

**CITY OF BUENA PARK
MINUTES OF CITY PLANNING COMMISSION
January 24, 2018**

The regular meeting of the Planning Commission of the City of Buena Park convened at 7:00 p.m. on January 24, 2018, in the City Council Chamber, 6650 Beach Boulevard, Buena Park, California with Chair Diep presiding.

PRESENT: COMMISSIONERS: Agrusa, Barstow, Capelle, Chung, McGuire, Schoales, and Diep

Joel W. Rosen, AICP, Director of Community Development
Brady M. Woods, Planning Manager
Swati Meshram, PhD, AICP, LEED AP, Associate Planner
Craig Fox, Assistant City Attorney
Gregory P. Palmer, City Prosecutor
Ruth Santos, Senior Administrative Assistant

1. APPROVAL OF MINUTES Meeting of January 10, 2018

RECOMMENDED ACTION: Approve

Commissioner Chung abstained from voting on this item due to his absence from the meeting.

Commissioner Barstow moved and Commissioner Capelle seconded the motion to approve the minutes.

AYES: 6 **COMMISSIONERS:** Barstow, Capelle, Agrusa, McGuire, Schoales, and Diep
NOES: 0 **COMMISSIONER:**
ABSENT: 0 **COMMISSIONER:**
ABSTAIN: 1 **COMMISSIONER:** Chung

PUBLIC HEARING:

NEW BUSINESS:

2. DEVELOPMENT AGREEMENT NO. DA16-007/CUP MODIFICATION NO. MCU18-28834

A request to renovate and expand existing three-story 50-room hotel to 59 rooms, 61 total parking spaces including two mechanical parking lift structures and related site improvement at 7921 Orangethorpe Avenue within the CG (Commercial General) zone. The project is categorically exempt pursuant to California Environmental Quality Act (CEQA) Section 15301, Class 1 (Existing Facilities).

PROPERTY OWNER: Majestic Aum, LLC
7921 Orangethorpe Avenue
Buena Park, CA 90621

APPLICANT: Archeion Nevada
Rick Hunnel / Ruben Burrola
17671 Irvine Boulevard, Suite 218
Tustin, CA 92780

RECOMMENDED ACTION: Adopt Resolutions of Approval

In reply to Chair Diep, Ms. Santos stated that staff had received no written communication on the item.

The staff report was presented by Swati Meshram, Associate Planner.

Staff recommends that the Planning Commission adopt the attached Resolutions recommending approval of Development Agreement No. DA16-007 and Conditional Use Permit No. MCU18-28834 to the City Council.

The project site under application is located on the north side of Orangethorpe Avenue, approximately 150 ft. west of Stanton Avenue. The site has a street frontage of 151 ft. and land area of 35,092 sq. ft. Portion of the property with land area of 33,646 sq ft is developed with an existing three-story, 50-unit, that was approved by the Planning Commission in February 1983 via Conditional Use Permit No. CU-805. The approval included a manager's apartment, off-street parking for a minimum of 50 spaces and one loading zone. Total building area of the hotel was 21,838 sq. ft. In April 2001, the Planning Commission approved a request to legalize the conversion of four covered parking spaces into a 393 sq. ft. storage room and a 597 sq. ft. laundry room addition via Conditional Use Permit No. CU-1273/ Adjustment No. ADJ-179. Also approved were two new parking spaces, with an Adjustment to allow for a reduction of one parking space bringing the total parking spaces to 49, where 50 were required. This brought the total building area of the hotel to 22,828 sq. ft.

On July 12, 2016, Staff presented a preliminary proposal at the City Council Study Session for the expansion, renovation, and conversion of the existing Portola Inn to Best Western. Following discussion, a majority of the City Council directed Staff to continue negotiations with the developer on a Development Agreement that would provide for the expansion and conversion of the existing Portola Inn. Dissenting council members cited concerns related to reduced setbacks, increased traffic, conditions of the existing property, police calls for service, and functionality of the proposed mechanical parking.

In addition to the Development Agreement, a modification of previously approved Conditional Use Permit is required, because the hotel was permitted at this location via above mentioned Conditional Use Permits and is subject to specific conditions adopted therein, including the previously approved development plans.

