City Attorney Sullivan advised that the violations related to NPDES requirements must be corrected or the applicants will be cited.

Commissioner Busch stated that he understood that the CUP application was a separate matter, however, in evaluating whether or not to approve it, he felt it was important that applicants make a good faith effort to comply with the Code and he would feel more comfortable knowing that all violations have been corrected.

Commissioner Gibson indicated that she also favored a continuance to allow the applicants more time to review the conditions in the staff report.

Referring to Condition No. 5, which requires that security cameras be provided and maintained in proper working order to the satisfaction of the Community Development Director, Commissioner Browning recalled that the Police Department has recommended conditions with more detailed requirements in the past and expressed concerns that this condition was somewhat weak.

Commissioner Browning questioned whether the applicant had taken corrective action on specific items mentioned in the staff report. Mr. Wasiri explained that landscaping has been upgraded, but the parking lot has not been re-striped because the landlord only recently removed the large storage container on-site, which was not related to the gas station's operation.

Mr. Nazari reported that considerable improvements have been made to the gas station since he and his partner purchased it approximately four months ago and invited Commissioners to visit the site.

Commissioner Browning expressed support for a continuance.

Dick Ebbet, All-Star Realty, noting that he prepared many of the documents for the application, wanted to clarify that the ABC offers a free one-day training class for employees and owners of stores selling alcoholic beverages but it is not mandatory and noted that the ABC application process takes approximately 60 days.

Commissioner Busch voiced his opinion that legislation should be passed making the ABC training mandatory.

Mr. Nazari offered his assurance that all of the violations would be corrected by the next meeting.

MOTION: Commissioner Busch moved to continue this matter to December 16, 2009. The motion was seconded by Commissioner Gibson and passed by a 5-2 roll call vote, with Commissioner Horwich and Chairperson Weideman dissenting.

Planning Manager Lodan clarified that staff would be looking for compliance with Code Enforcement issues and NPDES, but the applicant would not be expected to do the parking lot re-striping and other improvements to be done in conjunction with the CUP.

9. CONTINUED HEARINGS

9A. CUP09-00017, DVP09-00002: JOHN PUENTE, IN-N-OUT BURGER (PEYTON CRAMER LINCOLN-MERCURY)

Planning Commission consideration for approval of a Conditional Use Permit and Development Permit to allow the construction and operation of a new commercial center composed of a drive-through restaurant, drive-through pharmacy, and retail building on property located in the HBCSP-PR Zone at 20440-20460 Hawthorne Boulevard.

Recommendation

Approval.

Planning Associate Martinez introduced the request and noted supplemental material available at the meeting consisting of correspondence received after the agenda item was completed.

Commissioner Browning noted that the supplemental material includes letters from people with the last name Browning and wanted to make clear that he has never met any of these individuals and to the best of his knowledge, he is not related to them.

John Puente, In-N-Out project manager, reported on efforts to work with nearby residents to address their concerns, noting that their main concerns are traffic, noise and cooking odors.

Dave Brandt, acoustical consultant for the project, provided information regarding the sound study he performed at the project site. He explained that the area is dominated by traffic noise from Hawthorne Boulevard and existing vacant buildings on the site currently provide an efficient noise barrier for adjacent residences. He reported that the sound level will increase by approximately 7 dB(A) when the buildings are removed, however the proposed new buildings will decrease the noise to within 2 dB(A) of the current level. He suggested that the noise level could be improved by building a wall along the west side of the alley, in which case the noise level on the first floor of adjacent residences would be better than existing noise levels. He stated that the project itself would contribute only 3-5% to the increase in noise, not including periodic pulsing noises, such as car alarms. He confirmed that the project would meet Code requirements, which specify no more than 60 dB(A) during the day, 55 dB(A) at night, and 50 dB(A) on Sunday morning.

In response to Commissioner Browning's inquiry, Mr. Brandt reported that he was recommending a wall between 6 and 8 feet high, with each foot above 6 feet resulting in an additional .5 to 1 dB(A) reduction in noise levels for adjacent residences.

Commissioner Browning related his belief that Mr. Brandt's report was invalid because it was based on speculation and that not enough consideration was given to the second floor of residences.

Commissioner Busch asked about noise levels from the drive-through speaker system, and Mr. Brandt indicated that he did not have the specifications for the speaker system.