On February 16, 2017, a community meeting was held at City Hall. Staff, the developer, and the architect were in attendance to discuss the proposal for the Portola Inn expansion and renovation. Meeting notices were sent to property owners within a 300 ft. radius, but no property owners or neighbors attended the meeting.

The submitted application and plans propose to renovate and expand the existing hotel to 30,067 sq. ft. to include 9 additional rooms, and 2 mechanical parking lift structures with

related parking and site improvements for the renovation of the existing Portola Inn on a 0.81 acre site. The renovation will include interior and exterior renovations for the existing building, removal of the existing swimming pool, and replacement and relocation of existing spa. The hotel will be rebranded to a national chain and will include any necessary upgrades to bring the hotel to national brand standards.

The submitted plans indicate a total building area of 30,067 sq. ft. a 7,239 sq. ft. addition to the existing 22,828 sq. ft. 3-story 30 ft. tall hotel building as well as two parking lift structures. The addition areas are located along the north and south property lines and will include a total of 9 new rooms. The building expansion will extend the existing hotel building toward the west property line, and will include new rooms on each floor. The proposal will not increase the height of the existing building. The new rooms will include 8 two-room suites and 1 three-room suite. The existing manager’s unit will be relocated to the expanded portion of the hotel to the north. The two parking lift structures will cover 2,790 sq. ft. of the site and will be located primarily along the western property line and behind the lobby. The parking lift structure along the western property line will include 14 double stacked stalls for a total of 28 parking stalls, and the lift structure located behind the lobby will include 4 double stacked stalls for a total of 8 parking stalls.

The main entrance/lobby will be accessible via a covered porte cochere on the west side of the building fronting Orangethorpe Avenue. The lobby area includes a coffee bar and an attached covered patio area with seating for four persons. An existing elevator is located in a central location within the development and across the covered entry area is a new gated spa. The first floor will retain the existing utilities and storage rooms and the second and third floor will continue to maintain a linen room for housekeeping. There will be a total of 59 guest rooms, including 44 single rooms, 9 two-room suites, and 1 three-room suite. The single rooms are 350 sq. ft., the two-room suites 675 sq. ft., and the three-room suites approximately 926 sq. ft. The new and relocated manager’s unit will be approximately 945 sq. ft.

	Existing	After Expansion
First floor	Ten single rooms	Twelve single rooms
	Manager’s unit	One 2-room suite
		One 3-room suite Manager’s unit
Second floor	Nineteen single rooms	Seventeen single rooms,
	One 2-room suite	Six 2-room suites
Third floor	Eighteen single rooms	15 single rooms,
	Two 2-room suites	Seven 2- room suites

The existing parking lot will be reconfigured to accommodate the new mechanical parking lift structures and the hotel building expansion. The two proposed parking lift structures are approximately 2,142 and 648 sq. ft. and will provide 28 and 8 double stacked parking stalls respectively. An additional 24 open parking stalls are provided throughout the development including 18 standard stalls, 4 compact stalls, and 3 accessible stalls. The total amount of parking provided will be 61 parking stalls, which complies with Code required parking for hotel and hotel businesses.

The parking lift structures will be approximately 15 ft. high double stacked stalls. The proposed parking lift will utilize a hydraulic lift system to lift and lower vehicles from the

ground floor to the second level of parking. As proposed, the parking lift structure will be purchased from Park Plus and will be customized to provide the configuration proposed by the applicant. An attendant will be on-site at all times to monitor the use of the system as well as to retrieve vehicles for hotel guests. Without mitigation, the noise decibel reading for the select model ranges from 25.4 decibels to 73.1 decibels during the lifting motion. At the peak of the sound rating, the noise level is equivalent to a commercial area or a gas lawn mower at a distance of 100 ft.

Vehicular site ingress and egress will continue to be from Orangethorpe Avenue and will be relocated westward from its current location. The new two-way driveway will be 29 ft. wide. Interior drive aisles will be a minimum of 25 ft. wide, and the existing elevator and two stairwells will continue to provide second and third floor access.

The hotel building will continue to be setback 20 ft. from the front or south property line and will continue to maintain zero setbacks from the north and east property lines abutting nonresidential zones. The newly expanded portion of the hotel will have a side yard setback of approximately 15 ft. side setback. The proposed parking lift structure located along the west property line will be set back approximately 5 ft. where a 10 ft. landscape buffer between a residentially zoned property and a commercial property is required. The second parking lift structure is located more than 80 ft. from the west property line adjacent to the residential zone. An 8 ft. tall concrete block wall will surround the site to ensure adequate privacy and noise buffering from the residential zone to the west. In addition, the existing landscaping along the west property line is 18 ft. in height to provide further screening.

Architecturally, the building has been redesigned with contemporary urban architecture incorporating a variety of forms and finishes. The existing mansard roof will be replaced with a flat roof and the existing corner block and arched window frames will be removed. The Orangethorpe Avenue elevation will feature varying planes with enhancements that include two-tone smooth stucco finish, recessed building entry, decorative cornice molding, and raised window trim. Further, the main building frontage will feature a covered patio with seating for 4 persons and additional patio seating area located along Orangethorpe Avenue frontage. The patio area will be surrounded by a low wall and will include seating for 18 persons. All elevations will feature a consistent architectural finish, and other enhancements provided include glass railing, new entry doors painted to match the new building, and stucco pop outs. Signage for the newly converted hotel will be proposed on a separate application.

The proposed parking lift structures will be constructed primarily of wood and metal. The enclosure will provide screening from the adjacent properties as well as from Orangethorpe Avenue. The structure will be approximately 15 ft. high and will completely screen the vehicles located on the second level. The front elevation of the lift structure features decorative metal screen slats along with individual steel tube columns. The metal screen slats will be topped with a wood beam and roofed with a wood trellis. The side elevations will include a smooth stucco finish and cornice molding to match the color palette and design of the main building. The rear elevation includes the same architectural enhancements as the side elevation. The exterior of the lift structure will coordinate with the modern design of the renovated hotel, and will serve as an additional buffer for the residential properties to the west.

The ground floor building expansion area at the rear of the site is designed to integrate architecturally with the existing hotel. The expansion features the same flat roof design with

cornice molding and recessed panels. The recessed panels on the west elevation screen the stairwells from the residentially zoned properties to the west.

Landscaping along the Orangethorpe Avenue street frontage will include 24 in. box trees, min. 5 gal. shrubs, and low accent ground cover within the 20 ft. front yard setback area. The project will include approximately 4,677 sq. ft. of landscaping with landscaped planters located along the south, east, and west sides of the property. Interior landscaping is evenly distributed throughout the development through a variety of trees, shrubs, and ground cover. The landscape buffer between the subject property and the adjacent residential zone is 5 ft. wide and includes an existing line of mature trees that are approximately 18 ft. high. An 8 ft. tall decorative masonry perimeter wall will provide additional buffering between the proposed project and the adjacent residential homes and surrounding commercial businesses.

California Government Code Section 65865 et. seq. allows the City to enter into Development Agreements, which become contractual agreements between the City and property owners regarding development rights and performance standards. Development Agreements allow the City and property owner longer-term assurances in contractual form that current and future projects will meet the respective goals of both parties. The Development Agreement process requires the Planning Commission to make a recommendation to the City Council prior to Council action.

The Development Agreement may set unique development standards for the proposed project which differ from the underlying CG (Commercial General) zoning. Below are the standards that vary from the CG zoning and mitigating factors provided by the developer to offset potential impacts.

- The proposed parking lift structure located along the west property line will be set back approximately 5 ft. where a 10 ft. landscape buffer between a residentially zoned property and a commercial property is typically required. However, the 8 ft. tall perimeter wall surrounding the entire development and the retention of the existing 18 ft. tall trees along the west property line further safeguards the neighboring residents' privacy concerns.
- Approximately 27 ft. of the 30 ft. tall expansion along the north property line is approximately 15 feet away from the residential zone to the west, where a 50 ft. separation is required for building greater than 15 ft. or 1 story in height. However, there are no fenestrations on the second or third floor units as well as screen walls within this portion of the expansion, providing privacy to the single family homes on the west.