Commissioner Busch stated that he would like to review the noise study before making a decision on the project.

With the aid of slides, Frank Coda, GreenbergFarrow, project architect, provided an overview of the proposed project. He pointed out that the In-N-Out Burger restaurant was located as far away from residences as possible and that the parking provided exceeds Code requirements by 17 spaces.

Rich Barretto, Linscott, Law & Greenspan, traffic consultant for the project, reported that the traffic study focused on maintaining the traffic flow on Spencer Street since the ingress/egress on Hawthorne Boulevard will be right-turn only. He reviewed the proposed traffic improvements, including widening Spencer along the project frontage to provide a dedicated westbound left-turn lane and re-striping the western leg of Spencer Street to improve the alignment of the eastbound approach.

Responding to questions from the Commission, Mr. Barretto confirmed that the impact of future projects and the Del Amo Boulevard extension had been factored into the traffic study and provided clarification regarding ingress and egress to the site.

Commissioner Browning expressed concerns about the 180-degree turn customers will have to make to enter the drive-through lane. Mr. Coda explained that there will be an ample turning radius so even large vehicles will be able to make the turn and employee parking is proposed along the drive aisle so there will be less movement in and out of parking stalls.

Referring to the proposed hours of operation – 10:00 a.m. to 1:00 a.m., Sunday through Thursday, and 10:00 a.m. to 1:30 a.m., Friday and Saturday, Commissioner Busch questioned the need to be open until 1:00 a.m. on weeknights. He reported that Y-Not Burger on Hawthorne Boulevard, while not exactly the same type of operation, closes at 9:00 p.m. on weekdays and 9:30 p.m. on Friday and Saturday.

Mr. Puente reported that the proposed hours of operation are the standard hours for In-N-Out Burger.

With regard to neighbors' concerns about odors, Mr. Puente reported that the company has offered to install a pollution control unit designed to remove grease, smoke and odors from cooking exhaust like the one currently in use at one of their restaurants in Tucson, Arizona. He voiced his agreement with the recommended conditions of approval, with the exception of Condition No. 13, which prohibits outdoor speakers other

than drive-through speaker boxes. He explained that the restaurant uses outdoor speakers to notify customers sitting outside that their order is ready and suggested that they could be turned off at 10:00 p.m. if there are concerns about disturbing residents.

Commissioner Browning doubted that the outdoor speakers would be a problem because outdoor speakers at In-N-Out Burger are not particularly loud and they could be installed in the overhang and directed downward so as not to impact residents. He questioned whether the Tucson restaurant with the pollution control system was situated close to residences.

Mr. Puente explained that the Tucson location is within a mall and is not near residences and the pollution control system was installed because the mall did not want any odors from restaurants. He reported that at the meeting with adjacent residents, they did not doubt that the system would work, but were mainly concerned about the possibility that it could stop working if not properly maintained.

Commissioner Browning stated that he did not believe In-N-Out would let that happen given the company's reputation.

The Commission recessed from 8:23 p.m. to 8:35 p.m.

Chairperson Weideman invited public input.

Doug Brown, 21515 Hawthorne Boulevard, Suite 1150, noted that he is an attorney who was asked to speak on residents' behalf. He stated that neighbors are concerned that the proposed mitigations do not adequately address the following issues: 1) Cooking odors – the proposed scrubbing device is relatively untested; 2) Noise – there will be no sound buffer for the second floor of nearby residences; 3) Light intrusion – even with lights directed downward, the site will be lit up until 1:30 a.m.; and 4) Hours of operation - while consistent with In-N-Out policy, the late night hours were not consistent with the best interests of the neighborhood. He suggested that the City seems to have a double standard because drive-throughs are not permitted on Hawthorne Boulevard south of Torrance Boulevard.

Planning Manager Lodan explained that there are a number of sub-districts along the Hawthorne Boulevard Corridor where drive-throughs are not permitted, including Del Amo 1 and 2 and Walteria, and this prohibition is based on issues such as lot size, proximity to residences, and the scale of surrounding development, however they are permitted in the Meadow Park, Promenade and North Torrance sub-districts where larger lots are more conducive to drive-through operations as they provide more room for parking and queuing.