In reviewing the applicant's request, staff reviewed plans and visited the site and surrounding area and is of the opinion that the site is adequate to support the proposed hotel renovation and expansion with two new parking lift structures without negatively impacting the subject and surrounding properties. The proposed hotel renovation and expansion will allow the subject site to transition into a quality, national brand hotel that properly integrates with the surrounding commercial development as envisioned within the General Plan. The subject site is located within the Entertainment Corridor North Focus Area, which is envisioned as a "world-class" entertainment mixed-use center that functions as a central gathering place for residents and visitors. Entertainment uses, high-density residential, and commercial uses are envisioned to be integrated with pedestrian plazas and public gathering places within this focus area. Defining characteristics for the Entertainment Corridor North Focus Area include hallmark hotel and resort designs, mixed-use buildings with ground floor commercial uses, entertainment plazas, and attractive entertainment, dining, and retail centers. Based on the

scope of the project and the architectural design, Staff feels that the proposed project fulfills the expectations identified for this area within the General Plan. When completed, the project will provide a high quality hotel that will meet the long term vision for the area as identified in the General Plan.

The site and architectural design of the proposed hotel conversion and expansion with parking lift structures and associated site improvements provides appropriate development standards for setbacks, landscaping, parking, block wall separation, and vehicular access, as conditioned. The project provides ample parking for the expanded hotel and the proposed site improvements include parking lot repaving, restriping, and landscaping.

The project incorporates enhanced design, including diverse textures and materials. Additionally, the developer has provided quality architectural design and amenities in conjunction with the proposed hotel renovation that is consistent with other newer commercial and mixed-use developments within the area. Staff has reviewed the proposed expansion areas and the two parking lift structures for the development and feels that the proposed project provides adequate separation from the residential uses to the west. The existing hotel serves as a buffer between the light industrial uses in the Commercial Manufacturing (CM) and Commercial General (CG) zones to the north and east and the single family homes in the One Family Residential (RS-6) zone to the west.

The proposed hotel renovation and expansion will assist in advancing the long term vision for this area along Orangethorpe Avenue as identified in the City's General Plan. The comprehensive rebranding and renovation, including new hotel brand, room expansion, interior and exterior improvements, and site improvements will serve as an enhancement to the existing site. The new hotel will integrate seamlessly with the new development in the surrounding area while also bringing national hotel brand to the City. The proposed scope of work will contribute to continued revitalization of the surrounding neighborhood and properties and will improve the existing conditions of the overall site. Staff is of the opinion that the renovated hotel with the proposed expansion and improvements will bring an enhanced quality hotel to the City. The mix of entertainment, world-class shopping, and dining opportunities within the surrounding area create a destination for visitors and the proposed project will fulfill the demand for budget friendly and quality hotels in the area.

The project is Class 1, Section 15301 (Existing Facilities), categorically exempt from CEQA and is also found to be within the scope of the previously certified Program EIR for the Buena Park 2035 General Plan Update (SCH #2009111026). The previously certified Program EIR adequately describes for the purposes of CEQA the proposed project as required by Section 15168 of CEQA Guidelines.

Notice of public hearing was posted at City Hall, the Buena Park website, the Buena Park Library, and Ehlers Community Recreation Center on January 11, 2018, and 23 notices were mailed to property owners within a 300 ft. radius of the subject property on January 11, 2018.

Chair Diep asked if there were any questions for staff.

Commissioner Capelle asked if any of the hotels or motels in Buena Park utilize mechanical parking lift structures such as what is being proposed, if mechanical lifts are part of new Building standards, and if the applicant is proposing the mechanical lift to save on space.

Ms. Meshram said that to her knowledge, no hotels or motels in the City have mechanical parking lifts.

Mr. Rosen said mechanical lifts are not part of new Building standards and that efficiency and cost are the reasons for the proposed lifts.

Commissioner Schoales asked if there are hotels or motels in nearby cities that utilize mechanical lifts and said that if there are any, he would like to see how they operate. He added that he anticipates resistance from customers who prefer a more convenient and accessible way to park their cars. Commissioner Schoales also asked about the parking requirement for the proposed project.

Ms. Meshram said one parking space is required per unit, there are 59 units, and there are 61 parking spaces, with two extra spaces for resident managers.

Commissioner Schoales asked why the plans are showing 75 rooms.

Ms. Meshram said there are two-room and three-room suites.

Commissioner Schoales asked to see the third floor plans again and pointed out that certain suites labeled as two-room suites have adjoining rooms with connecting doors, with designs that do not look like suites.

Ms. Meshram said that under the Conditions of Approval, the applicant is not allowed to rent more than 59 units. She explained that two-room suites, even if with individual external doors, are rented out as suites.

Ms. Meshram said hotels and motels are required to send yearly reports to the City and any violations against the Conditions of Approval may lead to revocation of the Conditional Use Permit.

Commissioner Schoales said if there is no way to strictly monitor how the suites are being rented out, the design should at least show that the Conditions of Approval are met. He also noted that there are 79 bathrooms which are not consistent with the 59 units. He suggested the elimination of 15 or 16 bathrooms. Commissioner Schoales said the proposed project is underparked.

Commissioner Agrusa said she is concerned about noise from the mechanical lift impacting nearby residents. She asked about the duration of construction.

Ms. Meshram said she has an operational video that she can provide to show how the lift operates, including the sound. She said the applicant can answer the question about construction timeframe.

Commissioner McGuire asked if the cars on the upper level can be accessed without moving the cars on the lower level.

Mr. Rosen said no, the cars on the lower level will have to be moved to access the cars on the upper level.

Commissioner McGuire said he is concerned that the proposed parking will inconvenience the guests.

Ms. Meshram said there is a parking attendant on site, 24 hours a day, to assist in moving the cars.

Commissioner McGuire said he has seen mechanical parking lifts in cities like New York and New Jersey which are designed to facilitate access to the top without moving the bottom car. He asked if the applicant has considered such design. He said he stays in hotels frequently but would not choose to stay at one with a mechanical parking lift such as what is being proposed. The waiting time involved in valet parking is bad enough, he said, but the proposed mechanical lift parking is more inconvenient.

Chair Diep stated that this is a public hearing. If there is anyone wishing to speak on the item, please come forward and state their name and address for the record.

Ruben Burrola, applicant/architect, Archeion Nevada, 17671 Irvine Boulevard, Suite 218, Tustin, CA 92780, said when this proposal was presented to the City about a year and a half ago, the manufacturer of the mechanical lift was present and answered the questions raised. He said they were encouraged by the City to go ahead with the project, so he wants to know why there is a different feedback at tonight's meeting.

Mr. Rosen clarified that the proposal was first discussed before City Council prior to consideration at this meeting by Planning Commission.

Mr. Burrola said the anticipated visitors are mostly families with children of varying ages so the connecting rooms will help maintain privacy.

Chair Diep pointed out that ensuring that only 59 units are rented will guaranty that parking spaces will be adequate.

Commissioner Schoales commented that the two and three-room suites were perhaps designed to reduce the number of required parking spaces on paper.

Mr. Burrola said that is not the intent, each suite will be rented as one unit.

Commissioners Schoales and Capelle said having more suites may solve the need for more parking spaces.

Mr. Burrola explained that the property owner who has researched mechanical parking lifts extensively can expound on the operation of the lift. He said they can also invite the manufacturer to talk about the lift. Mr. Burrola said there is a restaurant in Newport Beach that successfully utilizes a mechanical parking lift.

Commissioner McGuire said the discrepancy on the number of doors in the three two-room suites on the third floor plan, makes it possible to operate six rooms instead of three suites, unless a door is locked between the rooms.

Mr. Burrola said it was a drafting error.

Commissioner Capelle asked if the applicant will consider the type of mechanical parking lift described by Commissioner McGuire that will make it possible to access cars on the upper level without having to move cars on the lower level.

Mr. Burrola said the design described by Commissioner McGuire is not good aesthetic-wise, so it was not considered by the applicant.

Commissioner Capelle said the proposed mechanical lift may be practical for dense urban areas but not in suburban locations where the highly competitive market provides various options. She said it is unlikely for an average guest at places like Knott's Berry Farm, with all the amenities, to opt to stay at the proposed location with a mechanical parking lift where visitors' cars are "held hostage," (referring to the need for a parking attendant to move cars in a mechanical parking lift setting). Commissioner Capelle said the proposal might not be economically viable.

Commissioner Schoales said that if the item is continued, he would be willing to drive to a hotel or motel with a mechanical lift in Southern California to observe how it operates.

In response to Commissioner Agrusa's question on the construction timeframe, Mr. Burrola said construction may take about six months because there is a great amount of work involved in providing power including undergrounding through Orangethorpe. Regarding the noise concerns, Mr. Burrola said construction activities will occur from 7:00 a.m. to 8:00 p.m.