Dan Ingold, 3704 Sara Drive, related his belief that an In-N-Out Burger at this location was fundamentally incompatible with the neighborhood, noting that it would be the closest high volume fast-food restaurant to residences anywhere in the City. He reported that he did an informal survey of the In-N-Out Burger in the Torrance Crossroads shopping center and observed that there were 10-15 cars in line waiting to be served at any given time. He contended that the results of the traffic study were biased because the study only looked at mid-day and evening peak hour traffic and expressed concerns that the noise study did not address sporadic noise, such as car alarms, which is the type of noise most like to disturb nearby residents.

Commissioner Busch asked if Mr. Ingold was concerned that cars waiting to be served would back up onto Spencer Street. Mr. Ingold stated that he doubted that this would happen because there a lot of room for queuing, however, he was concerned that the queuing lane was adjacent to residences.

Commissioner Browning noted that is a restaurant with a drive-through and an Asian take-out restaurant at the corner of Sepulveda and Anza in close proximity to residences and questioned whether there have been any complaints from neighbors concerning cooking odors. Planning Manager Lodan stated that he was not aware of any complaints.

Commissioner Browning suggested that residents who purchased homes adjacent to this commercial property were aware that it could be developed at a future date and this likely had some bearing on the home's price.

Commissioner Busch noted that his aunt and uncle bought a home on Spencer Street when the tract was first built and he recalled that the auto dealership on the subject property was not considered a major drawback because it closed at 9:00 p.m. He doubted that adjacent residents thought that they would be next to a business that was open until 1:00-1:30 a.m. when they purchased their properties.

Carl Walther, 3714 Sara Drive, related his belief that the project's on-site circulation has not been adequately studied because cars waiting to exit onto Hawthorne Boulevard could back up into the drive-through lane. He expressed concerns about the project's impact on residents' quality of life due to odors and noise from the restaurant. He indicated that he was particularly concerned about noise from customers, including the slamming of car doors, loud radios and car horns, and after-football game parties. He noted that all of the adjacent residences have bedrooms on the second story and related his experience that noise ordinances are seldom enforced.

Sandy Zielomski, 3224 W. 187th Street, expressed concerns that excessive noise from the fast-food restaurant would interfere with family get-togethers in the backyard of her parents' home at 3714 Sara Drive.

Bhupendra Mistry, 3655 Spencer Street, stated that his main concern was the project's impact on traffic because Spencer Street is already congested and he feared he would have to wait for traffic to clear in order to get in and out of his driveway. He further stated that he would prefer not to have the smell of beef wafting over his house because he is Hindu.

Davis Kwong, 3703 Spencer Street, echoed concerns about the project's impact on traffic on Spencer Street. He noted that the prevailing westerly breeze will carry odors from the restaurant into residences to the east for 15 hours a day, seven days a week.

Frank Burrell, 3715 Spencer Street, voiced objections to allowing In-N-Out to use the alley for access because adjacent residents would be subjected to noise from vehicles and boom boxes until 1:30 a.m. He related his belief that the project as proposed would decrease the property values of nearby residents.

Commissioner Busch noted that the project also includes a pharmacy and a retail building and questioned whether residents' opposition was all related to the In-N-Out Burger restaurant.

Mr. Burrell stated that residents were also concerned about the possibility of having a pharmacy with a 24-hour drive through next to them.

Responding to questions from the Commission, Planning Manager Lodan provided clarification regarding parking requirements and confirmed that the retail building could be converted to medical office use because parking requirements are the same as for retail.

Steve Mullen, 3635 Sara Drive, expressed concerns that people trying to turn left into the subject property going eastbound on Spencer could be blocked by people in the westbound left-turn lane thereby creating a backup. He also expressed concerns that this additional traffic poses a safety risk to children who must cross Hawthorne Boulevard to get to school. He stated that he enjoys the smell of BBQs in the summer and wood-burning fireplaces in the winter and contended that these pleasant odors would be overcome by odors from In-N-Out. He urged the Commission to require that the pollution control device be installed should the project be approved.

Walter Takamura, 3625 Sara Drive, related his understanding that the Torrance Municipal Code under Division 4, Chapter 6, Section 46.5.3 restricts amplified sound to from 9:00 a.m. to 9:00 p.m., except Sundays, and questioned whether this restriction was being waived.