Chair Diep pointed out, and Mr. Rosen confirmed, that hours of construction should be in compliance with the Municipal Code. Mr. Rosen said construction activities are allowed from 7:00 a.m. to 8:00 p.m. except on Sundays and holidays.

Kasturi Gharib, property owner, Artesia, California, said she is as eager as the Planning Commission to have the construction completed in six months, possibly even five months. Ms. Gharib said there is a much higher demand for, and revenues generated by, suites. She said there is also a current need for extra rooms and extra bathrooms. Ms. Gharib said there is a place in Serrano on Magnolia that utilizes a mechanical parking lift. Addressing Commissioner Capelle's concern on the viability of the proposed parking lift, Ms. Gharib said the manufacturer will be invited to answer questions and concerns.

In response to Commissioner McGuire's questions, Ms. Gharib confirmed that they aspire to upgrade the proposed project to a Quality Inn or Red Roof Inn; Quality Inn approves of the design because suites are in high demand.

Miss Gharib said ensuring the privacy of teen-age kids by having a separate entrance will make a huge difference. She added that most hotel visitors, especially in the summer, are families from overseas such as China and Africa and most of them do not have cars and use Uber or taxis. Ms. Gharib said a hotel or motel with full occupancy will sometimes have 50% parking available. As a back-up plan, Ms. Gharib is in contact with a nearby commercial property owner who is willing to lease his parking spaces that are not being used after 4:00 p.m.

Commissioner Schoales referred to the first floor plan and noted that there are no restrooms in the lobby. He said having restrooms in the lobby is a much needed amenity.

Ms. Kharib said there are restrooms in the cafe but Commissioner Schoales' suggestion will be considered.

Commissioner Agrusa asked if the proposed mechanical parking lift can be moved to a different location, away from adjacent residential homes.

Ms. Kharib assured Commissioner Agrusa that the manufacturer will show Planning Commission that the 2018 prototype eliminates noise, making it almost inaudible.

Chair Diep asked staff to report to Planning Commission if eliminating certain doors to the hallway will cause a fire hazard for egress.

Mr. Rosen said the item may need to be continued to allow time for the applicant to answer the questions and concerns raised at tonight's meeting, such as the operation and viability of the mechanical parking lift, names of hotels and motels in nearby cities with similar lifts, and a report on the actual noise impact of lift structures.

There being no one else wishing to speak on the item, Chair Diep advised that the item requires a Minute Action to continue this item to the Planning Commission meeting of February 14, 2018.

Commissioner Capelle moved and Commissioner Barstow seconded the motion to continue this item to the Planning Commission meeting of February 14, 2018.

The MOTION CARRIED unanimously.

AYES: 7 COMMISSIONERS: Capelle, Barstow, Agrusa, Chung, McGuire, Schoales, and Diep

NOES: 0 COMMISSIONER:

ABSENT: 0 COMMISSIONER:

ABSTAINED: 0 COMMISSIONER:

Chair Diep recessed the meeting at 7:55 p.m. and announced that the meeting would be reconvened at 8:00 p.m.

The meeting was reconvened at 8:00 p.m.

3. APPEAL OF PUBLIC NUISANCE ORDER - 6801 WESTERN

A request to appeal the decision of the City of Buena Park Hearing Officer declaring a public nuisance and order to abate on a portion of the property at 6801 Western Avenue

PROPERTY OWNERS: First Southern Baptist Church
6801 Western Avenue
Buena Park, CA 90621

Dr. J. Steven Davis
First Southern Baptist Church
6801 Western Avenue
Buena Park, CA 90621

APPELLANT: Pastor Wiley Drake
6801 Western Avenue
Buena Park, CA 90621

RECOMMENDED ACTION: Sustain the action of the hearing officer, modify it, or find that no public nuisance exists

Chair Diep announced that this is a hearing on the appeal by Pastor Wiley Drake of the determination of a nuisance, and Order to Abate, concerning property located at 6801 Western Avenue, Buena Park, CA, also known as the First Southern Baptist Church, following a hearing on November 16, 2017.

Chair Diep stated that Appellant and City Prosecutor have been provided a copy of the November 27, 2017 written Decision being appealed, and that Decision is hereby made a part of the record of this Appeal.