After reviewing the Municipal Code, Assistant City Attorney Sullivan advised that the Code section cited pertains to one-time outdoor events for which Sound Permits are required, such as a concert in the park or public assembly, and it was not applicable in this case.

Mr. Takamura expressed concerns about the loss of 15 parking spaces on the street because there is a shortage of parking due to nearby apartments.

Chairperson Weideman related his understanding that the only street parking to be lost would be the 5 spaces on the south side of Spencer due to the realignment of the traffic lanes.

Mr. Barretto explained that another 8-10 spaces would be lost along the project's frontage on Spencer for a total loss of approximately 15 spaces.

Janet Burrell, 3715 Spencer, requested that the project have no access to the alley because residents like her with windows overlooking the alley would be drastically impacted by the noise from vehicles and boom boxes. She noted that the proposed wall will cause noise to echo making the situation worse if the alley is used.

In response to Commissioner Skoll's inquiry, Ms. Burrell reported that residences along the alley have no access to the alley and it currently receives very little use.

Mike Nkemnji, 3708 White Court, expressed concerns that the project would attract crime to the neighborhood because In-N-Out Burger would serve as a late-night

hangout for teenagers, particularly after football games at West High. He stated that he recognized the need to bring new development to the City, but in this case he felt the nuisances outweighed the benefits of the project.

Brian Kurahashi, 3628 Sara Drive, contended that it would be impossible to control noise from youthful customers and the proposed wall would do little or nothing to buffer reverberating music. He stated that while he understood something must be built on the site, an In-N-Out Burger was not tolerable.

John Dezso, 3705 Sara Drive, expressed concerns that In-N-Out Burger customers will leave trash in the surrounding neighborhood.

Michael Carroll, 3505 Spencer Street, echoed concerns about the project's impact on traffic. He also expressed concerns that trash from the restaurant will create a rodent problem in the neighborhood and related his belief that Americans already eat too much fast food.

Eulogio Tamayo, 3740 Spencer Street, indicated that his concerns had already been mentioned and asked to be kept on the mailing list for future hearings because he did not receive notification of this hearing.

Assistant City Attorney Sullivan disclosed that Mr. Tamayo and his son own Jay's Automatic Transmission and have worked on his car and that he did not know he was going to attend this hearing and it would not affect his advice.

Planning Manager Lodan explained that notices are mailed to property owners within the notification area based on data from the L.A. County Tax Assessor.

Mr. Walther reported that he attempted to notify tenants in apartment complexes along Spencer but some apartment owners were resistant to his efforts.

Returning to the podium, Mr. Puente stated that all the issues brought up this evening were brought up before during neighborhood meetings and he believed they have all been addressed. He suggested that the main issue of contention seems to be the hours of operation and expressed confidence that In-N-Out could co-exist with residential neighbors. He noted that In-N-Out has a restaurant in Van Nuys with no alley between it and residences and it has the same hours of operation as proposed. With regards to concerns about rodents, he reported that employees pick up trash everyday and In-N-Out is a very clean operation to the extent that it's the only place health inspectors will eat. He advised that In-N-Out is the developer of the project and it will not go forward without the fast-food restaurant.

Planning Manager Lodan recommended that conditions of approval be included requiring that the pollution control device be installed and specifying the height of the rear wall should the project be approved.

Commissioner Browning voiced his opinion that this was a great project but in the wrong location. He stated that neighbors had brought up some excellent points that hadn't occurred to him, including the likelihood that In-N-Out would become a hangout after football games, and complimented them on doing a great job of presenting their case.

Commissioner Busch stated that everyone agrees the In-N-Out is a great company, but he could not support the project because he does not believe an In-N-Out should be here and the company has indicated that the project will not go forward without the fast-food restaurant.

Commissioner Skoll reported that he had not decided how he was going to vote prior to this meeting, but after listening to the testimony, he was convinced that In-N-Out Burger does not belong at this location. He strongly suggested that In-N-Out seek another location in Torrance.

Commissioner Horwich stated that this case represents a classic dilemma because the subject property is appropriately zoned for the project, but neighbors are strongly opposed to it and after weighing all the evidence, he also did not feel this was a proper location for the project.

Commissioner Uchima reported that he was initially pleased when he received information about the project since the site is an abandoned car dealership in need of improvement, but after visiting the location, he became concerned due to the close proximity of residents and the project's potential impact on traffic. He related his belief that the project would have a tremendous impact on adjacent homeowners since the alley would be primarily utilized as access for the drive-through lane of In-N-Out Burger. He noted that he had difficulty turning left onto Hawthorne from Spencer when he visited the location and he envisioned that cars trying to enter or exit the site could cause traffic to back up at this intersection during peak hours. He suggested that concerns about crime and teenagers congregating in the parking lot could be addressed by hiring a security guard and trees could be planted along the wall to block the glare of lights, but he could think of no solution to the traffic back-up and how to avoid impacting residents due to noise from vehicles and boom boxes, therefore he was inclined to deny the project.

Commissioner Gibson questioned whether financing was in place for the project. Mr. Puente related his understanding that the project would be self-financed by In-N-Out.

MOTION: Commissioner Browning moved to close the public hearing. The motion was seconded by Commissioner Gibson and passed by unanimous roll call vote.

At Commissioner Busch's request, Planning Manager Lodan reviewed the appeal process and confirmed that anyone who spoke this evening would be notified should the Commission's decision be appealed to the City Council.

MOTION: Commissioner Busch moved to deny CUP09-00017 without prejudice. The motion was seconded by Commissioner Gibson and passed by unanimous roll call vote.

MOTION: Commissioner Busch moved to deny DVP09-00002 without prejudice. The motion was seconded by Commissioner Browning and passed by unanimous roll call vote.

MOTION: Commissioner Busch moved to deny WAV09-00009 without prejudice. The motion was seconded by Commissioner Browning and passed by unanimous roll call vote.

Planning Manager Lodan noted that Resolutions reflecting the Commission's action would be brought back for approval at the next meeting.

The Commission briefly recessed from 10:00 p.m. to 10:05 p.m.

10. **WAIVERS** – None.

11. **FORMAL HEARINGS**

11A. **CUP09-00019: NAWAHA VENTURES CAPITAL**

Considered out of order, see pages 2-4.

12. **RESOLUTIONS**

12A. **PRE09-00004: OBELISK ARCHITECTS (MR. AND MRS. ANDERSON)**

Planning Commission adoption of a corrected resolution reflecting their decision to approve a Precise Plan of Development to allow the construction of a new two-story, single-family residence on property located within the Hillside Overlay District in the R-1 Zone at 122 Calle de Arboles.

Planning Manager Lodan reported that staff revised the ordinance after realizing that findings were missing that should be part of the public record.

MOTION: Commissioner Gibson moved for the adoption of Planning Commission Resolution No. 09-050 as amended. The motion was seconded by Chairperson Weideman and passed by a 5-1 roll call vote, with Commissioner Busch dissenting to reflect his vote on the project and Commissioner Uchima abstaining.

13. **PUBLIC WORKSHOP ITEMS** – None.

14. **MISCELLANEOUS ITEMS** – None.

15. **CITY COUNCIL ACTION ON PLANNING MATTERS** – None.

16. **LIST OF TENTATIVE PLANNING COMMISSION CASES**

Planning Manager Lodan reviewed the agenda for the December 16, 2009 Planning Commission meeting.

17. **ORAL COMMUNICATIONS**

17A. Commissioner Busch commented on the grand opening of the Miyako Hotel, noting that several City officials and staff members attended and it was a first class event. He suggested that Chairperson Weideman send a letter on behalf of the Commission to the Miyako Hotel thanking them for the invitation, and Chairperson Weideman agreed to do so.

17B. Commissioner Skoll asked about the status of the proposed project on Lomita Boulevard behind Costco. Planning Manager Lodan reported that the Environmental

Impact Report has not been finalized and the earliest the project will be brought before the Commission is February 2010.

17C. Commissioner Browning asked about the status of a proposed senior development behind the Doubletree Hotel. Planning Manager Lodan reported that there was a possibility that the project could be considered at the second meeting in January 2010.

17D. Commissioner Horwich noted that he also enjoyed the grand opening of the Miyako Hotel and thought it was a first class operation.

17E. Commissioner Horwich commended Chairperson Weideman for doing an excellent job with tonight's potentially difficult meeting.

18. ADJOURNMENT

At 10:30 p.m., the meeting was adjourned to Wednesday, December 16, 2009 at 7:30 p.m.

Approved as Submitted February 17, 2010 s/ Sue Herbers, City Clerk
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