Chair Diep explained that the role of the Commission in this hearing is to determine whether or not there was substantial evidence presented at the hearing which supports the Decision, or to modify the Decision, or to find that there was insufficient evidence to support the Decision. She added that the grounds for the determination of nuisance and Order to Abate being appealed are set forth in the November 27, 2017 written Decision, and that Counsel to the Commission will make rulings on objections and evidence, unless overruled by the Commission.

In response to Chair Diep, Ms. Santos announced that staff distributed copies of 1) the Agreement for Purchase and Sale of Real Property and Escrow Instructions; and 2) the Contract Supplemental Escrow Instructions.

Mr. Fox asked Ms. Santos to provide copies of distributed documents to the Appellant.

Ms. Santos handed Pastor Drake, Appellant, his copies of distributed documents.

Mr. Fox said the transcript of the original hearing is part of the record and does not have to be specifically admitted in the evidence.

Chair Diep asked each attorney, or Appellant if unrepresented, to state their appearances for the record.

Pastor Wiley Drake introduced himself as the Appellant.

Gregory P. Palmer introduced himself as the City Prosecutor.

D. Craig Fox, Assistant City Attorney, introduced himself as the Counsel to the Planning Commission.

Chair Diep requested that attorneys, or Appellant if unrepresented, to advise the Chair if they have reached any stipulations as to the facts and/or evidence, and if so, the Chair asked that the stipulations be made a part of the record and that copies of any stipulated exhibits be provided to the Chair and Counsel to the Commission.

Mr. Fox stated that there are none.

Chair Diep announced that this hearing will be conducted less formally, without strict compliance with technical rules relating to evidence and witnesses; however, rules of privilege shall be recognized, and irrelevant, unduly repetitious, hearsay, and/or incompetent evidence may be excluded.

Chair Diep asked the attorneys/Appellant to please state whether they intend to call any witnesses, and if so, does either party wish to exclude witnesses until called?

Mr. Palmer said he will reserve the right to call witnesses Mario Camacho, Code Enforcement Supervisor, and Brian Hadley, Building Official, as witnesses depending on Appellant Pastor Wiley's statement/s.

Pastor Wiley said he has no witnesses.

Chair Diep asked the Appellant to present his opening statement.

Wiley Drake, Pastor of First Southern Baptist Church, said he is not the owner of the First Southern Baptist Church, that he has been there for 30 years but he does not own it, the people own it. He said that his request to the City in regards to the nuisance is not to post the Nuisance Abatement Notice on the entirety of the 3.8 acre- property at 6801 Western but only on the 3,500 sq. ft. area that the nuisance pertains to. Pastor Drake said he does not wish to keep the structure declared as nuisance, the City can take it. He also said that Dr. J. Steven Davis is not the property owner, so the City should stop sending notices to Dr. J. Steven Davis at the 6801 Western address. Pastor Drake said the Attorney General of the U.S. and the Attorney General of the State of California said Dr. Davis does not own the property, and that the alleged ownership of Dr. Davis is illegal and part of a scam. Pastor Drake said he is not young enough to know what scamming is but he knows what the Attorneys General are referring to. Pastor Drake said the case should just move on, and reiterated his request that the City not send notices addressed to Dr. Davis to the 6801 Western address because Dr. Davis is not the property owner of 6801 Western. He added that Dr. Davis threatened to kill him three to four times so the Buena Park Police Department issued a restraining order against him.

Chair Diep asked the City Prosecutor to present his Opening Statement if he wishes to do so.

Gregory P. Palmer, City Prosecutor, said the Planning Commission was provided the administrative record of the hearing before the Hearing Officer, including transcripts and sworn testimonies, and the 27 exhibits showing the history of the recreational shade picnic structure. Mr. Palmer said there is no need to repeat the details of the case, and his obligation at this Appeal Hearing is to respond to any questions raised.

Mr. Palmer said the owner of the 6801 Western property, as far as the City knows, for the past 25 to 30 years, is the First Southern Baptist Church. The City has addressed all communication to Pastor Drake, CEO of the First Southern Baptist Church, and Pastor Drake responded to all communication. This, Mr. Palmer recalled, dates back to when he first prosecuted a case in relation to violations of Building Codes in the years 1994 to 1996. The documents filed with the State indicated the owner as the First Southern Baptist Church, with Pastor Wiley Drake as the CEO. Mr. Palmer said the City has always communicated

with Pastor Drake as the CEO of the First Southern Baptist Church. Mr. Palmer said it was probably owned by the congregation also but at present, there is no congregation and the individual who has always been in control is Pastor Drake.

Mr. Palmer recalled that Dr. Davis arrived on the scene two years ago when he said he became the property owner because of wage dispute. Mr. Palmer said Dr. Davis purports to have documents including the Quiet Title action with the Orange County Superior Court, which is the subject of a future hearing. Mr. Palmer said he does not know if Dr. Davis is the owner; the Attorney General of the State of California and the Attorney General of the United States have not communicated with the City regarding Dr. Davis, thus, communications, in the past two years, have been with two individuals claiming to have custody of 6801 Western.

In response to Pastor Drake's statement that the Nuisance Abatement Notice should be posted only on the rear lot referred to as the recreational picnic structure which was turned into a storage building, Mr. Palmer said the only way to effectively post the nuisance notice is to make it visible on the 6801 Western property.

Mr. Palmer said he is not quite sure why Pastor Drake filed an appeal when Pastor Drake said he does not dispute the findings and action of the Nuisance Officer. Mr. Palmer said he does not feel the need to call any witnesses because there is no dispute on the findings. He also said that action could have been taken three weeks ago, pursuant to the Buena Park Municipal Code, if the appeal had not been filed.

Chair Diep asked if there were any questions for the City Prosecutor or the Assistant City Attorney.

Commissioner McGuire asked if the foundation will remain when the building is torn down after the abatement decision is served. He said he noticed a pile of trash on the ground. Mr. Palmer said that the foundation would probably remain. He also stated that if the Planning Commission upholds the decision, the City will go to court to get a seizure and abatement order, which will be turned over to Pastor Drake and Dr. Davis. Mr. Palmer said future nuisance orders may come up depending on the condition of the property.

Commissioner McGuire asked about the likelihood of a nuisance abatement process in the future.

Mr. Fox explained that the end goal is law abidance or compliance with the Code, and there is nothing that precludes further nuisance or further compliance.

Commissioner McGuire asked if vehicle storage and vehicle maintenance are allowed on the property. He said he saw vehicle repair activity on the property. Mr. Rosen said vehicle storage is not allowed on the property. On vehicle maintenance, Mr. Rosen said minor urgent repairs may sometimes take place.

Commissioner Barstow asked if staff has ownership information on the vehicles stored, including the two cargo containers. Mr. Palmer said he believes Code Enforcement has license registration information on stored vehicles.

Chair Diep asked the Appellant to present the Closing Statement. Pastor Drake said he had no closing statement.

Chair Diep asked the City Prosecutor to present his Closing Statement.

Mr. Palmer said that during the hearing, the Hearing Officer listened to evidence and live witness testimony, made credibility determinations on the evidence and testimony, and found that there was a public nuisance. He said that Pastor Drake and Dr. Davis were asked if they had rebuttal evidence and they offered none. Mr. Palmer said the finding comes to this Commission with presumption of correctness, and that nothing presented at tonight's hearing relates to the public nuisance in fact. Therefore, Mr. Palmer respectfully asked the Commission to uphold the decision of the Hearing Officer so the City can proceed to abate the nuisance.

Chair Diep announced the conclusion of the hearing and said the Commission members will take the matter under submission. She added that a written decision with findings and conclusions, in the form of a resolution, will be acted on by the Commission within thirty (30) days, and will be mailed to the parties within five (5) business days thereafter."

ORAL COMMUNICATIONS:

None

AGENDA FORECAST:

Mr. Woods announced that other than the continued item from tonight's meeting, the agenda for the next Planning Commission meeting will include a Site Plan request for room addition to a single-family residence in San Marino, and two study session items: a proposed 34-unit Mixed-Use at Beach and Ninth, and Phase 2 of The Source.


STAFF REPORTS:

None

COMMISSION REPORTS:

None

ADJOURNMENT: At 8:30 p.m., Chair Diep adjourned to the Planning Commission meeting of February 14, 2018, Wednesday, at 7:00 p.m. in the City Council Chamber.



Deborah Diep
Chair

ATTEST:



Joel W. Rosen, AICP
Secretary